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Page 756 is incorrectly numbered page 56.

THE
REVISED STATUTES
OF
CANADA

PROCLAIMED AND PUBLISHED UNDER THE AUTHORITY OF THE
ACT 49 VICT., CHAP. 4, A.D. 1886.

VOL. I.



OTTAWA :
PRINTED BY BROWN CHAMBERLIN, LAW PRINTER TO THE QUEEN'S MOST
EXCELLENT MAJESTY, FROM THE AMENDED ROLL OF THE SAID REVISED STATUTES
DEPOSITED IN THE OFFICE OF THE CLERK OF THE PARLIAMENTS, AS DESCRIBED
BY THE SAID ACT, 49 VICT., CHAP. 4, 1886.
1887.

ERRATA.

- Page 48, line 3 :—After the second “ shall ” strike out “ each.”
- Page 49, line 3 of subs. 16 :—After “ Haldimand ” insert “ and.”
- Page 53, line 3 of subs. 62 :—After “ Gosfield ” insert “ and.”
- Page 73, form B, line 17 :—page 79, form D, line 17 :—page 83, form J, line 17 :—page 85, form M, line 19, and page 87, form O, line 19 ; in each case strike out “ 1886.”
- Page 150. Reference to 37 V., c. 10 at end of s. 2, should be : “ 37 V., c. 10, ss. 3, 4 and 5.”
- Page 319. At end of s. 70, strike out reference “ 43 V., c. 18, s. 1, part.”
- Page 399. Reference to 46 V., c. 13 at end of schedule A, should be : “ 46 V., c. 13, ss. 2 and 3.”
- Page 641. In reference to s. 115 : strike out “ 41 ” and insert “ 46.”
- Page 719. In reference to s. 11 : strike out “ 15 ” and insert “ 25.”
- Page 804. At end of s. 3, strike out reference “ 40 V., c. 6, ss. 1 and 2, part.”
- Page 832. In reference to s. 43 : strike out “ 17 ” and insert “ 27.”
- Page 847. Reference to 47 V., c. 25 at end of s. 90 should be : “ 47 V., c. 25, ss. 6 and 7.”
- Page 997. Reference at end of s. 1 should be : “ 31 V., c. 59, s. 1 ;—33 V., c. 18, ss. 2 and 3.”
- Page 1106. At end of subs. 1 of s. 4, strike out reference “ 37 V., c. 27, part.”
- Page 1116. In reference to s. 14 : strike out “ 38 ” and insert “ 36.”
- Page 1160. In reference to s. 14 : strike out “ s. 2 ” and insert “ s. 1, part.”
- Page 1189. At the end of the last reference to s. 101, strike out “ part.”
- Page 1190. At the end of the first schedule, add as a reference “ 36 V., c. 54, 1st schedule.”
- Page 1191. At the end of the second schedule, add as a reference “ 36 V., c. 54, 2nd schedule.”
- Page 1319. At end of s. 76, strike out reference “ 45 V., c. 25, s. 1.”
- Page 1459. Reference to s. 3 should be : “ 42 V., c. 9, ss. 2, 3 and 4 part ;—46 V., c. 24, ss. 1 and 7 part ;—47 V., c. 11, s. 1.”
- Page 1491. Add as reference at end of s. 19, “ 46 V., c. 24, s. 10.”
- Page 1553. Reference to s. 1, should be : “ 31 V., c. 34, s. 1, part.”
- Page 1625. Reference to 43 V., c. 22, and 46 V., c. 20 at end of s. 87, should be : “ 43 V., c. 22, ss. 1 and 12, part ;—46 V., c. 20, s. 1.”
- Page 1911. Add as reference to s. 50, “ 46 V., c. 16, s. 9.”

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49 VICTORIA.

CHAPTER 4.

An Act respecting the Revised Statutes of Canada.

[Assented to 2nd June, 1886.]

WHEREAS it has been found expedient to revise, classify Preamble. and consolidate the public general statutes passed by the Parliament of the Dominion of Canada, and also certain public general statutes which were passed by the several legislatures of the Provinces of Canada before they respectively became a part thereof, and which are still in force, and relate to matters within the legislative authority of the Parliament of Canada; and whereas such revision, classification and consolidation have been made accordingly; and whereas it is expedient to provide for the incorporation therewith of the public general statutes passed during the present session, and for giving the force of law to the body of the Revised Statutes to result from such incorporation: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The printed Roll marked A and attested as that of the said statutes, so revised, classified and consolidated as aforesaid, under the signature of the Governor General and that of the Clerk of the Parliaments, and deposited in the office of such Clerk, shall be held to be the original thereof, and to embody the several Acts and parts of Acts mentioned as to be repealed in the Schedule A annexed to the said roll; but the marginal notes thereon, and the references to former enactments at the foot of the several sections thereof, and the explanatory notes and tables inserted by the revisors, form no part of the said statutes, and shall be held to have been inserted for convenience of reference only, and may be omitted or corrected; and any misprint or error, whether of commission or omission, or any contradiction or ambiguity in the said Roll may also be corrected, but without changing the legal effect; and such alterations in the language of the

Original roll of the said statutes to be certified and deposited.

As to marginal notes, references, misprints, &c.

Correction of errors or ambiguities, &c.

said statutes as are requisite in order to preserve a uniform mode of expression, and do not alter the legal effect, may be made in the Roll hereinafter mentioned.

Governor may cause such Acts of the present session as he thinks proper to be inserted and Schedule A corrected.

2. The Governor General may select such Acts and parts of Acts passed during the present session as he deems it advisable to incorporate with the said statutes contained in the said Roll marked A, and may cause them to be so incorporated therewith, adapting their form and language to those of the said statutes, but without changing their effect, inserting them in their proper places in the said statutes, striking out of the latter any enactments repealed by or inconsistent with those so incorporated, altering the numbering of the chapters and sections, if need be, and adding to the said Schedule A a list of the Acts and parts of Acts of the present session so incorporated as aforesaid,—and also amending the said statutes in the particulars and to the extent in the schedule to this Act set forth.

Certified roll including such inserted Acts and such amendments of Schedule A to be deposited and deemed the original.

3. As soon as said incorporation of such Acts and parts of Acts with the said statutes, and the said addition to the said Schedule A and amendments have been completed, the Governor General may cause a correct printed Roll thereof, attested under his signature and countersigned by the Secretary of State, to be deposited in the office of the Clerk of the Parliaments,—which Roll shall be held to be the original thereof, and to embody the several Acts and parts of Acts mentioned as repealed in the amended Schedule A thereto annexed; but any marginal notes and references to former enactments which appear thereon shall be held to form no part of the said statutes, but to be inserted for convenience of reference only.

Proclamation declaring the Revised Statutes in force.

4. The Governor in Council, after such deposit of the said last mentioned Roll, may, by proclamation, declare the day on, from and after which the same shall come into force and have effect as law, by the designation of "The Revised Statutes of Canada."

Effect of such proclamation.

5. On, from and after such day, the same shall accordingly come into force and effect as and by the designation of "The Revised Statutes of Canada," to all intents, as if the same were expressly embodied in and enacted by this Act, to come into force and have effect on, from and after such day:

Repeal of enactments mentioned in schedule A.

2. On, from and after such day, all the enactments in the several Acts and parts of Acts in such amended Schedule A mentioned shall, so far as the same are within the legislative authority of the Parliament of Canada, stand and be repealed to the extent mentioned in the third column of the said Schedule A:

3. The Acts and parts of Acts mentioned in Schedule C, annexed to the said Roll marked A, shall, so far as they constitute indictable offences, be repealed, from and after a day when the proper legislature makes provision for the punishment of the offence by fine or imprisonment, under "*The British North America Act, 1867.*"

As to certain enactments in Schedule C.

6. The repeal of the said Acts and parts of Acts shall not revive any Act or provision of law repealed by them; nor shall the said repeal prevent the effect of any saving clause in the said Acts and parts of Acts, or the application of any of the said Acts or parts of Acts, or of any Act or provision of law formerly in force, to any transaction, matter or thing anterior to the said repeal, to which they would otherwise apply.

Effect of repeal of enactments in Schedule A not retro-active.

7. The repeal of the said Acts and parts of Acts shall not affect—

As to matters anterior.

(a.) Any penalty, forfeiture or liability, civil or criminal, incurred before the time of such repeal, or any proceedings for enforcing the same, had, done, completed or pending at the time of such repeal;

Penalties, &c.

(b.) Any indictment, information, conviction, sentence or prosecution had, done, completed or pending at the time of such repeal;

Indictments, &c.

(c.) Any action, suit, judgment, decree, certificate, execution, process, order, rule, or any proceeding, matter or thing whatsoever respecting the same, had, done, made, entered, granted, completed, pending, existing or in force at the time of such repeal;

Actions, &c.

(d.) Any act, deed, right, title, interest, grant, assurance, descent, will, registry, by-law, rule, order in council, proclamation, regulation, contract, lien, charge, status, capacity, immunity, matter or thing, had, done, made, acquired, established or existing at the time of such repeal; or—

Acts, deeds, rights, &c.

(e.) Any office, appointment, commission, salary, allowance, security or duty, or any matter or thing appertaining thereto, at the time of such repeal:

Offices, &c.

2. Such repeal shall not defeat, disturb, invalidate or prejudicially affect any other matter or thing whatsoever, had, done, completed, existing or pending at the time of such repeal:

Any other matters.

3. But every such—

But the same shall remain valid, &c.

(a.) Penalty, forfeiture and liability,

(b.) Indictment, information, conviction, sentence and prosecution,

(c.) Action, suit, judgment, decree, certificate, execution, process, order, rule, proceeding, matter or thing,

(d.) Act, deed, right, title, interest, grant, assurance, descent, will, registry, by-law, rule, order in council, proclamation, regulation, contract, lien, charge, status, capacity, immunity, matter or thing,

(e.) Office, appointment, commission, salary, allowance, security and duty, and—

(f.) Matter and thing,

Continuance thereof under Revised Statutes.

may and shall remain and continue as if no such repeal had taken place, and, so far as necessary, may and shall be continued, prosecuted, enforced and proceeded with under the said Revised Statutes and other the statutes and laws having force in Canada, and subject to the provisions of the said several statutes and laws, as if no such repeal had taken place.

Revised Statutes not to be deemed new laws.

8. The said Revised Statutes shall not be held to operate as new laws, but shall be construed and have effect as a consolidation and as declaratory of the law as contained in the said Acts and parts of Acts so repealed, and for which the said Revised Statutes are substituted:

How construed if they differ from the repealed enactments.

2. But if upon any point the provisions of the said Revised Statutes are not in effect the same as those of the repealed Acts and parts of Acts for which they are substituted, then, as respects all transactions, matters and things subsequent to the time when the said Revised Statutes take effect, the provisions contained in them shall prevail, but, as respects all transactions, matters and things anterior to the said time, the provisions of the said repealed Acts and parts of Acts shall prevail.

As to references to repealed Acts in former Acts, &c.

9. Any reference in any former Act remaining in force, or in any proclamation, order in council, instrument or document, to any Act or enactment so repealed, shall, after the Revised Statutes take effect, be held, as regards any subsequent transaction, matter or thing, to be a reference to the enactments in the Revised Statutes, having the same effect as such repealed Act or enactment.

As to effect of insertion of an Act in Schedule A.

10. The insertion of any Act in the said Schedule A shall not be considered as a declaration that such Act or any part of it was or was not in force immediately before the coming into force of the said Revised Statutes.

Copies by Queen's Printer to be evidence.

11. Copies of the said Revised Statutes, purporting to be printed by the Queen's Printer from the amended Rolls so deposited, shall be evidence of the said Revised Statutes in all courts and places whatsoever.

As to distribution of copies of Revised Statutes.

12. The laws relating to the distribution of the printed copies of the statutes shall not apply to the said Revised Statutes, but the same shall be distributed in such numbers and to such persons only as the Governor in Council directs.

This Act to be printed with them, &c.

13. This Act shall be printed with the said Revised Statutes, and shall be subject to the same rules of construction as the said Revised Statutes.

14. Any chapter of the said Revised Statutes may be cited and referred to in any Act or proceeding whatsoever, either by its title as an Act, or by its short title, or by using the expression "The Revised Statute respecting—" adding the remainder of the title given at the beginning of the particular chapter, or by using the expression "The Revised Statutes" or "The Revised Statutes of Canada, chapter " adding the number of the particular chapter in the copies printed by the Queen's Printer.

How the Revised Statutes may be cited.

SCHEDULE.

Acts and parts of Acts amended.

Chapter and subject of Act.	Manner in which amended.
(1.) Chapter 7, "An Act respecting Elections of Members of the House of Commons."	By striking out the forms of oaths of qualification marked "S" and "T" in the schedule to the said Act, and by changing the letters by which the subsequent forms are marked and identified to suit the omission of those forms.
(2.) Chapter 75, "An Act respecting the Navigation of Canadian Waters."	By striking out the words "a similar fog-horn and bell" in the fifth line of article twelve of section two, and by inserting the following in lieu thereof: "an efficient fog-horn to be sounded by a bellows or other mechanical means, and also with an efficient bell."
(3.) Chapter 175, "An Act respecting Summary Proceedings before Justices of the Peace."	By striking out section one hundred and three.

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



PROCLAMATION.

LANSDOWNE.

[L.S.]

CANADA.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, QUEEN, Defender of the Faith, &c., &c., &c.

To all to whom these presents shall come, or whom the same may in anywise concern.—GREETING :

JNO. S. D. THOMPSON,)
Attorney General.)
Canada.)

WHEREAS in and by an Act of the Parliament of Canada, passed in the session thereof held in the forty-ninth year of Our reign, chaptered four, and intituled "An Act respecting the Revised Statutes of Canada," after reciting that it has been found expedient to revise, classify and consolidate the public general statutes passed by the Parliament of the Dominion of Canada, and also certain public general statutes which were passed by the several legislatures of the Provinces of Canada before they respectively became a part thereof, and which are still in force and relate to matters within the legislative authority of the Parliament of Canada ; and that such revision, classification and consolidation have been made accordingly ; and that it is expedient to provide for the incorporation therewith of the public general statutes passed during the said session, and for giving the force of law to the body of the Revised Statutes to result from such incorporation,—it is, amongst other things, in effect enacted :

That the printed Roll marked A of the public general statutes passed by the Parliament of the Dominion of Canada, and also certain public general statutes which were passed by the several legislatures of the Provinces of Canada before they respectively became a part thereof, and which are still in force, and relate to matters within the legislative authority of the Parliament of Canada, attested under the signature of our Governor General of Canada and that of the Clerk of the Parliaments as that of the said statutes so revised, classified and consolidated as aforesaid, and which is deposited in the office of such Clerk, shall be held to be the original thereof, and to embody the several Acts and parts of Acts mentioned as to be repealed in the Schedule A annexed to the said Roll ; but that the marginal notes thereon, and the references to former enactments at the foot of the several sections thereof, and the explanatory notes and tables inserted by the revisors, form no part of the said Statutes, and shall be held to have been inserted for convenience of reference only, and may be omitted or corrected ; and that any misprint or error, whether of commission or omission, or any contradiction or ambiguity in the said Roll may also be corrected, but without changing the legal effect ; and that such alterations in the language of the said Statutes as are requisite in order to preserve a uniform mode of expression and do not alter the legal effect, may be made in the correct printed Roll hereinafter mentioned :

That Our said Governor General may select such Acts and parts of Acts passed during the said session of the said Parliament of Canada as he deems it advisable to incorporate with the said Statutes contained in the said Roll marked A, and may cause them to be so incorporated therewith, adapting their form and language to those of the said Statutes, but without changing their effect, inserting them in their proper places in the said Statutes, striking out of the latter any enactments repealed by or inconsistent with those so incorporated, altering the numbering of the chapters and sections, if need be, and adding to the said Schedule A a list of the Acts and parts of Acts of the said session so incorporated as aforesaid, and also amending the said Statutes in the particulars and to the extent in the Schedule to the said Act now in recital set forth :

That as soon as the said incorporation of such Acts and parts of Acts with the said Statutes, and the said addition to the said Schedule A and amendments have been completed, our said Governor General may cause a correct printed Roll thereof, attested under his signature and countersigned by the Secretary of State, to be deposited in the office of the Clerk of the Parliaments, which Roll shall be held to be the original thereof, and to embody the several Acts and parts of Acts mentioned as repealed in the amended Schedule A thereto annexed ; but any marginal notes and references to former enactments which appear thereon shall be held to form no part of the said Statutes, but to be inserted for convenience of reference only :

That Our said Governor in Council, after such deposit of the said last mentioned Roll, may, by Proclamation, declare the day on, from and after which the same shall come into force and have effect as law, by the designation of "The Revised Statutes of Canada :"

That on, from and after such day, the same shall accordingly come into force and effect as and by the designation of "The Revised Statutes of Canada," to all intents as if the same were expressly embodied in and enacted by the said Act, to come into force, and have effect on, from and after such day :

And that on, from and after such day, all the enactments in the several Acts and parts of Acts in such amended Schedule A mentioned shall, so far as the same are within the legislative authority of the Parliament of Canada, stand and be repealed to the extent mentioned in the third column of the said Schedule A :

And whereas Our said Governor General of Canada has, by two certain Orders in Council, bearing date respectively the fifth day of October, in the year of Our Lord one thousand eight hundred and eighty-six, and the twenty-fourth day of December in the same year, selected from the Acts passed during the session of the said Parliament of Canada held in the forty-ninth year of Our Reign the Acts and parts of Acts mentioned in the Schedule hereto annexed as those which he deems it advisable to incorporate with the statutes contained in the said Roll marked A, and has caused them to be so incorporated therewith, adapting their form and language to those of the said statutes, but without changing their effect, and inserting them in their proper places in the said statutes, striking out of the latter any enactments repealed by or inconsistent with those so incorporated, altering the numbering of the chapters and sections, so far as was necessary, and adding to the said Schedule A a list of the Acts and parts of Acts so incorporated as aforesaid, and amending the said statutes

in the particulars and to the extent set forth in the schedule to the said Act hereinbefore in part recited ; and the said incorporation of the said Acts and parts of Acts with the said statutes, and the said additions to the said Schedule A, and the said amendments having been so completed as aforesaid, has caused a correct printed Roll thereof, attested under his signature and countersigned by the Secretary of State, to be deposited in the office of the Clerk of the Parliaments :

And whereas the provisions contained in the first three sections of the said Act hereinbefore in part recited have been thus duly carried into effect :

And whereas Our said Governor General, since such deposit of the said last mentioned Roll, by and with the advice of Our Privy Council for Canada, has declared the first day of March next as the day on, from and after which the same shall come into force and have effect as law by the designation of "The Revised Statutes of Canada" :

Now Know Ye, that, by and with the advice of Our Privy Council for Canada, We do, by this Our Royal Proclamation, declare that on, from and after the first day of March next, the said last mentioned Roll, attested under the signature of Our said Governor General of Canada, countersigned by the Secretary of State and deposited in the Office of the Clerk of the Parliaments, shall come into force and have effect as law by the designation of "The Revised Statutes of Canada" to all intents as though the same were expressly embodied in and enacted by the said Act hereinbefore in part recited, to come into force and have effect on, from and after the said first day of March next.

Of all which Our loving subjects and all others whom these presents may concern, are hereby required to take notice and to govern themselves accordingly.

IN TESTIMONY WHEREOF, We have caused these Our Letters to be made Patent, and the Great Seal of Canada to be hereunto affixed. Witness, Our Right Trusty and Entirely Beloved Cousin the Most Honourable Sir HENRY CHARLES KEITH PETTY-FITZMAURICE, Marquess of Lansdowne, in the County of Somerset, Earl of Wycombe, of Chipping Wycombe, in the County of Bucks, Viscount Calne and Calnstone in the County of Wilts, and Lord Wycombe, Baron of Chipping Wycombe, in the County of Bucks, in the Peerage of Great Britain ; Earl of Kerry and Earl of Shelburne, Viscount Clanmaurice and Fitzmaurice, Baron of Kerry, Lixnaw, and Dunkerron, in the Peerage of Ireland ; Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George ; Governor General of Canada, and Vice Admiral of the same.

At Our Government House, in our CITY OF OTTAWA, this TWENTY-FOURTH day of JANUARY, in the year of Our Lord one thousand eight hundred and eighty-seven, and in the fiftieth year of Our Reign.

By Command,

J. A. CHAPLEAU,
Secretary of State.

SCHEDULE.

Acts and parts of Acts passed in the session held in the forty-ninth year of Her Majesty's Reign, which have been incorporated with the statutes contained in the Roll marked A.

CHAP.

2.	An Act further to amend "The Interpretation Act"	- The whole.
3.	An Act to amend the Act respecting the Electoral Franchise and the Dominion Elections Act, 1874	- do
5.	An Act respecting Commissions to Public Officers of Canada	- do
6.	An Act to amend the law relating to the salaries of certain Judges of the Supreme Court of Judicature for Ontario	- do
7.	An Act to expedite the issue of Letters Patent for Indian Lands	- do
8.	An Act to explain the Act intituled: "An Act for the final settlement of the claims made by the Province of Manitoba on the Dominion"	- do
9.	An Act further to amend the Act respecting the Canadian Pacific Railway	- Sec. 7.
21.	An Act further to amend "The Post Office Act, 1875"	- The whole.
22.	An Act respecting the Department of Public Printing and Stationery	- do
23.	An Act respecting Experimental Farm Stations	- do
24.	An Act respecting the representation of the North-West Territories in the Parliament of Canada	- do
25.	An Act further to amend the law respecting the North-West Territories	- do
26.	An Act respecting Real Property in the Territories	- do
27.	An Act further to amend "The Dominion Lands Act, 1883"	- do
28.	An Act to make further provision respecting the administration of the Public Lands of Canada in British Columbia	- do
34.	An Act further to amend the Steamboat Inspection Act, 1882	- do
35.	An Act respecting certain works constructed in or over Navigable Waters	- do
36.	An Act respecting the protection of Navigable Waters	- do
37.	An Act further to amend the Acts relating to Duties of Customs and the importation or exportation of goods into or from Canada	- do
39.	An Act in amendment of "The Consolidated Inland Revenue Act, 1883," and the Act amending the same	- do
40.	An Act in further amendment of the Weights and Measures Act of 1879	- do
41.	An Act to amend "The Adulteration Act"	- do
42.	An Act to prohibit the manufacture and sale of certain substitutes for butter	- do
43.	An Act to amend "The Animal Contagious Diseases Act"	- do
44.	An Act respecting interest in the Province of British Columbia	- do

CHAP.

45. An Act respecting Insurance	The whole.
46. An Act further to amend "An Act respecting Insolvent Banks, Insurance Companies, Loan Companies, Building Societies, and Trading Corporations"	do
47. An Act to amend the law respecting Crown cases reserved.	do
48. An Act respecting the application of certain Fines and Forfeitures	do
49. An Act to make further provision respecting Summary Proceedings before Justices and other Magistrates.	do
50. An Act further to amend the law of evidence in certain cases	do
51. An Act to amend "An Act respecting offences against the Person."	do
52. An Act to punish seduction, and like offences, and to make further provision for the protection of Women and Girls	do
53. An Act to amend the Criminal Law, and to declare it a misdemeanor to leave unguarded and exposed certain holes, openings and excavations	do
54. An Act to amend an Act respecting a Reformatory for certain Juvenile Offenders in the County of Halifax, in the Province of Nova Scotia	do
114. An Act further to amend the Act respecting Fishing by foreign vessels.	do

OTTAWA :

Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.

1886

THE CLERK OF THE SENATE.



THE
REVISED STATUTES

OF
CANADA.

CHAPTER 1.

An Act respecting the Form and Interpretation of A.D. 1886.
Statutes.

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

SHORT TITLE.

1. This Act may be cited as "*The Interpretation Act.*" Short title.
31 V., c. 1, s. 16.

APPLICATION.

2. This Act, and every provision thereof, shall extend
and apply to every Act of the Parliament of Canada,
now or hereafter passed except in so far as the provision is
inconsistent with the intent and object of such Act, or the
interpretation which such provision would give to any
word, expression or clause is inconsistent with the context,
—and except in so far as any provision hereof is in any
such Act declared not applicable thereto ; and the omission
in any Act of a declaration that "*The Interpretation Act*"
applies thereto, shall not be construed to prevent its so ap-
plying, although such express declaration is inserted
in some other Act or Acts of the same session. 31 V., c. 1,
s. 3 ;—31 V., c. 28.

This Act to
apply to all
Acts now or
hereafter
passed.

FORM OF ENACTING.

Form of
enacting
clause.

3. The following words may be inserted in the preambles of statutes, and shall indicate the authority by virtue of which they are passed: "Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows." 31 V., c. 1, s. 1.

Other clauses
to follow in
concise form.

4. After the insertion of the words aforesaid, which shall follow the setting forth of the considerations or reasons upon which the law is grounded, and which shall, with these considerations or reasons, constitute the entire preamble, the various clauses of the statute shall follow in a concise and enunciative form. 31 V., c. 1, s. 2.

TIME OF COMMENCEMENT OF ACTS.

Date of Royal
assent to be
indorsed on
every Act.

5. The Clerk of the Parliaments shall indorse on every Act of the Parliament of Canada, immediately after the title of such Act, the day, month and year when the same was, by the Governor General, assented to in Her Majesty's name, or reserved by him for the signification of Her Majesty's pleasure thereon,—and in the latter case, such Clerk shall also indorse thereon the day, month and year when the Governor General signified, either by speech or message to the Senate and House of Commons, or by proclamation, that the same was laid before Her Majesty in Council, and that Her Majesty was pleased to assent to the same; and such indorsement shall be taken to be a part of such Act, and the date of such assent or signification, as the case may be, shall be the date of the commencement of the Act, if no later commencement is therein provided. 31 V., c. 1, s. 4;—35 V., c. 1, s. 1, *part*.

Effect of such
indorsement.

AMENDMENT OR REPEAL.

Every Act
may be
amended dur-
ing session in
which it
passes.

6. Any Act of the Parliament of Canada may be amended, altered or repealed by any Act passed in the same session thereof. 46 V., c. 1, s. 1, *part*.

INTERPRETATION.

How enact-
ments shall
be construed.
To apply to
the whole
Dominion.
Territorial
application of
Acts amend-
ing previous
Acts.

7. In every Act of the Parliament of Canada, unless the context otherwise requires:—

(1.) The enactments apply to the whole of Canada:

(2.) No Act amending a previous Act which does not apply to all the Provinces of Canada, and no enactment in any such amending Act, although of a substantive nature or form, shall apply to any Province to which the amended Act does not apply, unless it is expressly provided that such amending Act or enactment shall apply to such Province or to all the Provinces of Canada:

(3.) The law shall be considered as always speaking, and whenever any matter or thing is expressed in the present tense, the same shall be applied to the circumstances as they arise, so that effect may be given to each Act and every part thereof, according to its spirit, true intent and meaning :

Application
of expressions
in present
tense.

(4.) The expression "shall" shall be construed as imperative, and the expression "may" as permissive :

"Shall" and
"may."

(5.) Whenever the expression "herein" is used in any section of an Act, it shall be understood to relate to the whole Act, and not to that section only :

"Herein."

(6.) The expression "Her Majesty," "the Queen," or "the Crown," means Her Majesty, her heirs and successors, sovereigns of the United Kingdom of Great Britain and Ireland :

"Her Ma-
jesty," &c.

(7.) The expression "Governor," "Governor of Canada," "Governor General," or "Governor in Chief," means the Governor General for the time being of Canada, or other the chief executive officer or administrator for the time being carrying on the Government of Canada on behalf and in the name of the Queen, by whatever title he is designated :

"Governor,"
&c.

(8.) The expression "Governor in Council," or "Governor General in Council," means the Governor General of Canada, or person administering the Government of Canada for the time being, acting by and with the advice of, or by and with the advice and consent of, or in conjunction with, the Queen's Privy Council for Canada :

"Governor in
Council," &c.

(9.) The expression "Lieutenant Governor" means the Lieutenant Governor for the time being, or other chief executive officer or administrator for the time being, carrying on the Government of the Province or Provinces of the Dominion indicated by the Act, by whatever title he is designated :

"Lieutenant
Governor,"
&c.

(10.) The expression "Lieutenant Governor in Council" means the Lieutenant Governor, or person administering the Government of the Province indicated by the Act, for the time being, acting by and with the advice of, or by and with the advice and consent of, or in conjunction with, the Executive Council of the said Province :

"Lieutenant
Governor in
Council," &c.

(11.) The expression "the United Kingdom" means the United Kingdom of Great Britain and Ireland :

"United
Kingdom."

(12.) The expression "the United States" means the United States of America :

"United
States."

(13.) The expression "Province" includes the North-West Territories and the District of Keewatin :

"Province."

(14.) The expression "Legislature," "Legislative Council" or "Legislative Assembly," includes the Lieutenant Governor in Council and also the Legislative Assembly of the North-West Territories, and the Lieutenant Governor in Council of the District of Keewatin :

"Legisla-
ture."

- "Act." (15.) The expression "Act" as meaning an Act of a Legislature, includes an Ordinance of the North-West Territories or the District of Keewatin :
- Names of places, &c. (16.) The name commonly applied to any country, place, body, corporation, society, officer, functionary, person, party or thing, means such country, place, body, corporation, society, officer, functionary, person, party or thing, although such name is not the formal and extended designation thereof :
- "Proclamation." (17.) The expression "proclamation" means a proclamation under the Great Seal :
- "Great Seal." (18.) The expression "Great Seal" means the Great Seal of Canada :
- Governor acting by Proclamation. (19.) When the Governor General is authorized to do any act by proclamation, such proclamation is understood to be a proclamation issued under an order of the Governor in Council ; but it shall not be necessary that it be mentioned in the proclamation that it is issued under such order :
- "County." (20.) The expression "county" includes two or more counties united for purposes to which the enactment relates :
- Number and gender. (21.) Words importing the singular number or the masculine gender only, include more persons, parties or things of the same kind than one, and females as well as males, and the converse :
- "Person." (22.) The expression "person" includes any body corporate and politic, or party, and the heirs, executors, administrators or other legal representatives of such person, to whom the context can apply according to the law of that part of Canada to which such context extends :
- "Writing," "written." (23.) The expression "writing," "written," or any term of like import, includes words printed, painted, engraved, lithographed or otherwise traced or copied :
- "Now" or "next." (24.) The expression "now" or "next" shall be construed as having reference to the time when the Act was presented for the Royal Assent :
- "Month." (25.) The expression "month" means a calendar month :
- "Holiday." (26.) The expression "holiday" includes Sundays, New Year's Day, the Epiphany, ~~the Annunciation~~, Good Friday, the Ascension, ~~Corpus Christi~~, ~~St. Peter and St. Paul's Day~~, All Saints' Day, Conception Day, Easter Monday, Ash Wednesday, Christmas Day, the birthday or the day fixed by proclamation for the celebration of the birthday of the reigning sovereign, Dominion Day, and any day appointed by proclamation for a general fast or thanksgiving :
- Reckoning time. (27.) If the time limited by any Act for any proceeding, or the doing of any thing under its provisions, expires or falls upon a holiday, the time so limited shall be extended to, and such thing may be done on the day next following which is not a holiday :
- "Oath." (28.) The expression "oath" includes a solemn affirmation or declaration, whenever the context applies to any

person and case by whom and in which a solemn affirmation or declaration may be made instead of an oath; and in like cases the expression "sworn" includes the expression "Sworn." "affirmed" or "declared":

(29.) Whenever by an Act of Parliament or by a rule of the Senate or House of Commons, or by an order, regulation or commission made or issued by the Governor in Council, under any law authorizing him to require the taking of evidence under oath, an oath is authorized or directed to be made, taken or administered, such oath may be administered, and a certificate of its having been made, taken or administered, may be given, by any one named in any such Act, rule, order, regulation or commission, or by a judge of any court, a notary public, a justice of the peace, or a commissioner for taking affidavits, having authority or jurisdiction within the place where the oath is administered:

Who may administer and certify to oaths.

(30.) The expression "sureties" means sufficient sureties, and the expression "security" means sufficient security, and whenever these words are used, one person shall be sufficient therefor unless otherwise expressly required:

"Sureties."
"Security."

(31.) The expression "superior court" means, in the Province of Ontario, the Court of Appeal for Ontario and the High Court of Justice for Ontario; in the Province of Quebec, the Court of Queen's Bench and the Superior Court in and for the said Province; in the Provinces of Nova Scotia, New Brunswick and British Columbia, the Supreme Court in and for each of the said Provinces respectively; in the Province of Prince Edward Island, the Supreme Court of Judicature for that Province; in the Province of Manitoba, Her Majesty's Court of Queen's Bench for Manitoba; and in the North-West Territories, the Supreme Court of the North-West Territories:

"Superior Courts."

(32.) The expression "registrar" or "register" means and includes indifferently registrars and registers in the several Provinces of Canada, and their deputies, respectively:

"Registrar."
"Register."

(33.) If any sum of the public money is, by any Act, appropriated for any purpose or directed to be paid by the Governor General, and no other provision is made respecting it, such sum shall be payable under warrant of the Governor General directed to the Minister of Finance and Receiver General, out of the Consolidated Revenue Fund of Canada; and all persons intrusted with the expenditure of any such sum or any part thereof shall account for the same in such manner and form, with such vouchers, at such periods and to such officer as the Governor General directs:

Paying and accounting for moneys appropriated by statute.

(34.) The expression "magistrate" means a justice of the peace:

"Magistrate."

(35.) The expression "two justices" means two or more justices of the peace, assembled or acting together:

"Two Justices."

(36.) If anything is directed to be done by or before a magistrate or a justice of the peace, or other public func-

Local jurisdiction.

tionary or officer, it shall be done by or before one whose jurisdiction or powers extend to the place where such thing is to be done :

Power to do anything to include all necessary powers for doing it.

(37.) Whenever power is given to any person, officer or functionary, to do or to enforce the doing of any act or thing, all such powers shall be understood to be also given as are necessary to enable such person, officer or functionary to do or enforce the doing of such act or thing :

Imprisonment where to be, when no special place is mentioned.

(38.) If, in any Act, any person is directed to be imprisoned or committed to prison, such imprisonment or committal shall, if no other place is mentioned or provided by law, be in or to the common gaol of the locality in which the order for such imprisonment is made, or if there is no common gaol there, then in or to that common gaol which is nearest to such locality ; and the keeper of any such common gaol shall receive such person, and safely keep and detain him in such common gaol under his custody until discharged in due course of law, or bailed, in cases in which bail may, by law, be taken :

Words giving power to appoint include power to remove, &c.

(39.) Words authorizing the appointment of any public officer or functionary, or any deputy, include the power of removing or suspending him, re-appointing or re-instating him or appointing another in his stead, in the discretion of the authority in whom the power of appointment is vested :

Directions to a Minister or public officer, to apply to his substitute, successors and Deputy.

(40.) Words directing or empowering a Minister of the Crown to do any act or thing, or otherwise applying to him by his name of office, include a Minister acting for, or, if the office is vacant, in the place of such Minister, under the authority of an Order in Council, and also his successors in such office, and his or their lawful deputy ; and words directing or empowering any other public officer or functionary to do any act or thing, or otherwise applying to him by his name of office, include his successors in such office, and his or their lawful deputy :

Appointments by Governor to be during pleasure.

(41.) All officers now appointed or hereafter appointed by the Governor General, whether by commission or otherwise, shall remain in office during pleasure only, unless otherwise expressed in their commissions or appointments :

Acts to be done by more than two.

(42.) When any act or thing is required to be done by more than two persons, a majority of them may do it :

Words constituting a corporation to vest certain powers in it.

(43.) Words making any association or number of persons a corporation or body politic and corporate, shall vest in such corporation power to sue and be sued, contract and be contracted with by their corporate name, to have a common seal, and to alter or change the same at their pleasure, and to have perpetual succession, and power to acquire and hold personal property or movables for the purposes for which the corporation is constituted, and to alienate the same at pleasure ; and shall also vest in any majority of the members of the corporation the power to bind the others by their acts ; and shall exempt the individual members of the corporation from personal liability for its

debts or obligations or acts, provided they do not violate the provisions of the Act incorporating them; but no corporation shall carry on the business of banking unless when such power is expressly conferred on them by the Act creating such corporation:

(44.) Whenever forms are prescribed, slight deviations therefrom, not affecting the substance or calculated to mislead, shall not vitiate them:

Slight deviation from forms not to invalidate.

(45.) Whenever power to make by-laws, regulations, rules or orders is conferred, it shall include the power, from time to time, to alter or revoke the same and make others:

Power to make by-laws, what included by.

(46.) No provision or enactment in any Act shall affect, in any manner or way whatsoever, the rights of Her Majesty, Her heirs or successors, unless it is expressly stated therein that Her Majesty shall be bound thereby; nor, if such Act is of the nature of a private Act, shall it affect the rights of any person or of any body politic, corporate or collegiate,—such only excepted as are therein mentioned or referred to:

Acts not to affect the Crown, unless specially declared to do so.

As to Acts of a private nature.

(47.) Every Act shall be so construed as to reserve to Parliament the power of repealing or amending it, and of revoking, restricting or modifying any power, privilege or advantage thereby vested in or granted to any person or party, whenever such repeal, amendment, revocation, restriction or modification is deemed by Parliament, to be required for the public good; and unless it is otherwise expressly provided in any Act passed for chartering any bank, it shall be in the discretion of Parliament at any time thereafter, to make such provisions and impose such restrictions with respect to the amount and description of notes which may be issued by such bank, as to Parliament appears expedient:

Power always reserved to Parliament to repeal or amend any Act.

As to Bank Charters.

(48.) The repeal of any Act or part of an Act shall not revive any Act or provision of law repealed by such Act or part of an Act, or prevent the effect of any saving clause therein:

Effect of repeal of repealing Act.

(49.) Whenever any Act is repealed, wholly or in part, and other provisions are substituted, and whenever any regulation is revoked and other provisions substituted, all officers, persons, bodies politic or corporate, acting under the old law or regulation, shall continue to act as if appointed under the new law or regulation until others are appointed in their stead; and all proceedings taken under the old law or regulation shall be taken up and continued under the new law or regulation, when not inconsistent therewith: and all penalties and forfeitures may be recovered and all proceedings had in relation to matters which have happened before the repeal or revocation, in the same manner as if the law or regulation was still in force, pursuing the new provisions as far as they can be adapted to the old law or regulation:

Effect of repeal of Act as to persons acting under it.

How far only to affect certain proceedings.

- As to by-laws, &c., under repealed Act. (50.) Whenever any Act is repealed, wholly or in part, and other provisions are substituted, all by-laws, orders, regulations, rules and ordinances made under the repealed Act shall continue good and valid in so far as they are not inconsistent with the substituted Act, enactment or provision, until they are annulled or others made in their stead :
- Construction of references to enactments for which others are substituted. (51.) Whenever any Act or part of an Act is repealed, and other provisions are substituted by way of amendment, revision or consolidation, any reference in any unrepealed Act, or in any rule, order or regulation made thereunder to such repealed Act or enactment, shall, as regards any subsequent transaction, matter or thing, be held and construed to be a reference to the provisions of the substituted Act or enactment relating to the same subject matter as such repealed Act or enactment: Provided always, that where there is no provision in the substituted Act or enactment relating to the same subject matter, the repealed Act or enactment shall stand good, and be read and construed as unrepealed, in so far, but in so far only, as is necessary to support, maintain or give effect to such unrepealed Act, or such rule, order or regulation made thereunder :
- Proviso : case in which the repealed enactment is to stand good. (52.) The repeal of an Act, or the revocation of a regulation, at any time, shall not affect any act done or any right or right of action existing, accruing, accrued or established, or any proceedings commenced in a civil cause, before the time when such repeal or revocation takes effect ; but the proceedings in such case shall be conformable when necessary, to the repealing act or regulation :
- As to acts, &c., done before repeal. (53.) No offence committed and no penalty or forfeiture incurred, and no proceeding pending under any Act at any time repealed, or under any regulation at any time revoked, shall be affected by the repeal or revocation, except that the proceeding shall be conformable, when necessary, to the repealing Act or regulation, and that whenever any penalty, forfeiture or punishment is mitigated by any of the provisions of the repealing Act or regulation, such provisions shall be extended and applied to any judgment to be pronounced after such repeal or revocation :
- Offences committed and penalties incurred not affected by repeal. (54.) Every Act shall, unless by express provision it is declared to be a private Act, be deemed to be a public Act, and shall be judicially noticed by all judges, justices of the peace and others without being specially pleaded :
- All Acts to be deemed public Acts, as regards pleading. (55.) Every copy of any Act, public or private, printed by the Queen's Printer, shall be evidence of such Act and of its contents ; and every copy purporting to be printed by the Queen's Printer shall be deemed to be so printed, unless the contrary is shown :
- Proof of Acts (56.) The preamble of every Act shall be deemed a part thereof, intended to assist in explaining the purport and object of the Act ; and every Act and every provision or enactment thereof, shall be deemed remedial, whether its immediate purport is to direct the doing of any thing
- Preamble to be a part of Act.
- All Acts remedial, and

which Parliament deems to be for the public good, or to prevent or punish the doing of any thing which it deems contrary to the public good—and shall accordingly receive such fair, large and liberal construction and interpretation as will best insure the attainment of the object of the Act and of such provision or enactment, according to its true intent, meaning and spirit:

(57.) Nothing in this section shall exclude the application to any Act, of any rule of construction applicable thereto, and not inconsistent with this section. 31 V., c. 1, ss. 6, 7, *part*, and 8;—35 V., c. 27, ss. 12, *part*, 13, 14 and 15;—37 V., c. 9, s. 129;—37 V., c. 10, s. 62;—38 V., c. 1, ss. 2 and 3;—42 V., c. 47, s. 3;—46 V., c. 1, ss. 1 and 2, *parts*;—48-49 V., c. 40, s. 2, *part*;—49 V., c. 2, s. 1;—49 V., c. 24, s. 69, *part*;—49 V., c. 25, s. 14, *part*.

to be construed as such.

Application of rules of construction not excluded.

8. Any Act may be cited as of the year of Our Lord.

How Acts may be cited.

9. The provisions of this Act shall apply to the construction thereof, and to the words and expressions used therein. 31 V., c. 1, s. 7, *part*.

Provisions herein to apply to this Act.

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 2.

An Act respecting the publication of the Statutes. A.D. 1886.

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

1. All the original Acts, passed by the Legislatures of the late Provinces of Upper or Lower Canada, or of the late Province of Canada, transferred to and deposited of record in the office of the Clerk of the Senate, and also all original Acts of the Parliament of Canada heretofore assented to, or hereafter assented to by the Governor General, and all Bills reserved for the signification of the Queen's pleasure, and assented to or disallowed by the Queen in Council, shall be and continue to remain of record in the custody of the Clerk of the Senate of Canada, who shall be known and designated as "The Clerk of the Parliaments." 35 V., c. 1, s. 1, *part*.

Clerk of the Parliaments to have the custody of original Acts of Parliament and of certain late Legislatures, and of reserved Bills.

2. The Clerk of the Parliaments shall have a seal of office, and shall affix the same to certified copies of all Acts intended for the Governor General or the Registrar General of Canada or required to be produced before courts of justice, either within or beyond the limits of Canada, and in any other case in which the said Clerk deems it expedient. 35 V., c. 1, s. 2.

Clerk of the Parliaments to have and use a Seal of Office.

3. All copies of the Acts above referred to, so certified by the Clerk of the Parliaments, shall be held to be duplicate originals, and also to be evidence of such Acts and of their contents, as if printed under the authority of Parliament by the Queen's Printer. 35 V., c. 1, s. 3.

Certified copies of Acts to be held to be duplicate originals.

4. As soon as practicable after the prorogation of every session of Parliament, the Clerk of the Parliaments shall obtain from the Queen's Printer a sufficient number of bound copies of the Statutes of Canada passed during such session of Parliament, and shall deliver to the Governor General one copy duly certified, for transmission to one of Her Majesty's Principal Secretaries of State, as required by "*The British North America Act, 1867*," together with certified copies of all Bills reserved for the signification of the Queen's pleasure, and one like copy of the said Acts in the English and French languages to the Registrar General of Canada. 35 V., c. 1, s. 4.

Bound copy of Statutes of Canada and copies of reserved bills duly certified, to be delivered to the Governor and bound copy to Registrar General.

Certified copies of Acts to be furnished on application.

5. The Clerk of the Parliaments shall also furnish certified copies of any of the Acts above mentioned to any public officer or person applying for the same; and upon all such copies the said Clerk of the Parliaments shall, before delivering the same to such officer or person, receive from such person a fee at the rate of ten cents for every hundred words in the certified copy and certificate; and all sums so received by him shall form part of the contingent fund of the Senate. 35 V., c. 1, s. 5.

Copies for public service.

6. All certified copies required for the public service shall be obtained from the Clerk of the Parliaments through the Secretary of State of Canada. 35 V., c. 1, s. 6.

Certificate to be inserted at the foot of every copy of Act required to be certified.

7. The Clerk of the Parliaments shall insert at the foot of every such copy so required to be certified, a written certificate, duly signed and authenticated by him, to the effect that it is a true copy of the Act passed by the Parliament of Canada, or by the Legislature of the late Province of Canada, or of the late Province of Upper Canada or Lower Canada (*as the case may be*) in the session thereof held in the _____ year of Her Majesty's reign, and assented to in Her Majesty's name, by the Governor General, or (*as the case may be*), on the _____ day of _____, or reserved for the signification of Her Majesty's pleasure thereon, and assented to by Her Majesty in Council, on the _____ day of _____ . 35 V., c. 1, s. 7.

PRINTING AND DISTRIBUTION OF THE STATUTES.

Certified copy of every Act to be furnished to Queen's Printer.

8. The Clerk of the Parliaments shall furnish the Queen's Printer with a certified copy of every Act of the Parliament of Canada as soon as the same has received the Royal Assent, or if the Bill has been reserved, as soon as the Royal Assent thereto has been proclaimed in Canada. 31 V., c. 1, s. 9.

Acts to be printed in two separate volumes: what each shall contain.

9. The Acts of the Parliament of Canada, shall be printed in two separate volumes, the first of which shall contain such of the said Acts and such Orders in Council and Proclamations or other documents, and such Acts of the Parliament of the United Kingdom, as the Governor in Council deems to be of a public and general nature or interest in Canada, and directs to be inserted in the said volume, and the second volume shall contain the remaining Acts of the session, and shall be printed after the first volume; and copies of the said volumes shall be printed in the English and French languages respectively, by the Queen's Printer, who shall, as soon after the close of each session as is practicable, deliver, or send by post or otherwise, in the most economical manner, the proper number of copies to the persons hereinafter mentioned, respectively, and in either or both languages as he is directed; that is to say:—

Copies of each volume to be printed in the English and French languages respectively.
Distribution.

(a.) To the members of the two Houses of Parliament respectively, such number of copies each as is, from time to time, directed by joint resolution of the said Houses, or, in default of such resolution, in such numbers as are directed by the Governor in Council ;

To members of Parliament.

(b.) To such public departments, administrative bodies and officers throughout Canada, (including justices of the peace in the distribution of the first, but not of the second volume), as the Governor in Council, from time to time, directs. 38 V., c. 1, s. 1, *part*.

To departments.

10. Whenever any Bill receives the Royal Assent during and before the termination of any session of Parliament, the Queen's Printer shall, if so directed by the Secretary of State of Canada, cause distribution of such Act to be made, to the same persons and in like manner and numbers as hereinbefore provided with respect to the Acts of any session ; or such Act may, by order of the Governor in Council, be published in the *Canada Gazette*, and printed afterwards in the proper volume of the Statutes. 38 V., c. 1, s. 1, *part*.

Proviso : as to Bills assented to during a session.

11. The Secretary of State of Canada shall, within fifteen days after the close of each session of Parliament, transmit to the Queen's Printer a list of the public departments, administrative bodies and officers to whom the first and second volumes respectively, of the Statutes of such session are to be transmitted as aforesaid, and shall also, as occasion requires, furnish him with copies of all Orders in Council made under the provisions of this Act. 38 V., c. 1, s. 1, *part*.

List to be transmitted by the Secretary of State.

And Orders in Council.

12. If, after the distribution of the printed Acts, any copies remain in the hands of the Queen's Printer, he may deliver any number thereof, to any person, by order of the Governor in Council, on notice thereof by the Secretary of State of Canada,—or to the Members of the Senate or of the House of Commons, on the order of the Speaker of the said Houses respectively. 31 V., c. 1, s. 12.

Distribution if any copies remain.

13. The Statutes shall be printed in royal octavo form, on fine paper, in small pica type, thirty-two ems by fifty-five ems, including marginal notes in minion,—such notes referring to the year and chapter of previous Statutes, whenever the text amends, repeals or changes the enactments of former years ; and shall be half-bound in cloth with backs of white sheep skin and lettered, with the exception of a certain number to be named by the standing committee on printing, which shall be bound in half-calf and gilt-lettered, and they shall be arranged for distribution in such manner, either by the binding of the public general

How Statutes shall be printed and bound.

Classification of Statutes.

Acts and Acts of a local or private character, in separate volumes, or by binding them together in the same volumes, with separate indexes, or otherwise, as the Governor in Council deems expedient. 31 V., c. 1, s. 13.

Report by
Queen's
Printer as to
number of
copies distri-
buted.

14. The Queen's Printer shall, before the opening of each session of Parliament, make a report in triplicate to the Governor General showing the number of copies of the Acts of each session which have been printed and distributed by him since the then last session,—and the departments, administrative bodies, officers and persons to whom the same have been distributed, the number of copies delivered to each, and under what authority, and the number of copies of the Acts of each session then remaining in his hands,—and containing also a detailed account of the expenses by him actually incurred in carrying this Act into effect, that provision may be made for defraying the same, after such account has been duly audited and allowed :

And as to ex-
pense incurred
by him.

2. Such report shall be laid before each House of Parliament within fifteen days after the opening of each session thereof. 31 V., c. 1, s. 14.

Obligations of
persons ob-
taining pri-
vate Acts.

15. Every person who obtains an Act of a private or personal character shall pay to the Queen's Printer the cost of printing five hundred copies of such Act in the English language and two hundred and fifty copies thereof in the French language. 49 V., c. 2, s. 3.



CHAPTER 3.

An Act respecting the Governor General.

A. D. 1886.

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

1. The Governor General of Canada for the time being, or other chief executive officer or administrator carrying on the Government of Canada, on behalf and in the name of the Queen, by whatsoever title he is designated, and his successors, shall be a corporation sole;—and all bonds, recognizances and other instruments by law required to be taken to him in his public capacity, shall be taken to him and his successors by his name of office, and may be sued for and recovered by him or his successors by his or their name of office as such; and the same shall not in any case go to or vest in the personal representatives of the Governor General, chief executive officer or administrator of the Government in whose name they were so taken. 31 V., c. 33, s. 1.

Governor General to be a corporation sole.

2. There shall be payable yearly, and *pro rata* for any period less than a year, to the Governor General of Canada for the time being, the salary of ten thousand pounds sterling, equal to and of the value of forty-eight thousand six hundred and sixty-six dollars and sixty-three cents; and the same shall be payable out of the Consolidated Revenue Fund of Canada, and shall form the third charge thereon. 32 and 33 V., c. 74, s. 1.

Salary of Governor General to be £10,000 sterling.

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 4.

An Act respecting the Salaries of certain Public Functionaries and other annual charges on the Consolidated Revenue. A D. 1886.

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

1. There shall be payable yearly, and *pro ratâ* for any less period than a year, the salaries and sums of money mentioned in the following sections of this Act, to the persons and for the purposes therein specified, and the same shall be payable out of any unappropriated moneys forming part of the Consolidated Revenue Fund of Canada. 31 V., c. 33, s. 2. Sums mentioned in this Act, to be payable without an annual vote.

2. The salaries of the Lieutenant Governors of the several Provinces shall be as follows, that is to say :— Salaries of Lt. Governors.

The Lieutenant Governor of Quebec...	\$10,000	per annum.
The Lieutenant Governor of Ontario...	10,000	" "
The Lieutenant Governor of Nova Scotia	9,000	" "
The Lieutenant Governor of New Brunswick	9,000	" "
The Lieutenant Governor of Manitoba.	9,000	" "
The Lieutenant Governor of British Columbia	9,000	" "
The Lieutenant Governor of Prince Edward Island.....	7,000	" "

36 V., c. 31, s. 3 ;—37 V., c. 4, s. 1.

3. The salaries of the following ministers, members of the Queen's Privy Council for Canada, shall be as follows, that is to say :— Salaries of Ministers.

The Minister of Justice and Attorney General.....	\$7,000	per annum.
The Minister of Militia and Defence...	7,000	" "
The Minister of Customs.....	7,000	" "
The Minister of Finance and Receiver General	7,000	" "
The Minister of Railways and Canals..	7,000	" "
The Minister of Public Works.....	7,000	" "
The Minister of Inland Revenue.....	7,000	" "

The Minister of the Interior.....	\$ 7,000 per annum.
The President of the Queen's Privy Council for Canada	7,000 " "
The Minister of Marine and Fisheries..	7,000 " "
The Postmaster General..	7,000 " "
The Minister of Agriculture.....	7,000 " "
The Secretary of State of Canada.....	7,000 " "

And the member of the Queen's Privy Council holding the recognized position of First Minister shall receive, in addition, one thousand dollars per annum. 36 V., c. 31, s. 2;—42 V., c. 7, s. 13, *part*.

Governor
General's
Secretary.

4. The salary of the Secretary of the Governor General shall be two thousand four hundred dollars per annum. 31 V., c. 33, sch, *part*.

Indian annu-
ities.

5. There shall be payable for Indian annuities for Ontario and Quebec twenty-six thousand six hundred and sixty-four dollars per annum. 31 V., c. 33, sch, *part*.

H. W. Craw-
ley and Cap-
tain Hankin.

6. There shall be payable to H. W. Crawley, Esquire, formerly Crown Land Commissioner, Cape Breton, twelve hundred dollars per annum, and to Captain Hankin, late Colonial Secretary, British Columbia, two thousand five hundred and ninety-five dollars and fifty-five cents per annum; to each so long as he does not accept any office under Government of equal or greater value. 31 V., c. 33, sch, *part*;—35 V., c. 20, s. 5, *part*.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 5.

An Act respecting the Electoral Franchise.

A.D. 1886.

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

SHORT TITLE.

1. This Act may be cited as "*The Electoral Franchise Act.*" Short title. 48-49 V., c. 40, s. 1.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,— Interpretation.

(a.) The expression "person" means any male person, including an Indian, and excluding a person of Mongolian or Chinese race; "Person."

(b.) The expression "owner" when it relates to the ownership of real property situate elsewhere in Canada than in the Province of Quebec, means the proprietor either in his own right or for his own benefit, or if such proprietor is a married man, it means the proprietor in his own right, or in the right of his wife, or the person whose wife is such proprietor, of freehold estate, legal or equitable, in lands and tenements held in free and common soccage, of which such person or the wife of such person is in actual possession, or in respect of which such person or the wife of such person is in receipt of the rents and profits; "Owner" elsewhere than in Quebec.

(c.) The expression "owner" when it relates to the ownership of real property situate in the Province of Quebec, means "proprietor" or "usufructuary" (*usufruitier*) either in his own right, or in the right of his wife, of real property in "franc alleu," or in free and common soccage; and when one person has the mere right of property or legal estate in any real property in the said Province, and some other person has the usufructuary enjoyment (*la jouissance et l'usufruit*) of the same property for his own use as aforesaid, the person who has the mere right of property or legal estate therein shall not have the right of being registered as a voter or of voting under this Act in respect of such pro- "Owner"; in Quebec. Usufructuary.

- erty, but in such case the person having the usufructuary enjoyment (*usufruit*) shall alone have the right of being registered as a voter and of voting in respect of such property under this Act;
- "Tenant." (d.) The expression "tenant" means as well a person who is bound to render to his landlord some portion of the produce or of the revenues or profits of the property leased, in lieu of rent, as a person who pays rent in money therefor;
- "Occupant." (e.) The expression "occupant" means a person in actual occupation of real property otherwise than as "owner," "tenant," or "usufructuary," in his own right, or, in the case of a married man, in his own right or in the right of his wife, or whose wife is in such actual occupation, and who or whose wife receives to his or her own use and benefit the revenues and profits thereof;
- "Father." (f.) The expression "father" includes grandfather, step-father and father-in-law; and the expression "mother" includes grandmother, stepmother and mother-in-law;
- "Mother."
- "Son." (g.) The expression "son" includes a grandson, stepson and son-in-law;
- "Farmer's son." (h.) The expression "farmer's son" means and includes the son of an owner and actual occupant of a farm or of a tenant and actual occupant of a farm under a lease for a term of not less than five years;
- "Real property." (i.) The expression "real property" means a lot or portion of a lot or other portion or sub-division of real property, or a house, store, office or building of any description whatsoever, or any portion thereof, situate upon real property, and forming part thereof;
- "Farm." (j.) The expression "farm" means land actually occupied by the owner thereof and not less in quantity than twenty acres; and the expression "farmer" means such owner thereof;
- "The Province." (k.) The expression "the Province" means that Province of Canada in which is situate the electoral district or portion of an electoral district for which the revising officer in the case or matter referred to is appointed;
- "City." (l.) The expression "city" means any place incorporated as a city, or recognized as such, by or under any Act of the Parliament of Canada or of the Legislature of the Province in which it is situate; except the cities of Hull and St. Hyacinthe, in the Province of Quebec, which, for the purposes of this Act, shall be deemed to be towns;
- Exceptions.
- "Town." (m.) The expression "town" means any place incorporated as a town, or recognized as such, by or under any Act of the Parliament of Canada, or of the Legislature of the Province in which it is situate;
- "Incorporated village." (n.) The expression "incorporated village" means any place incorporated as a village or recognized as such by or under any Act of the Parliament of Canada or of the Legislature of the Province in which it is situate;

(o.) The expression "parish" means any tract of land "Parish." which is generally reputed to form a parish, whether such tract has or has not been wholly or in part originally erected into a parish by the civil or ecclesiastical authorities, and which, on the twentieth day of July, one thousand eight hundred and eighty-five, existed as a territorial division ;

(p.) The expression "electoral district" means any place "Electoral District." entitled to return a member to the House of Commons of Canada, consisting of or comprising any city, town, county, township, parish, district or municipality, or portion thereof ;

(q.) The expression "actual value" or "value" means "Actual value." the then present market value of any real property, if sold "Value." upon the ordinary terms of sale: Provided, that the assessment rolls, as finally revised for municipal purposes, shall be Proviso. *primâ facie* evidence of the value of such property ;

(r.) The expressions "voting" and "to vote" mean voting "Voting" and to vote at the election of a member to serve in the "To vote." House of Commons of Canada ;

(s.) The expression "list of voters" means, except when "List of voters." the first general list or an unrevised list is especially mentioned or referred to, the list of voters, to be revised and completed under the provisions of this Act in each year, for each polling district of an electoral district, when finally revised, and includes a list corrected on appeal ;

(t.) The expression "election" means an election of a "Election." member to serve in the House of Commons of Canada ;

(u.) The expression "the revising officer" means any revising officer appointed under this Act for the electoral district or portion of an electoral district referred to in the context, and competent to do the thing required. 48-49 V., c. 40, s. 2, *part* ;—49 V., c. 3, s. 1. "The revising officer."

QUALIFICATION OF VOTERS.

3. Every person shall be entitled to be registered in any year upon the list of voters for the proper polling district of any electoral district or portion of an electoral district, and when so registered to vote, if such person— Who shall be registered as voters if qualified as to—

(1.) Is of the full age of twenty-one years, and is not by this Act or by any law of the Dominion of Canada, disqualified or prevented from voting ; and— Age.

(2.) Is a British subject by birth or naturalization ; and— Allegiance.

(3.) Is the owner of real property within any city or part of a city in the electoral district, of the actual value of at least three hundred dollars, or within any town or part of a town in the electoral district, of the actual value of at least two hundred dollars, or in any place in the electoral district, other than a city or town, of the actual value of at least one hundred and fifty dollars ; or— Ownership.

(4.) Is the tenant of any real property within the electoral district, under a lease, at a monthly rental of at least two dollars, or at a quarterly rental of at least six dollars, or at a Tenancy.

- half-yearly rental of at least twelve dollars, or at an annual rental of at least twenty dollars, and has been in possession thereof as such tenant for at least one year before his being placed upon the list of voters, or the date of the application for the placing of his name on the list of voters, and has really and *bonâ fide* paid one year's rent for such real property, at not less than the rate aforesaid; except when the rental is an annual one and for a larger sum than twenty dollars, in which case it shall be sufficient that at least twenty dollars of the last year's rent which accrued next before the time aforesaid shall have been paid: Provided always, that a change or changes of tenancy during the year shall not deprive such tenant of the right to be registered on a list of voters if such change or changes have been without any intermission of time between the tenancies, and if the several tenancies are such as would entitle the tenant to be registered on a list of voters had such tenant been in possession under any one of them, as such tenant, for the year next before the time aforesaid: Provided also, that in any place except a city, town or incorporated village, the rental hereinbefore mentioned may be payable in money, in kind, or in money's worth of like value; and provided further, that if on any revised or final assessment roll the amount of the tenant's rent is not stated, the fact that the real property in respect of which his name is entered on such roll as the tenant thereof is assessed on such roll in cities at three hundred dollars or more, or in towns at two hundred dollars or more, or in any place other than a city or town at one hundred and fifty dollars or more, shall be *primâ facie* evidence of his right to be registered on the list of voters, so far as such right depends on the amount of rental; or—
- As to payment of rent.**
- As to change of tenancy.**
- As to payment in money's worth.**
- As to valuation of property on assessment roll.**
- Occupancy.** (5.) Is the *bonâ fide* occupant of real property within any city or part of a city in the electoral district, of the actual value of at least three hundred dollars, or within any town or part of a town in the electoral district, of the actual value of at least two hundred dollars, or in any place in the electoral district other than a city or town, of the actual value of at least one hundred and fifty dollars: Provided in every such case, that such person has been in possession of such real property as such occupant for one year next before his being placed upon the list of voters, or the date of the application for the placing of his name on the list of voters, and is, and has been for such time, in the enjoyment of the revenues and profits thereof; or—
- Proviso.**
- Residence and income.** (6.) Is a resident within the electoral district, and derives an income of at least three hundred dollars annually from his earnings in money or money's worth, or partly in money and partly in money's worth, or from some profession, calling, office or trade, or from some investment in Canada, and has so derived such income and has been a resident of Canada for one year next before his being placed upon the

list of voters, or the date of the application for the placing of his name on the list of voters; or—

(7.) Is a farmer's son not otherwise qualified to vote in the electoral district in which his father's farm is situated; and—

As a farmer's son.

(a.) If his father is living, is and has been resident within the electoral district continuously, except as hereinafter provided, with his father for one year next before his being placed upon the list of voters, or the date of the application for the placing of his name on the list of voters, if the value of such farm is sufficient, if equally divided among the father and one or more sons as co-owners, to qualify them to be registered as voters,—in which case the father and such one or more sons as so desire may be so registered as voters; and if there are more such sons than one resident as aforesaid, and claiming to be registered as voters in respect thereof, and if the value of the farm of the father is not sufficient to give the father and each of such sons the right to vote in respect of such value, if equally divided among them, then the right to be registered as a voter and to vote in respect of such farm, shall belong only to the father and the eldest or so many of the elder of such sons, being so resident as aforesaid, as the value of such farm, if equally divided, will qualify; or—

If father is living

If value not sufficient to qualify all sons.

(b.) If his father is dead, is and has been resident within the electoral district continuously, except as hereinafter provided, with his father, or with his mother (after the death of his father), being the owner of the farm, in respect of which the right of voting is claimed by or for him, for one year next before his being placed upon the list of voters, or the date of the application for the placing of his name on the list of voters if the value of the farm, in respect of which it is claimed that he should be registered as a voter, is sufficient, if equally divided among all the sons of such father as co-owners, to qualify them as voters under this Act.—in which case such one or more sons as so desire may be so registered as voters; and if there are more such sons than one resident as aforesaid, and claiming to be registered as voters in respect thereof, and if the value of such farm is not sufficient to give each of such sons the right to vote in respect of such value, if equally divided among them, then the right to be registered as a voter and to vote in respect of such farm shall belong only to the eldest, or so many of the elder of such sons, being so resident as aforesaid, as the value of such farm, if equally divided, will qualify; or—

If father is dead.

If value not sufficient to qualify all sons.

(8.) Is the son of an owner of real property in such electoral district, or portion of an electoral district, other than a farm, and is not otherwise qualified to vote in the electoral district in which such property is situated; and—

As son of an owner other than a farmer.

(a.) If his father is living, is and has been resident within the electoral district continuously, except as hereinafter provided, with his father for one year next before his being

If father is living.

placed upon the list of voters, or the date of the application for the placing of his name on the list of voters, if the value of the real property on which his father resides, and in respect of which his father is qualified to be registered as a voter as owner, is sufficient, if equally divided among the father and one or more sons as co-owners, to qualify them to be registered as voters under this Act,—in which case the father and such one or more sons as so desire, may be so registered as voters; and if there are more such sons than one resident as aforesaid, and claiming to be registered as voters in respect of such property, and if the value thereof is not sufficient to give the father and each of the sons the right to vote in respect of such value, if equally divided, then the right to be registered as a voter and to vote in respect of such real property, shall belong only to the father and the eldest or so many of the elder of such sons, being so resident as aforesaid, as the value of such real property, if equally divided, will qualify; or—

If value not sufficient to qualify all sons.

If father is dead.

(b.) If his father is dead, is and has been resident within the electoral district continuously, except as hereinafter provided, with his father, or with his mother (after the death of his father) being such owner, for one year next before his being placed upon the list of voters, or the date of the application for the placing of his name on the list of voters, if the value of the real property on which his father, or his mother (after the death of his father) resided or resides, and in respect of which such father would, if living, be qualified to be registered as a voter as owner, is sufficient, if equally divided among all his sons as co-owners, to qualify them to be registered as voters under this Act,—in which case such one or more sons as so desire may be so registered as voters; and if there are more such sons than one resident as aforesaid, and claiming to be registered as voters in respect of such property, and if the value thereof is not sufficient to give each of such sons the right to vote in respect of such value, if equally divided, then the right to be registered as a voter and to vote in respect of such real property, shall belong only to the eldest or so many of the elder of such sons, being so resident as aforesaid, as the value of such real property, if equally divided, will qualify; or—

If value not sufficient to qualify all sons.

As fisherman and owner.

(9.) Is a fisherman, resident in the electoral district, and is the owner of real property and boats, nets, fishing gear and tackle, within any such electoral district, or portion of an electoral district, or of a share or shares in a registered ship, which together are of the actual value of at least one hundred and fifty dollars; or—

As an annuitant.

(10.) Is and has been, for one year next before his being placed upon the list of voters, or the date of the application for the placing of his name on the list of voters, a resident within the electoral district, and in receipt of a life annuity secured on real estate in Canada, by virtue of a deed of

donation or any other title equivalent thereto, of at least one hundred dollars in money or money's worth, or partly in money and partly in money's worth. 49 V., c. 3, s. 2.

4. The qualifications required of voters in respect of a city or town or portion of a city or town shall apply to voters in respect of a city or town, or a portion of a city or town attached for electoral purposes to a county or riding of a county in any electoral district; and the qualifications required of voters in respect of any place other than a city or town shall apply to voters in respect of any municipality or place not being a city or town, or a portion of a city or town, which is attached to or included for electoral purposes in a city or town, or portion of a city or town. 49 V., c. 3, s. 3.

In a city or town attached to a county or riding and vice versa.

5. Whenever two or more persons are, either as business partners, joint tenants, tenants in common, or by any other kind of joint interest, the owners, tenants or occupants of any lot, or portion of a lot, or other sub-division or parcel of real property in any electoral district, each of such persons whose share therein is sufficient in value, or in the case of tenants, in amount of rent, according to the provisions of this Act, to qualify such person as a voter in respect of real property, shall be entitled to be registered on the list of voters and to vote in respect of such share, as if it was held in such person's individual name, and not jointly with one or more. 48-49 V., c. 40, s. 6.

Joint tenancy in common or other co-tenancy.

6. Persons qualified under this Act as voters in respect of income shall only be entitled to be registered as voters and to vote in the polling district in which they reside at the time of registration; and persons qualified otherwise than in respect of income shall only be entitled to be registered as voters and to vote in the polling district in which the real property in respect of which they are qualified is situate; but if such property is partly within one polling district and partly within another, although all within one electoral district, the persons qualified in respect thereof shall be entitled respectively to be registered and to vote in that one of such polling districts in which they desire to be registered as voters. 48-49 V., c. 40, s. 7.

Place of registry for voters.

Property extending into more than one polling district.

7. In the case of a farmer's son or of the son of an owner of real property other than a farmer, each such son, to entitle him to vote as such, under the foregoing provisions of this Act, must have been, from the time of his name having been placed on the list of voters to the time of the election for the electoral district in which he tenders his vote, and must then be, a resident in such electoral district as hereinbefore provided with his father, (or with his mother after the death of his father), being such owner as aforesaid; but—

Son must be resident with his father or mother after death of father.

As to occasional absence of such son.

(a.) Occasional absence or absences of any such son from the residence of his father (or of his mother, as the case may be), for any period or periods not exceeding in all six months in the year next before his being placed on the list of voters, or the date of the application for placing his name on the said list, or for any period or periods not exceeding in all six months subsequent to the then last revision of such list, shall not disqualify such son from being placed on the list of voters or from voting :—

As to time spent by such son as a mariner, fisherman or student.

(b.) And the time spent by such son as a mariner or as a fisherman, in the pursuit of either of the said occupations, or as a student at any institution of learning in Canada, shall be considered, for the purposes of this Act, as having been spent at the residence of his father, or of his mother, as the case may be. 49 V., c. 3, s. 5.

Unregistered and disqualified persons not to vote.

8. Except the persons duly qualified and registered as voters under this Act, and except as otherwise provided in "*The Dominion Elections Act*," no person shall be entitled to vote at any election for a member of the House of Commons of Canada. 48-49 V., c. 40, s. 10, *part*.

Certain Indians not qualified.

9. No Indian in either of the Provinces of Manitoba or British Columbia, or in the District of Keewatin or the North-West Territories of Canada, shall be entitled to be registered on any list of voters or to vote, and no Indian on any reserve elsewhere in Canada who is not in possession and occupation of a separate and distinct tract of land in such reserve, and whose improvements on such separate tract are not of the value of at least one hundred and fifty dollars, and who is not otherwise possessed of the qualifications entitling him to be registered on the list of voters under this Act, shall be entitled to be registered on any list of voters or to vote. 48-49 V., c. 40, s. 11, *part*.

Applicable to Provinces of British Columbia and Prince Edward Island.

Special provisions as to B. C. and P. E. I.

10. In the Provinces of British Columbia and Prince Edward Island, besides the persons entitled to be registered as voters and to vote under the foregoing provisions of this Act, every person who, on the twentieth day of July, one thousand eight hundred and eighty-five—

Age.

(a.) Was of the age of twenty-one years and was not by this Act or by any law of the Dominion of Canada disqualified or prevented from voting ; and—

British subject.

(b.) Was a British subject by birth or naturalization and resident in the Province, and was entitled to vote in the said Provinces respectively by the laws then severally in force in the same,—

Registration as voters.

Shall have a right to be registered as a voter and to vote, so long as he continues to be qualified to vote under the

provisions of the said last mentioned laws, and no longer. 48-49 V., c. 40, s. 9.

REVISING OFFICERS AND OTHER OFFICERS.

11. The Governor in Council may, from time to time, appoint a proper person to be called "the revising officer," for each or any of the electoral districts, who shall hold office during good behavior, but who shall be removable on address by the House of Commons, and whose duties shall be to revise and complete, in the manner hereinafter provided, the lists of persons entitled to be registered as voters under the provisions of this Act in such electoral district or portion of an electoral district for which he is appointed as hereinafter provided :

Appointment of revising officers. Tenure of office.

Their duties.

2. Every such officer shall, before entering upon his duties, take an oath of office before a judge of a court of record of the Province in which he is to act, in the form A, in the schedule to this Act,—which oath he shall forthwith thereafter cause to be filed with the Clerk of the Crown in Chancery at Ottawa :

To take oath of office.

3. In the event of the death, resignation, removal, inability or refusal to act of any such revising officer, another may, in like manner, be appointed in his stead, who shall hold office under the same tenure, and with the same duties and powers :

Case of death or resignation, &c.

4. The same revising officer may be appointed for and be required to discharge the said duties in respect of more than one electoral district and may be appointed for a portion of any electoral district :

Appointment for more or less than one district.

5. Any revising officer may, in case of illness or necessary absence, after leave granted therefor by the Governor in Council, appoint a deputy revising officer to act for him during such illness or absence ; and such appointment shall be subject to the approval of the Governor in Council :

Deputy may be appointed in certain cases.

6. The deputy revising officer shall be possessed of all the qualifications, and during such illness or absence shall have all the powers of a revising officer, and if he is not a judge of any court his decision shall be subject to appeal as hereby provided. 48-49 V., c. 40, s. 13 and s. 14. *part* ;—49 V., c. 3, s. 17.

Powers of deputy.

12. In every Province, except in the Provinces of Quebec and British Columbia, any person to be appointed a revising officer under this Act shall be either a judge or a junior judge of a county or district court in the Province, or a barrister of at least five years' standing at the bar of such Province ; and in the Province of Quebec he shall be either a judge of the Superior Court for Lower Canada, or an advocate or notary of that Province of at least five years' standing ; and in the Province of British Columbia he shall be either a judge of a superior court or of a county or district court,

Who may be appointed as such.

or a barrister of at least five years' standing, or a stipendiary magistrate. 48-49 V., c. 40, s. 14, *part.*

Clerk of
revising
officer.

13. The revising officer shall appoint a clerk, who shall be a person residing in the electoral district or portion of an electoral district for which the revising officer holds office, and who shall be competent to perform the duties required of him under this Act, and such as are assigned to him as clerk of the courts of revision, or otherwise, by the revising officer, during the revision of the lists of voters; and such clerk shall be removable by the revising officer at pleasure. 48-49 V., c. 40, s. 54.

Bailiff and
constable.

14. The revising officer may also appoint, for the purpose of serving papers, posting up notices and attending and keeping order at courts and sittings held by the revising officer, and doing such other duties as are assigned to him by the revising officer, a competent person as a bailiff and constable, who shall be subject to the orders of the revising officer, and shall be removable by him at pleasure. 48-49 V., c. 40, s. 55.

REVISION OF LISTS.

Renewal of
lists and pro-
ceedings
therefor.

Revising and
correcting
former lists.

Contents of
revised lists:
as to qualifi-
cation, &c. of
voters.

15. On or as soon as possible after the first day of June in each year after the year of Our Lord one thousand eight hundred and eighty-six, the revising officer, being duly sworn as hereinbefore provided, shall cause the list of voters of the preceding year to be compared with the last assessment rolls, and shall, with all the information that he can obtain from that or any other source, proceed to revise the lists of voters then in force under this Act for the electoral district or portion of an electoral district for which he is appointed, entering thereupon the names of all persons not already on such lists, and who, according to the provisions of this Act, are entitled to have their names so entered, indicating in the proper column thereof whether they are qualified in respect of real property, as owners, tenants, occupants or otherwise, and stating the numbers of the lots, portions of lots and concessions, streets or other available description of real property in respect of which they are qualified, and their post office addresses as nearly as can be ascertained by the said officer, or whether they are qualified in respect of income; and as to the sons of farmers, or other owners' sons as aforesaid, and voters on income, stating also in such lists in the proper columns thereof the residence and post office addresses of such persons as nearly as can be ascertained by him, and noting on the said lists the names of any persons who are dead or who are not, according to the provisions of this Act, entitled to be registered as voters, stating the reason of such note, and making any other verbal or clerical corrections which seem necessary; and he shall attest all such additions,

erasures or corrections, with his initials, and sign such lists as such revising officer; and such assessment rolls as aforesaid shall be *primâ facie* evidence of value. 49 V., c. 3, s. 10.

Attestation of lists.

16. The revising officer shall not remove the name of any person entered on the list of voters from such list on the ground that the qualification of such person is incorrectly entered thereon, if it appears that such person is entitled to be registered on the list of voters as possessed of any of the qualifications set forth in this Act, but the revising officer shall retain the name of such person on the list and correct the same accordingly. 49 V., c. 3, s. 9.

Erroneous entry on list to be corrected.

17. After the completion of such preliminary revision of the said lists of voters the revising officer shall, for the purpose of making the final revision thereof, cause a sufficient number of copies of each of such lists, with the description of the polling district to which they respectively relate, to be printed, and he shall certify the same as such officer, and on or before the first day of September, in the year in which such lists are so revised, he shall publish the same by causing three copies thereof respectively to be posted up, one in each of three conspicuous public places in the polling district to which they respectively relate, and by delivering copies thereof to any persons applying for the same, upon payment therefor of a price proportionately sufficient to cover the price paid for printing the same, but such price shall not exceed ten cents for a copy of the list for each polling district, and to each of such copies shall be appended a notice in the form C in the schedule to this Act, appointing a time and place for the final revision of each such list as hereinafter provided:

Publication of corrected lists.

Copies on application.

Notice to be attached.

2. The revising officer shall also deliver to the persons following, or transmit by registered letters, copies of such lists for polling districts to their last known addresses, that is to say: to each member of the council of every city, town, township or village in the electoral district, or portion of an electoral district, and to the clerk and treasurer thereof, and to each postmaster in every such municipality or polling district, one copy of every list relating to such municipality or polling district; to the sheriff, warden, clerk of the peace and judge of the county or district court of the county, union of counties or district, and in the Province of Quebec, of the Superior Court for Lower Canada of the district in which such electoral district or portion of an electoral district is situate for judicial purposes, one copy of each of such lists relating to such electoral district or portion of electoral district which is situate within such county, union of counties or judicial district; and ten copies of each of such lists to the member or each of the members of the House of Commons for the said electoral district or portion of an electoral district, and

Copies to be sent to certain officials.

And to members of the H. of C, and unsuccessful candidates.

to the unsuccessful candidate or each of the unsuccessful candidates at the then last election for the same. 48-49 V., c. 40, s. 34, *part*;—49 V., c. 3, s. 15 *part*.

Notice of final revision.

18. The revising officer shall also at the time of the publication of such lists, as in the next preceding section mentioned, publish the said notice in the form C, appointing the time and place for the said final revision, in a newspaper, if there is one published in the municipality or other division of the electoral district to which the polling district affected by such list belongs, by one insertion thereof in such newspaper. 48-49 V., c. 40, s. 34, *part*.

Time and place for final revision.

19. The time to be fixed for the final revision of lists of voters under this Act, shall be not less than five weeks after the publication by posting up of the lists; and each sitting for such final revision shall include when practicable at least three and (except in cities and towns) not more than five polling districts; the place for the holding of the final revision shall be in one of the polling districts the lists for which are to be so finally revised; and there shall be a sitting for such final revision in each city, town, township, parish, incorporated village and other known territorial division, and in the province of Prince Edward Island at least two sittings in each existing provincial electoral district except Charlottetown and Royalty and Georgetown and Royalty:

In P. E. I.

Notice of objections and amendments.

2. Any person desiring to object or to add to, or in any way amend or correct such list on the final revision, shall have the right so to object or to apply for the said addition, amendment or correction to the revising officer, if he has, at least two weeks before the day fixed for such final revision, deposited with or mailed to the revising officer, by registered letter, at his office or place of address, a notice in the form D in the schedule to this Act; and in the event of any person desiring to object to any name on the said list, the person so objecting shall also give notice in writing at least two weeks before the day fixed for such final revision to the person whose name is objected to and in the like form as to the revising officer, by delivering such notice to such person, or by mailing the same by registered letter to his last known post office address:

Notice to person objected to.

Objections, &c., may be examined.

3. The revising officer shall exhibit to any person requiring to examine the same all notices of additions or objections or declarations in support thereof, deposited with or mailed to him under this section, and shall permit copies thereof to be taken. 48-49 V., c. 40, s. 35, *part*;—49 V., c. 3, ss. 6 and 7.

Holding court for final revision of lists and proceedings thereat.

20. At the time and place named in the said notice he shall hold open court for the said final revision, and shall hear and dispose of any objection or complaint and any application to add to, amend or correct the said list, of which

notice has been given as aforesaid, hearing the parties making the same, if they appear, and any evidence that is adduced before him in support of or in opposition thereto, and he shall either affirm or amend the list accordingly, as to him seems right and proper, attesting, with his initials, any changes, additions or erasures in the list :

2. If, at the time of the final revision, the person by whom any application to add to, amend or correct the list was made or notice of any objection or complaint was given, does not appear in support of the application, objection or complaint, or is desirous of withdrawing the same, the revising officer shall allow any other elector, who is desirous of so doing, to appear in support of such application, objection or complaint, or he may, without such substitution, hear any evidence that is available in support thereof and dispose of the matter accordingly. 48-49 V., c. 40, s. 36, *part* ;—49 V., c. 3, s. 8.

If applicant or complainant does not appear.

21. After the lists for the several polling districts in an electoral district have been so finally revised, they shall be certified in the form E in the schedule to this Act by the revising officer, and they shall be kept by him for the purposes of this Act, and a duplicate of each such list, certified as aforesaid, shall be transmitted forthwith by him to the Clerk of the Crown in Chancery at Ottawa, who, on receipt of all the said lists for any electoral district, shall, in the then next issue of the *Canada Gazette*, insert a notice in the form F in the schedule to this Act,—on and after the publication of which notice the persons whose names are entered on the said lists as voters shall, subject to any correction or amendment made by any judgment on appeal, as hereinafter provided for, be held to be duly registered voters in and for such electoral district: Provided however, that in the event of any such appeal, such lists, after the publication of the last mentioned notice in the *Canada Gazette*, shall apply to every election for such electoral district or portion of an electoral district, taking place before such appeal has been disposed of and the result thereof communicated to the revising officer, subject to the provisions of "*The Dominion Elections Act*" with respect to the counting of the ballot of any voter whose right to have his name registered as a voter upon any such list and to vote, or the exclusion of whose name from any such list as a voter is the subject of an undecided appeal :

Certifying lists and transmission of duplicates to Clerk of the Crown in Chancery.

Notice in *Gazette* and its effect.

In case of appeal, as to persons whose names are subjects of undecided appeals.

2. Every such list shall be so finally revised and certified and a duplicate thereof forwarded to the Clerk of the Crown in Chancery at Ottawa, on or before the first day of November in each year. 48-49 V., c. 40, s. 37, *part*, and s. 57, *part* ; 49 V., c. 3, s. 15, *part*.

When lists shall be finally certified, &c.

22. After the lists of voters have been so finally revised, or amended and corrected on appeal, if any such appeal takes place, and after they have been certified and brought

Effect of revised lists unless altered on appeal or

superseded by others. into force as hereinbefore prescribed and until other lists are, in a future year, as herein provided, revised, amended and corrected on appeal, if any such appeal takes place, and are certified and brought into force in their stead, those persons only whose names are entered upon such lists as so revised, amended and corrected on appeal as aforesaid, if any, shall be entitled to vote at any election in the polling districts and electoral districts for which such lists are respectively made; and the said lists shall be binding on every judge and other tribunal appointed for the trial of any petition complaining of an undue election or return of a member to serve in the House of Commons of Canada. 48-49 V., c. 40, s. 39.

Alteration of polling districts in case of change in population.

23. Whenever the number of voters in any polling district, increases so as to exceed three hundred, or whenever the revising officer considers that the convenience of the voters would be promoted by a new and different sub-division, he shall, before proceeding to the final revision of the lists of voters in polling districts, then next required under this Act, by an order under his hand, in the form G in the schedule to this Act, divide every city, town, ward, parish, township or other municipal or corresponding division, or if there is no such municipal or corresponding division, any tract of land in which such polling district is situate, having, according to the lists of voters relating to it, more than three hundred voters therein, by well defined boundaries, such as streets, highways, side lines, concession lines or the like, into new polling districts, in such a manner as that the number of voters in the several polling districts in such electoral district, or portion of an electoral district, shall be as nearly equal as may be, and shall not in any one case exceed two hundred, and so again from time to time as like occasion requires, using for that purpose on all occasions the then last revised and corrected lists of voters in force under this Act :

Publication of order.

2. The revising officer, after making such division shall forthwith publish such order by posting up in some public place in each polling district a copy thereof, certified by him; and the revising officer in his then next revision of such lists shall make such revision upon the basis of such new division into polling districts :

Polling districts in P. E. I.
Designation of polling districts.

3. Polling districts in the Province of Prince Edward Island may comprise parts of several townships :

4. Each of such polling districts shall be numbered, with a local designation attached to such number, in and by the said order of the revising officer by which they are established, and such order shall forthwith, after the making thereof, be filed and thereafter kept by the revising officer for the purposes of this Act :

5. Immediately after such new division into polling districts, the revising officer shall prepare from the lists of voters as preliminarily revised by him, a separate list of voters for each such polling district, containing in alphabetical order the names of all voters qualified to be registered as voters and to vote in such polling district, and in the form B in the schedule to this Act, and he shall sign the same as such officer. 48-49 V., c. 40, s. 41 ;—49 V., c. 3, s. 11.

Separate list for each polling district.

GENERAL POWERS AND DUTIES OF REVISING OFFICERS.

24. The revising officer shall, for the purposes of the preliminary and final revisions of any lists of voters in polling districts, have all the powers of any court of record in the Province as to compelling the attendance of witnesses and their examination, the production of books and documents, and the taking of evidence under oath before him, at any court or sittings held by him for any such preliminary or final revision, and such officer shall have generally, for the purposes aforesaid, all the powers of any court of record in such Province. 48-49 V., c. 40, s. 36, *part*.

Powers of revising officer for making revision.

25. The revising officer shall, on the application of any person who is supporting or opposing any objection, complaint or application which is to be considered at any of the courts or sittings for the final revision of any list of voters revised under this Act, issue a summons in the form H in the schedule to this Act, directed to any person required by such applicant as a witness thereat, commanding such person to attend at such court or sittings, and also commanding such person, if such applicant so desires, to produce any books or papers in the possession or power of such person, and to give evidence at such court or sittings relating to any matter connected with any such revision; and in the event of such person not so attending, after being served with such summons and paid or tendered, with such summons, his proper witness' fees, as hereinafter provided, the revising officer may punish such person as for a contempt of a court of record:

Power of revising officer to summon witnesses and obtain necessary information.

2. No such person shall be obliged to attend under any such summons unless he has been paid or tendered, with such summons, his proper witness' fees therefor, at the rates following, that is to say: if the witness is resident in the Province of Quebec, such fees shall be the same as are payable according to the tariff in force in the Superior Court of Lower Canada; if such witness is resident in the Province of Ontario, such fees shall be the same as are payable according to the tariff in force in any division court in the Province of Ontario; and if such witness is resident in any other Province of Canada, such witness' fees shall be the same as are payable in the county or division courts in such Provinces respectively.

Fees to be paid or tendered.

Parties if summoned to obey the summons.

3. Provided that every person, in respect of the placing of whose name on the list of voters an application has been made, or notice of an objection or complaint has been given, and every person who gives notice of any such objection or complaint, shall, if he is resident within the polling district, the list for which is sought to be amended, or within ten miles thereof, and is not absent from such limits, upon being served with a summons in the said form H, obey the same without being tendered or paid any allowance for his expenses :

Penalty in default.

4. If any person summoned as in the next preceding subsection provided, does not so attend in obedience to such summons, the revising officer may, in the absence of satisfactory evidence as to the reason of such non-attendance, or, if such person is an applicant to be placed on the list of voters, as to his right to be placed on such list, dismiss the objection or complaint, or strike the name of such person off the list of voters, or refuse to place his name thereon, as the case requires, or the revising officer may impose a fine not exceeding five dollars on such person, or he may do both. 48-49 V., c. 40, s. 42 ;—49 V., c. 3, s. 12.

Power of amendment or adjournment and of summary proceeding.

26. The revising officer shall have power at any court or sitting held under this Act by him, to amend or give leave to amend, when he sees fit, any of the proceedings taken in reference to any list of voters, to direct notice to be given to other persons, in respect of any question arising in respect of any such list, and to adjourn any court or sittings, on the hearing of any objection, complaint or application, to a future day ; and he shall not be bound by strict rules of evidence or forms of procedure, in force in any court of record, but shall hear and determine all matters coming before him as such revising officer in a summary manner, and so as in his judgment to do justice to all parties concerned. 48-49 V., c. 40, s. 43.

How parties and electors may appear.

27. The parties to any application before a revising officer may appear by solicitor, counsel or agent ; and any elector may appear, in person or by agent, at any court or sitting of the revising officer in the electoral district in which he is such elector, in support of or in opposition to any objection, complaint or application ; and the revising officer may award costs to or against any party to the application, —which costs shall only be for witnesses' fees and the expenses of summoning witnesses ; and the said costs may be levied by order of the revising officer, by distress, in the same manner as distress is leviable upon a warrant on a conviction under the "*Act respecting Summary Proceedings before Justices of the Peace.*" 48-49 V., c. 40, s. 44.

Costs.

If revising officer is unable to act.

28. Whenever from illness or from other casualty a revising officer is unable to hold any sitting at the time appointed

therefor, the clerk may adjourn the sitting to any hour on the following day to be named by him, and so from day to day until the revising officer is able to attend, or until other provision is made for the holding of such sitting. 49 V., c. 3, s. 16.

29. The revising officer shall keep at his office in the electoral district a list of the notices of objections, proposed additions, amendments or corrections, and notices of appeal hereinafter provided for, sent in to him, respecting the said lists of voters, under the provisions of this Act, which list, as well as the said notices, shall be open to inspection by any one desiring to inspect the same at any time before the said objections, proposed additions, amendments, corrections or appeals are disposed of by the revising officer or judge in appeal respectively. 48-49 V., c. 40, s. 56.

Revising officer to keep list of objections, &c.

30. If, at any time when the revising officer is required to furnish or certify any list of voters to any officer or person there is, with respect to such list, any appeal pending and undecided, or if there is any appeal with respect to such list in which the decision, if given, has not been notified to the revising officer, the revising officer shall furnish such list as then last revised, corrected and certified by him, noting thereon the names of all persons who have been retained on the list of voters, notwithstanding objection, the names of all persons who have been struck off the list of voters, and the names of all persons who have applied to be placed on the list of voters, and whose applications have been refused, and noting also thereon the names of all persons who have appealed from his decision; and such list shall serve and avail, according to the provisions of this Act, for the election with reference to which it is furnished; but whenever any appeal is decided, so as to require the correction of the list, and the formal order or judgment has been served upon him, he shall forthwith correct the list accordingly, and shall forthwith notify the Clerk of the Crown in Chancery of such formal order or judgment that he may correct the duplicate list in his hands accordingly, and the Clerk of the Crown in Chancery shall forthwith correct the same accordingly: Provided, that if the decision in appeal, requiring the correction of any list of voters, is notified to the revising officer by service of the formal order or judgment or otherwise, before the day of polling, a duly certified copy of the corrected list of voters, together with a copy of the formal order or judgment on appeal, as received by him, duly certified by such revising officer, shall be furnished before the said day by the revising officer to the returning officer, or to the deputy returning officer for the polling district, the list of voters for which has been corrected upon the said appeal, which copy shall contain the correction in question, certified as hereinbefore provided,

As to lists certified while an appeal is pending.

Correction when appeal is decided, and notice thereof.

Provision if decision is notified before day of polling.

in which case the election shall take place upon such corrected list if received in time by such deputy returning officer. 48-49 V., c. 40, s. 47.

Certified copies to returning officers.

31. The revising officer shall furnish to the returning officer for his electoral district or portion of an electoral district, within forty-eight hours after demand of the returning officer therefor, one copy of the list of voters then in force for each polling district in the electoral district or portion of an electoral district, with a copy of the description of each such polling district, as contained in the order of the revising officer constituting the same, and then in force, each of which copies shall be duly certified by the revising officer. 48-49 V., c. 40, s. 40, *part*.

Copies to be furnished on payment.

32. The revising officer and the Clerk of the Crown in Chancery shall supply copies of the said lists to any person or persons applying for the same and paying therefor at the rate payable for copies of lists furnished under section seventeen of this Act. 48-49 V., c. 40, s. 38.

PROVISIONS RESPECTING APPEALS.

Appeal from decision of revising officer.

Notice thereof.

Transmission of notice and copy of decision to judge.

Appellant to have copy of decision.

Courts for appeal.

33. In any case in which the revising officer is not also a judge of a court, as hereinbefore mentioned, any person who, under the foregoing provisions of this Act, has made any objection, complaint or application in respect of the list of voters for any polling district, or any person with reference to whom such objection, complaint or application has been made, who is dissatisfied with the decision of such revising officer in respect thereof, may give to the said revising officer or to his clerk, on the day of such decision, or within seven days thereafter, notice in writing of his intention to appeal from such decision, stating shortly in such notice the decision complained of, and at least one reason for appealing against it; and such person shall, within the same time, cause a copy of such notice to be served upon the party, if any, in whose favor such decision was given, either personally or by leaving it at his residence or place of business, or by mailing the same in a registered letter addressed to his last known post office address; and such revising officer shall forthwith after receiving the same transmit such notice, together with a copy of his decision appealed from to the court or judge, to whom such appeal is to be made, as hereinafter provided, and he shall sign such decision as such revising officer, and he shall also, if so required, forthwith thereafter deliver to such appellant or to his solicitor, counsel or agent, and to the respondent, if any, or to his solicitor, counsel or agent, a certified copy of his said decision. 48-49 V., c. 40, s. 49.

34. Such appeal shall be—

(a.) In the Provinces of Ontario, Nova Scotia, New Brunswick, Manitoba and Prince Edward Island, to the judge of the county court of the county or union of counties in which the polling district, in respect of which such appeal arises, is situate ;

In Ont., N.S.
N.B., Man.
and P. E. I.

(b.) In the Province of Quebec, to the judge of the Superior Court, resident in or having judicial charge of the judicial district in which the polling district in respect of which the appeal arises is situate ;

In Quebec.

(c.) In the Province of British Columbia, to the judge of the county court of the county or union of counties in which the polling district, in respect of which such appeal arises, is situate ; but in any electoral district in the said Province which is not included within the jurisdiction of any judge of a county court, to the Supreme Court of British Columbia,—which court shall assign the duty of trying any such appeal to some judge of the said court. 48-49 V., c. 40, s. 53.

In B. C.

35. The judge shall, upon receiving the said notice of such appeal and the said copy of the decision appealed from, appoint a convenient time and place for the hearing of the appeal, which place shall be within the municipality, parish or other local territorial division within which the polling district in respect of which the appeal arises is situate, of which time and place due notice shall be given to the revising officer and to the parties interested, in such manner as the court or judge appealed to orders :

Judge to appoint time and place for hearing appeal.

Notice to parties.

2. If at the time and place so appointed, the appellant does not appear in person or by solicitor, counsel or agent, or if he so appears and abandons his appeal, the appeal shall be dismissed :

If appellant does not appear, &c.

3. If the appellant appears, and neither the revising officer nor any other party to the appeal appears, or if the revising officer or any other party thereto appears and does not oppose the appeal, the judge, on sufficient proof or admission of service of the notice in manner above mentioned, shall allow the appeal, except in the case of an appeal by a person whose name is struck off the list of voters or whose name the revising officer has refused to place thereon,—in which case the judge who hears the appeal shall require satisfactory evidence of the right of the appellant to have his name placed on the list of voters before he allows the appeal :

If appeal is unopposed.

4. If the revising officer or any other party to the appeal appears and opposes the appeal, or if the revising officer appears and opposes the appeal, and the other party thereto makes default in appearing, the judge, on being satisfied of the service of such notice in manner above mentioned, shall, either immediately, or at such time as he then appoints for the purpose, and at the same place, proceed to hear and decide the said appeal summarily, hearing the parties so appearing and receiving such legal evidence as is

Summary hearing and decision if the case is contested.

adduced before him respecting the facts in dispute, but without being bound by any technical rules of procedure :

Decision final.
Notice of decision to revising officer.

5. Such decision shall be subject to no further appeal :

6. If any judgment is rendered on appeal requiring an alteration to be made in the certified list, a copy of the formal order or judgment shall be forthwith served upon the revising officer in such manner as the judge orders. 48-49 V., c. 40, s. 50, *part*

Any voter may appear in person or by agent.

36. Any voter may appear in person or by solicitor, counsel or agent at any sitting of the judge who hears any such appeal in the electoral district in which he is such voter, in support of or in opposition to any appeal or application in respect of any appeal arising before such judge. 48-49 V., c. 40, s. 50, *part*

Powers of judge as to witnesses, &c.

37. The judge shall, for the purposes of any such appeal, and in respect thereof, have all the powers conferred upon the revising officer under this Act, with regard to summoning witnesses, obtaining evidence, and punishing the persons summoned before him. 48-49 V., c. 40, s. 51.

Costs; how levied.

38. The judge may award costs to or against any party to the appeal,—which costs shall only be for witness' fees and the expenses of summoning such witnesses ; and such costs may be levied by order of such judge, by distress, in the same manner as distress is leviable, under a warrant on a conviction under the provisions of the "*Act respecting summary proceedings before Justices of the Peace.*" 48-49 V., c. 40, s. 52.

GENERAL PROVISIONS.

Provision in default of list for any year.

39. If, from any cause, the list of voters for any polling district is not revised and certified at the time when it should, under this Act, be sent to the returning officer at any election, then the last list of voters, revised and certified for such polling district, shall be sent to the returning officer and used at such election. 48-49 V., c. 40, s. 45.

OFFENCES AND PENALTIES.

Copies of certain lists to be furnished to revising officer.

40. Every officer and person who is by any law the custodian of any assessment roll or list of voters, prepared under the laws of any Province, or of any other list or document, or of any duplicate or certified copy thereof, which, under the foregoing provisions of this Act, the revising officer is required to obtain and use for the purpose of revising any list of voters under this Act, shall furnish the same, or a certified copy or copies thereof to any revising officer who applies for the same and as by him required ; and every such officer or person who refuses or omits to

furnish the same to such revising officer within a reasonable time, upon being paid or tendered the cost of preparing the same, according to the fees or rates allowed therefor by the laws in force in the Province to which such assessment roll, list or document relates, is guilty of a misdemeanor and shall be punishable accordingly. 48-49 V., c. 40, s. 62. Penalty for default.

41. Every person who is appointed to any office or employment under this Act, or required by this Act to do any matter or thing, shall, for every wilful misfeasance or for any wilful act of commission or omission contrary to this Act, forfeit to any person aggrieved thereby the penal sum of five hundred dollars, or such less sum as the jury, or judge, if the case may, by the law of the Province, be tried without a jury, before whom any action brought for the recovery of such penalty is tried, considers just to be paid to such person aggrieved; and the same shall be recoverable by such person with full costs of suit, by suit or action in any court of competent jurisdiction; but nothing herein contained shall interfere with any other remedy, civil or criminal, against such person. 48-49 V., c. 40, s. 63. Penalty for malfeasance under this Act. As to other remedies.

42. Every person who is an agent within the meaning of "The Indian Act," and who, either directly or indirectly, seeks to induce or compel any person who is an Indian or of part Indian blood, and qualified to vote only in respect of property forming part of a reserve, as defined by "The Indian Act," to cause his name to be registered as a voter or to vote or refrain from voting at any election, is guilty of a misdemeanor and liable to a fine not exceeding two hundred dollars, or to imprisonment for any term not exceeding six months, or to both, and he shall be disqualified from holding any office or place of emolument in the appointment of the Governor General or of the Superintendent General of Indian Affairs, for a term of two years from the date of his conviction. 48-49 V., c. 40, s. 64. Punishment of certain persons influencing Indians to be registered as voters, &c

APPLICATION OF ACT.

43. This Act shall not, except as herein expressly provided, apply to the North-West Territories. 49 V., c. 24, s. 70, *part.* Application of Act.

SCHEDULE OF FORMS.

A.

Oath of Office of a Revising Officer.

I, _____ of the _____
of _____, in the county of _____ and Province of _____

, the revising officer appointed under "*The Electoral Franchise Act*," in and for the electoral district (or portion of the electoral district) of _____ in the Province of _____ do hereby solemnly swear (or affirm) that I will well and faithfully discharge the duties assigned to me by the said Act without favor or partiality; that I will place no name on the list of voters for the said electoral district (or portion of the said electoral district) or any of the polling districts thereof, and will strike no name off the same, unless I shall be satisfied that the same should by law be placed on or struck off the same; and that I will in all respects conform to the said Act and the law to the best of my judgment and ability. So help me GOD.

Sworn before me, a judge of the
 court of _____, in and for
 the Province of _____, being
 a court of record, at the
 _____ of _____ in the county
 of _____ and Province afore-
 said, this _____ day of _____ A.D.,
 18 _____.

A.B.
*Revising officer for the elec-
 toral district (or portion of
 the electoral district) of*

C.D.
A Judge, &c.

48-49 V., c. 40, sch. form A.

B.
LIST OF VOTERS
For the Year commencing 1st June, 18 , for the Polling District No. , of the (Municipality of, or the City or Town, or as the case may be) of) in the Electoral District of

- LIST OF POST OFFICES. WITH THEIR REFERENCE NUMBERS.
1. Campbellton.
 2. Cowal.
 3. Dutton.
 4. Iowa.
 5. Iowa Station.
 6. Lavigie.
 7. Fort Talbot.
 8. Tyrconnel.
 9. Wallacettown.

POLLING DISTRICT No. .

Comprising all the Lots and Parts of Lots in the following territory : Bounded on or towards the South by , on the West by , on the North by , and on the East by , (or as the case may be).

Consecutive Number.	Name in Full. (Surname first.)	Occupation.	Post Office Address.	Nature and Title of Qualification.	Concession, Street and No. of Lot, or other sufficient description of property ; and residence if qualified on income, or as son of owner or farmer's son, with name of owner or farmer in the case of owners or farmer's sons.
1	Atkinson, Alfred.....	Carpenter.....	9	Son of owner.....	Lot 21, con. 8, John Atkinson.
2	Adams, W. m. Henry.....	Farmer.....	8	Owner.....	N. W. pt. lot 28, con. 6.
3	Asseltine, Perre.....	Farmer.....	1	Tenant.....	Pt. 20, broken front, Rideau.
4	Benjamin, Ernest.....	Bricklayer.....	7	Income.....	667 Wellington street, W.
5	Bissonette, Paul.....	Fisherman.....	4	Fisherman and owner.....	Pt. 34, range No. 10.
6	Brennan, Edward.....	Plasterer.....	4	Income.....	18 Broad street.
7	Campion, Francis.....	Farmer.....	2	Farmer's son.....	Lot 21, con. 4, Peter Campion.
8	Cooper, Charles.....	Printer.....	5	Tenant.....	Pt. 10, east George street.
9	CleGGe, William.....	Painter.....	6	Occupant.....	Lot 14 Elgin street.

Dated 188 .
A. B.
Revising Officer for the electoral district (or part of the electoral district) of

C.

Notice by Revising Officer of Final Revision of Lists of Voters for each Polling District.

The revising officer for the electoral district (or portion of the electoral district) of _____ in the Province of _____, under "*The Electoral Franchise Act*," hereby gives notice that he will hold a court (or sitting) on the _____ day of _____, 18____, at _____ o'clock in the _____ noon, at _____ in the _____ of _____, in the said electoral district, for the final revision of the list of voters for polling district No. _____ of the said electoral district.

All notices of objections and claims for additions to or amendment or correction of the said list, with the grounds therefor, and the name, addition and post office address of the person objecting to any name on the list, or claiming to add to, amend or correct the list in any other respect, must be delivered to the said revising officer at _____ or sent to him by registered letter, addressed to him at _____, before the _____ day of _____ 18____, in the same form, as nearly as may be, as of notice of complaint, in the form *D* in the schedule to "*The Electoral Franchise Act*."

If the objection be to the name of any person already on the list, the person so objecting must, at the same time, deliver or mail by registered letter to the person whose name is so objected to, at his last known address, a copy of the notice of objection.

Dated _____, 18____.

A. B.,

Revising Officer for the electoral district (or portion of the electoral district) of _____

48-49 V., c. 40, sch. form G.

D.

Notice of Objection, Complaint or Application.

I, _____, of the _____ of _____, in the county of _____, in the electoral district of _____, Province of _____, under "*The Electoral Franchise Act*," hereby give notice that I will apply to have the list of voters for polling district No. _____ of the said electoral district, for the year _____ as preliminarily revised, amended, added to or corrected, as the case may be ;

(then state the name or names objected to, with the grounds therefor, or the name or names desired to be added, with full particulars of their residences, addresses, occupations, qualifications, and if real property, where situated, and the grounds for applying to have them added, or the nature of any other proposed amendments or corrections to the list and the grounds therefor), at the court (or sitting) to be held by the revising officer for the said electoral district (or portion of the said electoral district), at _____ o'clock in the _____ noon, on the _____ day of _____, 18____, at _____, in the said electoral district.

Dated _____, 18____. }
 To the revising officer for the }
 said electoral district (or } (Name of complainant),
 portion of the said electoral }
 district), (or to the person whose } P. O. Address.
 name is objected to.) }

48-49 V., c. 40, sch. form E.

—
 E.

Revising Officer's Certificate of List of Voters.

I, _____, the undersigned revising officer for the electoral district (or portion of the electoral district) of _____ in the Province of _____, do hereby certify that the foregoing list, consisting of _____ pages, is a true copy of the list of voters for polling district number _____ in the said Electoral district as finally revised (or as finally revised and corrected on appeal, as the case may be) for the year _____, under "The Electoral Franchise Act."

Dated _____ 18____.

A.B.,
 Revising Officer for the electoral district (or
 portion of the electoral district) of _____

48-49 V., c. 40, sch. form C.

F.

Notice to be published in the Canada Gazette by the Clerk of the Crown in Chancery.

Notice is hereby given that I have received the lists of voters, finally revised, for all the polling districts of the electoral district of _____ for the year _____, under "The Electoral Franchise Act."

Dated _____, 18 ____.

C. D.,

Clerk of the Crown in Chancery at Ottawa.

48-49 V., c. 40, sch. form H.

 G.

Order of Revising Officer dividing Electoral District or portion of Electoral District into Polling Districts.

I, _____ the revising officer for the electoral district (or portion of the electoral district) of _____, Province of _____ under "The Electoral Franchise Act," do hereby order and direct that the said electoral district (or portion of the said electoral district) be and the same is hereby divided into polling districts, described as follows:—

Number one

Bounded on (*here fill in as particular a description, by concessions, streets, or other dividing lines, as possible, of the bounds of each polling district*).

(*And so on as to others*).

Dated _____, 18 ____.

A. B.,

Revising Officer for the electoral district (or portion of the electoral district) of _____

48-49 V., c. 40, sch. form F.

H.

Summons to Witness.

To

You are hereby required and summoned personally to attend before me, the undersigned revising officer, on the day of , 18 , at o'clock in the noon, at in the county of , and Province of , and then and there to testify what you know concerning the then to be investigated by me as such revising officer, and so on from day to day, and you shall bring with you the books and papers herein described, that is to say :

And herein fail not at your peril.

Given under my hand at aforesaid, this day of , 18 , under "*The Electoral Franchise Act.*"

A. B.,

Revising Officer for the electoral district (or portion of the electoral district) of

48-49 V., c. 40, sch., form J.



CHAPTER 6.

An Act respecting Representation in the House of A. D. 1886.
Commons.

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

1. This Act may be cited as “ *The Representation Act.*” Short title.

2. The House of Commons shall consist of two hundred and eleven members, of whom ninety-two shall be elected for the Province of Ontario; sixty-five for the Province of Quebec; twenty-one for the Province of Nova Scotia; sixteen for the Province of New Brunswick; six for the Province of Prince Edward Island; six for the Province of British Columbia, and five for the Province of Manitoba. Number of members for each Province. 45 V., c. 3, s. 1.

3. The said Provinces shall, for the purposes of the election of members to serve in the House of Commons, be respectively divided into electoral districts, and be represented in the House of Commons as follows, that is to say: Division into electoral districts. 45 V., c. 3, s. 2, *part.*

ONTARIO.

2. In the Province of Ontario:—

(a.) The counties of Dundas, Glengarry, Halton, Prescott, Prince Edward and Russell, as they were respectively constituted on the first day of July, one thousand eight hundred and sixty-seven, shall each be an electoral district and shall each return one member: Dundas, Glengarry, Halton, Prescott, Prince Edward and Russell. See *B. N. A. Act*, 1867, s. 40, *sub-s. 1, and first schedule, part.*

(b.) The east riding of the county of Durham, the west riding of the county of Durham, the south riding of the county of Grenville, the south riding of the county of Leeds, the north riding of the county of Waterloo, the south riding of the county of Waterloo, and the north riding of the county of Wentworth, as such ridings were respectively constituted on the first day of July, one thousand eight hundred and sixty-seven, shall each be an electoral district and shall each return one member: Durham, E. R., Durham, W. R., Grenville, E. R., Leeds, S. R., Waterloo, N. R., Waterloo, S. R., Wentworth, N. R. See *B. N. A. Act*, 1867, s. 40, *sub-s. 1, and first schedule, part.*

- (c.) Each of the counties, districts and cities and ridings of counties and of cities following, and constituted as follows, shall be an electoral district and shall each return one member, that is to say:—
- Cornwall and Stormont.** (1.) The county of Cornwall and Stormont, which shall consist of the town of Cornwall and the townships of Cornwall, Osnabruck, Finch and Roxboro'; 45 V., c. 3, s. 2, *part.*
- Carleton.** (2.) The county of Carleton, which shall consist of the townships of Nepean, North Gower, Marlboro', March, Torbolton and Goulbourn, and the village of Richmond; 45 V., c. 3, s. 2, *part.*
- Lanark, N. R.** (3.) The north riding of the county of Lanark, which shall consist of the townships of Ramsay, Pakenham, Darling, Dalhousie, North Sherbrooke, Lavant, Fitzroy, Huntley and Lanark, the town of Almonte, and the village of Lanark; 45 V., c. 3, s. 2, *part.*
- Lanark, S. R.** (4.) The south riding of the county of Lanark, which shall consist of the townships of Bathurst, North Elmsley, Beckwith, South Sherbrooke, North Burgess, Drummond and Montague, the town of Perth, and the village of Carleton Place; 45 V., c. 3, s. 2, *part.*
- Renfrew, S. R.** (5.) The south riding of the county of Renfrew, which shall consist of the townships of McNab, Bagot, Blithfield, Brougham, Horton, Admaston, Grattan, Matawatchan, Griffith, Lyndoch, Raglan, Radcliffe, Brudenell, Sebastopol, Hagarty, Richards, Sherwood, Burns and Jones, and the villages of Arnprior and Renfrew; *See B. N. A. Act, 1867, s. 40, sub-s. 1, and first schedule, part*;—35 V., c. 13, s. 2, *part.*
- Renfrew, N. R.** (6.) The north riding of the county of Renfrew, which shall consist of the townships of Ross, Bromley, Westmeath, Stafford, Pembroke, Wilberforce, Alice, Petawawa, Buchanan, South Algona, North Algona, Fraser, McKay, Wylie, Rolph, Head, Maria, Clara, and any other surveyed townships lying north-westerly of the said north riding; *See B. N. A. Act, 1867, s. 40, sub-s. 1, and first schedule, part*;—35 V., c. 13, s. 2, *part.*
- Leeds and Grenville, N. R.** (7.) The north riding of the united counties of Leeds and Grenville, which shall consist of the townships of South Elmsley, Wolford, Oxford and South Gower, and the villages of Smith's Falls, Kemptville and Merrickville; 45 V., c. 3, s. 2, *part.*
- Brockville.** (8.) The electoral district of Brockville, which shall consist of the town of Brockville and the townships of Elizabethtown and Kitley; 45 V., c. 3, s. 2, *part.*
- Frontenac.** (9.) The county of Frontenac, which shall consist of the townships of Kingston, Wolfe Island, Pittsburgh and Howe Island, and Storrington; *See B. N. A. Act, 1867, s. 40, sub-s. 1, and first schedule, part.*
- Addington.** (10.) The county of Addington, which shall consist of the townships of Camden, Portland, Sheffield, Hinchinbrooke, Kaladar, Kennebec, Olden, Oso, Anglesea, Barrie, Clarendon, Palmerston, Effingham, Ashby, Abinger, Miller, Canonto,

Denbigh, Loughborough and Bedford; *See B. N. A. Act, 1867, s. 40, sub-s. 1, and first schedule, part*;—45 V., c. 3, s. 2, *part*.

(11.) The county of Lennox, which shall consist of the townships of Richmond, Adolphustown, North Fredericksburg, South Fredericksburg, Ernest Town, and Amherst Island, and the village of Napanee; *See B. N. A. Act, 1867, s. 40, sub-s. 1, and first schedule, part*. Lennox.

(12.) The west riding of the county of Hastings, which shall consist of the town of Belleville, the township of Sydney, and the village of Trenton; *See B. N. A. Act, 1867, s. 40, sub-s. 1, and first schedule, part*. Hastings, W. R.

(13.) The east riding of the county of Hastings, which shall consist of the townships of Thurlow, Tyendinaga, and Hungerford; *See B. N. A. Act, 1867, s. 40, sub-s. 1, and first schedule, part*. Hastings, E. R.

(14.) The north riding of the county of Hastings, which shall consist of the townships of Rawdon, Huntingdon, Madoc, Elzevir, Tudor, Marmora, and Lake, and the village of Stirling, and any other surveyed townships lying to the north of the said north riding; *See B. N. A. Act, 1867, s. 40, sub-s. 1, and first schedule, part*. Hastings, N. R.

(15.) The east riding of the county of Northumberland, which shall consist of the townships of Cramahe, Brighton, Murray, Percy and Seymour, the villages of Colborne, Brighton and Campbellford, and the village of Hastings; 45 V., c. 3, s. 2, *part*. Northumberland, E. R.

(16.) The west riding of the county of Northumberland, which shall consist of the townships of Hamilton, Haldimand, Alnwick and the town of Cobourg; *See B. N. A. Act, 1867, s. 40, sub-s. 1, and first schedule, part*. Northumberland, W. R.

(17.) The west riding of the county of Peterborough, which shall consist of the Townships of South Monaghan, North Monaghan, Smith and Ennismore, and the town of Peterborough; *See B. N. A. Act, 1867, s. 40, sub-s. 1, and first schedule, part*. Peterborough W. R.

(18.) The east riding of the county of Peterborough, which shall consist of the townships of Asphodel, Belmont, Methuen, Burleigh, Anstruther, Chandos, Douro, Dummer, Dysart, Dudley, Harcourt, Guilford, Harburn, Bruton, Havelock, Eyre, Clyde, Nightingale, Livingstone, Lawrence, Cavendish, Glamorgan, Cardiff, Monmouth, Otonabee and Harvey, and the villages of Ashburnham, Lakefield and Norwood; 45 V., c. 3, s. 2, *part*. Peterborough E. R.

(19.) The south riding of the county of Victoria, which shall consist of the townships of Ops, Mariposa, Emily, Verulam and the town of Lindsay; *See B. N. A. Act, 1867, s. 40, sub-s. 1, and first schedule, part*. Victoria, S.R.

(20.) The north riding of the county of Victoria, which shall consist of the townships of Eldon, Fenelon, Somerville, Carden, Dalton, Bexley, Laxton, Digby, Longford, Lutterworth, Anson, Hindon, Galway, Snowdon, Minden,

- Stanhope, Sherbourne and McClintock, and the village of Fenelon Falls; 45 V., c. 3, s. 2, *part*.
- Ontario, S. R. (21.) The south riding of the county of Ontario, which shall consist of the townships of West Whitby, East Whitby and Reach, the towns of Whitby and Oshawa, and the village of Port Perry; 45 V., c. 3, s. 2, *part*.
- Ontario, N. R. (22.) The north riding of the county of Ontario, which shall consist of the townships of Scott, Brock, Thorah, Mara, Rama, Scugog, Morrison, Ryde, Draper, Oakley, Macaulay, Maclean and Ridout, and the villages of Bracebridge and Cannington; 45 V., c. 3, s. 2, *part*.
- Ontario, W. R. (23.) The west riding of the county of Ontario, which shall consist of the townships of Whitchurch, Uxbridge and Pickering, the town of Newmarket, the village of Uxbridge, and the village of Stouffville; 45 V., c. 3, s. 2, *part*.
- Muskoka and Parry Sound (24.) The electoral district of Muskoka and Parry Sound, which shall consist of the townships of Watt, Cardwell, Humphrey, Conger, Stephenson, Brunel, Franklin, Sinclair, Chaffey, Bethune, Perry, Proudfoot, Foley, Cowper, McDougall, Parry Sound village and island, Fergusson, Carling, Burpee, Shawanaga and settlements on the lake shore, to the mouth of French River, Christie, Monteith, McKellar, Hagerman, Spence, Croft, McKenzie, Ferrie, Wilson, Mills, McConkey, Hardy, Chapman, Strong, Magnettawan, Joly, Lount, Machar, Laurier, Ryerson, Armour, McMurrich, Stisted, Pringle, Gurd, Himsworth, Nipissing, Burton, Gibson, Harrison, Wallbridge, Patterson, Blair, Mowat and Brown, and such other townships as are hereafter laid out north of the said electoral district, and also all that part of the territorial district of Muskoka lying to the south of the township of Conger and west of the townships of Medora and Wood; 45 V., c. 3, s. 2, *part*.
- York, E. R. (25.) The east riding of the county of York, which shall consist of the townships of East York, Scarboro' and Markham, and the villages of Yorkville and Markham; 45 V., c. 3, s. 2, *part*.
- York, N. R. (26.) The north riding of the county of York, which shall consist of the townships of King, East Gwillimbury, West Gwillimbury, North Gwillimbury and Georgina, and the villages of Holland Landing, Bradford and Aurora; 45 V., c. 3, s. 2, *part*.
- York, W. R. (27.) The west riding of the county of York, which shall consist of the townships of Etobicoke and Vaughan, and that portion of the township of York lying west of Yonge street, and the incorporated village of Richmond Hill; See *B. N. A. Act*, 1867, s. 40, *sub-s. 1*, and *first schedule, part*;—37 V., c. 12, s. 1.
- West Toronto. (28.) The electoral district of West Toronto, which shall consist of the wards as constituted on the fourteenth day of June, one thousand eight hundred and seventy-two, of St. Andrew, St. George and St. Patrick, in the city of Toronto; 35 V., c. 13, s. 2, *part*.

(29.) The electoral district of Centre Toronto, which shall consist of the wards as constituted on the fourteenth day of June, one thousand eight hundred and seventy-two, of St. John and St. James, in the city of Toronto; 35 V., c. 13, s. 2, *part.* Centre Toronto.

(30.) The electoral district of East Toronto, which shall consist of the wards as constituted on the fourteenth day of June, one thousand eight hundred and seventy-two, of St. David and St. Lawrence, in the city of Toronto; 35 V., c. 13, s. 2, *part.* East Toronto.

(31.) The county of Peel, which shall consist of the townships of Chinguacousy, Toronto, and the Gore of Toronto, and the villages of Brampton and Streetsville; *See B. N. A. Act, 1867, s. 40, sub-s. 1, part, and first schedule, part.* Peel.

(32.) The county of Cardwell, which shall consist of the townships of Albion, Caledon, Adjala and Mono; *See B. N. A. Act, 1867, s. 40, sub-s. 1, part, and first schedule, part.* Cardwell.

(33.) The south riding of the county of Simcoe, which shall consist of the townships of Mulmur, Tossorontio, Essa, Innisfil and Tecumseh, and the village of Alliston; 45 V., c. 3, s. 2, *part.* Simcoe, S. R.

(34.) The north riding of the county of Simcoe, which shall consist of the townships of Nottawasaga, Sunnidale, Flos and Vespra, the towns of Collingwood and Barrie, and the village of Stayner; 45 V., c. 3, s. 2, *part.* Simcoe, N. R.

(35.) The east riding of the county of Simcoe, which shall consist of the townships of Tay, Medonte, Oro, Orillia, Matchedash, Muskoka, Wood, Medora, Monck and Tiny, the villages of Gravenhurst and Midland, and the towns of Orillia and Penetanguishene; 45 V., c. 3, s. 2, *part.* Simcoe, E. R.

(36.) The county of Lincoln and Niagara, which shall consist of the town and township of Niagara, the city of St. Catharines, the townships of Grantham, Clinton and Louth, and the villages of Beamsville, Merritton and Port Dalhousie; 45 V., c. 3, s. 2, *part.* Lincoln and Niagara.

(37.) The county of Welland, which shall consist of the townships of Bertie, Crowland, Humberstone, Stamford, Thorold and Willoughby, and the villages of Chippewa, Clifton, Fort Erie, Thorold and Welland; *See B. N. A. Act, 1867, s. 40, sub-s. 1, part, and first schedule, part.* Welland.

(38.) The electoral district of Haldimand, which shall consist of the townships of Walpole, Oneida, Rainham, Seneca and North Cayuga, and the villages of Cayuga and Caledonia; 45 V., c. 3, s. 2, *part.* Haldimand.

(39.) The electoral district of Monck, which shall consist of the townships of Gainsboro', Moulton, Wainfleet, Canboro', Pelham, Dunn, Sherbrooke and South Cayuga, and the village of Dunnville; 45 V., c. 3, s. 2, *part.* Monck.

(40.) The south riding of the county of Wentworth, which shall consist of the townships of Saltfleet, Binbrooke, Barton, Glanford, Grimsby and Caistor, and the village of Grimsby; 45 V., c. 3, s. 2, *part.* Wentworth, S. R.

- Wellington, N. R. (41.) The north riding of the county of Wellington, which shall consist of the townships of Wallace, Minto, Arthur, Luther East, Luther West and Amaranth, the towns of Palmerston, Harriston and Mount Forrest, and the villages of Arthur and Clifford; 45 V., c. 3, s. 2, *part.*
- Wellington, C. R. (42.) The centre riding of the county of Wellington, which shall consist of the town of Orangeville, the villages of Fergus, Elora and Drayton, and the townships of Peel, Nichol, Pilkington, Garafraxa East, Garafraxa West and Maryboro'; 45 V., c. 3, s. 2, *part.*
- Wellington, S. R. (43.) The south riding of the county of Wellington, which shall consist of the townships of Puslinch, Guelph, Eramosa and Erin, and the town of Guelph; 35 V., c. 13, s. 2, *part.*
- Grey, N. R. (44.) The north riding of the county of Grey, which shall consist of the townships of Holland, Sullivan, Sydenham, Derby, Sarawak, Keppel, and the town of Owen Sound; 35 V., c. 13, s. 2, *part.*
- Grey, S. R. (45.) The south riding of the county of Grey, which shall consist of the townships of Bentinck, Normanby, Glenelg, Egremont and Artemesia, and the town of Durham; 45 V., c. 3, s. 2, *part.*
- Grey, E. R. (46.) The east riding of the county of Grey, which shall consist of the townships of Collingwood, Euphrasia, Osprey, Melancthon, Proton and St. Vincent, the village of Shelburne and the town of Meaford; 45 V., c. 3, s. 2, *part.*
- Brant, N. R. (47.) The north riding of the county of Brant, which shall consist of the townships of Ancaster, Blenheim, East Brantford and South Dumfries; 45 V., c. 3, s. 2, *part.*
- Brant, S. R. (48.) The south riding of the county of Brant, which shall consist of the townships of West Brantford, Onondaga and Tuscarora, the city of Brantford and the town of Paris; 45 V., c. 3, s. 2, *part.*
- Oxford, N. R. (49.) The north riding of the county of Oxford, which shall consist of the townships of East Nissouri, West Zorra, East Zorra, Blandford, South Easthope and North Easthope, the town of Woodstock and the village of Embro; 45 V., c. 3, s. 2, *part.*
- Oxford, S. R. (50.) The south riding of the county of Oxford, which shall consist of the town of Ingersoll, the village of Norwich, and the townships of Oxford East, Oxford West, Oxford North, Norwich North, Norwich South, Burford and Oakland; 45 V., c. 3, s. 2, *part.*
- Norfolk, N. R. (51.) The north riding of the county of Norfolk, which shall consist of the townships of Townsend, Windham, Middleton and Dereham, the town of Tilsonburg and the village of Waterford; 45 V., c. 3, s. 2, *part.*
- Norfolk, S. R. (52.) The south riding of the county of Norfolk, which shall consist of the townships of Houghton, Walsingham, Charlotteville and Woodhouse, the town of Simcoe and the village of Port Dover; 45 V., c. 3, s. 2, *part.*
- Perth, S. R. (53.) The south riding of the county of Perth, which shall consist of the townships of Blanchard, Hibbert, Downie,

Fullarton and Usborne, and the towns of St. Mary's and Mitchell ; 45 V., c. 3, s. 2, *part.*

(54.) The north riding of the county of Perth, which shall consist of the townships of Ellice, Elma, Mornington and Logan, the towns of Stratford and Listowel, and the village of Milverton ; 45 V., c. 3, s. 2, *part.* Perth, N. R.

(55.) The east riding of the county of Bruce, which shall consist of the townships of Culross, Greenock, Brant and Carrick, the town of Walkerton and the village of Teeswater ; 45 V., c. 3, s. 2, *part.* Bruce, E. R.

(56.) The west riding of the county of Bruce, which shall consist of the townships of Saugeen, Bruce, Kincardine, Huron and Kinloss, the town of Kincardine, the village of Tiverton and the village of Lucknow ; 45 V., c. 3, s. 2, *part.* Bruce, W. R.

(57.) The north riding of the county of Bruce, which shall consist of the townships of Arran, Elderslie, Amabel, Albe-marle, Eastnor, Lindsay and St. Edmunds, and the villages of Southampton, Wiarton, Chesley, Tara, Paisley and Port Elgin ; 45 V., c. 3, s. 2, *part.* Bruce, N. R.

(58.) The east riding of the county of Elgin, which shall consist of the townships of Yarmouth, Malahide and Bayham, the villages of Port Stanley, Aylmer and Vienna, and the city of St. Thomas ; 45 V., c. 3, s. 2, *part.* Elgin, E. R.

(59.) The west riding of the county of Elgin, which shall consist of the townships of Southwold, Dunwich, Aldboro', Orford and Howard, and the village of Ridgetown ; 45 V., c. 3, s. 2, *part.* Elgin, W. R.

(60.) The electoral district of Bothwell, which shall consist of the townships of Sombra, Dawn, Camden, Chatham and Zone, the villages of Wallaceburg, Dresden and Thamesville, and the town of Bothwell ; 45 V., c. 3, s. 2, *part.* Bothwell.

(61.) The county of Kent, which shall consist of the townships of Dover, Raleigh, Harwich, Romney and East Tilbury, the town of Chatham and the village of Blenheim ; 45 V., c. 3, s. 2, *part.* Kent.

(62.) The south riding of the county of Essex, which shall consist of the townships of Anderdon, Malden, North Colchester, South Colchester, Gosfield, Mersea, the town of Amherstburg, the villages of Leamington and Kingsville, and Pelée Island ; 45 V., c. 3, s. 2, *part.* Essex, S. R.

(63.) The north riding of the county of Essex, which shall consist of the townships of West Sandwich, East Sandwich, Maidstone, Rochester and West Tilbury, the towns of Sandwich and Windsor, and the village of Belle River ; 45 V., c. 3, s. 2, *part.* Essex, N. R.

(64.) The west riding of the county of Lambton, which shall consist of the townships of Sarnia, Moore and Plympton, the town of Sarnia, and the villages of Wyoming, Forest and Point Edward ; 45 V., c. 3, s. 2, *part.* Lambton, W. R.

(65.) The east riding of the county of Lambton, which shall consist of the townships of Enniskillen, Brooke, Warwick and Bosanquet, the town of Petrolia, and the villages of Oil Lambton, E. R.

- Springs, Alvinston, Watford, Arkona and Thedford ; 45 V., c. 3, s. 2, *part*.
- Middlesex, S. R. (66.) The south riding of the county of Middlesex, which shall consist of the townships of Westminster, Delaware, Caradoc and Lobo ; 45 V., c. 3, s. 2, *part*.
- Middlesex, E. R. (67.) The east riding of the county of Middlesex, which shall consist of the townships of London, West Nissouri, North Dorchester and South Dorchester, the town of London East, and the villages of London West and Springfield ; 45 V., c. 3, s. 2, *part*.
- Middlesex, W. R. (68.) The west riding of the county of Middlesex, which shall consist of the townships of Adelaide, Metcalfe, Mosa, Euphemia and Ekfrid, the villages of Glencoe, Newbury and Wardsville, and the town of Strathroy ; 45 V., c. 3, s. 2, *part*.
- Middlesex, N. R. (69.) The north riding of the county of Middlesex, which shall consist of the townships of East Williams, West Williams, McGillivray, Biddulph and Stephen, and the villages of Ailsa Craig, Lucan, Exeter and Parkhill ; 45 V., c. 3, s. 2, *part*.
- Huron, W. R. (70.) The west riding of the county of Huron, which shall consist of the townships of East Wawanosh, West Wawanosh, Ashfield, Colborne and Goderich, and the towns of Goderich and Clinton ; 45 V., c. 3, s. 2, *part*.
- Huron, E. R. (71.) The east riding of the county of Huron, which shall consist of the townships of Howick, Turnberry, Grey and Morris, the town of Wingham, and the villages of Brussels, Blyth and Wroxeter ; 45 V., c. 3, s. 2, *part*.
- Huron, S. R. (72.) The south riding of the county of Huron, which shall consist of the townships of McKillop, Hullet, Tuckersmith, Stanley and Hay, the town of Seaforth, and the village of Bayfield ; 45 V., c. 3, s. 2, *part*.
- Algoma. (73.) The electoral district of Algoma, which shall consist of the provisional judicial district of Algoma (and pending adjustment of the boundaries), the settlements westward of the provisional district of Thunder Bay, and eastward, of the electoral districts of Manitoba : *See B. N. A. Act, 1867, s. 40, sub-s. 1, and first schedule, part* ;—45 V., c. 3, s. 2, *part*.
- Ottawa and Hamilton. (d.) The cities of Ottawa and Hamilton shall each respectively form an electoral district, and shall each return two members : *See B. N. A. Act, 1867, s. 40, and first schedule, part* ;—35 V., c. 13, s. 2, *part*.
- London and Kingston. (e.) The cities of London and Kingston shall each respectively form an electoral district, and shall each return one member. *See B. N. A. Act, 1867, s. 40, sub-s. 1, first schedule, part*.

QUEBEC.

3. In the Province of Quebec :—

Certain elec-
toral districts
in Quebec.

(a.) The counties of Ottawa, Pontiac, Hochelaga, Jacques Cartier, Laval, Vaudreuil, Soulanges, Laprairie, Chambly,

Richelieu, Yamaska, Maskinongé, St. Maurice, Champlain, Montmorenci, Lévis, Charlevoix, Bonaventure, Kamouraska, Temiscouata, L'Islet, Dorchester, Compton, Stanstead, Shefford, Missisquoi, Brome, St. Hyacinthe, St. John's, Napierville, Iberville, Huntingdon, Beauharnois and Chateauguay, as they were respectively constituted on the thirty-first day of January, one thousand eight hundred and sixty-one, by section one of chapter seventy-five of the Consolidated Statutes for Lower Canada, shall each be an electoral district, and shall each return one member : C. S. C., c. 2, ss. 1 and 10, *parts* ;—C. S. L. C., c. 75, s. 1, *part*.

(b.) The counties of Chicoutimi and Saguenay, as they were respectively constituted on the thirty-first day of January, one thousand eight hundred and sixty-one, under the statute aforesaid, and which include the Island of Anticosti, shall together form one electoral district, and shall together return one member; the counties of Drummond and Arthabaska, as they were respectively constituted on the thirty-first day of January, one thousand eight hundred and sixty-one, under the statute aforesaid, excepting out of the county of Drummond, the thirteenth and fourteenth ranges of the township of Wendover, and excepting out of the county of Arthabaska, the township of Aston, which ranges and township respectively, on and prior to the first day of January, one thousand eight hundred and sixty-three, formed parts of the said counties respectively, shall, together, form one electoral district, and shall, together, return one member; and the counties of Richmond and Wolfe, as they were respectively constituted on the thirty-first day of January, one thousand eight hundred and sixty-one, under the statute aforesaid, shall, together, form one electoral district, and shall, together, return one member : C. S. C., c. 2, ss. 1 and 7, *parts* ;—C. S. L. C., c. 75, s. 1, *part* ;—25 V., c. 50, s. 1 *part* ;—45 V., c. 3, s. 4, *part*.

(c.) (1.) The county of Verchères, as it was constituted on the thirty-first day of January, one thousand eight hundred and sixty-one, under the statute aforesaid, and which includes the island of St. Therèse and the other islands attached to the former seigniorie of St. Therèse, in the parish of Varennes, and which also includes the island of Beauregard, in the parish of Verchères, shall constitute the electoral district of Verchères, and shall return one member : C. S. C., c. 2, ss. 1 and 10, *parts* ;—C. S. L. C., c. 75, s. 1, *part* ;—28 V., c. 10, s. 1.

(2.) The county of Argenteuil, as it was constituted on the thirty-first day of January, one thousand eight hundred and sixty-one, under the statute aforesaid, excepting thereout the townships of Wolfe, Salaberry and Grandison, shall constitute the electoral district of Argenteuil, and shall return one member : C. S. C., c. 2, ss. 1 and 10, *parts* ;—C. S. L. C., c. 75, s. 1, *part* ;—45 V., c. 3, s. 4, *part*.

(3.) The county of Two Mountains, as it was constituted on the last-mentioned date, under the statute aforesaid, shall,

together with that part of the parish of Ste. Monique, which, on and prior to the seventeenth day of May, one thousand eight hundred and eighty-two, formed part of the county of Terrebonne, constitute the electoral district of Two Mountains, and shall return one member: C. S. C., c. 2, ss. 1 and 10, *parts*;—C. S. L. C., c. 75, s. 1, *part*;—45 V., c. 3, s. 4, *part*.

Terrebonne.

(4.) The county of Terrebonne, as it was constituted on the thirty-first day of January, one thousand eight hundred and sixty-one, under the statute aforesaid, excepting thereout that part of the parish of Ste. Monique, included in said county of Terrebonne, on and prior to the seventeenth day of May, one thousand eight hundred and eighty-two, shall, together with the townships of Doncaster, Wolfe, Salaberry and Grandison, and that part of the township of Wexford, known as Ste. Marguerite, constitute the electoral district of Terrebonne, and shall return one member: C. S. C., c. 2, ss. 1 and 10, *parts*;—C. S. L. C., c. 75, s. 1, *part*;—27-28 V., c. 54, s. 1, *part*;—32-33 V., c. 46, s. 1, *part*;—45 V., c. 3, s. 4, *part*.

L'Assomption.

(5.) The county of L'Assomption, as it was constituted on the thirty-first day of January, one thousand eight hundred and sixty-one, under the statute aforesaid, excepting thereout that part of the parish of St. Esprit, called St. Louis, which, on and prior to the thirtieth day of June, one thousand eight hundred and sixty-four, formed part of the parish of St. Roch, and was included in the county of L'Assomption, shall, together with that part of the parish of L'Epiphanie, which, on and prior to the thirtieth day of June, one thousand eight hundred and sixty-four, formed part of the parish of St. Jacques, in the county of Montcalm, constitute the electoral district of L'Assomption, and shall return one member: C. S. C., c. 2, ss. 1 and 10, *parts*;—C. S. L. C., c. 75, s. 1, *part*;—27-28 V., c. 54, s. 1, *part*.

Montcalm.

(6.) The county of Montcalm, as it was constituted on the thirty-first day of January, one thousand eight hundred and sixty-one, under the statute aforesaid, excepting thereout the township of Doncaster, and also excepting thereout that part of the parish of L'Epiphanie, which, on and prior to the thirtieth day of June, one thousand eight hundred and sixty-four, formed part of the parish of St. Jacques, and was included in the said county, and also excepting thereout that part of the township of Wexford, called Ste. Marguerite, which, on and prior to the said last mentioned date, was included in the said county, shall, together with the territory comprising the lots of land numbers one, two and three of the first range of the township of Kildare, which, on and prior to the twenty-third day of May, one thousand eight hundred and seventy-three, formed part of the county of Joliette, and since the said date forms part of the parish of St. Alphonse de Liguori, and also, together with that portion of the parish of St. Esprit called St. Louis, which, on and prior to the thirtieth day of June, one thousand eight hun-

dred and sixty-four, formed part of the parish of St. Roch and was included in the county of L'Assomption, and also, together with all that part of the parish of St. Liguori, which, on and prior to the last mentioned date, formed part of the township of Kildare and was included in the county of Joliette, constitute the electoral district of Montcalm, and shall return one member: C. S. C., c. 2, ss. 1 and 10, *parts*;—C. S. L. C., c. 75, s. 1, *part*;—27-28 V., c. 54, s. 1, *part*;—32-33 V., c. 46, s. 1, *part*;—36 V., c. 29, s. 1, *part*.

(7.) The county of Joliette, as it was constituted on the Joliette. thirty-first day of January, one thousand eight hundred and sixty-one, under the statute aforesaid, excepting thereout that part of the township of Kildare, which, on and prior to the thirtieth day of June, one thousand eight hundred and sixty-four, formed part of the parish of St. Alphonse de Liguori and was included in the said county, and also, excepting thereout the territory comprising the lots of land numbers one, two and three, in the first range of the township of Kildare, which, on and prior to the twenty-third day of May, one thousand eight hundred and seventy-three, were included in the said county, shall, together with that part of the township of Brandon, which, on and prior to the twenty-second day of June, one thousand eight hundred and sixty-nine, formed part of the parishes of St. Felix de Valois and St. Jean de Matha, and was included in the county of Berthier, constitute the electoral district of Joliette, and shall return one member: C. S. C., c. 2, ss. 1 and 10, *parts*;—C. S. L. C., c. 75, s. 1, *part*;—27-28 V., c. 54, s. 1, *part*;—32-33 V., c. 45, s. 1, *part*;—36 V., c. 29, ss. 1 and 2, *parts*.

(8.) The county of Berthier, as it was constituted on the Berthier, thirty-first day of January, one thousand eight hundred and sixty-one, under the statute aforesaid, excepting thereout that part of the township of Brandon, which, on and prior to the twenty-second day of June, one thousand eight hundred and sixty-nine, formed part of the parishes of St. Felix de Valois and St. Jean de Matha, and was included in the said county, shall constitute the electoral district of Berthier, and shall return one member: C. S. C., c. 2, ss. 1 and 10, *parts*;—C. S. L. C., c. 75, s. 1, *part*;—32-33 V., c. 45, s. 1, *part*.

(9.) The county of Portneuf, as it was constituted on the Portneuf. thirty-first day of January, one thousand eight hundred and sixty-one, under the statute aforesaid, excepting thereout such portion of the parish of St. Felix of Cap Rouge (erected for civil purposes), as was, on and prior to the fourteenth day of June, one thousand eight hundred and seventy-two, included in the said county, shall, together with that portion of the fourth and fifth ranges of the seigniory of Belair, comprised, on and prior to the twenty-second day of May, one thousand eight hundred and sixty-eight, between the lands of Joseph

Laurin, Esquire, in the fourth range, and Jean Cliche, in the fifth range, exclusively, on one side, and the seigniory of Fossambault on the other side, and which, by an Act passed by the Legislature of the Province of Quebec, in the thirty-first year of Her Majesty's reign, chaptered twenty-nine, was annexed to and made to form part of the parish of Ste. Catherine and of the county of Portneuf, for provincial purposes, constitute the electoral district of Portneuf, and shall return one member: C. S. C., c. 2, ss. 1 and 10, *parts*;—C. S. L. C., c. 75, s. 1, *part*;—31 V., c. 78, s. 2;—35 V., c. 13, s. 2, *part*.

Quebec.

(10.) The county of Quebec, as it was constituted on the thirty-first day of January, one thousand eight hundred and sixty-one, by section one of chapter seventy-five of the Consolidated Statutes for Lower Canada aforesaid shall, together with that portion of the fourth and fifth ranges of the seigniory of Belair, comprised between the seigniory of Gaudarville, on one side, and on the other side the land of Joseph Laurin, Esquire, in the fourth range, and the land of Jean Cliche, in the fifth range, both lands included, which, by an Act passed by the Legislature of the Province of Quebec, in the thirty-first year of Her Majesty's reign, chaptered twenty-nine, was annexed to and made to form part of the parish of St. Ambroise and of the county of Quebec, for provincial purposes, and also, together with such portion of the parish of St. Felix of Cap Rouge (erected for civil purposes), as was, on and prior to the fourteenth day of June, one thousand eight hundred and seventy-two, included in the county of Portneuf, constitute the electoral district of the county of Quebec, and shall return one member: C. S. C., c. 2, ss. 1 and 10, *parts*;—C. S. L. C., c. 75, s. 1, *part*;—31 V., c. 78, s. 1;—35 V., c. 13, s. 2, *part*.

Lotbinière.

(11.) The county of Lotbinière, as it was constituted on the thirty-first day of January, one thousand eight hundred and sixty-one, by section one of chapter seventy-five of the Consolidated Statutes for Lower Canada, excepting thereout that portion of the municipality of the parish of St. Séverin, which, on and prior to the twelfth day of April, one thousand eight hundred and seventy-six, formed part of the said county, shall constitute the electoral district of Lotbinière, and shall return one member: C. S. C., c. 2, ss. 1 and 10, *parts*;—C. S. L. C., c. 75, s. 1, *part*;—39 V., c. 11, s. 1, *part*.

Gaspé.

(12.) The county of Gaspé, as it was constituted on the thirty-first day of January, one thousand eight hundred and sixty-one, under the statute aforesaid, shall, together with the Magdalen Islands, and also together with all that portion of the parish of St. Norbert du Cap Chat, as canonically erected by decree, bearing date the tenth day of May, one thousand eight hundred and sixty-four, which, on and prior to the eighteenth day of September, one thousand eight hundred and sixty-five, formed part of the township of Romieux, in the county of Rimouski, constitute the electoral district

of Gaspé, and shall return one member: C. S. C., c. 2, ss. 1 and 10, *parts*;—C. S. L. C., c. 75, s. 1, *part*;—29 V., c. 55, s. 1, *part*;—45 V., c. 3, s. 4, *part*.

(13.) The county of Rimouski, as it was constituted on the Rimouski.
thirty-first day of January, one thousand eight hundred and sixty-one, under the statute aforesaid, excepting thereout all that portion of the parish of St. Norbert du Cap Chat, as canonically erected by decree, bearing date the tenth day of May, one thousand eight hundred and sixty-four, which, on and prior to the eighteenth day of September, one thousand eight hundred and sixty-five, formed part of the township of Romieux, in the county of Rimouski, shall constitute the electoral district of Rimouski, and shall return one member: C. S. C., c. 2, ss. 1 and 10, *parts*;—C. S. L. C., c. 75, s. 1, *part*;—29 V., c. 55, s. 1, *part*.

(14.) The county of Montmagny, as it was constituted on Montmagny.
the eighteenth day of March, one thousand eight hundred and sixty-five, under the statute aforesaid, as amended by section one of the Act of the Legislature of the late Province of Canada, passed in the twenty-eighth year of Her Majesty's reign and chaptered nine, shall, together with all that north-eastern part of the township of Armagh, in the county of Bellechasse, extending from lot number one to lot number thirty, inclusively, in the first and second ranges south-east of the Rivière du Sud, and all that part of the township of Mailloux, lying to the north-east of the north-east range of the Mailloux road, including lots numbers forty to forty-six, inclusively, in the first, second and third ranges, and lots numbers thirty-four to forty-six, inclusively, in the fourth, fifth and sixth ranges of the said township of Mailloux, which, on and prior to the seventeenth day of May, one thousand eight hundred and eighty-two, formed part of the county of Bellechasse, constitute the electoral district of Montmagny, and shall return one member: C. S. C., c. 2, ss. 1 and 10, *parts*;—C. S. L. C., c. 75, s. 1, *part*;—28 V., c. 9, s. 1, *part*;—45 V., c. 3, s. 4, *part*.

(15.) The county of Bellechasse, as it was constituted on the Bellechasse.
eighteenth day of March, one thousand eight hundred and sixty-five, by section one of chapter seventy-five of the Consolidated Statutes for Lower Canada, as amended by the Act of the Legislature of the late Province of Canada, passed in the twenty-eighth year of Her Majesty's reign, and chaptered nine, excepting thereout all that north-eastern part of the township of Armagh, extending from lot number one to lot number thirty, inclusively, in the first and second ranges south-east of the Rivière du Sud, and all that part of the township of Mailloux, lying to the north-east of the north-east range of the Mailloux road, including lots numbers forty to forty-six, inclusively, in the first, second and third ranges, and lots numbers thirty-four to forty-six, inclusively, in the fourth, fifth and sixth ranges of the said township of Mailloux, which, on and prior to the seventeenth day of

May, one thousand eight hundred and eighty-two, formed part of the said county of Bellechasse, shall constitute the electoral district of Bellechasse, and shall return one member: C. S. C., c. 2, ss. 1 and 10, *parts*;—C. S. L. C., c. 75, s. 1, *part*;—28 V., c. 9, s. 1, *part*;—45 V., c. 3, s. 4, *part*.

Beauce.

(16.) The county of Beauce, as it was constituted on the thirty-first day of January, one thousand eight hundred and sixty-one, by section one of chapter seventy-five of the Consolidated Statutes for Lower Canada, shall, together with the township of Broughton, which, on and prior to the fifth day of May, one thousand eight hundred and sixty-three, formed part of the county of Megantic, and also together with that portion of the parish of St. Séverin, which, on and prior to the twelfth day of April, one thousand eight hundred and seventy-six, formed part of the county of Lotbinière, constitute the electoral district of Beauce, and shall return one member: C. S. C., c. 2, ss. 1 and 10, *parts*;—C. S. L. C., c. 75, s. 1, *part*;—26 V., c. 7, s. 1, *part*;—39 V., c. 11, s. 1, *part*.

Megantic.

(17.) The county of Megantic, as it was constituted on the thirty-first day of January, one thousand eight hundred and sixty-one, under the statute aforesaid, excepting thereout the township of Broughton, which, on and prior to the fifth day of May, one thousand eight hundred and sixty-three, formed part of the said county, shall constitute the electoral district of Megantic, and shall return one member: C. S. C., c. 2, ss. 1 and 10, *parts*;—C. S. L. C., c. 75, s. 1, *part*;—26 V., c. 7, s. 1, *part*.

Bagot.

(18.) The county of Bagot, as it was constituted on the thirty-first day of January, one thousand eight hundred and sixty-one, under the statute aforesaid, excepting therefrom all that portion of the parish of St. Paul, which, on and prior to the thirtieth day of June, one thousand eight hundred and sixty-four, formed part of the county of Bagot, shall constitute the electoral district of Bagot, and shall return one member: C. S. C., c. 2, ss. 1 and 10, *parts*;—C. S. L. C., c. 75, s. 1, *part*;—27-28 V., c. 54, s. 1, *part*.

Rouville.

(19.) The county of Rouville, as it was constituted on the thirty-first day of January, one thousand eight hundred and sixty-one, under the statute aforesaid, shall, together with all that portion of the parish of St. Paul, which, on and prior to the thirtieth day of June, one thousand eight hundred and sixty-four, formed part of the county of Bagot, constitute the electoral district of Rouville, and shall return one member: C. S. C., c. 2, ss. 1 and 10, *parts*;—C. S. L. C., c. 75, s. 1, *part*;—27-28 V., c. 54, s. 1, *part*.

Nicolet.

(20.) The county of Nicolet, as it was constituted on the thirty-first day of January, one thousand eight hundred and sixty-one, under the statute aforesaid, shall, together with the thirteenth and fourteenth ranges of the township of Wendover, and the whole of the township of Aston, which ranges and township, on and prior to the first day of January,

one thousand eight hundred and sixty-three, formed parts of the counties of Drummond and Arthabaska respectively, constitute the electoral district of Nicolet, and shall return one member. C.S.C., c. 2, ss. 1 and 10, *part*;—C.S.L.C., c. 7, s. 1, *part*;—25 V., c. 50, s. 1, *part*.

(d.) The city of Montreal shall be divided into three ^{Montreal.} electoral districts, called respectively, Montreal West, Montreal Centre and Montreal East, each of which shall return one member, and the said electoral districts shall be constituted as follows, that is to say:—

(1.) The electoral district of Montreal West shall consist of ^{Montreal W} the wards of St. Antoine and St. Lawrence, as the said wards were constituted on the fourteenth day of June, one thousand eight hundred and seventy-two;

(2.) The electoral district of Montreal Centre shall consist of ^{Montreal C.} the wards of St. Ann, West ward, Centre ward and East ward, as the said wards were constituted on the said last mentioned date;

(3.) The electoral district of Montreal East shall consist of ^{Montreal E.} the wards of St. Lewis, St. James and St. Mary, as the said wards were constituted on the said last mentioned date. 35 V., c. 13, s. 2, *part*.

(e.) The city of Quebec shall be divided into three ^{Quebec.} electoral districts, which shall be called, respectively, Quebec West, Quebec Centre and Quebec East, each of which shall return one member, and the said electoral districts shall be constituted as follows, that is to say:—

(1.) The electoral district of Quebec West shall consist of ^{Quebec W.} St. Peter's ward, Champlain ward, and so much of Montcalm ward as lies south of the centre of Artillery street, and its prolongation parallel to La Grande Allée, to the city limits; with so much of the Banlieue as lies south of the said line prolonged to the western line of the said Banlieue, as such wards were constituted on the twenty-third day of April, one thousand eight hundred and sixty;

(2.) The electoral district of Quebec Centre shall consist of ^{Quebec C.} Palace ward, St. Louis ward, St. John's ward and so much of Montcalm ward and of the Banlieue as is not within Quebec West or Quebec East, as such wards were constituted on the twenty-third day of April, one thousand eight hundred and sixty;

(3.) The electoral district of Quebec East shall consist of ^{Quebec E.} St. Roch's ward and Jacques Cartier ward, and that portion of the Banlieue to the north of a line prolonged towards the south-west, from the southern extremity of Jacques Cartier ward, along the *Cime du Cap* to the south-western limit of the Banlieue, as such wards were constituted on the twenty-third day of April, one thousand eight hundred and sixty. 23 V., c. 1, s. 1, *part*, and s. 5, *part*.

(f.) The city of Three Rivers, as it was constituted on the ^{Three Rivers} fifth day of December, one thousand eight hundred and fifty-nine, by section five of chapter two of the Consolidated

Statutes of Canada, shall, together with all that portion of the parish of Three Rivers, from the south line of the township of St. Maurice to the River St. Lawrence, constitute the electoral district of the city of Three Rivers, and shall return one member: C. S. C., c. 2, s. 5;—28 V., c. 9, s. 2.

Sherbrooke.

(g.) The town of Sherbrooke, as it was constituted on the said last mentioned date, by section six of said last mentioned statute, shall constitute the electoral district of the town of Sherbrooke, and shall return one member. C. S. C., c. 2, s. 6.

NOVA SCOTIA

Electoral districts in Nova Scotia.

4. In the Province of Nova Scotia, each of the eighteen counties into which the Province of Nova Scotia was, on the first day of July, one thousand eight hundred and sixty-seven, divided, shall be an electoral district, and of the said electoral districts the electoral districts of Halifax, Pictou and Cape Breton shall each return two members, and the other fifteen of the said electoral districts shall each return one member. See *B. N. A. Act*, 1867, s. 40, *sub-s.* 3;—35 V., c. 13, s. 2, *part.*

NEW BRUNSWICK.

Electoral districts in New Brunswick.

5. In the Province of New Brunswick, each of the fourteen counties into which New Brunswick was, on the first day of July, one thousand eight hundred and sixty-seven, divided, including the city and county of St. John, shall be an electoral district, and the city of St. John shall also be a separate electoral district, and of the said electoral districts, the electoral district of the city and county of St. John shall return two members, and the other fourteen of said electoral districts, including the city of St. John, shall each return one member. See *B. N. A. Act*, 1867, s. 40, *sub-s.* 4;—35 V., c. 13, s. 2, *part.*

PRINCE EDWARD ISLAND.

Electoral districts in Prince Edward Island.

6. In the Province of Prince Edward Island each of the counties following, that is to say: Prince county, Queen's county and King's county, as they were respectively constituted on the twenty-sixth day of June, one thousand eight hundred and seventy-three, shall be an electoral district and shall each return two members. See *Imperial Orders in Council*, passed 26th June, 1873, p. ix. of *Statutes of 1873*.

BRITISH COLUMBIA.

Electoral districts in British Columbia.

7. In the Province of British Columbia there shall be five electoral districts, which shall be designated and constituted as follows, that is to say:—

(a.) The electoral district of New Westminster, which shall consist of New Westminster district and the Coast district, as defined in a public notice issued from the Lands and Works Office in the said colony, on the fifteenth day of December, one thousand eight hundred and sixty-nine, by the desire of the Governor, and purporting to be in accordance with the provisions of the thirty-ninth clause of the "*Mineral Ordinance, 1869*;" New Westminster.

(b.) The electoral district of Cariboo, which shall consist of Cariboo district and Lillooet district, as specified in the said public notice ;

(c.) The electoral district of Yale, which shall consist of Yale district and Kootenay district, as specified in the said public notice ;

(d.) The electoral district of Victoria, which shall consist of those portions of Vancouver Island known as Victoria district, Esquimalt district and Metchosin district, as defined in the official maps of those districts which are deposited in the Land Office, Victoria, and are designated respectively, "Victoria District Official Map, 1858," "Esquimalt District Official Map, 1858," and "Metchosin District Official Map, 1858:" Victoria.

(e.) The electoral district of Vancouver, which shall consist of all the remainder of Vancouver Island, and all such islands adjacent thereto, as were formerly dependencies of the late colony of Vancouver Island; Vancouver.

And of which electoral districts the electoral district of Victoria shall return two members, and the other electoral districts shall each return one member. 35 V., c. 13, s. 2, *part.* Number of members.

MANITOBA.

8. In the Province of Manitoba there shall be five electoral districts, which shall be designated and constituted as follows, that is to say :— Electoral districts in Manitoba

(a.) The electoral district of Selkirk, which shall consist of the municipalities of Rhineland, North Dufferin, South Dufferin, Lorne, Louise, Argyle, Derby, Brandon, Turtle Mountain, Dennis and Souris ; Selkirk.

(b.) The electoral district of Marquette, which shall consist of the municipalities of Portage, Norfolk, Westbourne, Cypress, Beautiful Plain, Minnedosa, Riding Mountain, Shoal Lake and Russell ; Marquette.

(c.) The electoral district of Provencher, which shall consist of the municipalities of Cartier, Morris, Montcalm, Emerson, Youville, Hanover, LaBroquerie, Hespeler, Ste. Anne, Taché, St. Norbert and St. Boniface, and of all the territory lying east of the said municipalities of Ste. Anne, LaBroquerie and Emerson, and west of the Lake of the Woods ; Provencher.

Lisgar.

(d.) The electoral district of Lisgar, which shall consist of the municipalities of Assiniboia, Belcourt, St. François Xavier, Macdonald, Kildonan, St. Paul, Springfield, St. Laurent, Woodlands, Rockwood, Fairford, Gimli, St. Andrews, Plessis and Varennes, and all the territory lying east of the said municipalities of St. Andrews and Springfield, and west of the Lake of the Woods and the Winnipeg river;

Winnipeg.

(e.) The electoral district of Winnipeg, which shall consist of the city of Winnipeg and the municipality of Fort Rouge: Provided, that any tract of land annexed to and made part of the city of Winnipeg by Act of the Legislature of Manitoba, extending the limits of that city, shall, by such extension, become part of the electoral district of Winnipeg, and detached from the electoral district of Lisgar or Provencher, as the case may be;—

And each of which electoral districts shall return one member. 45 V., c. 3, s. 3.

GENERAL PROVISIONS.

Towns, villages, &c., not mentioned.

4. Every town, village, township or place lying within the territorial limits of any electoral district, and not specifically included in any other electoral district by this Act, shall be and be taken to be part of the electoral district in which it is so locally situate. 45 V., c. 3, s. 5, *part*.

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 7.

An Act respecting the representation of the North-West Territories in the Parliament of Canada. A.D. 1886.

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

1. This Act may be cited as “ *The North-West Territories’ Representation Act.*” 49 V., c. 24, s. 1. Short title.

2. The provisional districts of Saskatchewan and Alberta in the said Territories, as they were respectively constituted by an Order of the Governor in Council, bearing date the eighth day of May, one thousand eight hundred and eighty-two, shall each be an electoral district and shall each return one member to the House of Commons of Canada. 49 V., c. 24, s. 2. Saskatchewan and Alberta.

3. The provisional district of Assiniboia as it was constituted by the said Order in Council shall be divided into two electoral districts, each of which shall return one member to the said House of Commons : Assiniboia to be divided.

2. The said electoral districts shall be known as the East and West Ridings of Assiniboia and shall be constituted as hereinafter described : East and west ridings.

(a.) The east riding of Assiniboia shall consist of so much of the said provisional district of Assiniboia as lies to the east of a line drawn from the international boundary line, along the centre of the road allowance between the fifteenth and sixteenth ranges of townships lying west of the second initial meridian in the system of Dominion land surveys, as the same is now or is hereafter set off, to the northerly boundary of the said provisional district of Assiniboia ; East riding of Assiniboia.

(b.) The west riding of Assiniboia shall consist of so much of the said provisional district of Assiniboia as lies to the west of the said line so drawn along the centre of the said road allowance, between the fifteenth and sixteenth ranges of townships in this section before mentioned. 49 V., c. 24, s. 3. West riding of Assiniboia.

4. Every person qualified to vote at the election of a member under this Act shall be a *bond fide* male resident and householder, of adult age, who is not an alien or an Indian, Who shall be qualified to vote.

within the electoral district, and who has resided in such electoral district for at least twelve months immediately preceding the issue of the writ of election. 49 V., c. 24, s. 4.

Issue of writs of election.

5. Every writ for the election of a member of the House of Commons under this Act shall be dated and be returnable on such days as the Governor General determines, and shall be addressed to such person as the Governor General appoints; and such person shall be the returning officer at the election to which such writ relates: Provided always, that if the person to whom the writ has been addressed refuses, or is disqualified or unable to act, the Governor General may appoint another person to be such returning officer. 49 V., c. 24, s. 5.

Proviso: in case of inability to act.

Place and day of nomination.

6. The Governor General shall fix the place and the day for the nomination of candidates at each such election, and the place and the day so fixed shall be specified in the writ of election for the electoral district to which such day applies: Provided always, that in the case of a general election the day so fixed shall be the same as that fixed for the nomination of candidates in the other electoral districts of Canada. 49 V., c. 24, s. 6.

Proviso.

Form of writ of election.

7. The writs of election shall be in the form A, in the schedule to this Act, and shall be transmitted by mail to the respective returning officers, unless otherwise ordered by the Governor General. 49 V., c. 24, s. 7.

Who may not be appointed returning officers, &c.

8. None of the persons hereinafter mentioned shall be appointed returning officers or deputy returning officers, election clerks or poll clerks, that is to say:—

(a.) Members of the Queen's Privy Council for Canada or of the Executive Council of any of the Provinces of Canada;

(b.) Members of the Senate or members of the Legislative Council of any of the Provinces of Canada;

(c.) Members of the House of Commons, or members of the Legislative Assemblies of the several Provinces of Canada, or of the Council or Legislative Assembly of the North-West Territories;

(d.) Ministers, priests or ecclesiastics of any religious faith or worship;

(e.) Judges of the courts of superior civil or criminal jurisdiction, judges of any county or district court, insolvent court or vice-admiralty court, or stipendiary magistrates;

(f.) Persons who have served in the Parliament of Canada in the session immediately preceding the election, or in the then present session of Parliament;

(g.) Sheriffs, registrars or other persons who have been found guilty by the House of Commons, or by any court for the trial of controverted elections, or other competent tribunal, of any offence or dereliction of duty under this Act. 49 V., c. 24, s. 8.

9. None of the persons hereinafter mentioned, unless they are sheriffs, registrars, town clerks or assessors shall be obliged to act as returning officers, deputy returning officers, election clerks or poll clerks, that is to say :—

Who shall not be obliged to act as such.

(a.) Professors in any university, college, high school or academy ;

(b.) Physicians or surgeons ;

(c.) Millers ;

(d.) Postmasters, customs officers, or clerks in post offices or customs offices ;

(e.) Persons of sixty years of age or upwards ;

(f.) Persons who have previously served as returning officers at the election of a member for the House of Commons. 49 V., c. 24, s. 9.

10. The returning officer shall, on receiving the writ of election, forthwith indorse thereon the date on which he receives the same, and before taking any further action thereon, he shall take the oath of office in the form B, in the schedule to this Act. 49 V., c. 24, s. 10.

Proceedings on receipt of writ.

11. The returning officer, by a commission under his hand, and in the form C, in the schedule to this Act, shall appoint an election clerk, and may, at any time during the election, appoint, in the same manner, another election clerk, if the one so appointed resigns, or refuses or is unable to perform his duties as such clerk. 49 V., c. 24, s. 11.

Election clerk.

12. The election clerk shall assist the returning officer in the performance of his duties, and act in his stead as returning officer, whenever the returning officer refuses or is disqualified or unable to perform his duties, and has not been replaced by another. 49 V., c. 24, s. 12.

Duties of election clerk.

13. The election clerk shall, before acting as such clerk, take the oath of office in the form D, in the schedule to this Act. 49 V., c. 24, s. 13.

To take oath of office.

14. Neither the returning officer nor the election clerk shall in any case vote at an election in the electoral district for which he is acting, except as hereinafter provided. 49 V., c. 24, s. 14.

Returning officer and election clerk not to vote.

15. At least fifteen days before the day fixed in the writ for the nomination of candidates the returning officer shall cause to be posted up in a conspicuous position, in at least ten of the most public places in the electoral district, a proclamation in the form E, in the schedule to this Act, in which proclamation shall be set forth the place and the day specified in the writ for the nomination. 49 V., c. 24, s. 15.

Proclamation to be posted up.

Another day
may be fixed
in cases
specified.

16. Whenever from unforeseen accident, delays or otherwise, the proclamation cannot be posted up so as to leave the required delay between the posting up of the proclamation and the nomination day appointed by the Governor General, or whenever any candidate dies after being nominated and before the close of the polls, the returning officer may fix another day for the nomination of candidates,—which day shall be the nearest day possible after allowing the number of days required by the next preceding section between the posting up of the proclamation and the nomination day; and in every such case the returning officer shall, with his return, make to the Clerk of the Crown in Chancery a special report of the causes which occasioned the postponement of the election. 49 V., c. 24, s. 16.

Report in
such case.

Nomination of
candidates.

17. At any time after the date of the proclamation, and before two of the clock in the afternoon of the day fixed for the nomination, any four or more electors may nominate a candidate by affirming to and signing, before a justice of the peace, or before the returning officer, and causing to be filed with the returning officer a nomination paper in the form F, in the schedule to this Act; and any votes given at the election for any other candidates than those so nominated shall be null and void. 49 V., c. 24, s. 17.

Nomination
paper.

Consent of
candidate.

18. No nomination paper shall be valid and acted upon by the returning officer unless it is accompanied by the consent in writing of the person therein nominated, except when such person is absent from the North-West Territories, when such absence shall be stated in the nomination paper; and—

Deposit to be
made.

Unless a sum of two hundred dollars is deposited in the hands of the returning officer at the time the nomination paper is filed with him; and the receipt of the returning officer shall, in every case, be sufficient evidence of the production of the nomination paper, of the consent of the candidate and of the payment herein mentioned:

Application
of sum
deposited.

2. The sum so deposited by any candidate shall be returned to him in the event of his being elected, or of his obtaining a number of votes at least equal to one-half the number of votes polled in favor of the candidate elected,—otherwise it shall belong to Her Majesty for the public uses of Canada; and the sums so paid and not returned as herein provided, shall be applied by the returning officer towards the payment of the election expenses; and an account thereof shall be rendered by him to the Auditor General of Canada. 49 V., c. 24, s. 18.

Attestation of
nomination
paper.

19. The returning officer shall require the person, or one or more of the persons producing any such nomination paper, to make oath before him, that he or they know that the several persons who have signed such nomination paper

are electors duly entitled to vote; and that they have signed the same in his or their presence; and that the consent of the candidate has been signed in his or their presence, or that the person named as candidate is absent from the North-West Territories, as the case may be:

2. Such oath may be in the form G, in the schedule to this Act; and the fact of its having been taken shall be stated on the back of the said nomination paper. 49 V., c. 24, s. 19. Form of oath.

20. Whenever only one candidate has been nominated within the time fixed for that purpose, the returning officer shall make his return to the Clerk of the Crown in Chancery that such candidate is duly elected for the said electoral district,—of which return he shall send within forty-eight hours a duplicate or certified copy to the person elected; and such return shall be in the form H, in the schedule to this Act. 49 V., c. 24, s. 20. Return by acclamation.

21. The returning officer shall accompany his return to the Clerk of the Crown in Chancery with a report of his proceedings and of any nomination proposed and rejected for non-compliance with the requirements of this Act. 49 V., c. 24, s. 21. Report with return.

22. Any candidate nominated may withdraw at any time after his nomination, and before the closing of the poll, by filing with the returning officer a declaration in writing to that effect, signed by himself; and any votes cast for the candidate who has so withdrawn shall be null and void; and if, after the withdrawal, there remains but one candidate, then the returning officer shall return as duly elected the candidate so remaining, without waiting for the day fixed for holding the poll, or for the closing of the poll if such withdrawal is filed on the polling day. 49 V., c. 24, s. 22. Withdrawal of candidate. Return if only one candidate remains.

23. If at the time fixed for receiving nominations there remain more than one candidate in nomination, the returning officer shall grant a poll for taking the votes of the electors. 49 V., c. 24, s. 23. When poll may be granted.

24. As soon as the time for receiving nominations has elapsed, or at any time thereafter, the returning officer, if required, shall deliver gratis to every candidate, or to the person who filed the nomination paper on his behalf, a certified list of the candidates nominated. 49 V., c. 24, s. 24. Delivery of certified list.

25. If a poll is granted, the returning officer shall subdivide the electoral district into as many polling divisions as he deems necessary for the convenience of the electors; and he shall number, or otherwise designate them, and fix upon a suitable polling station in each such division. 49 V., c. 24, s. 25. Polling subdivisions to be established.

When poll shall be held.

26. Whenever a poll has been granted it shall be held on the same day of the week as the nomination, in the fourth week thereafter, and shall be opened at the hour of nine of the clock in the forenoon, and kept open until five of the clock in the afternoon of the said day; and the votes at the several polling stations shall be given between the said hours of that day, and by open voting. 49 V., c. 24, s. 26.

Proclamation if poll is granted.

27. Immediately after having granted a poll, the returning officer shall cause to be posted up at all places where the proclamation for the election was posted up, an election notice in the form I, in the schedule to this Act. 49 V., c. 24, s. 27.

Appointment of enumerators.

28. The Governor General may appoint enumerators to make lists of the electors in the electoral district; and if such appointments have not been made, the returning officer conjointly with any two justices of the peace, or with one justice of the peace and a notary public, or with any one of them resident in or near the electoral district and two electors of such district, neither of the number being a candidate, shall appoint under their hand a competent and reliable person to be enumerator for any one or more polling divisions of such district; and the returning officer shall see that no polling division is omitted to be included in some one of such appointments:

Enumerator to take oath of office.

2. The enumerator shall, before acting as such, take the oath of office in the form J, in the schedule to this Act. 49 V., c. 24, s. 28.

List of voters to be prepared.

29. Each such enumerator, immediately after the nomination day, if a poll is granted, shall carefully compile a list of the persons qualified as electors to vote at the election then pending, for the polling division or each of the polling divisions for which he has been appointed; and he shall make three plainly written copies of the same, with the names of the voters alphabetically arranged, giving the occupation and residence of each voter, in the form K, in the schedule to this Act. 49 V., c. 24, s. 29.

Lists to be completed and posted up.

30. Each enumerator shall complete, date at his place of residence and sign the copies of the voters' list or lists as aforesaid, eight days before the polling day; two of the said copies for each polling division he shall forthwith post up in two of the most public places within such polling division, and the other he shall retain for revision. 49 V., c. 24, s. 30.

Correction of list of voters.

31. If any enumerator, at any time after posting up any voters' list, and before the polling day, is fully satisfied, from representations made to him by any credible person, that the name of any qualified voter has been omitted from

the voters' list of the polling division to which such voter belongs, he shall add such name to the copy of the list in his possession below his own signature, and shall attest such addition by his initials; if the enumerator, in like manner, is fully satisfied that there is on the list the name of any person who is not qualified as a voter in such polling division, he may draw erasing lines through such name, and write his own initials opposite thereto in the column for "remarks"; and if the enumerator finds the occupation, addition or residence of any voter to be inaccurately stated in the list, he may make the necessary alteration and affix his initials thereto in like manner. 49 V., c. 24, s. 81.

32. Every enumerator, having revised and corrected such retained copy of each voters' list compiled by him, if he deems such correction necessary, as provided in the next preceding section, shall write at the foot of such copy and close to the last name thereon, on the day immediately preceding the polling day, a certificate in the form of the second certificate contained in form K, in the schedule to this Act. 49 V., c. 24, s. 32.

Attestation of list of voters.

33. The enumerator shall deliver the voters' list so certified forthwith, or before eight o'clock in the morning of the polling day, to the deputy returning officer for the polling division to which it relates; and such list, as received by such deputy returning officer, shall be the voters' list for such polling division, subject to be further corrected on the polling day as hereinafter provided. 49 V., c. 24, s. 33.

List to be delivered to deputy returning officer.

34. The returning officer shall cause to be posted up with the election notice, a notice of information to electors in the form L, in the schedule to this Act. 49 V., c. 24, s. 34.

Notice to be posted up.

35. The returning officer shall secure at each polling station a room, building or other convenient place for the officers employed at the poll, with a window or door opening to the outside, and in winter, if possible, two rooms,—one for the officers and the other for the electors while voting. 49 V., c. 24, s. 35.

Accommodation at polling stations.

36. The returning officer shall, by a commission under his hand, appoint one deputy returning officer for each polling division comprised in the electoral district; but if the returning officer sees fit to act in the capacity of deputy returning officer for any polling division, he may dispense with appointing a deputy for such division and himself perform the duties of deputy returning officer therein, without taking any oath of office other than that which he is hereinbefore required to take. 49 V., c. 24, s. 36.

Appointment of deputy returning officers.

Oath of office
to be taken.

37. Every deputy returning officer shall, before acting as such, take an oath of office in the form M, in the schedule to this Act. 49 V., c. 24, s. 37.

Poll book,
&c., to be
furnished.

38. The returning officer shall furnish each deputy returning officer with a poll book which shall be in the form N, in the schedule to this Act, and which shall contain as many columns showing the names of candidates as there are candidates duly nominated, and with at least five copies of the notice (form L) for the information of the electors. 49 V., c. 24, s. 38.

Appointment
of poll clerk.

39. Each deputy returning officer shall forthwith appoint by commission under his hand a poll clerk, who before acting as such shall take the oath in the form O, in the schedule to this Act. 49 V., c. 24, s. 39.

Agents of
candidates.

40. Any person who produces to the deputy returning officer, at any time, a written authority from a candidate to represent him as an agent at a polling station, shall be recognized as such by the deputy returning officer, and if no such agent is nominated by the candidate, any two electors may, at their own request, be recognized as the agents of such candidate: Provided always, that any agent bearing a written authorization from the candidate shall always be entitled to represent such candidate in preference to, and to the exclusion of, any two electors who might otherwise claim the right of representing such candidate under this section. 49 V., c. 24, s. 40.

Proviso.

Who may
remain where
votes are
recorded.

41. In addition to the deputy returning officer and his poll clerk, each candidate and his agent, or in such candidate's absence any two agents of such candidate, and no others, shall be permitted to remain in the room or place, or that part thereof where the votes are recorded. 49 V., c. 24, s. 41.

Duties of
deputy
returning
officer when
a poll is held.

42. The deputy returning officer shall,—

(a.) Post up on the polling day before nine o'clock in the forenoon at least three of the handbills containing "Information for Electors" (form L) in conspicuous places near the polling station;

(b.) See that the poll clerk is put into possession of the poll book and voters' list in time for the polling;

(c.) Open the poll on the polling day at nine o'clock in the forenoon and keep it open till five o'clock in the afternoon of the same day;

(d.) Receive the votes of electors and see that they are correctly recorded by the poll clerk, and ask all questions relating to the qualification of voters required by any candidate or his agent;

(e.) Administer either or both of the oaths hereinafter mentioned to any elector, if required, and when necessary direct that the voters' list be corrected accordingly ;

(f.) When the poll is declared by him to be closed, immediately sum up with the poll clerk the votes received by each candidate, and sign on the poll book with the poll clerk the certificate hereinafter mentioned ;

(g.) When the said certificate is signed, seal up the poll book and voters' list in one package and forward them to the returning officer as he directs. 49 V., c. 24, s. 42.

43. Every deputy returning officer may and shall, when he is required so to do by any candidate or agent of a candidate, administer to any elector either one or both of the oaths set forth in form P, in the schedule to this Act. 49 V., c. 24, s. 43. Administration of oaths to electors.

44. The deputy returning officer shall, while the poll is open, if required by any elector whose name is not on the voters' list, administer to such elector oath number one in the said form P ; and such oath having been taken, the deputy returning officer shall at once cause such elector's name to be added to the voters' list, with the word "sworn" written thereafter. 49 V., c. 24, s. 44. Oath when voter's name is not on the list.

45. Every person whose name is on the voters' list, unless sworn as in the next preceding section provided, shall, before being permitted to vote, if required by any candidate, agent or elector, take the said oath number one ; and if he refuses to take the same, erasing lines shall be drawn through his name on the voters' list, and the words "refused to be sworn" written thereafter. 49 V., c. 24, s. 45. Voter on the list may be sworn. If he refuses.

46. Every voter shall be entitled to vote whose name is on the voters' list and has not been erased therefrom in accordance with the foregoing provisions of this Act or whose name is added to the said list as herein provided ; but if any such voter, when required by the deputy returning officer, or by any candidate, agent or elector, refuses to take oath number two in the said form P, he shall not be permitted to vote, and if his name has been entered in the poll book, erasing lines shall be drawn through it, and the words "refused to take oath number two" written thereafter. 49 V., c. 24, s. 46. What voters may vote. Refusal to take oath.

47. Whenever the deputy returning officer does not understand the language of an elector claiming to vote, he may swear an interpreter, to be the means of communicating Interpreter may be sworn.

between him and such elector with reference to all matters required to enable such elector to vote. 49 V., c. 24, s. 47.

As to votes
of certain
officers and
agents.

48. Any deputy returning officer, candidate, agent or poll clerk, who belongs to a polling division other than the one at which he is stationed on the polling day, shall be permitted to vote at the polling station where he is so stationed, provided he produces a certificate from the enumerator of the polling division to which he belongs, that he is a qualified voter in such polling division,—which certificate such enumerator shall give gratis to any qualified elector who is so stationed outside of his own polling division. 49 V., c. 24, s. 48.

Entry in such
case.

49. In case any vote is recorded as provided in the next preceding section, in a different polling division to that in which the voter resides, the particular office or position which the voter is filling at the station at which he voted shall be entered opposite his name in the poll book in the column for "remarks." 49 V., c. 24, s. 49.

Poll clerk to
act as deputy
returning
officer in case
of need.

50. If the deputy returning officer is unable or fails to perform his duties, the poll clerk shall act in his place without taking any further oath of office, and he shall appoint another poll clerk who shall take the oath of office as such hereinbefore prescribed. 49 V., c. 24, s. 50.

How votes
shall be
recorded.

51. The poll clerk shall write in the poll book the full name and the occupation and residence of each voter, and shall, opposite thereto, mark the figure 1 in the column for the candidate in whose favor the vote of such voter is given; and immediately the vote is recorded he shall write "voted" after the elector's name in the voter's list. 49 V., c. 24, s. 51.

Correction of
list of voters.

52. The poll clerk shall make such additions, alterations, and erasures in the voters' list, and such entries in the poll book as the deputy returning officer directs him to make, as is required by any provision of this Act. 49 V., c. 24, s. 52.

Close of the
poll and sum-
ming up the
votes.

53. At five o'clock in the afternoon of the polling day the deputy returning officer shall declare the poll closed; and immediately thereafter he and the poll clerk, in the presence of the candidates or their agents, shall sum up the votes given for each candidate, and shall enter in the poll book, immediately below the last name recorded, and shall sign a certificate in the form Q in the schedule to this Act. 49 V., c. 24, s. 53.

Certificate.

Duplicate to
be retained.

54. A duplicate copy of the said certificate shall be made out and signed in the same manner, on a separate sheet of paper, which duplicate shall be kept by the deputy returning officer, after he has forwarded the poll book and voters'

list to the returning officer; and if by any means the poll book should be lost or destroyed, he shall deliver the said duplicate certificate to the returning officer. 49 V., c. 24, s. 54.

55. Every poll clerk, on being requested so to do by any candidate or his agent, shall deliver, free of charge, to such candidate or agent, a copy of the certificate made by the deputy returning officer and himself at the close of the poll. 49 V., c. 24, s. 55. Copies for candidates.

56. The returning officer, at the place, day and hour appointed by his election notice, and after having received all the poll books, shall proceed to open them in presence of the election clerk, and the candidates or their representatives, if present, or of at least two electors, and to add together the number of votes given for each candidate from the poll books of the several polling divisions returned by the deputy returning officers; but if all the poll books are not received on the day named in the election notice, he may adjourn the final summing up of votes until every poll book, or in its absence, the duplicate certificate of the deputy returning officer and poll clerk, has been received. 49 V., c. 24, s. 56. Addition of votes by the returning officer. Postponement if poll books are not all received.

57. The candidate who, on the final summing up of the votes, is found to have a majority of votes, shall be then declared elected. 49 V., c. 24, s. 57. Declaration of election.

58. When, on the final addition of votes by the returning officer, an equality of votes is found to exist between any of the candidates, and the addition of a vote would entitle any of such candidates to be declared elected, the returning officer shall give such additional or casting vote. 49 V., c. 24, s. 58. Provision in case of a tie.

59. The returning officer, after such final summing up, shall forthwith transmit his return to the Clerk of the Crown in Chancery by mail, after having registered the same, and such return shall be in the form R, in the schedule to this Act. 49 V., c. 24, s. 59. Return, and form thereof.

60. The returning officer shall forward to each of the respective candidates a copy of his return to the Clerk of the Crown in Chancery. 49 V., c. 24, s. 60. Copies for candidates.

61. The returning officer shall accompany his return to the Clerk of the Crown in Chancery with a report of his proceedings, including the number shown in his final summing up of votes; he shall also forward to the said Clerk of the Crown in Chancery, by mail, after having registered the same, all the poll books and voters' lists of the several polling divisions. 49 V., c. 24, s. 61. What shall accompany the return.

- Proclamation &c., may be written or printed.** **62.** The proclamation and other notices required to be posted up at any election under this Act, the poll books and all other documents herein mentioned, may either be printed or written, or partly printed and partly written. 49 V., c. 24, s. 62.
- Proceedings not to be delayed.** **63.** The returning officer shall not delay proceeding with an election under this Act, unless he ascertains that the poll at any polling station has been so obstructed or so grossly neglected or mismanaged, that qualified electors have had no fair opportunity to record their votes,—in which case he shall not return any candidate elected, but shall report the proceedings in full to the Clerk of the Crown in Chancery. 49 V., c. 24, s. 63.
- Exception.**
- Report in such case.**
- Copies of Act for returning officer and deputies.** **64.** One copy of this Act, and of such portions of "*The Dominion Elections Act*" as are hereinafter incorporated with this Act, and of such instructions, approved by the Governor in Council, as are necessary to carry out the elections according to the provisions of this Act (with a copious alphabetical index prefixed), for the returning officer, and one for each of his deputies, shall be transmitted, with the writ of election, to each returning officer. 49 V., c. 24, s. 64.
- Personation defined.** **65.** Every one who, at an election of a member of the House of Commons under this Act, tenders a vote in the name of some other person, whether such name is that of a person living or dead, or a fictitious person, or having voted once at any such election, tenders a vote at the same election, is guilty of personation, and shall be liable to a penalty not exceeding six hundred dollars, and to imprisonment for a term not exceeding six months. 49 V., c. 24, s. 65.
- Penalty for.**
- Recital.** **66.** Inasmuch as in view of the extension of the electoral franchise to the North-West Territories, as by this Act provided, and the specific provisions in that behalf herein enacted, and of the remoteness of certain portions of the said Territories, it may appear that allowances for fees and disbursements, similar to those provided by section one hundred and twenty-one of "*The Dominion Elections Act*," will be inadequate or insufficient for a fair and just but economical remuneration for the services performed, the Governor in Council may make a tariff of fees, costs and expenses, based, as nearly as may be, on the tariff of fees, costs and expenses in the said section set forth, to be paid and allowed to returning officers and other persons employed at or with respect to elections under this Act, and may, from time to time, revise and amend such tariff:
- Tariff of fees may be made.**
- To be laid before House of Commons.** 2. A copy of every such tariff, and of every amendment thereof, shall be laid before the House of Commons at the then next session thereof. 49 V., c. 24, s. 66.

67. Paragraphs (a), (b) and (h) of section two, sub-section one of section twenty, and sections sixty-six, sixty-seven, seventy-three to eighty-eight, both inclusive, ninety to ninety-nine, both inclusive, one hundred and one, one hundred and two, one hundred and four to one hundred and twenty, both inclusive, and one hundred and twenty-six to one hundred and thirty-one, both inclusive, of "*The Dominion Elections Act*," are hereby incorporated with this Act, and shall be read as forming part thereof. 49 V., c. 24, s. 67.

Certain provisions of the Dominion Elections Act incorporated.

68. Nothing in this Act contained shall be deemed to affect or to modify in any manner whatsoever the provisions of section nine of "*The Electoral Franchise Act*." 49 V., c. 24, s. 70, *part*.

46 V., c. 4. S. 9 of c. 5 not affected.

69. This Act shall come into force upon, from and after such day as the Governor General, by proclamation, directs. 49 V., c. 24, s. 71.

Commencement of Act.

SCHEDULE OF FORMS.

A.

Writ of Election.

VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland, QUEEN, Defender of the Faith;—To _____ of _____, GREETING :

Whereas, by the advice of Our Privy Council for Canada, we have ordered a Parliament to be holden at Ottawa, on the _____ day of _____ next (*omit this preamble, except in the case of a general election*). We command you that, notice of the time and place of election being duly given, you do cause election to be made according to law of a member to serve in the House of Commons of Canada, for the electoral district of _____

(*except in case of a general election, insert here in the place of _____, deceased, or otherwise, stating the cause of vacancy*), and that you do cause the nomination of candidates at such election to be held on the _____ day of _____ next, at _____, and do cause the name of such member when so elected, whether he is present or absent, to be certified to our Clerk of the Crown in Chancery, as by law directed.

Witness, Our Right Trusty and Well-beloved, &c., Governor General (*or Administrator of the Government*) of Our Dominion of Canada, at Our City of Ottawa, the

day of _____, in the _____ year of Our Reign and in
the year of Our Lord 18 _____.

Indorsement.

Received the within Writ on the _____ day of _____ 18 _____.

(*Signature*), _____ A. B.,
Returning Officer.

49 V., c. 24, sch. form A.

B.

Oath of the returning officer.

I, the undersigned, A. B., returning officer for the electoral district of _____, solemnly swear (*or if he is one of the persons permitted by law to affirm in civil cases, solemnly affirm*) that I am legally qualified according to law to act as returning officer for the said electoral district of _____, and that I will act faithfully in that capacity, without partiality, fear, favor or affection : So help me God.

(*Signature*), _____ A. B.,
Returning Officer.

Certificate of returning officer having taken oath of office.

I, the undersigned, hereby certify that on the _____ day of _____ the month of _____, 18 _____, A. B., the returning officer for the electoral district of _____, took and subscribed before me, the oath (*or affirmation*) of office, in such case required of a returning officer, by "The North-West Territories Representation Act, 1886."

In testimony whereof, I have delivered to him this certificate.

(*Signature*), _____ C. D.,
Justice of the Peace.

49 V., c. 24, sch. form B.

C.

Commission of an election clerk.

To E. F. (*set forth his legal addition and residence*).

Know you, that in my capacity of returning officer for the electoral district of _____, I have appointed, and

do hereby appoint you to be my election clerk, to act in that capacity according to law, at the approaching election for the said electoral district of _____, which election will be opened by me, on the _____ day of the month of _____ 18 _____.

Given under my hand this _____ day of _____, in the year 18 _____.

(Signature), A. B.,
Returning Officer.

49 V., c. 24, sch. form C.

D.

Oath of the election clerk.

I, the undersigned, E. F., appointed election clerk for the electoral district of _____, solemnly swear (or if he is one of the persons permitted by law to affirm in civil cases, solemnly affirm), that I will act faithfully in my said capacity as election clerk, and also in that of returning officer if required to act as such according to law, without partiality, fear, favor or affection : So help me God.

(Signature), E. F.,
Election Clerk.

Certificate of the election clerk having taken the oath of office.

I, the undersigned, hereby certify that on the day of _____, 18 _____, E. F., election clerk for the electoral district of _____, took and subscribed before me, the oath (or affirmation) of office required in such case of an election clerk, by "The North-West Territories Representation Act, 1886."

In testimony whereof, I have delivered to him this certificate under my hand.

(Signature), C. D.,
Justice of the Peace
or A. B.,
Returning Officer.

49 V., c. 24, sch. form D.

E.

PROCLAMATION.

Electoral District of _____, to wit:

Public notice is hereby given to the electors of the electoral district aforesaid, that, in obedience to Her Majesty's Writ to me directed, and bearing date the day of _____, 18____, I require the presence of the said electors at (*describe the place where the nomination is to take place*) on _____ the _____ day of _____, from noon until two of the clock in the afternoon, for the purpose of nominating a person to represent them in the House of Commons of Canada, and that, in case a poll becomes necessary, such poll will be open on the day and during the time prescribed by law at the polling station in each of the polling divisions which are, after the nomination, specified by me in an election notice.

Of which all persons are hereby required to take notice and govern themselves accordingly.

Given under my hand at _____, this
day of _____, in the year 18____.

(*Signature*),

A. B.,
Returning Officer.

49 V., c. 24, sch. form E.

F.

Nomination paper, &c.

We, the undersigned electors of the electoral district of _____ hereby nominate (*name, residence and addition or description of person nominated*) as a candidate at the election now about to be held of a member to represent the said electoral district in the House of Commons of Canada.

Witness our hands at _____ in the said electoral district,
this _____ day of _____ 18____.

Signed by the said electors, in presence }
of _____, of _____ (*additions*). }

Signatures with residence and additions.

I, the said _____, nominated in the foregoing nomination paper, hereby consent to such nomination.

Witness my hand at _____, this _____ day of _____, 18 _____.

Signed by the said nominee, in presence }
of _____, of _____, (additions). } *Signature.*
49 V., c. 24, sch. form F.

—
G.

Oath of attestation of the nomination paper.

I, G. H., of _____ (additions), solemnly swear (or if he is one of the persons permitted by law to affirm in civil cases, solemnly affirm) that I know (mentioning the names of the signers known to him), and that they are duly qualified as electors of the electoral district of _____, to vote at an election of a member to serve in the House of Commons of Canada, and that they respectively signed the foregoing (or within) nomination paper in my presence; and further (if the case be so), that I know the said _____, thereby nominated as a candidate, and that he signed his consent to the nomination in my presence.

Sworn (or affirmed) before me, at }
, this _____ day of } (Signature), G. H.
, 18 _____ }
C. D.,
Justice of the Peace.

The forms in this schedule may be varied according to circumstances, the intention of the Act being complied with, and the assent of the candidate may be sworn to by a separate elector, if the facts require it to be so.
49 V., c. 24, sch. form G.

—
H.

Return when there is only a single candidate nominated.

I hereby certify that the member elected for the electoral district of _____, in pursuance of the within written writ, is R. O., of _____, in _____ (as in the nomination paper), no other candidate having been nominated (or the other or all other candidates having withdrawn, as the case may be).

(Signature), A. B.,
Returning Officer.

49 V., c. 24, sch. form H.

I.

Election notice.

Electoral District of }
 To wit: }

Public notice is hereby given to the electors of the electoral district aforesaid, that a poll has been granted for the election now pending for the said district, and that such poll will be open on _____, the _____ day of _____, 18____, from the hour of nine in the forenoon till the hour of five in the afternoon, in each of the following divisions, that is to say:—

For the polling division No. 1 (*or other designation*) consisting of (*or bounded as follows, or as the case may be*) at *describe the polling station; and so continue for all the other polling divisions and polling stations in the electoral district.*

Further, that the persons duly nominated, and for whom only votes will be received, are,—

1. } (*Insert the name and additions of each candidate, as*
2. } *given in the nomination papers.*)
3. }

And further, that unless the election is otherwise terminated before the time above named for closing the poll, I will, on _____, the _____ day of _____, 18____, open the poll books, sum up the votes given for the several candidates and return as elected the one having the majority of votes.

Of which all persons are hereby required to take notice and govern themselves accordingly.

Given under my hand at _____, this _____ day of _____, 18____.

(*Signature*),

A. B.,
 Returning Officer.

49 V., c. 24, sch. form I.

J.

Oath of enumerator.

I, the undersigned, I. J., appointed enumerator for the polling district No. _____, (*or as the case may be*) of the electoral district of _____, solemnly swear (*or, being one of the persons permitted by law to affirm in civil cases, solemnly affirm*) that I will act faithfully in my said capacity of enumerator, without partiality, fear, favor, or affection: So help me God.

(*Signature*),

I. J.,
 Enumerator.

Certificate of an enumerator having taken the oath of office.

I, the undersigned, hereby certify that on the day of the month of _____, I. J., enumerator for the polling district No. 1, (*or as the case may be*) of the electoral district of _____, took and subscribed the oath (*or affirmation*) of office, required in such case of an enumerator, by "The North-West Territories Representation Act, 1886."

In testimony whereof, I have delivered to him this certificate under my hand.

(*Signature*), C. D.,
Justice of the Peace.
or A. B.,
Returning Officer.

49 V., c. 24, sch. form J.

K.

List of voters.

Electoral district of _____
Polling division No. 1 (*or as the case may be*).

No.	Name.	Occupation or Addition.	Residence.	Remarks.

I certify that the foregoing is a true copy of the voters' list in polling division No. 1 (*or as the case may be*) of the electoral district of _____, as prepared by me for use in the election of a member of the House of Commons for the said electoral district, now pending.

(*Signature*), I. J.,
Enumerator.

(*Here the enumerator shall make any addition to the list which he finds necessary.*)

I certify that the foregoing is a correct list of the voters in polling division No. 1 (*or as the case may be*) of the electoral district of _____ as revised (*or if no correction is made, as finally approved*) by me this _____ day of _____ 18 ____.

(*Signature*), I. J.,
Enumerator.

49 V., c. 24, sch. form K.

L.

Information to electors.

The following is the qualification of electors as prescribed by the Parliament of Canada.

(Here insert section four of this Act.)

If any elector finds that his name is not on the voters' list of the polling division to which he belongs, he may apply to the enumerator on any day before the polling day and if the enumerator objects to add his name to the said list, he may require the deputy returning officer, on the polling day, while the poll is open, to cause his name to be placed on the list on taking before that officer the following oath :

(Here insert oath No. 1. See form P.)

Each elector may vote only at one polling station and for one candidate within the same electoral district.

Any elector wishing to record his vote shall, in his turn while the poll is open, go up to the deputy returning officer, state his full name, occupation or addition and place of residence, take such oaths as the deputy returning officer lawfully puts to him, and declare for which candidate he votes.

Every elector, after having voted, shall quietly leave the polling station.

(Signature),

A. B.,
Returning Officer.

Dated 18 .

49 V., c. 24, sch. form L.

 M.

(Oath of deputy returning officer.)

I, the undersigned, G. H., appointed deputy returning officer for the polling district No. , (or as the case may be) of the electoral district of , solemnly swear (or, being one of the persons permitted by law to affirm in civil cases, solemnly affirm) that I will act faithfully in my said capacity of deputy returning officer, without partiality, fear, favor, or affection: So help me God.

(Signature),

G. H.,
Deputy Returning Officer.

Certificate of a deputy returning officer having taken the oath of office.

I, the undersigned, hereby certify that on the day of the month of _____, G. H., deputy returning officer for the polling district No. _____, (*or as the case may be*) of the electoral district of _____, took and subscribed the oath (*or affirmation*) of office, required in such case of a deputy returning officer by "The North-West Territories Representation Act, 1886."

In testimony whereof, I have delivered to him this certificate under my hand.

(*Signature*),

C. D.,
Justice of the Peace.

or A. B.,
Returning Officer.

49 V., c. 24, sch. form M.

O.

Oath of poll clerk.

I, the undersigned, L. M., appointed poll clerk for the polling district No. _____, (or as the case may be) of the electoral district of _____; do solemnly swear (or, if he is one of the persons permitted by law to affirm in civil cases, do solemnly affirm) that I will act faithfully in my capacity of poll clerk, and also in that of deputy returning officer if required to act as such, according to law, without partiality, fear, favor or affection: So help me God.

(Signature), L. M.,
Poll Clerk.

Certificate of the poll clerk having taken the oath.

I, the undersigned, hereby certify that on the _____ day of the month of _____, L. M., poll clerk for the polling district No. _____, (or as the case may be) of the electoral district of _____ took and subscribed before me the oath (or affirmation) of office required of a poll clerk in such cases by "The North-West Territories Representation Act, 1886."

In testimony whereof, I have delivered to him this certificate under my hand.

(Signature), C. D.,
Justice of the Peace.
or A. B.,
Returning Officer.
or G. H.,
Deputy Returning Officer.

49 V., c. 24, sch. form O.

P.

Oaths to be taken by voters.

No. 1.

You do swear that you are a *bond fide* male resident and householder within this polling division of this electoral district, that you are of the full age of twenty-one years, that you are not an alien or an Indian, and that you have resided in this electoral district for at least twelve months immediately preceding the date of the issue of the writ for this election: So help you God.

No. 2.

You do swear that you have not received any money or other reward, nor have you accepted any promise made to you, directly or indirectly, to induce you to vote at this election, and that you have not before voted at this election in this electoral district, either at this or any other polling station. So help you God.
49 V., c. 24, sch. form P.

 Q.
Certificate in the poll book.

We, the undersigned, deputy returning officer and poll clerk for the polling division No. , (or as the case may be) of the electoral district of , solemnly declare that to the best of our knowledge and belief the poll book for the said polling division contains a true and exact record of the votes polled at the polling station thereof; that we have faithfully counted the votes given for each candidate, and that the number recorded for (*here insert the name of one candidate*) was (and so on for each of the candidates).

In witness whereof we hereto set our hands, this
day of 18 .

(Signatures), G. H.,
Deputy Returning Officer.
L. M.,
Poll Clerk.

49 V., c. 24, sch. form Q.

 R.
Return when a poll has been held.

I hereby certify that the member elected for the electoral district of in pursuance of the within writ, as having the majority of votes lawfully given, is (*name as in the nomination paper*).

Dated at , this day of , 18 .

(Signature), A. B.,
Returning Officer.

49 V., c. 24, sch. form R.



CHAPTER 8.

An Act respecting Elections of Members of the House A. D. 1886.
of Commons.

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

SHORT TITLE.

1. This Act may be cited as "*The Dominion Elections Act.*" 37 V., c. 9, s. 135.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—
- (a.) The expression "election" means an election of a member to serve in the House of Commons; Interpretation. "Election."
- (b.) The expression "electoral district" means any place in Canada entitled to return a member to the House of Commons; "Electoral district."
- (c.) The expression "revising officer" means a revising officer appointed under the provisions of "*The Electoral Franchise Act*," or of the Act passed in the session held in the forty-eighth and forty-ninth years of Her Majesty's reign and intituled "*An Act respecting the Electoral Franchise*," for the place referred to in the context, and competent to do the thing required; "Revising officer."
- (d.) The expression "polling district" means a polling district as constituted under the provisions of "*The Electoral Franchise Act*," or of the Act passed in the session held in the forty-eighth and forty-ninth years of Her Majesty's reign and intituled "*An Act respecting the Electoral Franchise*," "Polling district."
- (e.) The expression "list of voters" or "voters' list" means the certified copy of the list or corrected list of voters for a polling district furnished to the returning officer or any deputy returning officer under "*The Electoral Franchise Act*," or the Act passed in the session held in the forty-eighth and forty-ninth years of Her Majesty's reign and intituled "*An Act respecting the Electoral Franchise*," "List of voters." "Voters' list."
- (f.) The expression "elector" or "voter" means any person entitled to vote at any election under the provisions of this Act or of "*The Electoral Franchise Act*," or of the Act passed in the session held in the forty-eighth and "Elector." "Voter."

forty-ninth years of Her Majesty reign and intituled "*An Act respecting the Electoral Franchise* ;"

"Judge."

(g.) The expression "judge" includes Chief Justice, and when used with reference to the Province of Ontario also includes the Chancellor ;

"Personal expenses."

(h.) The expression "personal expenses," as used in this Act with respect to the expenditure of any candidate in relation to the election at which he is a candidate, includes the reasonable travelling expenses of such candidate, and the reasonable expenses of his living at hotels, or elsewhere, for the purpose of and in relation to such election. 37 V., c. 9, ss. 125 and 130.

ISSUE OF ELECTION WRITS AND APPOINTMENT OF RETURNING OFFICERS.

Writ of Election and returning officers.

3. Every writ for the election of a member of the House of Commons shall be dated and be returnable on such days as the Governor General determines, and shall be addressed to such person as the Governor General appoints ; and such person shall be the returning officer at the election to which such writ relates : Provided always, that if the person to whom the writ has been addressed refuses, or is disqualified or unable to act, the Governor General may appoint another person to be such returning officer. 45 V., c. 3, s. 6.

Proviso.

Day of nomination of candidates, how fixed.

4. The Governor General shall, except as hereinafter mentioned, fix the day for the nomination of candidates at the election, and shall, at every general election, fix one and the same day for the nomination of candidates in all the electoral districts, except in the electoral districts of the Province of British Columbia, and in the electoral districts of Algoma, in the Province of Ontario, and of Gaspé and of Chicoutimi and Saguenay, in the Province of Quebec. 37 V., c. 9, s. 2, *part* ; 45 V., c. 3, s. 7, *part*.

Exceptions.

Day to be named in the writs.

5. The day so fixed by the Governor General shall be named in the writs of election for the several electoral districts respectively, to which such day applies. 37 V., c. 9, s. 3.

Form of Writ, &c.

6. The writs of election shall be in the form A, in the first schedule to this Act, and shall be transmitted by mail to the respective returning officers, unless otherwise ordered by the Governor General. 37 V., c. 9, s. 4.

Who shall not act as election officers.

7. None of the persons hereinafter mentioned shall be appointed returning officers, or deputy returning officers, election clerks or poll clerks, that is to say :—

(a.) Members of the Queen's Privy Council for Canada or of the Executive Council of any of the Provinces of Canada ;

(b.) Members of the Senate or members of the Legislative Council of any of the Provinces of Canada ;

(c.) Members of the House of Commons or members of the Legislative Assemblies of the several Provinces of Canada ;

(d.) Ministers, priests or ecclesiastics of any religious faith or worship ;

(e.) Judges of the courts of superior, civil or criminal jurisdiction, or judges of any county or district court, insolvent court or vice-admiralty court, or revising officers ;

(f.) Persons who have served in the Parliament of Canada in the session immediately preceding the election, or in the then present session of Parliament ;

(g.) Sheriffs, registrars or other persons who have been found guilty by the House of Commons, or by any court for the trial of controverted elections, or other competent tribunal, of any offence or dereliction of duty under this Act, "*The Electoral Franchise Act*," or the Act passed in the session held in the forty-eighth and forty-ninth years of Her Majesty's reign and intituled "*An Act respecting the Electoral Franchise*." 37 V., c. 9, s. 5.

8. None of the persons hereinafter mentioned, unless they are sheriffs, registrars, town clerks or assessors, shall be obliged to act as returning officers, deputy returning officers, election clerks or poll clerks, that is to say:—

Who shall not be bound to act as such.

(a.) Professors in any university, college, high school or academy ;

(b.) Physicians or surgeons ;

(c.) Millers ;

(d.) Postmasters, customs officers, or clerks in post offices or customs offices ;

(e.) Persons of sixty years of age or upwards ;

(f.) Persons who have previously served as returning officers at the election of a member for the House of Commons. 37 V., c. 9, s. 6.

DUTIES OF RETURNING OFFICERS AND DEPUTY RETURNING OFFICERS AND THEIR CLERKS.

9. The returning officer shall, on receiving the writ of election, forthwith indorse thereon the date on which he receives the same, and before taking any further action thereon, he shall take the oath of office in the form B in the first schedule to this Act. 37 V., c. 9, s. 7.

Indorsing receipt, and oath of returning officer.

10. The returning officer, by a commission under his hand, and in the form C in the first schedule to this Act, shall appoint an election clerk, and may, at any time during the election, appoint, in the same manner, another election clerk, if the one so appointed resigns, refuses or is unable to perform his duties as such clerk. 37 V., c. 9, s. 8.

Appointment of election clerk.

Duty of election clerk.

11. The election clerk shall assist the returning officer in the performance of his duties, and act in his stead as returning officer, whenever the returning officer refuses or is disqualified or unable to perform his duties, and has not been replaced by another. 37 V., c. 9, s. 9.

Oath of office.

12. The election clerk shall, before acting as such clerk, take the oath of office in the form D in the first schedule to this Act. 37 V., c. 9, s. 10.

Returning officer to obtain a copy of list of voters, &c., and fix polling stations.

13. The returning officer for each electoral district shall, forthwith on the receipt of the writ of election, obtain from the revising officer or revising officers for the electoral district for which he is returning officer, at least one copy of the list of voters as finally revised and certified by the revising officer or revising officers and then in force, for each of the polling districts in such electoral district, and a copy of the order of the revising officer or revising officers dividing the electoral district into polling districts, and shall forthwith thereafter fix a polling station in and for each of such polling districts in a central and convenient place therein. 48-49 V., c. 40, s. 46.

Posting up proclamation.

14. Subject to the provisions hereinafter contained the proclamation hereinafter required shall be posted up in all the electoral districts, at least eight days before the day fixed for the nomination of candidates; and the day for holding the polls shall be the seventh day next after the expiration of the day fixed for the nomination of candidates, that is on the same or corresponding day of the week next after that on which the nomination has taken place, or if such seventh day is a statutory holiday, then on the next following day not being a Sunday or a statutory holiday.

Nomination and polling days in B. C., Algoma and Gaspé.

2. In the electoral districts in the Province of British Columbia, and in the electoral districts of Algoma, in the Province of Ontario, and Gaspé, in the Province of Quebec, the returning officers shall fix the day for the nomination of candidates, and also the day and places for holding the polls: the nomination in any of the said electoral districts shall take place not less than fifteen days or more than thirty days after the proclamation hereinafter required has been posted up; and the day for holding the polls shall be not less than fifteen days or more than thirty days after the day on which the nomination is to take place,—neither the day of nomination nor the day of posting the proclamation being reckoned:

In Chicoutimi and Saguenay.

3. In the electoral district of Chicoutimi and Saguenay the nomination shall take place not less than eight days, or more than fifteen days after the proclamation; and the day of holding the polls shall be not less than eight days, or more than fifteen days after the day on which the nomination is to take place. 37 V., c. 9, s. 12;—45 V., c. 3, s. 7, *part.*

15. Whenever from unforeseen accident, delays, or otherwise, the proclamation hereinafter mentioned cannot be posted up so as to leave the required delay between the posting up of the proclamation and the nomination day appointed by the Governor General, or by the returning officer, as the case may be, or whenever any candidate dies after being nominated and before the close of the polls, the returning officer may fix another day for the nomination of candidates,—which day shall be the nearest day possible after allowing the number of days required by the next preceding section between the posting up of the proclamation and the nomination day; and in every such case the returning officer shall, with his return, make to the Clerk of the Crown in Chancery a special report of the causes which occasioned the postponement of the election. 37 V., c. 9, s. 13.

Cases of unforeseen delays provided for.

16. Within twenty days after the reception of the writ in the electoral districts of the Province of British Columbia, and in the electoral district of Algoma, in the Province of Ontario, and in those of Gaspé and Chicoutimi and Saguenay, in the Province of Quebec, and within eight days after such reception in the other electoral districts of Canada, the returning officer shall, by a proclamation under his hand, issued in the English and French languages in every electoral district in the Province of Quebec and in the Province of Manitoba, and in the English language only in the other electoral districts indicate,—

Proclamation by returning officer.

(a.) The place and time fixed for the nomination of candidates;

(b.) The day on which the poll for taking the votes of the electors is to be held, in case a poll is demanded;

(c.) The several polling stations fixed by him, and the territorial limits to which they respectively apply;

(d.) The time when and the place where the returning officer will sum up the number of votes given to the several candidates:

Such proclamation shall be in the form E, in the first schedule to this Act. 37 V., c. 9, s. 14;—45 V., c. 3, s. 7, *part.*

Form.

17. The returning officer shall cause the said proclamation to be posted up at four of the most prominent and conspicuous places in each city, town, village (or ward of such city, town or village, when it is sub-divided into wards), and at four of the most prominent and conspicuous places in each parish, township or division of parish or township, within the electoral district for which the election is to take place. 37 V., c. 9, s. 15.

How to be published.

18. The place fixed for the nomination of candidates shall be the court house, city or town hall, or some other public or private building, in the most central or most convenient place for the majority of the electors of each electoral district. 37 V., c. 9, s. 16.

Place of nomination.

NOMINATION OF CANDIDATES.

Hours for nomination.

19. The time appointed for the nomination of candidates shall be from the hour of twelve at noon until the hour of two in the afternoon of the day fixed for that purpose. 37 V., c. 9, s. 17.

No real property qualification required of candidate.

Proviso: he must be a British subject.

20. No qualification in real estate shall be required of any candidate for a seat in the House of Commons of Canada, but such candidate shall be either a natural born subject of the Queen, or a subject of the Queen naturalized under an Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom, or of the Legislature of one of the Provinces of Upper Canada, Lower Canada, Canada, Nova Scotia, New Brunswick, Manitoba, British Columbia or Prince Edward Island, or of the Parliament of Canada :

Revising officer not to be a candidate.

2. No revising officer for any electoral district or portion of an electoral district while he is such revising officer, or for two years thereafter, shall be a candidate for a seat in the House of Commons of Canada for any such electoral district for which, or for any portion of which he is or has been such revising officer. 37 V., c. 9, s. 20 ;—48-49 V., c. 40, s. 12.

Form of nomination.

21. Any twenty-five electors may nominate a candidate or as many candidates as are required to be elected for the electoral district for which the election is held, by signing a nomination paper in the form F, in the first schedule to this Act, stating therein the names, residence and addition or description of each person proposed, in such manner as sufficiently to identify such candidate, and by causing the said nomination paper to be produced to the returning officer at the time and place indicated in the said proclamation or to be filed with the returning officer as hereinafter mentioned :

Each candidate separately.

2. Each candidate shall be nominated by a separate nomination paper ; but the same electors, or any of them, may subscribe as many nomination papers as there are members to be elected :

Nomination papers may be filed with Returning Officer at other places and times.

3. Such nomination papers may also be filed with the returning officer at any other place, and at any time between the date of the proclamation and the day of nomination, with the same effect as if produced at the time and place fixed for the nomination ; and at the close of the time for nominating the candidates, the returning officer shall deliver to every candidate or agent of a candidate applying for the same, a duly certified list of the names of the several candidates who have been nominated ; and any votes given at the election for any other candidates than those so nominated shall be null and void. 37 V., c. 9, s. 18.

Votes for candidates not nominated, null.

22. No nomination paper shall be valid and acted upon by the returning officer unless it is accompanied by the consent in writing of the person therein nominated, except when such person is absent from the Province in which the election is to be held,—in which case such absence shall be stated in the nomination paper; and—

Consent of candidate named.

Unless a sum of two hundred dollars is deposited in the hands of the returning officer at the time the nomination paper is filed with him; and the receipt of the returning officer shall, in every case, be sufficient evidence of the production of the nomination paper, of the consent of the candidate and of the payment herein mentioned:

Deposit by candidates.

2. The sum so deposited by any candidate shall be returned to him in the event of his being elected or of his obtaining a number of votes at least equal to one-half the number of votes polled in favor of the candidate elected,—otherwise it shall belong to Her Majesty for the public uses of Canada; and the sums so paid and not returned as herein provided, shall be applied by the returning officer towards the payment of the election expenses; and an account thereof shall be rendered by him to the Auditor General of Canada. 37 V., c. 9, s. 19;—45 V., c. 3, s. 8.

How to be dealt with.

23. The returning officer shall require the person or one or more of the persons, producing or filing as aforesaid any such nomination paper, to make oath before him, that he or they know that the several persons who have signed such nomination paper are electors duly entitled to vote; and that they have signed the same in his or their presence; and that the consent of the candidate has been signed in his or their presence, or that the person named as candidate is absent from the Province, as the case may be:

Nomination paper, how to be attested.

2. Such oath may be in the form G, in the first schedule to this Act, and the fact of its having been taken shall be stated on the back of the said nomination paper. 37 V., c. 9, s. 21.

Form of oath.

24. Whenever only one candidate, or only such a number of candidates as are required by law to be elected to represent the electoral district for which the election is held have been nominated within the time fixed for that purpose, the returning officer shall make his return to the Clerk of the Crown in Chancery that such candidate or candidates, as the case may be, is or are duly elected for the said electoral district,—of which return he shall send within forty-eight hours a duplicate or certified copy to the person or persons elected; and such return shall be in the form H, in the first schedule to this Act. 37 V., c. 9, s. 22.

Return when no more candidates than members to be elected.

25. The returning officer shall accompany his return to the Clerk of the Crown in Chancery with a report of his proceedings and of any nomination proposed and rejected for non-compliance with the requirements of this Act. 37 V., c. 9, s. 23.

Report with return.

PROCEEDINGS ON GRANTING OF POLL.

26. If more candidates than the number required to be elected for the electoral district are nominated in the manner required by this Act, the returning officer shall grant a poll for taking the votes of the electors, and shall cause to be posted up notices of his having granted such poll, indicating the names, residences and occupations of the candidates so nominated, in the order in which they are to be printed on the ballot papers hereinafter mentioned; which notices shall, as soon as possible after the nomination, be placarded at all the places where the proclamation for the election was posted up, and shall be in the form I, in the first schedule to this Act. 37 V., c. 9, s. 24.

Poll, and notice thereof.

Form.

Withdrawal of candidates

If no more remain than there are members to be elected.

27. Any candidate nominated may withdraw at any time after his nomination, and before the closing of the poll, by filing with the returning officer a declaration in writing to that effect, signed by himself; and any votes cast for the candidate who has so withdrawn shall be null and void: and if, after the withdrawal, there remains but one candidate, or no more than the number to be elected, then the returning officer shall return as duly elected the candidate or candidates so remaining, without waiting for the day fixed for holding the poll, or for the closing of the poll if such withdrawal is filed on the polling day. 37 V., c. 9, s. 25.

Hours for polling.

28. Whenever a poll has been granted, the same shall be opened at the hour of nine of the clock in the forenoon, and kept open until five of the clock in the afternoon of the day fixed for holding it; and the votes at the several polling stations shall be given on that day, and by ballot. 37 V., c. 9, s. 26.

Ballot papers, form of.

29. The ballot of each voter shall be a printed paper, in this Act called a ballot paper, with a counterfoil, showing the names and description of each candidate alphabetically arranged in the order of their surnames, or if there are two or more candidates with the same surname, in the order of their first names; the names and description of each candidate shall be set forth in the ballot paper as they have been set forth in the nomination paper, and the ballot paper and counterfoil shall be in the form J, in the first schedule to this Act. 41 V., c. 6, s. 3.

Duties of returning officer when a poll is granted. Deputies.

30. On a poll being granted, the returning officer shall,—
(a.) Appoint, by a commission under his hand, in the form K, in the first schedule to this Act, one deputy returning officer for each polling district in the electoral district, who shall, before acting as such, take the oath of office in the form L, in the first schedule to this Act;

(b.) Furnish each deputy returning officer with a List of voters. copy of the list of voters in the polling district for which he is appointed,—such copy being first certified by himself or by the revising officer for such electoral district or portion of an electoral district in which such polling district is situate;

(c.) Deliver to each deputy returning officer, two Ballot boxes. days at least before the polling day, a ballot box to receive the ballot papers of the voters,—which ballot box shall be made of some durable material, with one lock and key, and a slit or narrow opening in the top, and so constructed that the ballot papers may be introduced therein, but cannot be withdrawn therefrom unless the box is unlocked;

(d.) Furnish each deputy returning officer with a Ballot papers. sufficient number of ballot papers (all being of the same description and as nearly as possible alike), to supply the number of voters on the list of such polling district, and with the necessary materials for voters to mark their ballot papers;

(e.) Furnish each deputy returning officer with at least ten Directions for voters. copies of printed directions, in the form M, in the first schedule to this Act, for the guidance of voters in voting,—which printed directions the deputy returning officer shall, before or at the opening of the poll, on the day of polling, cause to be posted up in some conspicuous places outside of the polling station, and also in each compartment of the polling station. 37 V., c. 9, s. 28;—41 V., c. 6, s. 2, *part*;—48-49 V., c. 40, s. 40, *part*.

31. Whenever the returning officer fails to furnish to the deputy returning officer for any polling district the ballot box, within the time prescribed by this Act, such deputy returning officer shall If ballot box is not furnished. cause one to be made. 37 V., c. 9, s. 30.

32. Each deputy returning officer shall forthwith Poll clerk. appoint by commission under his hand in the form N, in the first schedule to this Act, a poll clerk, who, before acting as such clerk, shall take the oath in the form O, in the first schedule to this Act. 37 V., c. 9, s. 31.

33. Whenever any deputy returning officer refuses or is Poll clerk to act as D.R.O. in certain cases. unable to act, the returning officer may appoint another person to act in his place as deputy returning officer; and if no such appointment is made, the poll clerk without taking another oath of office, shall act as deputy returning officer:

2. Whenever the poll clerk acts as deputy returning officer, he shall, by a commission in the form P, in the first schedule to this Act, appoint a poll clerk to act in his stead, who shall take the oath required by the next preceding section of this Act. 37 V., c. 9, s. 32. And appoint a poll clerk under him.

Where the poll shall be held.

34. The poll, when granted, shall be held in each polling district in a room or building of convenient access, with an outside door for the admittance of the voters, and having, if possible, another door through which they may leave after having voted; and one or two compartments shall be made within the room, so arranged that each voter may be screened from observation, and may, without interference or interruption, mark his ballot paper. 37 V., c. 9, s. 33.

PROCEEDINGS ON POLLING DAY.

Hours for polling.

35. Each deputy returning officer shall open the poll assigned to him at the hour of nine of the clock in the forenoon and keep the same open until five of the clock in the afternoon; and shall, during that time, receive, in the manner hereinafter prescribed, the votes of the electors duly qualified to vote at such polling place. 37 V., c. 9, s. 34.

Who may be present in the polling station.

36. In addition to the deputy returning officer and the poll clerk, the candidates and their agents (not exceeding two in number for each candidate in each polling station), and, in the absence of agents, two electors to represent each candidate on the request of such electors, and no others, shall be permitted to remain in the room where the votes are given, during the whole time the poll remains open:

Agents authorized in writing.

Provided always, that any agent bearing a written authorization from the candidate, shall always be entitled to represent such candidate in preference to, and to the exclusion of any two electors who might otherwise claim the right of representing such candidate under this section. 41 V., c. 6, s. 4.

Who may act as agents for candidates.

37. Any person producing to the returning officer or deputy returning officer, at any time, a written authority from a candidate to represent him at the election or at any proceeding of the election, shall be deemed an agent of such candidate within the meaning of this Act. 37 V., c. 9, s. 36, *part.*

Oath of secrecy.

38. One of the agents of each candidate, and, in the absence of such agent, one of the electors representing each candidate, if there is such elector, on being admitted to the polling station shall take the oath to keep secret the names of the candidates for whom any of the voters has marked his ballot paper in his presence, as hereinafter required,—which oath shall be in the form Q, in the first schedule to this Act. 37 V., c. 9, s. 36, *part.*

Opening the poll: showing and locking ballot box.

39. At the hour fixed for opening the poll, the deputy returning officer and the poll clerk shall, in the presence of the candidates, their agents and such of the electors as are present, open the ballot box and ascertain that there

are no ballots or other papers in the same, after which the box shall be locked, and the deputy returning officer shall keep the key thereof. 37 V., c. 9, s. 37.

40. Immediately after the ballot box is locked, as above provided, the deputy returning officer shall call upon the electors to vote. 37 V., c. 9, s. 38. Calling voters.

PERSONS ENTITLED TO VOTE.

41. Subject to the provisions hereinafter contained all persons whose names are registered on the lists of voters for polling districts in any electoral district, in force under the provisions of "*The Electoral Franchise Act*," or of the Act passed in the session held in the forty-eighth and forty-ninth years of Her Majesty's reign and intituled "*An Act respecting the Electoral Franchise*," on the day of the polling at any election for any such electoral district, shall be entitled to vote at any such election for such electoral district and no other persons shall be entitled to vote thereat. 48-49 V., c. 40, ss. 37 and 39, parts. Who shall be entitled to vote.

PERSONS NOT ENTITLED TO VOTE.

42. The judges of every court now existing or hereafter created whose appointments rest with the Governor General shall be disqualified and incompetent to vote at any election. Certain judges may not vote.

2. The following persons shall be disqualified and incompetent to vote at any election for the electoral district for which or for a portion of which they hold their offices or positions respectively:— And certain officers and others in certain cases.

(a.) Revising officers, returning officers, and election clerks; Election officers.

(b.) Any person who at any time either before or during the election has been or is employed at the same election or in reference thereto by any candidate or by any person whomsoever as counsel, attorney, solicitor, agent or clerk at any polling place at any such election, or in any other capacity whatsoever, and who has received or expects to receive either before, during or after the said election from any candidate or from any person whomsoever for acting in any such capacity as aforesaid, any sum of money, fee, office, place or employment, or any promise, pledge or security whatsoever for any sum of money, fee, office, place or employment; Agents, &c.; of candidates

Except that the returning officer at any election may as hereinafter provided vote in the case of an equality of votes between candidates. 37 V., c. 9, s. 39;—48-49 V., c. 40, s. 11, part. Exception in cases of ties.

WHERE ELECTORS SHALL VOTE.

Where electors shall vote.

43. Each elector shall, subject to the provisions contained in the next following section of this Act, be entitled to vote only at the polling station of the polling district, or one of the polling districts upon the list of voters for which his name is entered as such voter and at no other; and the deputy returning officer shall secure the admittance of every elector into the polling station, and shall see that he is not impeded or molested at or about the polling station. 37 V., c. 9, s. 41.

Provision as to election officers or agents entitled to vote.

44. The returning officer, on the request of any elector entitled to vote at one of the polling stations, who is appointed deputy returning officer or poll clerk, or who is named the agent of any of the candidates for a polling station other than the one where he is entitled to vote, shall give to such elector a certificate that such deputy returning officer, poll clerk or agent is entitled to vote at such election at the polling station where such elector is stationed during the polling day, and on the production of such certificate such deputy returning officer, poll clerk or agent shall have the right to vote at the polling station where he is placed during the polling day, instead of at the polling station of the polling district where he would otherwise have been entitled to vote: but no such certificate shall entitle any such elector to vote at such polling station unless he has been actually engaged as such deputy returning officer, poll clerk or agent during the day of polling. 37 V., c. 9, s. 42.

Proviso.

POLL.

Regulations for voting and conduct of electors and deputy returning officer.

45. Not more than one elector for each compartment shall, at any one time, enter the room where the poll is held, and each elector upon so entering shall declare his name, surname and addition, which shall be entered or recorded by the poll clerk in the poll-book provided for that purpose, which shall be kept in the form R, in the first schedule to this Act; and if the same are found on the list of voters for the polling district of such polling station, he shall receive from the deputy returning officer a ballot paper, on the back of which such deputy returning officer has previously put his initials, so placed that when the ballot is folded they can be seen without opening it; and on the counterfoil to which he has placed a number corresponding to that placed opposite the voter's name in the poll-book:

Oath to be taken by voter if required.

2. Such elector, if required by the deputy returning officer, the poll clerk, one of the candidates or one of their agents, or by any elector present, shall, before receiving his ballot paper, take the oath of qualification in the form S, or in one of the forms T, U, V, or W, in the first schedule to this Act,

as the circumstances of the case require,—which oath the deputy returning officer and poll clerk are each hereby authorized to administer:

3. The deputy returning officer shall instruct the elector how and where to affix his mark, and how to fold his ballot paper, but without inquiring or seeing for whom the elector intends to vote, except in the case provided for in section forty-nine of this Act. 41 V., c. 6, s. 5 ;—49 V., c. 3, s. 20, *part.*

Deputy returning officer to instruct elector.

46. The elector, on receiving the ballot paper, shall forthwith proceed into one of the compartments of the polling station and there mark his ballot paper, making a cross with a pencil on any part of the ballot paper within the division (or if there is more than one to be elected, within the divisions) containing the name or names of the candidate or candidates for whom he intends to vote, and shall then fold up such ballot paper so that the initials on the back can be seen without opening it and hand it to the deputy returning officer, who shall, without unfolding it, ascertain by examining his initials and the number upon the counterfoil, that it is the same which he furnished to the elector, and shall first detach and destroy the counterfoil, and shall then immediately, and in the presence of the elector, place the ballot paper in the ballot box. 41 V., c. 6, s. 6.

Mode of voting and marking ballots, &c.

47. Every elector shall vote without undue delay, and shall quit the polling station so soon as his ballot paper has been put into the ballot box. 37 V., c. 9, s. 46.

Despatch to be used.

48. Every elector who takes his ballot paper out of the polling station shall incur a penalty of two hundred dollars. 41 V., c. 6, s. 7, *part.*

Penalty for carrying away ballot paper.

49. The deputy returning officer on application of any voter who is unable to read or is incapacitated by blindness or other physical cause from voting in the manner prescribed by this Act, shall assist such voter by marking his ballot paper in the manner directed by such voter, in the presence of the sworn agents of the candidates, or of the sworn electors representing them in the polling station, and of no other person, and by placing such ballot paper in the ballot box; and the deputy returning officer shall require the voter making such application, before voting to make oath of his incapacity to vote without such assistance, in the form following, that is to say:—

Voters unable to mark their voting papers.

“ I solemnly swear (*or if he is one of the persons entitled by law to affirm in civil cases, solemnly affirm*) that I am unable to read and to understand the ballot papers so as to mark the same, (*or*) that I am incapacitated by physical cause (*as the case may be*) from voting without the assistance of the deputy returning officer :”

Oath of voter in such case.

Interpreter to be sworn in certain cases.

2. Whenever the deputy returning officer does not understand the language spoken by any such elector claiming to vote, he shall swear an interpreter, who shall be the means of communication between him and such elector with reference to all matters required to enable such elector to vote :

Deputy to enter reasons for marking by him.

3. The deputy returning officer shall enter in the poll-book opposite the names of the voters whose ballot papers have been so marked, in addition to what is required in the fifty-first section of this Act, the reason why each such ballot paper was marked by him. 41 V., c. 6, s. 8.

When name of registered voter is subject of an undecided appeal.

50. In the event of any person desiring to vote at any election whose name is registered on the list of voters for any polling district in the electoral district for which such election takes place, and whose right to have his name registered on such list as a voter and to vote, appears by the list of voters to be the subject of an undecided appeal under the provisions of "*The Electoral Franchise Act*," or of the Act passed in the session held in the forty-eighth and forty-ninth years of Her Majesty's reign and intituled "*An Act respecting the Electoral Franchise*," the deputy returning officer shall number the ballot paper of such person, and shall place opposite to his name in the poll book, a number corresponding to the number so placed upon such ballot paper :

When claim of excluded voter is subject of an undecided appeal.

2. In the event of any person desiring to vote at any election whose name has been excluded from the list of voters for any polling district in the electoral district for which such election takes place, and the exclusion of whose name from such list appears by the list of voters to be the subject of an undecided appeal under the provisions of "*The Electoral Franchise Act*," or the Act passed in the session held in the forty-eighth and forty-ninth years of Her Majesty's reign and intituled "*An Act respecting the Electoral Franchise*," he shall be entitled to receive a ballot paper and to vote and the deputy returning officer shall receive his ballot paper and shall number the same and place opposite to the name of such person in the poll-book a number corresponding to the number so placed upon such ballot paper :

Oath to be taken in such case.

3. Every such person if required by the deputy returning officer, the poll clerk, one of the candidates or one of their agents, or by any elector present, shall, before receiving his ballot paper, take the oath of qualification in the form X, in the first schedule to this Act. 48-49 V., c. 40, s. 87, *part* ; —49 V., c. 3, s. 20, *part*.

Entry of names of electors voting.

51. The poll clerk shall enter in the poll-book, to be kept by him as aforesaid, opposite the name of each elector voting, the word "*Voted*," as soon as his ballot paper has been deposited in the ballot box and he shall enter in the same book the word "*Sworn*" or "*Affirmed*" opposite the

name of each elector to whom the oath of qualification has been administered, and the words "*Refused to be sworn*" or "*Refused to affirm*" opposite the name of each elector who has refused to take the oath or to affirm. 37 V., c. 9, s. 49.

52. No voter who has refused to take the oath of qualification required as aforesaid, when requested so to do, shall receive a ballot paper or be admitted to vote. 37 V., c. 9, s. 51. Voter refusing to be sworn.

53. No person shall vote more than once in the same electoral district at the same election, but each elector may vote for as many candidates as are required to be elected to represent the electoral district for which the election is held. 37 V., c. 9, s. 52. Voting more than once in same electoral district forbidden.

54. If a person, representing himself to be a particular elector named on the list of voters, applies for a ballot paper after another person has voted as such elector, the applicant, upon taking the oath in the form Y, in the first schedule to this Act, and otherwise establishing his identity to the satisfaction of the deputy returning officer, shall be entitled to receive a ballot paper, on which the deputy returning officer shall put his initials, together with a number corresponding to the number entered on the poll book opposite the name of such voter, and he shall thereupon be entitled to vote as any other elector: Electors in whose name another has previously voted.

2. The name of such voter shall be entered in the poll book, and a note shall be made of his having voted on a second ballot paper issued under the same name, and of the oath of qualification having been required and made, as well as of any objections made on behalf of any and which of the candidates. 37 V., c. 9, s. 53;—48-49 V., c. 40, s. 60. Entry on poll-book.

55. A voter who has inadvertently dealt with the ballot paper given him, in such manner that it cannot be conveniently used, may, on delivering the same to the deputy returning officer, obtain another ballot paper in the place of that so delivered up. 41 V., c. 6, s. 9. Electors spoiling his ballot paper.

PROCEEDINGS AFTER CLOSE OF THE POLL.

56. Immediately after the close of the poll, the deputy returning officer shall, in the presence of the poll clerk and the candidates or their agents—and if the candidates and their agents or any of them are absent, then in the presence of such, if any, of them as are present, and of at least three electors,—open the ballot box and proceed to count the number of votes given for each candidate; and in doing so he shall reject all ballot papers which have not been supplied by the deputy returning officer, all those by which votes have Counting votes by D. R. officers.

Rejecting ballots.

been given for more candidates than are to be elected, and all those upon which there is any writing or mark by which the voter could be identified, other than the numbering by the deputy returning officer in the cases hereinbefore provided for :

Duty of D.R.
O. after counting the votes.

2. The other ballot papers being counted, and a list kept of the number of votes given to each candidate, and of the number of rejected ballot papers, all the ballot papers indicating the votes given for each candidate respectively, except as in this section is hereinafter provided, shall be put into separate envelopes or parcels, and those rejected, those spoiled and those unused shall be put respectively into separate envelopes or parcels, and all such envelopes or parcels being indorsed so as to indicate their contents, shall be put back into the ballot box :

Ballots of voters whose claims are subjects of appeal.

3. The deputy returning officer shall also, in counting the ballots, place in two separate envelopes or parcels the two classes of ballot papers, of persons whose right to have their names registered upon the list of voters and to vote at such election, and of persons the exclusion of whose names from the said list as voters are respectively the subjects of undecided appeals under "*The Electoral Franchise Act*," or the Act passed in the session held in the forty-eighth and forty-ninth years of Her Majesty's reign and intituled "*An Act respecting the Electoral Franchise*," as hereinbefore mentioned, and shall keep a list of each of the said classes of ballots, and shall indorse the said envelopes or parcels so as to indicate their contents, and seal them and place them in the ballot box. 41 V., c. 6, s. 10 ;— 48-49 V., c. 40, s. 37, *part*.

Objections to ballot papers.

57. The deputy returning officer shall take a note of every objection made by any candidate, or his agent or any elector present, to any ballot paper found in the ballot box, and shall decide every question arising out of the objection ; and the decision of such deputy returning officer shall be final, subject to reversal on petition questioning the election or return :

To be numbered.

2. Each objection to a ballot paper shall be numbered, and a corresponding number placed on the back of the ballot paper, and initialed by the deputy returning officer. 37 V., c. 9, s. 56.

Statement, &c., to be inclosed in ballot box by returning officer.

58. The deputy returning officer shall make out a statement of the accepted ballot papers, of the number of votes given to each candidate, of the ballot papers counted which were deposited by persons whose right to be registered on the list of voters and to vote, and by persons the exclusion of whose names from the list of voters appeared by the said list to be the subjects of undecided appeals, as aforesaid, of the rejected ballot papers, of the spoiled and returned ballot papers, and of those unused and returned by him ; and he

shall make and keep a copy of such statement, and inclose in the ballot box the original thereof, together with the list of voters used by him, the poll-book and a certificate in such poll-book immediately following the name of the person last entered on such poll-book as having voted or applied for a ballot paper, of the total number of persons who voted, and shall also inclose in the ballot box such other lists and documents as have been used at such election :

2. The ballot box shall then be locked and sealed, and shall be delivered to the returning officer, or to the election clerk, who shall receive or collect the same, and if both of them are unable so to do, then to one or more persons specially appointed for that purpose by the returning officer, who shall, on delivering the ballot boxes to the returning officer, take the oath in the form Z, in the first schedule to this Act :

Delivery of ballot boxes to R. O., &c.

Oath of person delivering ballot box.

3. The deputy returning officer and the poll clerk shall respectively take the oaths in the forms AA and BB, in the first schedule to this Act, which shall be annexed to the statement above mentioned. 37 V., c. 9, s. 57.

Oaths to be attached to statement.

59. The several deputy returning officers, on being requested so to do, shall deliver to each of the candidates, their agents or, in the absence of such candidates or agents, to the electors present representing the candidates, a certificate of the number of votes given for each candidate, and of the number of rejected ballot papers. 37 V., c. 9, s. 58.

Certificates to candidates or their representatives.

DECLARATION OF RETURN BY RETURNING OFFICERS.

60. The returning officer at the place, day and hour appointed by his proclamation, and after having received all the ballot boxes, shall proceed to open them, in the presence of the election clerk, the candidates or their representatives, if present, or of at least two electors, if the candidates or their representatives are not present, and to add together the number of votes given for each candidate, from the statements contained in the several ballot boxes returned by the deputy returning officers of the ballot papers counted by them :

Summing up of votes by returning officer.

2. The candidate who, on the summing up of the votes, is found to have a majority of votes shall be then declared elected. 37 V., c. 9, s. 59.

Declaration thereon.

61. Whenever, on the final addition of votes by the returning officer, an equality of votes is found to exist between any two or more of the candidates, and the addition of a vote would entitle any of such candidates to be declared elected, the returning officer shall give such additional or casting vote. 37 V., c. 9, s. 60.

Casting vote of returning officer.

Adjournment if ballot boxes are missing. **62.** If the ballot boxes are not all returned on the day fixed for adding up the number of votes given to the several candidates, the returning officer shall adjourn the proceedings to a subsequent day,—such subsequent day not being more than a week later than the day originally fixed for the purpose of adding up the votes. 37 V., c. 9, s. 62.

Provision in case of loss of ballot boxes. **63.** If the ballot boxes or any of them have been destroyed, lost, or for any other reason are not forthcoming within the delay so fixed, the returning officer shall ascertain the cause of the disappearance of such ballot boxes, and shall call on each of the deputy returning officers whose ballot boxes are missing, or on any other person having the same, for the lists, statements and certificates, or copies of the lists, statements and certificates of the number of votes given to each candidate required by this Act, the whole verified on oath,—which oath the returning officer is hereby authorized to administer; and if such lists or statements, or any of them or copies thereof, cannot be obtained, he shall ascertain, by such evidence as he is able to obtain, the total number of votes given to each candidate at the several polling places, and he shall return the candidate having the majority of votes,—and shall mention specially in his report to be sent with the return, the circumstances accompanying the disappearance of the ballot boxes, and the mode by which he ascertained the number of votes given to each candidate. 37 V., c. 9, s. 63.

RE-COUNT OR FINAL ADDITION BY JUDGE.

Provision for re-count or final addition of votes by a judge. **64.** If, within four days after that on which the returning officer has made the final addition of the votes for the purpose of declaring the candidate or candidates elected, it is made to appear on the affidavit of any credible witness, to the judge of the county court of any county or union of counties or to the judge of any judicial district in which the electoral district or any part thereof is situated, or in the Province of Quebec to a Judge of the Superior Court ordinarily discharging his duties in any judicial district in which the electoral district or any part thereof is situated, that such witness believes that any deputy returning officer at any election in such electoral district in counting the votes—(1) has improperly counted; or (2) has improperly rejected any ballot papers at such election; or (3) that any person voted at such election whose name was included on any list of voters used at such election, or whose name was excluded from any such list, and whose right to have his name so included on the said list, or the exclusion of whose name from such list, as the case may be, appeared by such list to be the subject of an appeal pending and undecided under the provisions of "*The Electoral Franchise*

Grounds for application.

Act," or of the Act passed in the session held in the forty-eighth and forty-ninth years of Her Majesty's reign and intituled "*An Act respecting the Electoral Franchise*," and that judgment has been rendered on such appeal deciding that such person was not entitled to have his name so registered upon the said list, or that the name of such person was properly excluded therefrom, as the case may be; or (4) that the returning officer has improperly summed up the votes,—and if the applicant deposits within the said time, with the clerk of the county or district court or with the prothonotary of the said Superior Court in the said judicial district, as the case may be, the sum of one hundred dollars as security for the costs, in respect of the re-count, or final addition, of the candidate appearing by the addition to be elected, the said judge shall appoint a time within four days after the receipt of the said affidavit by him to re-count the votes if the said application is made in respect of either of the first three grounds of application, or to make the final addition, if the said application is made in respect of the last-mentioned ground of application, as the case may be, and shall give notice in writing to the candidates or their agents of the time and place at which he will proceed to re-count the same, or to make such final addition, as the case may be, and shall summon and command the returning officer and his election clerk to attend then and there with the parcels containing the ballots used at such election, or the original statements of the deputy returning officers, as the case may be, and also with a duly certified copy of the formal order or judgment on any such appeal, as above mentioned, in respect of or in consequence of which such recount is to take place,—which command the returning officer and his election clerk shall obey :

Security for costs.

Time to be appointed.

Notice.

Order of judge to returning officer.

Duty of R. O. and his clerk.

2. If any such appeal in respect of any person whose name is entered on the poll book as having voted at such election is not decided before the expiration of the said four days allowed for the making of an application for a recount, the time for the making of such application for a recount on the ground of the result of the decision of any such appeal shall be extended for and until the expiration of six days after the decision of any such appeal :

Extension of time.

3. The said judge, the returning officer and his election clerk, and each candidate and his agent appointed to attend such re-count of votes, or such final addition by the judge, or in case any candidate cannot attend, then not more than one agent of such candidate, and if the candidates and their agents are absent, then at least three electors, shall be present at such re-count or final addition of the votes :

Who may be present at the re-count or final addition.

4. At the time and place appointed, and in the presence of the said persons, if they attend, the said judge shall proceed to make such final addition according to section sixty of this Act, or to recount all the votes or ballot papers returned by the several deputy returning officers, as the case may be, and

Making final addition or opening packets of ballots and re-counting the votes.

shall, in the latter case, open the sealed packets containing—(1) the used ballot papers which have been counted, including those classes of ballot papers deposited by persons hereinbefore mentioned, whose right to have their names registered on the lists of voters and to vote, or the exclusion of whose names from the said lists of voters appeared by the lists used at the election to be the subjects of undecided appeals; (2) the rejected ballot papers; (3) the spoiled ballot papers,—and no other ballot papers :

Proceedings to be continuous.

Exception.

During excluded time documents to be under seal.

5. The judge shall, as far as practicable, proceed continuously, except on Sunday, with such final addition or re-count of the votes, allowing only time for refreshment, and excluding (except so far as he and the persons aforesaid agree) the hours between six o'clock in the afternoon and nine in the succeeding forenoon ; and during such excluded time and recess for refreshments, the said judge shall place the ballot papers and other documents relating to the election close under his own seal and the seals of such other of the said persons as desire to affix their seals, and shall otherwise take precautions for the security of such papers and documents :

Mode of proceeding with the re-count.

6. The judge shall, in the case of a re-count, proceed to re-count the votes according to the rules set forth in section fifty-six of this Act, and shall, if the said re-count takes place in respect of the third ground of application for a re-count hereinbefore mentioned, also open the said packages containing the ballot papers deposited by persons who voted at such election and whose right to have their names registered on the said lists and to vote, or the exclusion of whose names from the said lists as aforesaid appeared by the lists of voters used at the election to be the subject of an undecided appeal under the provisions of "*The Electoral Franchise Act,*" or of the Act passed in the session held in the forty-eighth and forty-ninth years of Her Majesty's reign and intituled "*An Act respecting the Electoral Franchise,*" and shall ascertain for whom such of the said persons, in respect to whom it has been decided by any judgment on appeal, that they had no right to have their names so registered on any such list of voters or to vote, or that their names were properly excluded from the said lists of voters, voted at such election, and shall strike off the votes of such persons according to the judgments on appeal from the number of votes polled at such election for the candidate or candidates for whom such persons voted thereat, and shall verify or correct the ballot paper account and statement of the number of votes given for each candidate ; and upon the completion of such re-count, or as soon as he has so ascertained the result of the poll, he shall seal up all the said ballot papers in separate packets :

Certificate of result.

7. The judge shall forthwith certify the result of such final addition or re-count to the returning officer, who shall then declare to be elected the candidate having the highest

number of votes; and in case of an equality of votes the returning officer shall give the casting vote: Casting vote of R.O.

8. The returning officer, after the receipt of notice from the judge of such final addition or re-count of ballots, shall delay making his return to the Clerk of the Crown in Chancery until he receives a certificate from the judge of the result of such final addition or re-count; and upon receipt of such certificate, the returning officer shall proceed to make his return in the form CC, in the first schedule to this Act: Return not to be made until judge's certificate is received.

9. If such re-count or final addition does not so alter the result of the poll as to affect the return, the judge shall order the costs of the candidate appearing to be elected to be paid by the applicant, and the said deposit shall be paid out to the said candidate on account thereof, so far as necessary; and the judge shall tax the costs on giving his decision; and if the deposit is insufficient, the party in whose favor costs are allowed shall have his action for the balance. 41 V., c. 6, s. 14;—48-49 V., c. 40, s. 37, *part.* As to costs and disposal of deposit.

ELECTION RETURN AND PUBLICATION THEREOF.

65. The returning officer shall, immediately after the sixth day after the final addition by him, unless before that time he receives notice that he is required to attend before a judge for the purpose of a final addition or re-count by such judge of the votes given at the election, transmit his return to the Clerk of the Crown in Chancery, that the candidate having the largest number of votes has been duly elected, and shall forward to each of the respective candidates a duplicate or copy thereof, and such return shall be in the form CC, in the first schedule to this Act: Return of candidate elected, except in case of order of a judge for a re-count, or final addition.

2. The returning officer shall accompany his return to the Clerk of the Crown in Chancery with a report of his proceedings, in which report he shall make any observation he thinks proper as to the state of the ballot boxes or ballot papers as received by him: Form of return.

3. The returning officer shall also transmit to the Clerk of the Crown in Chancery, with his return, the ballot papers, the original statements of the several deputy returning officers, hereinbefore referred to, together with the lists of voters and poll-books used in the several polling districts, and all other lists and documents used or required at such election, or which have been transmitted to him by the deputy returning officers: Report by returning officer.

4. Such return and report shall be sent through the post office, after being registered. 41 V., c. 6, s. 11, *part.* Certain documents to be sent with return.

66. The Clerk of the Crown in Chancery shall, on receiving the return of any member elected to the House of Commons, give notice in the next ordinary issue of the *Canada Gazette* of the name of the candidate so elected. 37 V., c. 9, s. 64. How sent. Notice of return in Canada Gazette.

BALLOT BOXES, BALLOTS AND ELECTION DOCUMENTS, AND
PRESERVATION THEREOF.

67. The Clerk of the Crown in Chancery shall retain in his possession the papers transmitted to him by any returning officer, with the return, for at least one year, if the election is not contested during that time, and, if the election is contested, then for one year after the termination of such contestation. 37 V., c. 9, s. 65.

Duty of Clerk of the Crown in Chancery as to retention of papers, &c.

68. The property of the ballot boxes, ballot papers, envelopes and marking instruments procured for or used at any election, shall be in Her Majesty. 37 V., c. 9, s. 69.

Property of ballot boxes, &c.

69. After the close of every election the returning officer shall cause to be deposited in the custody of the sheriff or of the registrar of the county or registration division in which the nomination was held, the ballot boxes used at the election; and the sheriff or registrar shall, at the next ensuing election, deliver such ballot boxes to the returning officer named for such election. 37 V., c. 9, s. 71.

Custody of ballot boxes after election.

SECURITY OF VOTING.

70. Every officer, clerk and agent in attendance at a polling place, shall maintain and aid in maintaining the secrecy of the voting at such polling place; and no such officer, clerk or agent shall, before the poll is closed, communicate to any person any information as to whether any person on the list of voters has or has not applied for a ballot paper or voted at that polling place:

Provisions for maintenance of secrecy.

Interfering with voter marking ballot paper.

2. No officer, clerk, agent or other person, shall interfere with or attempt to interfere with a voter when marking his ballot paper, or otherwise attempt to obtain at the polling place information as to the candidate for whom any voter at such polling place is about to vote or has voted:

Communicating information.

3. No officer, clerk, agent or other person shall communicate at any time to any person any information obtained at a polling place as to the candidate for whom any voter at such polling place is about to vote or has voted:

Secrecy respecting counting of votes.

4. Every officer, clerk and agent in attendance at the counting of the votes, shall maintain and aid in maintaining the secrecy of the voting; and no such officer, clerk or agent shall attempt to obtain at such counting any information, or communicate any information obtained at such counting, as to the candidate for whom any vote is given in any particular ballot paper:

Inducing voter to display ballot paper.

5. No elector shall, except in the case provided for in section forty-nine, show his ballot paper, when marked, to any person so as to allow the name of the candidate for whom he votes to be known; and no person shall, directly or indirectly, induce or endeavor to induce any voter to show his ballot paper after he has marked the same:

6. Every one who violates any of the provisions of this section shall be liable to a penalty not exceeding two hundred dollars, and to imprisonment for any term not exceeding six months, with or without hard labor, in default of payment of such penalty. 37 V., c. 9, s. 72;—41 V., c. 6, s. 7, *part.* Punishment for contravention.

71. No person who has voted at an election shall, in any legal proceeding questioning the election or return, be required to state for whom he voted. 37 V., c. 9, s. 77. Secrecy of vote protected.

72. No person shall be allowed to inspect any ballot paper in the custody of the Clerk of the Crown in Chancery, except under the rule or order of a superior court or a judge thereof,—which rule or order may be granted by such court or judge on being satisfied by evidence on oath that the inspection or production of such ballot papers is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers, or for the purpose of a petition which has been filed questioning an election or return: and any such rule or order for the inspection or production of ballot papers may be made subject to such conditions as to persons, time, place and mode of inspection or production, as the court or judge making the same thinks expedient, and shall be obeyed by the Clerk of the Crown in Chancery. 41 V., c. 6, s. 12. In what cases only ballot papers may be inspected: order of a judge required therefor.

KEEPING THE PEACE AND GOOD ORDER AT ELECTIONS.

73. Each returning officer and each deputy returning officer from the time he takes the oath of office until the day after the closing of the election, shall be a conservator of the peace invested with all the powers appertaining to a justice of the peace. 37 V., c. 9, s. 81. Returning officers and D. R. officers to be conservators of peace.

74. Such returning officer or deputy returning officer may require the assistance of justices of the peace, constables or other persons present, to aid him in maintaining peace and good order at such election; and may also, on a requisition made in writing by any candidate, or by his agent, or by any two electors, swear in such special constables as he deems necessary. 37 V., c. 9, s. 82. May command assistance, &c. Special constables.

75. Such returning officer or deputy returning officer may arrest or cause to be arrested by verbal order, and place in the custody of any constables or other persons, any person disturbing the peace and good order at the election, and may cause such person to be imprisoned under an order signed by him until any hour not later than the close of the poll. 37 V., c. 9, s. 83. May arrest disturbers.

May demand
offensive
weapons.

76. The returning officer or deputy returning officer may, during the nomination day and polling day at any election, require any person within half a mile of the place of nomination or of the polling station, to deliver to him any firearm, sword, stave, bludgeon or other offensive weapon in the hands or personal possession of such person; and every person who refuses to deliver such weapon shall be liable to a penalty not exceeding one hundred dollars, and to imprisonment for a term not exceeding three months in default of payment of such penalty. 37 V., c. 9, s. 84.

Punishment
of battery
within two
miles of poll.

77. Every one who is convicted of a battery, committed during any day whereon any election, or any poll for any election, is begun, holden or proceeded with, within the distance of two miles of the place where such election or such poll is begun, holden or proceeded with, is guilty of an aggravated assault, and shall be punished accordingly. 37 V., c. 9, s. 85.

Strangers not
to enter poll-
ing districts
armed.

78. Except the returning officer, the deputy returning officer, the poll clerk and the constables and special constables appointed by the returning officer, or the deputy returning officer, for the orderly conduct of the election or poll and the preservation of the public peace thereat, no person, who has not had a stated residence in the polling district for at least six months next before the day of such election, shall come during any part of the day, upon which the poll is to remain open, into such polling district armed with offensive weapons of any kind, such as firearms, swords, staves, bludgeons or the like; and no person being in such polling district, shall arm himself, during any part of the day, with any such offensive weapon, and thus armed, approach within the distance of one mile of the place where the poll for such polling district is held, unless called upon so to do by lawful authority. 37 V., c. 9, s. 86.

Entertain-
ment of elec-
tors forbidden.

79. No candidate, or any other person, shall, at any election, either provide or furnish drink or other refreshment at the expense of such candidate, to any elector during such election, or pay for, procure or engage to pay for any such drink or other refreshment. 37 V., c. 9, s. 87.

Flags, &c. not
to be fur-
nished or
carried.

80. No candidate or any other person, shall furnish or supply any ensign, standard or set of colors, or any other flag, to or for any person or persons whomsoever, with intent that the same shall be carried or used in such electoral district on the day of election, or within eight days before such day, or during the continuance of such election or the polling, by such person or any other person, as a party flag to distinguish the bearer thereof and those who follow the same as the supporters of such candidate, or of the political or other opinions entertained, or supposed to be entertained, by such

candidate; and no person shall, for any reason, carry or use any such ensign, standard, set of colors or other flag, as a party flag, within such electoral district on the day of any such election or polling, or within eight days before such day, or during the continuance of such election. 37 V., c. 9, s. 88.

81. No candidate or any other person, shall furnish or supply any ribbon, label or like favor, to or for any person whomsoever, with intent that the same should be worn or used within such electoral district on the day of election or polling, or within eight days before such day, or during the continuance of such election, by such person, or any other person, as a party badge to distinguish the wearer as the supporter of such candidate, or of the political or other opinions entertained, or supposed to be entertained, by such candidate; and no person shall use or wear any ribbon, label, or other favor, as such badge, within such electoral district, on the day of any such election or polling, or within eight days before such day, or during the continuance of such election. 37 V., c. 9, s. 89.

Ribbons or favors not to be furnished or worn.

82. Every one who offends against any of the provisions of the four sections next preceding, is guilty of a misdemeanor, and liable to a penalty not exceeding one hundred dollars, or to imprisonment for a term not exceeding three months, or to both, in the discretion of the court. 37 V., c. 9, s. 90.

Punishment for contravention.

83. No spirituous or fermented liquors or strong drinks shall be sold or given at any hotel, tavern, shop or other place within the limits of any polling district, during the whole of the polling day at any election for the House of Commons, and every one who violates the provisions of this section shall be liable, for every such offence, to a penalty of one hundred dollars, and to imprisonment for a term not exceeding six months in default of payment of such penalty. 37 V., c. 9, s. 91.

Taverns to be closed, and no intoxicating liquors to be sold on polling day.

Punishment.

PREVENTION OF CORRUPT PRACTICES AND OTHER ILLEGAL ACTS.

84. The following persons are guilty of bribery and shall be punishable accordingly:—

Certain acts to be deemed bribery.

(a.) Every person who, directly or indirectly, by himself or by any other person on his behalf, gives, lends or agrees to give or lend, or offers or promises any money or valuable consideration, or promises to procure, or to endeavor to procure, any money or valuable consideration, to or for any voter, or to or for any person on behalf of any voter, or to or for any person, in order to induce any voter to vote, or refrain from voting, or corruptly does any such act on account

Giving money, &c., to procure votes.

of such voter having voted or refrained from voting at any election ;

Promising to procure employment.

(b.) Every person who, directly or indirectly, by himself, or by any other person on his behalf, gives or procures, or agrees to give or procure, or offers or promises any office, place or employment, or promises to procure, or to endeavor to procure any office, place or employment, to or for any voter, or to or for any other person in order to induce such voter to vote, or refrain from voting, or corruptly does any such act as aforesaid, on account of any voter having voted or refrained from voting at any election ;

Giving money, &c., to obtain return of any person.

(c.) Every person who, directly or indirectly, by himself or by any other person on his behalf, makes any gift, loan, offer, promise, procurement or agreement as aforesaid, to or for any person, in order to induce such person to procure or endeavor to procure the return of any person to serve in the House of Commons, or the vote of any voter at any election ;

Procuring return in consequence.

(d.) Every person who, upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procures or engages, or promises or endeavors to procure the return of any person to serve in the House of Commons, or the vote of any voter at any election ;

Advancing money to be used in bribery.

(e.) Every person who advances or pays, or causes to be paid, any money to or to the use of any other person, with the intent that such money or any part thereof shall be expended in bribery or corrupt practices at any election, or who knowingly pays or causes to be paid, any money to any person in discharge or repayment of any money wholly or in part expended in bribery or corrupt practices at any election :

Punishment for such offences. Proviso : as to lawful expenses.

And every person so offending is guilty of a misdemeanor, and shall also forfeit the sum of two hundred dollars to any person who sues for the same, with costs : Provided always, that the actual personal expenses of any candidate, his expenses for actual professional services performed, and *bond fide* payments for the fair cost of printing and advertising, shall be held to be expenses lawfully incurred, and the payment thereof shall not be a violation of this Act. 37 V., c. 9, s. 92.

Certain acts by voters bribery.

85. The following persons are also guilty of bribery, and shall be punishable accordingly :—

Receiving money, &c., before or during an election.

(a.) Every voter who, before or during any election, directly or indirectly, himself or by any other person on his behalf, receives, agrees or contracts for any money, gift, loan or valuable consideration, office, place or employment, for himself or any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at any election ;

Or after an election.

(b.) Every person who, after any election, directly or indirectly, himself or by any other person on his behalf,

receives any money or valuable consideration for having voted or refrained from voting, or for having induced any other person to vote or refrain from voting at any election :

And every person so offending is guilty of a misdemeanor, and shall also forfeit the sum of two hundred dollars to any person who sues for the same, with costs. Punishment for such offences.

37 V., c. 9, s. 93.

86. Every candidate who corruptly, by himself or by or with any other person, or by any other ways or means on his behalf, at any time either before or during any election, directly or indirectly gives or provides, or causes to be given or provided, or is accessory to the giving or providing, or pays wholly or in part any expenses incurred for any meat, drink, refreshment or provision to or for any person, in order to be elected or for being elected, or for the purpose of corruptly influencing such person or any other person to give or refrain from giving his vote at such election, is guilty of the offence of treating, and shall forfeit the sum of two hundred dollars to any person who sues for the same, with costs, in addition to any other penalty to which he is liable therefor under any other provision of this Act : and on the trial of an election petition, there shall be struck off from the number of votes given for such candidate, one vote for every person who has voted and is proved on such trial to have corruptly accepted or taken any such meat, drink, refreshment or provision : Offence of treating defined.

2. The giving or causing to be given to any voter on the nomination day or day of polling on account of such voter having voted or being about to vote, any meat, drink or refreshment, or any money or ticket to enable such voter to procure refreshment, shall be deemed an unlawful act, and the person so offending shall forfeit the sum of ten dollars for each offence to any person who sues for the same, with costs. Penalty.

87. Every one who, directly or indirectly, by himself or by any other person on his behalf, makes use of, or threatens to make use of any force, violence or restraint, or inflicts, or threatens the infliction by himself, or by or through any other person, of any injury, damage, harm or loss, or in any manner practises intimidation upon or against any person, in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting at any election, or who, by abduction, duress or any fraudulent device or contrivance, impedes, prevents or otherwise interferes with the free exercise of the franchise of any voter, or thereby compels, induces or prevails upon any voter either to give or refrain from giving his vote at any election, shall be deemed to have committed the offence of undue influence, and is guilty of a misdemeanor, and shall also forfeit the sum of two Threats of violence, &c., forbidden.

Undue influence.

Punishment.

hundred dollars to any person who sues for the same, with costs. 37 V., c. 9, s. 95.

Paying for conveyance of voters to poll illegal.

88. The hiring or promising to pay or paying for any horse, team, carriage, cab or other vehicle, by any candidate or by any person on his behalf, to convey any voter or voters to or from the poll, or to or from the neighborhood thereof, at any election, or the payment, by any candidate or by any person on his behalf, of the travelling and other expenses of any voter, in going to or returning from any election, are unlawful acts; and every candidate or person so offending shall forfeit the sum of one hundred dollars to any person who sues for the same; and any voter hiring any horse, cab, cart, wagon, sleigh, carriage or other conveyance for any candidate, or for any agent of a candidate, for the purpose of conveying any voter or voters to or from the polling place or places, shall, *ipso facto*, be disqualified from voting at such election, and shall, for every such offence, forfeit the sum of one hundred dollars to any person who sues for the same. 37 V., c. 9, s. 96.

Penalty.

Disqualification of voters offending.

Personation.

89. Every one who, at an election of a member of the House of Commons of Canada, does any of the following acts, that is to say:—

(a.) Applies for a ballot paper in the name of some other person, whether such name is that of a person living or dead, or of a fictitious person; or—

(b.) Having voted once at any such election, applies at the same election for a ballot paper in his own name—

Penalty.

Is guilty of personation and shall be liable to a penalty not exceeding two hundred dollars and to imprisonment for a term not exceeding six months. 37 V., c. 9, s. 74, *part.*

Subornation of personation, &c.

90. Every candidate who corruptly, by himself or by or with any other person on his behalf, compels or induces or endeavors to induce any person to personate any voter, or to take any false oath in any matter wherein an oath is required under this Act, is guilty of a misdemeanor, and shall, in addition to any other punishment to which he is liable for such offence, forfeit the sum of two hundred dollars to any person who sues for the same. 37 V., c. 9, s. 97.

Penalty.

Certain offences to be corrupt practices.

91. The offences of bribery, treating, or undue influence, or any of such offences, as defined by this or any other Act of the Parliament of Canada, personation or the inducing any person to commit personation, or any wilful offence against any one of the seven sections of this Act next preceding, are corrupt practices within the meaning of this Act. 37 V., c. 9, ss. 75 and 98.

Votes to be struck off candidate for

92. If, on the trial of an election petition, claiming the seat for any person, a candidate is proved to have been

guilty, by himself or by any person on his behalf, of bribery, treating, or undue influence in respect of any person who voted at such election, or if any person retained or employed for reward by or on behalf of such candidate for all or any of the purposes of such election, as agent, clerk, messenger, or in any other employment, is proved on such trial to have voted at such election, there shall, on the trial of such election petition, be struck off from the number of votes appearing to have been given to such candidate, one vote for every person who voted at such election, and who is proved to have been so bribed, treated or unduly influenced, or so retained or employed for reward as aforesaid. 37 V., c. 9, s. 73.

bribery, &c.,
in certain
cases.

93. If it is found by the report of any court, judge or other tribunal for the trial of election petitions, that any corrupt practice has been committed by any candidate at an election, or by his agent, whether with or without the actual knowledge and consent of such candidate, the election of such candidate if he has been elected shall be void. 37 V., c. 9, s. 101.

Corrupt practice by candidate or his agent to void election.

94. If, on the trial of any election petition, any candidate is proved to have personally engaged any person at the election to which such petition relates, as a canvasser or agent in relation to the election, knowing that such person so engaged has within eight years previous to such engagement, been found guilty of any corrupt practice, by any competent legal tribunal, or by the report of any judge or other tribunal for the trial of election petitions, the election of such candidate if he has been elected shall be void. 37 V., c. 9, s. 103.

Employing agent who has been guilty of corrupt practices.

95. The provisions of the three sections next preceding shall not, except as to the personal acts of the candidates and the acts of agents of candidates, done with the knowledge and consent of such candidates, apply to any case by reason of any acts done at any election other than the election to which the petition relates. 38 V., c. 10, s. 5.

Effect of corrupt practice and illegal acts at previous elections.

96. If it is proved before any court, judge or other tribunal for the trial of election petitions, that any corrupt practice has been committed by or with the actual knowledge and consent of any candidate at an election, or if he is convicted before any competent court of the misdemeanor of bribery or undue influence, he shall be held guilty of corrupt practices, and his election, if he has been elected, shall be void, and he shall, during the seven years next after the date of his being so proved or found guilty, be incapable of being elected to, and of sitting in the House of Commons, and of voting at any election of a member of that House, or of holding an office in the nomination of the Crown or of the Governor General in Canada. 37 V., c. 9, s. 102.

Effect of corrupt practice by a candidate.

Disqualifica-
tion of candi-
date guilty of
subornation of
personation.

97. If, on the trial of any election petition questioning the election or return for any electoral district, any candidate or other person is found by the report of the judge, by himself or his agents with his actual knowledge and consent to have aided, abetted, counselled or procured the commission at such election of the offence of personation by any person, his election, if he has been elected, shall be declared null and void; and such candidate or such other person shall be incapable of being elected or sitting in the House of Commons for any electoral district during the continuance of the Parliament for which the election is held, and during the then next Parliament. 37 V., c. 9, s. 76, *part.*

Disqualifica-
tion of
others than
candidates for
corrupt prac-
tices.

98. Every person other than a candidate, found guilty of any corrupt practice in any proceeding in which, after notice of the charge, he has had an opportunity of being heard, shall, during the eight years next after the time at which he is so found guilty, be incapable of being elected to, and of sitting in the House of Commons, and of voting at any election of a member of the House of Commons, or of holding any office in the nomination of the Crown or of the Governor General in Canada. 37 V., c. 9, s. 104, *and s. 76, part.*

Removal of
disqualifica-
tion
by perjury.

99. If, at any time after any person has become disqualified under this Act, the witnesses or any of them, on whose testimony such person has so become disqualified, are convicted of perjury in respect of such testimony, such person may move the court before which such conviction takes place, to order, and such court shall, upon being satisfied that such disqualification was procured by reason of such perjury, order that such disqualification shall thenceforth cease and determine; and the same shall cease and determine accordingly. 37 V., c. 9, s. 105.

OFFENCES AND PENALTIES.

100. Every one who,—

Forgery of
ballot papers.

(a.) Forges, counterfeits, fraudulently alters, defaces or fraudulently destroys any ballot paper or the initials of the deputy returning officer signed thereon, or—

Without au-
thority sup-
plying ballot
papers.

(b.) Without authority supplies any ballot paper to any person, or—

Putting into
ballot box
improper
ballot paper.
Fraudulently
taking out
ballot paper.
Interference
with ballot
boxes.

(c.) Fraudulently puts into any ballot box any paper other than the ballot paper, which he is authorized by law to put in, or—

(d.) Fraudulently takes out of the polling place any ballot paper, or—

(e.) Without due authority destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the election, or—

(f.) Attempts to commit any offence specified in this section,— Attempts.

Is guilty of a misdemeanor; and shall, if he is a returning officer, deputy returning officer or other officer engaged at the election, be liable to a fine not exceeding one thousand dollars or to imprisonment for any term less than two years with or without hard labor, in default of paying such fine; and if he is any other person, to a fine not exceeding five hundred dollars or to imprisonment for any term not exceeding six months, with or without hard labor, in default of paying such fine. 37 V., c. 9, s. 68. To be misdemeanor, and how punishable.

101. If any returning officer wilfully delays, neglects or refuses duly to return any person who ought to be returned to serve in the House of Commons for any electoral district, such person may, if it has been determined on the hearing of an election petition respecting the election for such electoral district, that such person was entitled to have been returned, sue the returning officer who has so wilfully delayed, neglected or refused duly to make such return of his election, in any court of record in the Province in which such electoral district is situate, and recover from him a sum of five hundred dollars, together with all damages he has sustained by reason thereof, and costs, provided such action is commenced within one year after the commission of the act on which it is grounded, or within six months after the conclusion of the trial of the petition relating to such election. 37 V., c. 9, s. 106. Liability of returning officer not returning candidate elected. Proviso.

102. Every one who unlawfully, either by violence or stealth, takes from any deputy returning officer or poll clerk, or from any other person having the lawful custody thereof, or from its lawful place of deposit for the time being, or unlawfully or maliciously destroys, injures or obliterates, or causes to be wilfully or maliciously destroyed, injured or obliterated, or makes or causes to be made any erasure, addition of names or interlineation of names, in, to or upon, or aids, counsels or assists in so taking, destroying, injuring or obliterating, or making any erasures, addition of names, or interlineation of names, in, to or upon, any list of voters, poll-book or writ of election, or any return to a writ of election, or any report, certificate or affidavit, or any document or paper, made, prepared or drawn out according to or for the purpose of meeting the requirements of this Act or any of them, is guilty of felony, and liable to imprisonment for any term not exceeding seven years; and it shall not be necessary in any indictment for such offence, to allege that the article in respect of which the offence is committed, is the property of any person. 37 V., c. 9, s. 107. Stealing or tampering with election documents. Felony. Punishment.

103. Every one who aids, abets, counsels or procures the commission by any person of the offence of personation Aiding or abetting personation.

shall be liable to a penalty not exceeding two hundred dollars and to imprisonment for a term not exceeding six months. 37 V., c. 9, s. 74, *part.*

Who may not act as agents for candidates.

104. Every returning officer or deputy returning officer of an electoral district, and every partner or clerk of either of them, who acts as agent for any candidate in the management or conduct of his election for such electoral district, is guilty of a misdemeanor. 37 V., c. 9, s. 124.

Punishment of misfeasance, &c., by election officers.

105. Every officer and clerk who is guilty of any wilful misfeasance or any wilful act or omission in violation of this Act, shall forfeit to any person aggrieved by such misfeasance, act or omission, a sum not exceeding five hundred dollars, in addition to the amount of all actual damages thereby occasioned to such person :

Neglect of duty by election officers.

2. Every returning officer, deputy returning officer, election clerk or poll clerk, who refuses or neglects to perform any of the obligations or formalities required of him by this Act, shall, for each such refusal or neglect, forfeit the sum of two hundred dollars to any person who sues for the same. 37 V., c. 9, ss. 70 and 108.

Penalty.

CRIMINAL AND CIVIL PROCEDURE.

Recovery of penalties and forfeitures.

106. All penalties and forfeitures (other than fines in cases of misdemeanor) imposed by this Act, shall be recoverable or enforceable with full costs of suit, by any person who sues for the same by action of debt or information, in any court of competent jurisdiction in the Province in which the cause of action arises, and in default of payment of the amount which the offender is condemned to pay, within the period fixed by the court, the offender shall be imprisoned in the common gaol of the county or district for any term less than two years, unless such penalty and costs are sooner paid ; but no action or information for the recovery of any such penalty or forfeiture shall be commenced unless the person suing for the same has given good and sufficient security, to the amount of fifty dollars, to indemnify the defendant for the costs occasioned by his defence, if the person suing is condemned to pay the same. 37 V., c. 9, s. 109 ;—46 V., c. 4.

What allegations necessary in suits for penalties.

107. It shall be sufficient for the plaintiff, in any action or suit under this Act, to allege in his pleading or declaration that the defendant is indebted to him in the sum of money thereby demanded, and to allege the particular offence in respect of which the action or suit is brought and that the defendant has acted contrary to this Act, without mentioning the writ of election or the return thereof. 37 V., c. 9, s. 110.

108. In any such civil action, suit or proceeding, the parties to the same and the husbands or wives of such parties respectively, shall be competent and compellable to give evidence, to the same extent and subject to the same exceptions as in other civil suits in the same Province ; but such evidence shall not thereafter be used in any indictment or criminal proceeding under this Act against the party or person giving it. 37 V., c. 9, s. 111.

Evidence of husbands and wives.

Proviso.

109. No person shall be excused from answering any question put to him in any action, suit or other proceeding, in any court, or before any judge, commissioner or other tribunal, touching or concerning any election, or the conduct of any person thereat, or in relation thereto, on the ground of any privilege, or on the ground that the answer to such question will tend to criminate such person ; but no answer given by any person claiming to be excused on the ground of privilege, or on the ground that such answer will tend to criminate himself, shall be used in any criminal proceeding against such person other than an indictment for perjury, if the judge, commissioner or president of the tribunal gives to the witness a certificate that he claimed the right to be excused on either of the grounds aforesaid, and made full and true answers to the satisfaction of the judge, commissioner or tribunal. 37 V., c. 9, s. 99.

No excuse of privilege, &c., allowed for not answering questions in proceedings touching elections.

110. Any criminal court before which any prosecution is instituted for any offence against the provisions of this Act, may order payment by the defendant to the prosecutor of such costs and expenses as appear to the court to have been reasonably incurred in and about the conduct of such prosecution ; but the court shall not make such order, unless the prosecutor before or upon the finding of the indictment or the granting of the information, enters into a recognizance with two sufficient sureties, in the sum of five hundred dollars, and to the satisfaction of the court, to conduct the prosecution with effect and to pay the defendant his costs in case he is acquitted. 37 V., c. 9, s. 112.

Criminal court may allow costs to prosecutor in certain cases.

111. In case of an indictment or information by a private prosecutor for any offence against the provisions of this Act, if judgment is given for the defendant, he shall be entitled to recover from the prosecutor the costs sustained by the defendant by reason of such indictment or information, which costs shall be taxed by the proper officer of the court in which the judgment is given. 37 V., c. 9, s. 113.

Or to defendant acquitted.

112. In any indictment or prosecution for bribery or undue influence, or any other corrupt practice, and in any action or proceeding for any penalty for bribery or undue influence or any other corrupt practice, it shall be sufficient to allege that the defendant was, at the election, at or in connection

Allegation and evidence of corrupt practice.

with which the offence is intended to be alleged to have been committed, guilty of bribery or undue influence or any other corrupt practice, describing it by the name given to it by this Act or otherwise as the case requires; and in any criminal or civil proceeding in relation to any such offence, the certificate of the returning officer shall be sufficient evidence of the due holding of the election and of any person named in such certificate having been a candidate thereat. 37 V., c. 9, s. 114.

Production of writ of election, &c., not required in suits under this Act.

113. It shall not be necessary on the trial of any suit or prosecution under this Act, to produce the writ of election or the return thereof, or the authority of the returning officer founded upon any such writ of election, but general evidence of such facts shall be sufficient evidence: and if the original ballot papers or other papers are required, the clerk or registrar of the court having cognizance of the election petition may, at the instance of any of the parties thereto, notify the Clerk of the Crown in Chancery to produce the same on the day fixed for the trial, and the said Clerk of the Crown in Chancery shall, on or before the said day, deposit the same with such clerk or registrar, taking his receipt therefor. 41 V., c. 6, s. 15.

Clerk of the Crown in Chancery may deliver certified copies of certain papers, which shall be evidence.

114. The Clerk of the Crown in Chancery may deliver certified copies of any writ, lists of voters, poll-books, returns, reports and other documents in his possession relating to any election, except ballot papers; and such copies so certified shall be received as *prima facie* evidence before any election judge or court, and before any court of justice in Canada. 37 V., c. 9, s. 116.

Power of court or judge trying an election petition to impose certain penalties.

115. Whenever it appears to the court or judge trying an election petition, that any officer, elector or other person has violated any of the provisions of this Act,—for which violation such officer, elector or other person, is liable to a fine or penalty (other than fines and penalties imposed for any offence amounting to a misdemeanor or felony), such court or judge may order that such officer, elector, or other person shall be summoned to appear before such court or judge, at the place, day and hour fixed in such summons for hearing the charge:

Proceedings in such cases.

2. If, on the day so fixed by the summons, the person summoned does not appear, he shall be condemned, on the evidence already adduced on the trial of the election petition, to pay such fine or penalty as he is liable to pay for such violation, and in default of paying such fine or penalty, to the imprisonment imposed in such case under the provisions of this Act:

Trial

3. If, on the day so fixed, the person so summoned does appear, the court or judge, after hearing such person and such

evidence as is adduced, shall give such judgment as to law and justice appertains :

4. All fines and penalties recovered under this section shall belong to Her Majesty for the public uses of Canada : Appropriation of fines.

5. No fine or penalty shall be imposed under this section if it appears to the court or judge that the person has already been sued in respect to the same offence, nor shall any such fine or penalty be imposed for any offence proved only by the evidence or admission of the person committing it. 37 V., c. 9, s. 117. Exception.

116. No indictment for bribery or undue influence, personation or other corrupt practice shall be tried before any Court of Quarter Sessions or General Sessions of the Peace. 37 V., c. 9, s. 118. Bribery, &c., not triable at Q. S., &c.

117. Every prosecution for any misdemeanor under this Act, and every action, suit or proceeding for any pecuniary penalty given by this Act to the person suing for the same, shall be commenced within the space of one year next after the act committed, and not afterwards (unless the same is prevented by the withdrawal or absconding of the defendant out of the jurisdiction of the court), and when commenced shall be proceeded with and carried on without wilful delay. 37 V., c. 9, s. 119. Limitation of time for prosecutions and suits, &c.

ELECTION EXPENSES.

118. No payment (except in respect of the personal expenses of a candidate), and no advance, loan or deposit, shall be made by or on behalf of any candidate at any election, before or during or after such election, on account of such election, otherwise than through an agent or agents, whose name or names, address or addresses, have been declared in writing to the returning officer, on or before the nomination day, or through an agent or agents to be appointed in his or their place, as herein provided ; and any person who makes any such payment, advance, loan or deposit otherwise than through such agent or agents, is guilty of a misdemeanor : No payment to be made except through authorized agent.

2. The returning officer shall publish on or before the nomination day the name and address or the names and addresses of the agent or agents appointed in pursuance of this section : Names of agents to be published.

3. In the event of the death or legal incapacity of any agent appointed in pursuance of this section, the candidate shall forthwith appoint another agent in his place, giving notice to the returning officer of the name and address of the person so appointed, which shall be forthwith published as hereinbefore provided, by the returning officer. 37 V., c. 9, s. 121. If agent cannot act.

Bills and claims to be sent in within one month, or right to be barred.

Provision in case of death of claimant.

Provision if there is no agent.

Candidate to authorize payment.

Publication of detailed statement of expenses.

Penalty for default.

Bills, &c., to be preserved.

119. All persons who have any bills, charges or claims upon any candidate for or in respect of any election, shall send in such bills, charges or claims within one month after the day of the declaration of the election, to such agent or agents as aforesaid; otherwise such persons shall be barred of their right to recover such claims, and every or any part thereof: Provided always, that in the event of the death, within the said month, of any person claiming the amount of any such bill, charge or claim, the legal representative of such person shall send in such bill, charge or claim within one month after his obtaining probate or letters of administration, or of his becoming otherwise able to act as such legal representative, otherwise the right to recover such claim shall be barred as aforesaid: and provided also, that such bills, charges and claims shall and may be sent in and delivered to the candidate, if and so long as, during the said month, there shall, owing to death or legal incapacity, be no such agent: and provided also, that no such bill, charge or claim shall be paid without the authority of the candidate, as well as the approval of the agent. 37 V., c. 9, s. 122.

120. A detailed statement of all election expenses incurred by or on behalf of any candidate, including such expected payments as aforesaid, shall, within two months after the election (or whenever by reason of the death of the creditor no bill has been sent in within such period of two months, then within one month after such bill has been sent in), be made out and signed by the agent, or if there is more than one, by every agent who has paid the same (including the candidate in cases of payments made by him,) and delivered with the bills and vouchers relative thereto to the returning officer; and the returning officer for the time being shall, at the expense of the candidate, within fourteen days, insert, or cause to be inserted an abstract of such statement, with the signature of the agent thereto, in some newspaper published or circulating in the electoral district where the election was held: and any agent or candidate who makes default in delivering to the returning officer the statements required by this section shall incur a penalty not exceeding twenty dollars for every day during which he so makes default; and any agent or candidate who wilfully furnishes to the returning officer any untrue statement is guilty of a misdemeanor: and the said returning officer shall preserve all such bills and vouchers, and during the six months next after they have been delivered to him, shall permit any voter to inspect the same on payment of a fee of twenty cents. 37 V., c. 9, s. 123.

FEEES AND EXPENSES OF RETURNING OFFICERS AND OTHERS.

Fees for services and disbursements.

121. The fees and expenses in the second schedule to this Act mentioned and no others, shall be allowed to the several

officers therein mentioned, respectively, for their services and disbursements at any election :

Provided always, that if it appears to the Governor in Council that the provisions made in this section are inadequate or insufficient for the purposes for which they are intended (that is a fair and just but economical remuneration for the services performed), the Governor in Council may make a tariff of fees, costs and expenses to be paid and allowed to returning officers, and other persons employed at or with respect to elections under this Act, and may, from time to time, revise and amend such tariff, which shall then be substituted for that above mentioned, as respects any election held after the making or the revising or amending thereof; but a copy of any such tariff and of any amendment thereof shall be laid before the House of Commons at the then next session of Parliament. 37 V., c. 9, s. 126, *part.*

Governor in Council may make new tariff, and revise and amend it.

122. Such fees, allowances and disbursements shall be paid to the returning officer, by warrant of the Governor General, directed to the Minister of Finance and Receiver General, out of the Consolidated Revenue Fund of Canada, and shall be distributed by such returning officer to the several officers and persons entitled to the same under the provisions of this Act,—which distribution he shall report to the Governor General through the Secretary of State: and the returning officers shall certify the correctness of the accounts of their respective deputy returning officers. 37 V., c. 9, s. 126, *part.*

Fees, &c., to be paid out of Consolidated Revenue Fund.

123. Whenever an election is held for the electoral district of Gaspé or of Chicoutimi and Saguenay, in the Province of Quebec, or for the electoral district of Algoma or South Essex in the Province of Ontario, or for any electoral district in either of the Provinces of Manitoba or British Columbia, and it appears to the Governor in Council that the fees and allowances above provided for are not sufficient remuneration for the services required to be performed, the Governor in Council may authorize the payment of such further and additional sum or sums of money for such services as are considered just and reasonable compensation therefor. 37 V., c. 9, s. 126, *part.*

Fees, &c., may be increased in certain electoral districts.

GENERAL PROVISIONS.

124. One copy of this Act, and of such instructions approved by the Governor in Council as are required to carry out the elections according to the provisions of this Act, (with a copious alphabetical index prefixed), for the returning officer, and one for each of the deputy returning officers shall be transmitted by the Clerk of the Crown in Chancery, with the writ of election, to each returning officer. 41 V., c. 6, s. 16.

Copies of Act and instructions to be sent to the Returning Officer.

The furnishing of ballot boxes, &c., by Clerk of the Crown in Chancery.

125. The Clerk of the Crown in Chancery may cause to be made for each electoral district such a number of ballot boxes as are required; or may give to the returning officers such instructions as are deemed necessary to secure ballot boxes of a uniform size and shape, and also as to the mode of making the compartments in the polling stations,—such instructions being first approved of by the Governor in Council. 41 V., c. 6, s. 17.

Mode of giving notices.

126. When the returning officer or any deputy returning officer is, by this Act, required or authorized to give any public notice, and no special mode of giving the same is mentioned, he may give the same by advertisement, placards, handbills or such other means as he thinks best calculated to give the information to the electors. 37 V., c. 9, s. 128.

Candidate may act as his own agent.

127. A candidate may himself undertake the duties which any agent of his, if appointed, might have undertaken, or may assist his agent in the performance of such duties, and may be present at any place at which his agent may, in pursuance of this Act, be authorized to attend. 37 V., c. 9, s. 78.

Mistakes of form only not to avoid elections.

128. No election shall be declared invalid by reason of non-compliance with the provisions of this Act as to the taking of the poll or the counting of the votes, or by reason of any want of qualification in the persons signing a nomination paper received by the returning officer, under the provisions of this Act, or of any mistake in the use of the forms contained in the schedules to this Act, if it appears to the tribunal having cognizance of the question that the election was conducted in accordance with the principles laid down in this Act, and that such non-compliance or mistake did not affect the result of the election. 37 V., c. 9, s. 80.

As to provisions requiring presence of agents, &c.

129. Whenever in this Act any expressions are used, requiring or authorizing any act to be done, or inferring that any act or thing is to be done in the presence of the agents of the candidates, such expressions shall be deemed to refer to the presence of such agents of the candidates as are authorized to attend, and as have, in fact, attended at the time and place where such act or thing is being done; and the non-attendance of any agents or agent at such time and place shall not, if the act or thing is otherwise duly done, invalidate in any wise the act or thing done. 37 V., c. 9, s. 79.

Administration of oaths

130. Any affidavit required to be made for any of the purposes of this Act may be sworn before any commissioner for taking affidavits in any of the superior courts of any of the Provinces of Canada; and any person before whom it is hereby required or intimated by any form in the first schedule

to this Act, that any oath is to be taken, or any affirmation made in the manner herein provided, shall have power to administer the same and shall administer the same gratuitously; and the returning officer at any election shall have power to administer any oath or affirmation required by this Act with respect to such election; and the deputy returning officer may administer such oath or affirmation, except such as is required to be administered to the returning officer. 37 V., c. 9, s. 127.

131. Every executory contract, or promise, or undertaking, in any way referring to, arising out of or depending upon any election under this Act, even for the payment of lawful expenses, or the doing of some lawful act, shall be void in law. 37 V., c. 9, s. 100.

Contracts or promises relating to elections void.

132. Whenever it appears to the satisfaction of the Governor in Council, at the time when an election of a member to represent either of the electoral districts of Gaspé or of Chicoutimi and Saguenay in the House of Commons is about to be held, that communication by water between the Island of Anticosti or the Magdalen Islands, as the case may be, and the mainland, may probably be interrupted during such election by the severity of the season, he may direct that all necessary instructions and information relating to such election may be transmitted by telegraph by the returning officer to the deputy returning officer or officers, and by him or them to the returning officer, so that he may be informed of the number of votes given for each candidate, and of all other matters relating to the election, and be enabled to return the candidate having the majority or to make such other return as the case requires; and the Governor in Council may make such order as to the details of the proceedings at or relating to such election to be so transmitted by telegraphic communication, as to him seems proper for best attaining the purposes of this enactment. 45 V., c. 3, s. 9.

Provision for transmission of information respecting elections by telegraph, in certain places and seasons in Quebec.

133. No enactment or provision contained in any Act of the legislature of the late Province of Canada, or any of the Provinces now composing the Dominion of Canada, respecting elections of members of the elective house of the legislature of any such Province, shall apply to any election of a member or members of the House of Commons. 37 V., c. 9, s. 133, *part.*

As to Provincial laws touching elections.

134. Except as provided by "*The North-West Territories Representation Act*" and to the extent to which certain provisions hereof are incorporated with the said Act by the provisions thereof, this Act shall not apply to the North-West Territories. 49 V., c. 24, s. 67.

Application to N.W.T.

FIRST SCHEDULE.

A.

Writ of Election.

VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland, QUEEN, Defender of the Faith;—To the sheriff (registrar or other returning officer, as the case may be) of the county (or as the case may be) of _____, GREETING:

Whereas, by the advice of Our Privy Council for Canada, we have ordered a Parliament to be holden at Ottawa, on the _____ day of _____ next, (*omit this preamble, except in the case of a general election*). We command you that, notice of the time and place of election being duly given, you do cause election to be made according to law of a member (*or as the case may be*) to serve in the House of Commons of Canada, for the electoral district of _____, (*except in case of a general election, insert here in the place of _____, deceased, or otherwise, stating the cause of vacancy*) and (*except in the electoral districts mentioned in section four*) that you do cause the nomination of candidates at such election to be held on the _____ day of _____ next, and do cause the name (*or names*) of such member (*or members*) when so elected, whether he (*or they*) are present or absent, to be certified to our Clerk of the Crown in Chancery, as by law directed.

Witness, Our Right Trusty and Well-beloved, &c., Governor General (*or Administrator of the Government*) of our Dominion of Canada, at our City of Ottawa, the _____ day of _____ in the _____ year of Our Reign and in the year of Our Lord 18 _____.

Indorsement.

Received the within Writ on the _____ day of _____ 18 _____.

(Signed), _____ A. B.,
 Sheriff of (*or as the case may be*),

Returning Officer.

37 V., c. 9, sch., form A;—41 V., c. 6, s. 18.

B.

Oath of the returning officer.

I, the undersigned, A. B., returning officer for the electoral district of _____, solemnly swear (*or if he is one of the persons permitted by law to affirm in civil cases*, solemnly

affirm) that I am legally qualified according to law to act as returning officer for the said electoral district of _____, and that I will act faithfully in that capacity, without partiality, fear, favor or affection. So help me God.

(Signature), A. B.,
Returning Officer.

Certificate of returning officer having taken oath of office.

I, the undersigned, hereby certify that on the _____ day of the month of _____, 18____, A. B., the returning officer for the electoral district of _____, took and subscribed before me, the oath (or affirmation) of office, in such case required of a returning officer, by section *nine* of "The Dominion Elections Act."

In testimony whereof, I have delivered to him this certificate.

(Signature), C. D.,
Justice of the Peace.

37 V., c. 9, sch., form B.

—
C.

Commission of an election clerk.

To E. F. (*set forth his legal addition and residence*).

Know you, that in my capacity of returning officer for the electoral district of _____, I have appointed, and do hereby appoint you to be my election clerk, to act in that capacity according to law, at the approaching election for the said electoral district of _____, which election will be opened by me, on the _____ day of the month of _____ 18____.

Given under my hand this _____ day of _____, in the year 18____.

(Signature), A. B.,
Returning Officer.

37 V., c. 9, sch., form C.

— — —
D.

Oath of the election clerk.

I, the undersigned, E. F., appointed election clerk for the electoral district of _____, solemnly swear (or if he is one of the persons permitted by law to affirm in civil cases, solemnly

affirm), that I will act faithfully in my said capacity as election clerk, and also in that of returning officer if required to act as such according to law, without partiality, fear, favor or affection. So help me God.

(Signature), E. F.,
Election Clerk.

Certificate of the election clerk having taken the oath of office.

I, the undersigned, hereby certify that on the day of _____, 18____, E. F., election clerk for the electoral district of _____, took and subscribed before me, the oath (or affirmation) of office required in such case, of an election clerk, by section twelve of "The Dominion Elections Act."

In testimony whereof, I have delivered to him this certificate under my hand.

(Signature), C. D.,
Justice of the Peace.
or A. B.,
Returning Officer.

37 V., c. 9, sch., form D.

E.

Proclamation of the returning officer declaring the time and place fixed for the nomination of candidates, and also the day for opening the poll, and the polling stations and polling districts.

PROCLAMATION.

Electoral District of _____, to wit:

Public notice is hereby given to the electors of the electoral district aforesaid, that, in obedience to Her Majesty's Writ to me directed, and bearing date the day of _____ 18____, I require the presence of the said electors at (*describe the place where the nomination is to take place*), in the county (or township, or in the city or town) of _____, on the _____ day of the month of _____, from noon until two of the clock in the afternoon, for the purpose of nominating a person (or persons, as the case may be), to represent them in the House of Commons of Canada; and that in case a poll is demanded and allowed in the manner by law prescribed, such poll will be opened on the day of the month of _____, in the year _____,

from the hour of nine in the forenoon till five of the clock in the afternoon in each of the polling districts, that is to say :

For the polling district No. 1, consisting of (*or bounded as follows, or otherwise describing it clearly*) at _____, describing the polling station:—
(*and so continuing for all the other polling districts and stations in the electoral district*).

And further, that on the _____ day of _____ at _____ I shall open the ballot boxes, sum up the votes given for the several candidates and return as elected the one (*or as the case may be*) having the majority of votes.

Of which all persons are hereby required to take notice and to govern themselves accordingly.

Given under my hand at _____, this
day of _____, in the year 18 _____.

(*Signature*), A. B.,
Returning Officer.

37 V., c. 9, sch., form E.

F.

Nomination paper, &c.

We, the undersigned electors of the electoral district of _____ hereby nominate (*names, residence and additions or descriptions of person or persons nominated*) as a candidate at the election now about to be held of a member to represent the said electoral district in the House of Commons of Canada.

Witness our hands at _____ in the said electoral district,
this _____ day of _____ 18 _____.

Signed by the said electors, in presence }
of _____, of _____ (*additions.*) }

Signatures with residence and additions.

of *as in the nomination paper*), no other candidate having been nominated (or the other or all other candidates having withdrawn, *as the case may be*).

(Signed), R. O., Returning Officer.
37 V., c. 9, sch., form H.

I

Notice of poll being granted, and of candidates nominated.

NOTICE.

Electoral district of _____, to wit :

Public notice is hereby given to the electors of the electoral district aforesaid, that a poll has been demanded at the election now pending for the same, and that I have granted such poll ; and further, that the persons duly nominated as candidates at the said election, and for whom only votes will be received, are,—

1. JOHN DOE, of the Township of Nepean, County of Carleton, Yeoman.

2. RICHARD ROE, of the Town of Prescott, County of Grenville, Merchant.

3. GEOFFREY STILES, of 10 Sparks Street, Ottawa, Physician.

4. JOHN STILES, of 3 Elgin Street, Ottawa, Barrister-at-law.

As in the nomination papers.

Of which ALL persons are hereby required to take notice, and to govern themselves accordingly.

Given under my hand at _____ this _____ day of _____
in the year 18 _____ .

(Signature), A. B.,
Returning Officer.
37 V., c. 9, sch., form HH.

J.

Ballot paper.

Election for the electoral district of	18 .
--	------

DOE
John Doe, Township of
I. Nepean, County of Carleton, yeoman.

ROE
Richard Roe, of Town of
II. Prescott, County of Grenville, Merchant. ×

STILES
Geoffrey Stiles, of 10
III. Sparks Street, Ottawa, Physician.

STILES
John Stiles, of 3 Elgin
IV. Street, Ottawa, Barrister-at-law.



The names of the candidates will be as in the nomination paper. There is to be no margin on the left side of the ballot paper ; and the horizontal division lines will be carried to the edge of the paper on the right side. The elector is supposed to have marked his ballot paper in favor of Richard Roe. The dotted line will be a line of perforations for easily detaching the counterfoil.

41 V., c. 6, s. 19 part.

K.

Commission of a deputy returning officer.

To G. H. (*insert his legal addition and residence.*)

Know you, that in my capacity of returning officer, for the electoral district of _____, I have appointed, and do hereby appoint you to be deputy returning officer

for the polling district number _____, of the said electoral district of _____, there to take the votes of the electors by ballot according to law, at the polling station, to be by you opened and kept for that purpose, and you are hereby authorized and required to open and hold the poll of such election for the said polling district on the _____ day of _____, at nine o'clock in the forenoon, at (*here describe particularly the place in which the poll is to be held*), and there to keep the said poll open during the hours prescribed by law, and to take at the said polling place, by ballot, in the manner by law provided, the votes of the electors voting at the said polling place, and after counting the votes given and performing the other duties required of you by law, to return to me forthwith the ballot box sealed with your seal, and inclosing the ballots, envelopes, list of voters, poll-book, and other documents required by law, together with this commission.

Given under my hand, at _____, this _____ day
of _____, in the year 18 _____.

(*Signature,*) _____ A. B.,
Returning Officer.

37 V., c. 9, sch., form J.

L.

Oath of deputy returning officer.

I, the undersigned G. H., appointed deputy returning officer, for the polling district, No. _____, of the electoral district of _____, solemnly swear (*or, being one of the persons permitted by law to affirm in civil cases, solemnly affirm*) that I will act faithfully in my said capacity of deputy returning officer, without partiality, fear, favor or affection. So help me God.

(*Signature,*) _____ G. H.,
Deputy Returning Officer.

Certificate of a deputy returning officer having taken the oath of office.

I, the undersigned, hereby certify that on the _____ day of the month of _____, G. H., deputy returning officer for the polling district No. _____ of the electoral district of _____, took and subscribed the oath (*or affirmation*) of office, required in such case of a deputy

returning officer, by section thirty of "The Dominion Elections Act."

In testimony whereof, I have delivered to him this certificate under my hand.

(Signature,) C.D.,
Justice of the the Peace.

or A. B.,
Returning Officer.

87 V., c. 9, sch., form K.

M.

Directions for the guidance of electors in voting.

The voter is to vote only for one candidate, unless two members are to be returned for the electoral district, in which case he may vote for one or for two candidates as he thinks fit.

The voter will go into one of the compartments, and with a pencil there provided, place a cross in the division containing the name or names of the candidate or candidates for whom he votes, thus ×.

The voter will then fold the ballot, so as to show a portion of the back only, with the number and the initials of the deputy returning officer; he will deliver it to the deputy returning officer, who will place it in the ballot box. The voter will then forthwith quit the polling station.

If a voter inadvertently spoils a ballot paper he may return it to the proper officer, who, on being satisfied of the fact, will give him another.

If the voter votes for more candidates than he is entitled to vote for, or places any mark on the ballot paper by which he can afterwards be identified, his vote will be void, and will not be counted.

If the voter takes a ballot paper out of the polling station or fraudulently puts any other paper into the ballot box than the ballot paper given him by the deputy returning officer, he will be subject to be punished by fine of five hundred dollars or by imprisonment for a term not exceeding six months with or without hard labor. 41 V., c. 6, s. 19, *part.*

N.

*Commission of a poll clerk.*To I. J. (*insert his legal addition and residence.*)

Know you, that in my capacity of deputy returning officer for the polling district, No. _____, of the electoral district of _____, I have appointed, and do hereby appoint you to be poll clerk for the said _____ polling district.

Given under my hand, at _____, this _____ day of _____, in the year 18 _____.

(*Signature,*) _____ G. H.,
Deputy Returning Officer.

37 V., c. 9, sch., form L.

O.

Oath of poll clerk.

I, the undersigned, I. J., appointed poll clerk for the polling district, No. _____, of the electoral district of _____ do solemnly swear (*or, if he is one of the persons permitted by law to affirm in civil cases, do solemnly affirm*) that I will act faithfully in my capacity of poll clerk, and also in that of deputy returning officer if required to act as such, according to law, without partiality, fear, favor or affection. So help me God.

(*Signature,*) _____ I. J.,
Poll Clerk.

Certificate of the poll clerk having taken the oath.

I, the undersigned, hereby certify that on the _____ day of the month of _____, I. J., poll clerk, for the _____ polling district, No. _____, of the electoral district of _____ took and subscribed before me the oath (*or affirmation*) of office required of a poll clerk in such cases by section thirty-three of "The Dominion Elections Act."

In testimony whereof, I have delivered to him this certificate under my hand.

(*Signature,*) _____ C. D.,
Justice of the Peace.
or A. B.,
Returning Officer.
or G. H.,
Deputy Returning Officer

37 V., c. 9, sch., form M.

P.

Commission of a poll clerk by a poll clerk acting as deputy returning officer.

To _____ of (*insert his residence and legal addition*).

Know you that in my capacity of acting deputy returning officer for the polling district No. _____ of the electoral district of _____, in consequence of the decease (or incapacity to act, *or as the case may be*) of the deputy returning officer for the said polling district, whose poll clerk I was, I have appointed, and do hereby appoint you to be poll clerk for the said polling district, No. _____ of the said electoral district.

Given under my hand at _____ this _____ day of _____ in the year 18 _____.

(*Signature*), P. C.,
Poll Clerk, acting as Deputy Returning Officer.

The oath and certificate of its having been taken will be the same as in the case of a poll clerk appointed by the deputy returning officer.

37 V., c. 9, sch., form N.

Q.

Oath of agent of a candidate, or of elector representing a candidate.

I, the undersigned, G. H., agent for (or elector representing) J. K., one of the candidates at the election now pending for the electoral district of _____, solemnly swear (or, if he is one of the persons permitted by law to affirm in civil cases, solemnly affirm) that I will keep secret the names of the candidates for whom any of the voters at the polling station in the polling district No. _____, marks his ballot paper in my presence at this election. So help me God.

(*Signature*), G. H.

Sworn (or affirmed) before me, at _____ this _____ day of _____ 18 _____.

A. B.,
Returning Officer.
or Justice of the Peace.

37 V., c. 9, sch., form NN.

R.

Form of poll-book.

Number of the Voters.	NAMES OF THE VOTERS.	Addition or occupation.	Place of residence.	Owner or tenant or other qualification.	Name of parent, if the voter is qualified as the son of a farmer or other owner of real property.	Subjects of undecided appeals.	Objections	Sworn or affirmed	Voters refusing to be sworn or to affirm.	Voters voting after others have voted in their names	Remarks.

37 V., c. 9, sch., form O.

S.

Form of Oath of Qualification of a person whose name is registered as a voter on the list of voters otherwise than as a farmer's son or as the son of the owner of other real property.

I, (A. B.), solemnly swear (or if he is one of the persons permitted by law to affirm in civil cases, solemnly affirm),—

1. That I am the person named, or purporting to be named, by the name of
(and if there are more persons than one of the same name on the said list, inserting also his addition or occupation) on the list of voters for polling district No. _____, in the electoral district (or municipality) of _____ :

2. That I am a British subject by birth (or naturalization, as the case may be), and that I am of the full age of twenty-one years :

3. That I have not voted before at this election, either at this or at any other polling place :

4. That I have not received anything nor has anything been promised me, directly or indirectly, either to induce me to vote at this election or for loss of time, travelling expenses, hire of team or for any other service connected therewith :

5. That I have not, directly or indirectly, paid or promised anything to any person either to induce him to vote or to refrain from voting at this election. So help me God. 49 V., c. 3, sch., form B.

T.

Form of Oath of Qualification of a person whose name is registered as a voter on the list of voters, as being a farmer's son not claiming the benefit of the provision as to occasional absence as a mariner, fisherman or student.

I (A. B.), solemnly swear (or if he is one of the persons permitted by law to affirm in civil cases, solemnly affirm),—

1 That I am the person named, or purporting to be named, by the name of
(and if there are more persons than one of the same name on the said list, inserting also his addition or occupation) on the list of voters for polling district No. _____, in the electoral district (or municipality) of _____ :

2. That I am a British subject by birth (or naturalization, as the case may be), and that I am of the full age of twenty-one years :

3. That I have not voted before at this election, either at this or at any other polling place :

4. That I have not received anything, nor has anything been promised me, directly or indirectly, either to induce me to vote at this election, or for loss of time, travelling expenses, hire of team, or for any other service connected therewith :

5. That I have not, directly or indirectly, paid or promised anything to any person, either to induce him to vote or to refrain from voting at this election :

6. That I am resident with my father (or if his father is dead, with my mother) within this electoral district, and that I have not been absent from such residence more than six months since I was placed on the list of voters. So help me God. 49 V., c. 3, sch., form C.

U.

Form of Oath of Qualification of a person whose name is registered as a voter on the list of voters as being the son of the owner of real property, other than a farm, not claiming the benefit of the provision as to occasional absence as a mariner, fisherman or student.

I (A. B.), solemnly swear (or if he is one of the persons permitted by law to affirm in civil cases, solemnly affirm),—

1. That I am the person named, or purporting to be named, by the name of
(and if there are more persons than one of the same name on the said list, inserting also his addition or occupation) on the list of voters for polling district No. , in the electoral district (or municipality) of :

2. That I am a British subject by birth (or naturalization, as the case may be), and that I am of the full age of twenty-one years :

3. That I have not voted before at this election, either at this or at any other polling place :

4. That I have not received anything nor has anything been promised me, directly or indirectly, either to induce me to vote at this election or for loss of time, travelling expenses, hire of team, or for any other service connected therewith :

5. That I have not, directly or indirectly, paid or promised anything to any person, either to induce him to vote or to refrain from voting at this election :

6. That I am resident with my father (or if his father is dead, with my mother) within this electoral district, and that I have not been absent from such residence more than six months since I was placed on the list of voters. So help me God. 49 V., c. 3, sch., form D.

V.

Form of Oath of Qualification of a person whose name is registered as a voter on the list of voters as a farmer's son and claiming the benefit of the provision as to occasional absence as a mariner, fisherman or student.

I (A. B.), solemnly swear (or if he is one of the persons permitted by law to affirm in civil cases, solemnly affirm),—

1. That I am the person named, or purporting to be named, by the name of
(and if there are more persons than one of the same name on the said list, inserting also his addition or occupation) on the list of voters for polling district No. _____, in the electoral district (or municipality) of _____ :

2. That I am a British subject by birth (or naturalization, as the case may be), and that I am of the full age of twenty-one years :

3. That I have not voted before at this election, either at this or at any other polling place :

4. That I have not received anything nor has anything been promised me, directly or indirectly, either to induce me to vote at this election or for loss of time, travelling expenses, hire of team or for any other service connected therewith :

5. That I have not, directly or indirectly, paid or promised anything to any person either to induce him to vote or to refrain from voting at this election :

6. That I am resident with my father (or if his father is dead, with my mother) within this electoral district. That I am a mariner (or a fisherman, or a student in an institution of learning in Canada, as the case may be), and that I have not been absent from such residence for more than six months since I was placed on the said list of voters, except in the exercise of my occupation as such mariner (fisherman, or student, as the case may be). So help me God. 49 V., c. 3, sch., form E.

W.

Form of Oath of Qualification of a person whose name is registered as a voter on the list of voters as the son of an owner of real property other than a farm, and claiming the benefit of the provision as to occasional absence, as a mariner, fisherman, or student.

I (A.B.), solemnly swear (or if he is one of the persons permitted by law to affirm in civil cases, solemnly affirm),—

1. That I am the person named, or purporting to be named, by the name of
(and if there are more persons than one of the same name on the said list, inserting also his addition or occupation) on the list of voters for polling district No. _____, in the electoral district (or municipality) of _____ :

2. That I am a British subject by birth (*or naturalization, as the case may be*), and that I am of the full age of twenty-one years :

3. That I have not voted before at this election, either at this or at any other polling place :

4. That I have not received anything nor has anything been promised me, directly or indirectly, either to induce me to vote at this election or for loss of time, travelling expenses, hire of team or for any other services connected therewith :

5. That I have not, directly or indirectly, paid or promised anything to any person either to induce him to vote or to refrain from voting at this election :

6. That I am resident with my father (*or if his father is dead, with my mother*) within this electoral district. That I am a mariner (*or fisherman or a student in an institution of learning in Canada, as the case may be*) and that I have not been absent from such residence for more than six months since I was placed on the said list of voters except in the exercise of my occupation as a mariner (*or fisherman or student, as the case may be*). So help me God. 49 V., c. 3, sch., form F.

X.

Form of Oath of Qualification of a person whose name has been excluded from the list of voters and which exclusion appears by the list of voters to be the subject of an undecided appeal.

I, (A.B.), solemnly swear (*or if he is one of the persons permitted by law to affirm in civil cases, solemnly affirm*),—

1. That I (*stating residence, post office address and addition or occupation*) duly applied before the revising officer for the electoral district of _____ (*or portion of an electoral district, as the case may be, in which the polling district where such person applies for a ballot paper is situated*) to have my name registered on the list of voters for this polling district (*or in the case of the first lists made for such electoral district or portion of an electoral district on the list or one of the lists of voters for such electoral district, or portion of an electoral district,*) under the provisions of "The Electoral Franchise Act: "

2. That my application to have my name so registered was refused; that I have duly appealed from such decision of the said revising officer, pursuant to the provisions of the said Act:

3. That I am a British subject by birth (or naturalization, as the case may be), and that I am of the full age of twenty-one years:

4. That I have not voted before at this election, either at this or at any other polling place:

5. That I have not received anything nor has anything been promised me, directly or indirectly, either to induce me to vote at this election or for loss of time, travelling expenses, hire of team or for any other service connected therewith:

6. That I have not, directly or indirectly, paid or promised anything to any person either to induce him to vote or to refrain from voting at this election:

7. (Also if the claim of such person to be entitled to be registered on the list of voters and to vote is as a farmer's son or as the son of an owner of real property other than a farmer, and if the subject of such appeal is the exclusion of his name from such list as such son) That I am resident with my father (or if his father is dead, with my mother) within this electoral district: (If the person is a mariner, fisherman or student, claiming the benefit of the provision as to occasional absence, add "that I am a mariner or fisherman or student at an institution of learning in Canada, as the case may be), and that I have not been absent from such residence more than six months since my said application to be placed on the list of voters except as permitted by the said Act. So help me God." 49 V., c. 8, sch., form G.

Y.

Oath of identity by voter receiving a ballot paper, after another has voted in his name.

I solemnly swear (or if he is one of the persons permitted by law to affirm in civil cases, solemnly affirm) that I am A. B., of (as on the list of voters) whose name is entered on the list of voters (or the exclusion of whose name from the list of voters is the subject of an undecided appeal under the provisions of "The Electoral Franchise Act," as the case may be) now shown me. So help me God. 37 V., c. 9, sch., form P.

Z.

Oath of messenger sent to collect the ballot boxes.

I, A. B., of _____, messenger appointed by C. D., returning officer, for the electoral district of _____, in the Province of _____, do solemnly swear (or, if he is one of the persons permitted by law to affirm in civil cases, solemnly affirm) that the several boxes to the number of _____ now delivered by me to the said returning officer have been handed to me by the several deputy returning officers at the present election for the said electoral district (or by—here insert the names of the deputy returning officers who have delivered the said boxes), that they have not been opened by me, or any other person, and that they are in the same state as they were when they came into my possession. (If any change has taken place the deponent shall vary his deposition by fully stating the circumstances).

(Signature), A. B.

Sworn (or affirmed) and subscribed before me, at _____ this day of _____, in the year 18 _____.

(Signature), X. Y.,
Justice of the Peace.
or A. B.,
Returning Officer,
or G. H.,
Deputy Returning Officer.

37 V., c. 9, sch., form PP.

AA.

Oath of the deputy returning officer after the closing of the poll.

I, the undersigned, deputy returning officer for the polling district No. _____, of the electoral district of _____, do solemnly swear (or, if he is one of the persons permitted by law to affirm in civil cases, do solemnly affirm) that to the best of my knowledge and belief, the poll-book kept for the said polling district, under my direction, hath been so kept correctly; and that the total number of votes polled in the said poll-book is _____, and that, to the best of my knowledge and belief, it contains a true and exact record of the votes given at the polling station in the said polling district, as the said votes were taken thereat; that I have faithfully counted the votes given for each candidate, in the manner by law provided, and performed all duties required of me by law, and that the report, poll-book, packets of ballot papers, and other documents required by

law to be returned by me to the returning officer, have been faithfully and truly prepared and placed within the ballot box, as this oath (*or affirmation*) will be, to the end that the said ballot box, being first carefully sealed with my seal, may be transmitted to the returning officer according to law.

(*Signature*), G. H.,
Deputy Returning Officer.

Sworn before me at _____, in the county of _____,
, this _____ day of _____, 18 ____.

(*Signature*), X. Y.,
Justice of the Peace.
or, A. B.,
Returning Officer.

37 V., c. 9, sch., form Q.

BB.

Oath of the poll clerk after the closing of the poll.

I, the undersigned, poll clerk for the polling district No. _____, of the electoral district of _____, do solemnly swear (*or, if he is one of the persons permitted by law to affirm in civil cases, do solemnly affirm*) that the poll-book in and for the said _____ (*as the case may be*), under the direction of G. H., who has acted as deputy returning officer therein, has been so kept by me under his direction as aforesaid, correctly and to the best of my skill and judgment; that the total number of votes polled in the said poll-book is _____; and that to the best of my knowledge and belief, it contains a true and exact record of the votes given at the polling station in the said polling district (*as the case may be*), as the said votes were taken at the said poll by the said deputy returning officer.

(*Signature*), I. J.,
Poll Clerk.

Sworn (*or affirmed*) and subscribed before me, at
this _____, day of _____
in the year 18 ____.

(*Signature*), X. Y.,
Justice of the Peace.
or, A. B.,
Returning Officer.
or, G. H.,
Deputy Returning Officer.

37 V., c. 9, sch., form R.

CC.

Return after a Poll has been taken.

I hereby certify that the member (or members) elected for the electoral district of _____, in pursuance of the within written writ, as having received the majority of votes lawfully given, is (or are) A. B., &c., (names, &c., as in the nomination papers).

(Signed,) R. O.,
Returning Officer.

37 V., c. 9, sch., form S.

SECOND SCHEDULE.
FEES OF RETURNING OFFICERS AND OTHERS.*To returning officers, when no poll is taken.*

1. For the personal services of the returning officer, forty dollars.
2. For the personal services of the election clerk, four dollars.
3. For one constable, if considered necessary, one dollar.
4. For printing proclamations, actual cost.
5. For posting proclamations, not less than four in each polling district, for each mile necessarily travelled from place to place, as allowed to sheriffs on summoning jurors, ten cents.
6. For each mile necessarily travelled by returning officer and election clerk in going to and returning from the place of nomination, ten cents.
7. For use, when a public building is not obtainable, of private building for nomination—actual outlay not exceeding four dollars.

To returning officers when polls are taken.

8. For the personal services of the returning officer, sixty dollars.
9. For the personal services of the election clerk, eight dollars.
10. For services of one constable, if considered necessary at the nomination, one dollar.
11. For printing proclamations, lists of candidates, and directions to voters, actual cost.
12. For posting proclamations (as in item five) per mile, ten cents.

13. For each mile necessarily travelled posting up any advertisement to be so posted up, in appointing and swearing the deputy returning officers, and furnishing them with ballot boxes, ballot papers, envelopes, printed directions for the guidance of voters and lists of voters, ten cents

14. For each mile necessarily travelled for collecting the ballot boxes and lists of voters, used at each poll, and for swearing the deputy returning officers after the close of the poll, ten cents.

15. For each mile necessarily travelled by returning officer and election clerk in going to and returning from the place of nomination, ten cents.

16. For copies of lists of voters duly certified by the proper officer, ten cents per folio of one hundred words.

17. For each certificate of such proper officer, fifty cents.

18. For making up and transmitting returns to the Clerk of the Crown in Chancery, postage and telegrams, actual disbursements.

19. For services necessary under section sixty-three,—a reasonable sum to be determined by the Governor in Council.

20. For use, when a public building is not obtainable, of private building for nomination—outlay not exceeding four dollars.

21. For ballot boxes when furnished by him, and for ballot papers and envelopes, and for any other disbursements absolutely required and not hereinbefore provided for, actual disbursements.

To deputy returning officers.

22. For swearing the poll clerk before and after the polls, one dollar.

23. For taking the polls, four dollars.

24. For services of poll clerk, two dollars.

25. For services of one constable, if considered necessary, one dollar.

26. For mileage of deputy returning officer and poll clerk in going to and returning from the polling station, neither exceeding in any case twenty miles, each mile, ten cents.

27. Actual expenses incurred for the use of polling stations, not exceeding ten dollars in cities, or four dollars in other constituencies.

28. For making compartment or screen in polling-room, not exceeding three dollars. 37 V., c. 9, s. 126, *part.*



CHAPTER 9.

An Act respecting Controverted Elections of Members A. D. 1886. of the House of Commons.

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

SHORT TITLE.

1. This Act may be cited as "*The Dominion Controverted Elections Act.*" 37 V., c. 10, s. 2. Short title.

INTERPRETATION.

2. In this Act, unless the context otherwise requires:— Interpreta-
tion.

(a.) The expression "the Speaker," means the Speaker of the House of Commons; and when the office of Speaker is vacant, or when the Speaker is absent from Canada or is unable to act, the Clerk of the House of Commons, or any other officer for the time being performing the duties of the Clerk of the said House, shall be deemed to be substituted for and included in the expression "the Speaker;" "The
Speaker."

(b.) The expression "member," means a member of the House of Commons of Canada; "Member."

(c.) The expression "election," means an election of a member to serve in the House of Commons of Canada; "Election."

(d.) The expression "electoral district," means an electoral district entitled to return a member or members; "Electoral
district."

(e.) The expression "candidate," means any person elected to serve as a member, and any person who has been nominated as a candidate at an election; "Candidate."

(f.) The expression "corrupt practices," or "corrupt practice," means acts in reference to elections which are declared to be corrupt practices by "*The Dominion Elections Act,*" or any other Act of the Parliament of Canada, or recognized as such by the common law of Parliament; "Corrupt
practices."

(g.) The expression "rules of court," means rules made as hereinafter mentioned; "Rules of
Court."

(h.) The expression "prescribed," means "prescribed by this Act, or by the rules of court made under this Act;" "Prescribed."

(i.) The expression "Clerk of the Court," means the Clerk of the Crown, Chief Clerk, Registrar, or Prothonotary, or any officer of the court prescribed for the purpose in question; "Clerk of the
court."

- "The court." (j.) The expression "the court," as respects elections in the several Provinces hereinafter mentioned, respectively means the courts hereinafter mentioned, or any judges thereof, that is to say:—
- In Ontario. (1.) In the Province of Ontario, the Court of Appeal for Ontario, or the High Court of Justice for Ontario;
- In Quebec. (2.) In the Province of Quebec, the Superior Court for Lower Canada;
- In N. S. (3.) In the Province of Nova Scotia, the Supreme Court of that Province;
- In N. B. (4.) In the Province of New Brunswick, the Supreme Court of that Province;
- In Manitoba. (5.) In the Province of Manitoba, Her Majesty's Court of Queen's Bench of that Province;
- In B. C. (6.) In the Province of British Columbia, the Supreme Court of British Columbia;
- In P. E. I. (7.) In the Province of Prince Edward Island, the Supreme Court of Judicature for that Province;
- In N.W.T. (8.) In the North-West Territories, the Supreme Court of the North-West Territories;

Powers of the court to be as in ordinary cases, when not otherwise provided. And each of the said courts respectively, shall, subject to the provisions of this Act, have the same powers, jurisdiction and authority with reference to an election petition and the proceedings thereon, as if such petition were an ordinary cause within its jurisdiction;

"The Judge." (k) The expression "the Judge," means the judge trying the election petition or performing any duty to which the enactment in which the expression occurs has reference, and the expression "judge" includes the Chief Justice of the Court, and the Chancellor of Ontario. 37 V., c. 10, ss. 3 and 5;—49 V., c. 25, s. 14, *part.*

VENUE.

Venue in Quebec.

3. In the Province of Quebec, the cause of action shall be held to have arisen at the place where the election was held, and the election petition shall be presented to the court in the judicial district in which such place lies. 37 V., c. 10, s. 3, *part.*

ROTA.

Rotation of judges and courts for duty under this Act.

4. The rotation or order in which any duties, assigned by this Act to a single judge, shall be performed by the judges of the court respectively, and in Ontario the distribution of cases under this Act between "The Court of Appeal for Ontario" and the several divisions of "The High Court of Justice for Ontario" shall, if not prescribed by the law of the Province or the practice of the court, be arranged by the judges. 37 V., c. 10, s. 6, *part.*

PETITIONS.

5. A petition complaining of an undue return, or undue election of a member, or of no return, or of a double return, or of any unlawful act by any candidate not returned, by which he is alleged to have become disqualified to sit in the House of Commons, at any election, may be presented to the court by any one or more of the following persons:—

Election petitions. By whom to be made.

(a.) A person who had a right to vote at the election to which the petition relates; or—

(b.) A candidate at such election:

And such petition is, in this Act, called an election petition: Provided always, that nothing herein contained shall prevent the sitting member from objecting under section twelve of this Act, to any further proceeding on the petition by reason of the ineligibility or disqualification of the petitioner, or from proving under section forty-two hereof, that the petitioner was not duly elected. 37 V., c. 10, s. 7.

Proviso: as to objections.

6. A petition under this Act, complaining of no return, may be presented, and shall be deemed to be an election petition within the meaning of this Act, and such order may be made thereon by the court or judge as is deemed expedient for compelling a return to be made; or the court or judge may allow such petition to be tried in the manner herein provided with respect to ordinary election petitions. 37 V., c. 10, s. 65.

Petition complaining of no return.

7. Whenever any election petition complains of the conduct of any returning officer, such returning officer shall, for all the purposes of this Act, except the admission of respondents in his place, be deemed to be a respondent. 37 V., c. 10, s. 64.

When returning officer shall be respondent.

8. Two or more candidates may be made respondents to the same petition, and their cases may, for the sake of convenience, be tried at the same time; but as regards the security required under the next following section of this Act, and for all other purposes of this Act such petition shall be deemed to be a separate petition against each respondent. 37 V., c. 10, s. 41.

Two or more candidates may be respondents.

9. The following provisions are made with respect to the presentation of an election petition under this Act:—

Presentation of election petitions. Form and contents.

(a.) The petition may be in any prescribed form; but if or in so far as no form is prescribed, it need not be in any particular form, but it must complain of the undue election or return of a member, or that no return has been made, or that a double return has been made, or of matter contained in any special return made, or of some such unlawful act as aforesaid by a candidate not returned, and it must be signed by the petitioner, or all the petitioners if there are more than one;

Time for presentation.

(b.) The petition must be presented not later than thirty days after the day of publication in the *Canada Gazette* of the receipt of the return to the writ of election by the Clerk of the Crown in Chancery, unless it questions the return or election upon an allegation of corrupt practices, and specifically alleges a payment of money or other act of bribery to have been committed by any member, or on his account, or with his privity, since the time of such return, in pursuance or in furtherance of such corrupt practice, in which case the petition may be presented at any time within thirty days after the date of such payment or act so committed; and in case any such petition is presented, the sitting member, whose election and return is petitioned against, may, not later than fifteen days after service of such petition against his election and return, file a petition complaining of any unlawful and corrupt act by any candidate at the same election who was not returned and who is not a petitioner, and on whose behalf the seat is not claimed:

How presented.

(c.) Presentation of a petition shall be made by delivering it at the office of the clerk of the court, during office hours, or in any other prescribed manner;

Security to be given.

(d.) At the time of the presentation of the petition, security for the payment of all costs, charges and expenses that may become payable by the petitioner, that is to say:—

(1.) To any person summoned as a witness on his behalf;

or—

(2.) To the member whose election or return is complained of (who is hereinafter referred to as the respondent);

or—

(3.) To the returning officer, if his conduct is complained of; or—

(4.) To the candidate not elected, whose conduct is complained of as aforesaid:

Shall be given on behalf of the petitioner:

Security. Amount of and how given.

(e.) The security shall be to the amount of one thousand dollars, and shall be given by a deposit of money with the clerk of the court;

Gold or Dominion notes.

(f.) The deposit shall not be valid unless it is made in gold coin or Dominion notes, being a legal tender under the Statutes of Canada at the time when the deposit is made;

Receipt for deposit.

(g.) The clerk of the court shall give a receipt for such deposit which shall be evidence of the sufficiency thereof;

Copy of petition to returning officer.

(h.) On the presentation of the petition, the clerk of the court shall send a copy thereof by mail to the returning officer of the electoral district to which the petition relates, who shall forthwith publish the same in such electoral district. 37 V., c. 10, s. 8.

Notice to respondents.

10. Notice of the presentation of a petition under this Act, and of the security, accompanied with a copy of the petition, shall, within five days after the day on which the petition has been presented, or within the prescribed time,

or within such longer time as the court, or any judge thereof, under special circumstances or difficulty in effecting service, allows, be served on the respondent or respondents. If service cannot be effected on the respondent or respondents either personally or at his or their domicile within the time granted by the court or judge, then it may be effected upon such other person, or in such other manner as the court or judge, on the application of the petitioner, directs. 37 V., c. 10, s. 9.

Service of notice.

11. An election petition under this Act, and notice of the date of the presentation thereof, and a copy of the deposit receipt shall be served as nearly as possible in the manner in which a writ of summons is served in civil matters, or in such other manner as is prescribed. 37 V., c. 10, s. 40.

Service to be as in civil matters.

12. Within five days after the service of the petition and the accompanying notice, the respondent may present in writing any preliminary objections or grounds of insufficiency which he has to urge against the petition or the petitioner, or against any further proceeding thereon, and shall, in such case, at the same time, file a copy thereof for the petitioner, and the court or judge shall hear the parties upon such objections and grounds, and shall decide the same in a summary manner. 37 V., c. 10, s. 10.

Preliminary objections to petition.

How decided.

13. Within five days after the decision upon the preliminary objections, if presented and not allowed, or on the expiration of the time for presenting the same, if none are presented, the respondent may file a written answer to the petition, together with a copy thereof for the petitioner; but whether such answer is or is not filed, the petition shall be held to be at issue, after the expiration of the said five days, and the court may, at any time thereafter, upon the application of either party, fix some convenient time and place for the trial of the petition. 37 V., c. 10, s. 11.

Respondent's answer.

Petition at issue.

PRELIMINARY EXAMINATION OF PARTIES.

14. Any party to an election petition, whether petitioner or respondent, may, at any time after such petition is at issue, before or pending the trial thereof, be examined by or before a judge or an examiner, in the manner hereinafter directed, by a party adverse in point of interest, touching any matter raised by such petition; and any party so examined may be further examined on his own behalf, in relation to any matter respecting which he has been examined in chief; and when one of several petitioners or respondents has been so examined, any other petitioner or respondent, united in interest, may be examined on his own behalf, or on behalf of those united with him in interest, to the same extent as the party so examined; but such

When and how parties to petition may be examined.

Proviso. explanatory examination shall be proceeded with immediately after the examination in chief, and not at any future period, except by leave of the court or a judge. 37 V., c. 10, s. 14.

Candidate claiming seat may be examined. 15. Whenever a petition has been filed claiming the seat for a candidate, such candidate, although not a party to the petition, may be orally examined as if he was a petitioner 37 V., c. 10, s. 15.

How examinations shall be conducted. 16. Any party to be examined orally, under the provisions of this Act, shall be so examined by or before a judge, a judge of a county court, a master in chancery, clerk of the crown, or special examiner of the court in which such election petition is pending, or before any barrister-at-law named for the purpose by the court or the judge; and such examination shall take place in the presence of the parties, their counsel, agents or attorneys; and the party so examined orally shall be subject to cross-examination and re-examination; and such examination, cross-examination and re-examination shall be conducted as nearly as possible in the mode now in use in superior courts on a trial of an action or hearing of a cause, or in the Province of Quebec at the trial of a civil cause by a jury. 37 V., c. 10, s. 16.

Form of depositions to be narrative. 17. The depositions taken upon any such oral examination as aforesaid, shall be taken down in writing by the examiner, not ordinarily by question and answer, but in the form of a narrative, and when completed shall be read over to the witness, and signed by him, in the presence of the parties, or of such of them as think fit to attend,—and in case the witness refuses or is unable to sign the said depositions, then the examiner shall sign the same; and such examiner may upon every examination, state any special matter to the court if he thinks fit. It shall be in the discretion of the examiner to put down any particular question or answer, if there appears to be any special reason for so doing; and any question which is objected to shall, at the request of either party, be noticed or referred to by the examiner in or upon the depositions; and he shall state his opinion thereon to the counsel, agents, attorneys or parties; and if requested by either party he shall refer to such statement on the face of the depositions. 37 V., c. 10, s. 17.

Questions may be put down in certain cases.

Depositions to be transmitted to the court. 18. When the examination before the examiner is concluded, the original depositions authenticated by the signature of such examiner, shall be transmitted by him to the office of the court to be there filed; and any party to the petition may have a copy thereof, or of any part or portion thereof, upon payment for the same in such manner as is prescribed by the court in that behalf. 37 V., c. 10, s. 18.

19. The attendance of a party or other person for oral examination or cross-examination before the examiner, may be compelled by a writ of *subpœna ad testificandum* or *duces tecum*, in like manner as the attendance of such party or person at the trial of the petition may be compelled, and any party or person upon being served with such writ shall be bound to attend before the examiner; but such party or person shall be entitled to the like payment for attendance and expenses as if he had been subpœnaed to attend upon the trial. 37 V., c. 10, s. 19.

Compelling attendance of parties or persons to be examined.

20. The sheriff, gaoler or other officer, having the custody of any prisoner, may take such prisoner for examination before the examiner, under the authority of this Act, if so ordered by the court or a judge thereof. 37 V., c. 10, s. 20.

Persons in custody.

21. Forty-eight hours' notice of any such oral examination or cross-examination shall be given to the opposite party or parties. 37 V., c. 10, s. 21.

Notice of examination.

22. Any party or person who refuses or neglects to attend at the time and place appointed for his examination or cross-examination, or who refuses to be sworn or to answer any lawful question put to him by the examiner, or by any person entitled so to do, or his counsel, agent, attorney or solicitor, may be punished as for a contempt of court: Provided always, that if any witness demurs or objects to any question put to him, the question so put, and the demurrer or objection of the witness thereto, shall be taken down by the examiner, and transmitted by him to the officer of the court to be there filed; and the validity of such demurrer or objection shall be decided by the court or judge; and the costs of and occasioned by such demurrer or objection shall be in the discretion of the court or judge. 37 V., c. 10, s. 22.

Neglecting to attend or refusing to answer, to be contempt.

Witness may demur to questions. Question and objection to be taken down.

23. Any party to a petition shall be entitled to use, upon the trial of such petition, depositions taken by or before the examiner, in accordance with the provisions of this Act: Provided, that where such party uses any portion of a deposition so taken, it shall be competent for the party against whom it is used to put in the entire evidence so taken, as well that in chief as that in explanation. 37 V., c. 10, s. 23.

Use of depositions.

Proviso.

PRODUCTION OF DOCUMENTS.

24. Any party to any election petition, whether petitioner or respondent, may, at any time after such petition is at issue, before or pending the trial thereof, obtain a rule or order of the court or of the judge, requiring the adverse party to produce within ten days after the service thereof,

Production, inspection and copies of documents.

under oath, all documents in his custody or power relating to the matters in question, saving all just exceptions; and to deposit the said documents with the clerk of the court; and upon such documents being produced, the party requiring such production, or his agent, attorney or solicitor, may inspect the same and take examined copies thereof: **Proviso; as to just exceptions.** Provided that when any person upon whom a rule or order to produce has been served wishes to avail himself of any such exception as above mentioned, he shall, in his affidavit on production, assign a sufficient reason why he should not produce and deposit the same in manner aforesaid. 37 V., c. 10, s. 24.

Rule for production, how obtained.

25. Such rule shall be a rule in the nature of a side bar rule, and shall issue in vacation as well as in term, and may be obtained on the last as well as other days of term; and such rule or order shall be dated the day of the week, month and year on which the same was drawn up and need not specify any other time or date; and such rule or order may be obtained by the party requiring the same, his agent, attorney or solicitor, from the clerk of the court. 37 V., c. 10, s. 25.

Service of rule.

26. The rule or order for the production of documents shall not require personal service, and it shall be sufficient to serve the same upon the agent, attorney or solicitor of the party. 37 V., c. 10, s. 26.

Affidavit on production.

27. The affidavit on production to be made by the party who has been served with the rule or order for production, may be in the form or to the effect of the schedule to this Act, varied as the facts require. 37 V., c. 10, s. 27.

Penalty for disobedience.

28. Any party who neglects or refuses to obey a rule or order for the production of documents may be punished as for a contempt of court. 37 V., c. 10, s. 28.

TRIAL OF PETITIONS.

List of petitions at issue to be made.

29. The clerk of the court shall, as soon as possible, make out a list of all petitions presented under this Act, and which are at issue, placing them in the order in which they were presented, and shall keep at his office a copy of such list (hereinafter referred to as the election list), open to the inspection of any person making application; and such petitions, as far as conveniently may be, shall be tried in the order in which they stand on such list. 37 V., c. 10, s. 12.

All petitions relating to same election to be bracketed together.

30. When, under this Act, more petitions than one are presented relating to the same election or return, all such petitions shall, in the election list, be bracketed together,

and shall be dealt with, as far as may be, as one petition; but such petitions shall stand in the election list in the place where the last presented of them would have stood if it had been the only one presented as to such election or return, unless the court otherwise orders. 37 V., c. 10, s. 42.

31. Every election petition shall be tried by one of the judges of the court, without a jury: and it shall be competent for the judge, on such trial, to decide any question raised as to the admissibility of the evidence offered, or to receive such evidence under reserve, and subject to adjudication at the final hearing: Trial of petition.

2. The trial of an election petition shall take place in the electoral district, the election or return for which is in question: Provided always, that if it appears to the court that special circumstances exist, which make it desirable that the petition should be tried elsewhere than in such electoral district, the court may appoint such other place for the trial as appears most convenient: Place of trial. Proviso.

3. Notice of the time and place at which an election petition will be tried shall be given in the prescribed manner, not less than fourteen days before that on which the trial is to take place: Notice of trial.

4. The judge at the trial may adjourn the same from time to time, and from any one place to another, in the same electoral district, as to him seems convenient. 37 V., c. 10, s. 13. Adjournments.

32. The trial of every election petition shall be commenced within six months from the time when such petition has been presented and shall be proceeded with from day to day until such trial is over; but if at any time it appears to the court or a judge, that the respondent's presence at the trial is necessary, such trial shall not be commenced during any session of Parliament; and in the computation of any time or delay allowed for any step or proceeding in respect of any such trial, or for the commencement thereof as aforesaid, the time occupied by such session of Parliament shall not be included: When trial shall be commenced.

2. If, at the expiration of three months after such petition has been presented, the day for trial has not been fixed, any elector may, on application, be substituted for the petitioner on such terms as the court or a judge thinks just. 38 V., c. 10, s. 1 and s. 2, *part*. Substitute for petitioner in case of delay.

33. The court or a judge may, notwithstanding anything in the next preceding section, from time to time enlarge the time for the commencement of the trial, if, on an application for that purpose supported by affidavit, it appears to such court or judge that the requirements of justice render such enlargement necessary: Enlargement.

No trial during term.

2. No trial of an election petition shall be commenced or proceeded with during any term of the court of which the judge who is to try the same is a member, and at which such judge is by law bound to sit. 38 V., c. 10, s. 2, *part.*

Reception and attendance of judge.

34. The judge shall be received and attended at the place where he is about to try an election petition under this Act, if he is not resident there, in the same manner, so far as circumstances will admit, as if he were about to hold a sitting of the Provincial court of which he is a member. 37 V., c. 10, s. 46.

Powers of the judge.

35. On the trial of an election petition and in other proceedings under this Act, the judge shall, subject to the provisions of this Act, have the same powers, jurisdiction and authority as a judge of one of the superior courts for the Province in which such election was held, sitting in term, or presiding at the trial of an ordinary civil suit, and the court held by him for such trial shall be a court of record. 37 V., c. 10, s. 48.

Inquiry as to corrupt practices.

36. Unless the judge otherwise directs, any charge of corrupt practices may be gone into, and evidence in relation thereto received, before any proof has been given of agency on the part of any candidate in respect of such corrupt practices. 37 V., c. 10, s. 37.

Witnesses how summoned and sworn.

37. Witnesses shall be subpœnaed and sworn in the same manner, as nearly as circumstances admit, as in cases within the jurisdiction of the superior courts in the same Province. 37 V., c. 10, s. 49.

Compelling attendance of witnesses.

38. On the trial of an election petition under this Act, the judge may, by order under his hand, compel the attendance of any person as a witness who appears to him to have been concerned in the election to which the petition relates; and any person who refuses to obey such order is guilty of contempt of court :

Examination.

2. The judge may examine and re-examine any witness so compelled to attend or any person present, although such witness or person is not called and examined by any party to the petition; and after the examination of a witness as aforesaid by the judge, such witness may be cross-examined by or on behalf of the petitioner and respondent, or either of them. 37 V., c. 10, s. 50.

Witness not to be excused from answering by any privilege.

39. No person shall be excused from answering any question put to him under this Act, touching or concerning any election, or the conduct of any person thereat, or in relation thereto, on the ground of any privilege, or that the answer to such question will tend to criminate such person; but no answer given by any person claiming to be excused on

Proviso: as to use of answers.

the ground of privilege, or that such answer will tend to criminate himself, shall be used in any criminal proceeding against any such person, other than an indictment for perjury, if the judge gives to the witness a certificate that he claimed the right to be excused on the grounds aforesaid, and made full and true answers to the satisfaction of the judge. 37 V., c. 10, s. 52.

40. The reasonable expenses incurred by any person in appearing to give evidence at the trial of an election petition under this Act, according to the scale allowed to witnesses on the trial of civil actions in the superior courts in the same Province, may be allowed to such person by a certificate under the hand of the judge or of the clerk of the court; and such expenses, if the witness was called and examined by the judge, shall be deemed part of the expenses of providing a court, and in other cases shall be deemed costs of the party calling the witness, and shall be taxed against such party interested in the trial of such petition, as the judge determines. 37 V., c. 10, s. 53.

Expenses of witnesses.

How paid.

41. The judge may, in his discretion, employ a short-hand writer to take down the oral evidence given by witnesses at the trial of the petition; and the expense of employing such short-hand writer shall be costs in the case. 37 V., c. 10, s. 51.

Short-hand writer may be employed to take down oral evidence.

42. On the trial of a petition under this Act complaining of an undue return and claiming the seat for any person, the respondent may give evidence to show that the election of such person was undue in the same manner as if he had presented a petition complaining of such election. 37 V., c. 10, s. 66.

If the seat is claimed for person not returned.

JUDGE'S REPORT.

43. At the conclusion of the trial the judge shall determine whether the member whose election or return is complained of or any and what other person was duly returned or elected, or whether the election was void, and other matters arising out of the petition, and requiring his determination,—and shall, except only in the case of appeal hereinafter mentioned, within four days after the expiration of eight days from the day on which he shall so have given his decision, certify in writing such determination to the Speaker, appending thereto a copy of the notes of the evidence; and the determination thus certified shall be final to all intents and purposes. 37 V., c. 10, s. 29;—38 V., c. 10, s. 3.

Decision and certificate of judge.

To be certified to Speaker.

44. When any charge is made in an election petition of any corrupt practice having been committed at the election

Judge's report if corrupt practices are charged.

to which the petition relates, the judge shall, in addition to such certificate, and at the same time, report in writing to the Speaker, as follows:—

(a.) Whether any corrupt practice has or has not been proved to have been committed by or with the knowledge and consent of any candidate at such election, stating the name of such candidate, and the nature of such corrupt practice;

(b.) The names of any persons who have been proved at the trial to have been guilty of any corrupt practice;

(c.) Whether corrupt practices have, or whether there is reason to believe that corrupt practices have extensively prevailed at the election to which the petition relates;

(d.) Whether he is of opinion that the inquiry into the circumstances of the election has been rendered incomplete by the action of any of the parties to the petition, and that further inquiry as to whether corrupt practices have extensively prevailed is desirable. 37 V., c. 10, s. 30;—39 V., c. 10, s. 1.

Special report at his discretion.

45. The judge may, at the same time, make a special report to the Speaker as to any matters arising in the course of the trial, an account of which ought, in his judgment, to be submitted to the House of Commons. 37 V., c. 10, s. 31.

PROCEEDINGS OF SPEAKER UPON JUDGE'S REPORT.

Speaker's duty on receiving judge's certificate.

46. The Speaker shall, at the earliest practicable moment after he receives the certificate and report or reports, if any, of the court or judge, give the necessary directions and adopt all the proceedings necessary for confirming or altering the return, or except as hereinafter mentioned, for the issuing of a writ for a new election (for which purpose the Speaker may address his warrant, under his hand and seal, to the Clerk of the Crown in Chancery), or for otherwise carrying the determination into execution, as circumstances require. 37 V., c. 10, s. 36, *part*.

To inform the House.

47. The Speaker shall, without delay, communicate to the House of Commons the determination, report and certificate of the court or judge, and his own proceedings thereon; and when the judge makes a special report, the House of Commons may make such order in respect of such special report, as they think proper. 37 V., c. 10, s. 36, *part*.

If there is a special report.

When the judge reports his opinion that corrupt practices have prevailed, &c.,

48. When the judge, in his report on the trial of an election petition under this Act, states that corrupt practices have, or that there is reason to believe that corrupt practices have extensively prevailed at the election to which the

petition relates, or that he is of opinion that the inquiry into the circumstances of the election has been rendered incomplete by the action of any of the parties to the petition, and that further inquiry as to whether corrupt practices have extensively prevailed is desirable, no new writ shall issue for a new election in such case except by order of the House of Commons. 39 V., c. 10, s. 2.

new writ to issue only on order of the House of Commons.

SPECIAL CASE.

49. When, upon the application of any party to an election petition duly made to the judge, it appears to such judge, that the case raised by the petition can be conveniently stated as a special case, such judge may direct the same to be so stated; and any such special case shall, as far as possible, be heard before such judge, who shall thereupon give such judgment as to justice appertains; and in case the decision is final the judge shall certify to the Speaker his decision on such special case, in the manner and within the time specified in section forty-three of this Act. 37 V., c. 10, s. 32.

Special case may be stated.

Proceedings thereupon.

APPEALS.

50. An appeal shall lie to the Supreme Court of Canada under this Act by any party to an election petition who is dissatisfied with the decision of the court or a judge:—

Appeal to Supreme Court.

(a) From the judgment, rule, order or decision of any court or judge on any preliminary objection to an election petition, the allowance of which objection has been final and conclusive and has put an end to such petition, or which objection if it had been allowed would have been final and conclusive and have put an end to such petition: Provided always that, unless the court or judge appealed from otherwise orders, an appeal in the last mentioned case shall not operate as a stay of proceedings, nor shall it delay the trial of the petition;

From judgment on preliminary objection.

Proviso.

(b.) From the judgment or decision on any question of law or of fact of the judge who has tried such petition. 38 V., c. 11, s. 48, *part*;—42 V., c. 39, s. 10.

From judgment on question of law or fact.

51. The party so desiring to appeal shall, within eight days from the day on which the court or judge has given such decision, deposit with the clerk of the court which gave such decision or of which the judge who gave such decision is a member or with the proper officer for receiving moneys paid into such court, at the place where the hearing of the preliminary objections or where the trial of the petition took place, as the case may be, if in the Province of Quebec, and at the chief office of the said court, if in any other Province, the sum of one hundred dollars as security for costs, and also a further sum of ten dollars as a fee for

Deposit in case of appeal.

making up and transmitting the record to the Supreme Court of Canada :

Transmission of record to Supreme Court.

2. Upon such deposit being so made the said clerk or other proper officer shall make up and transmit the record of the case to the registrar of the Supreme Court of Canada, who shall set down the said appeal for hearing by the Supreme Court of Canada at the nearest convenient time and according to any rules of the Supreme Court of Canada in that behalf made under "*The Supreme and Exchequer Courts Act*."

Preliminary proceedings in appeal.

3. The party so appealing shall, within three days after the said appeal has been so set down as aforesaid or within such further time as the court or judge by whom such decision appealed from was given or by whom the petition was tried allows, give to the other parties to the said petition affected by such appeal, or the respective attorneys, solicitors or agents by whom such parties were represented on the hearing of such preliminary objections or at the trial of the petition, as the case may be, notice in writing of such appeal having been so set down for hearing as aforesaid and may in such notice if he so desires, limit the subject of the said appeal to any special and defined question or questions ; and the appeal shall thereupon be heard and determined by the Supreme Court of Canada, which shall pronounce such judgment upon questions of law or of fact, or both, as in the opinion of such court ought to have been given by the court or judge whose decision is appealed from ; and the Supreme Court of Canada may make such order as to the money deposited as aforesaid, and as to the costs of the appeal as it thinks just ; and in case it appears to the court that any evidence duly tendered at the trial was improperly rejected, the court may cause the witness to be examined before the court or a judge thereof, or upon commission :

Appeal to be heard and determined, by Supreme Court.

Report to the Speaker.

4. The registrar shall certify to the Speaker of the House of Commons the judgment and decision of the court upon the several questions as well of fact as of law, upon which the court or judge appealed from might otherwise have determined and certified his decision in pursuance of this Act, in the same manner as the said court or judge should otherwise have done, and with the same effect ; and the judgment and decision of the Supreme Court of Canada shall be final. 38 V., c. 11, s. 25, *part*, and s. 48, *part*.

Decision to be final.

COSTS.

Costs of proceedings under this Act.

52. All costs, charges and expenses of and incidental to the presentation of an election petition under this Act, and to the proceedings consequent thereon, with the exception of such costs, charges and expenses as are by this Act otherwise provided for, shall be defrayed by the parties to or those opposing the petition, in such manner and in such

proportions as the court or judge determines—regard being had to the disallowance of any costs, charges or expenses which, in the opinion of the court or judge, have been caused by vexatious conduct, unfounded allegations or unfounded objections, on the part either of the petitioner or the respondent, and regard being had to the discouragement of any needless expense by throwing the burden of defraying the same on the parties by whom it has been caused, whether such parties are or are not on the whole successful:

2. The costs may be taxed in the prescribed manner, but according to the same principles as costs are taxed between parties in actions in the superior courts, and such costs shall be recoverable in the same manner as the costs in the said actions in the same Province, or in such other manner as is prescribed. 37 V., c. 10, s. 60.

53. If costs are awarded in favor of any party against any petitioner, such party shall, after the expiration of thirty days from the rendering of the decision by the judge, or, in case of an appeal, by the Supreme Court of Canada, upon the production of a certificate of taxation from the proper officer, be entitled to receive out of the deposit the amount taxed to him as aforesaid, if the aggregate of the costs taxed against the said petitioner, certificates whereof are within the said period of thirty days filed with the registrar, clerk or other proper officer, does not exceed the deposit, or if the total amount of the said certificates so filed as aforesaid exceeds the deposit, then his proportion thereof; and in the event last aforesaid, such party shall be entitled forthwith to issue execution, according to the practice in ordinary cases, against the petitioner's goods or lands, for the residue of the costs so taxed to him as aforesaid. 37 V., c. 10, s. 61.

54. In appeals under this Act, to the Supreme Court of Canada, the said court may adjudge the whole or any part of the costs in the court below to be paid by either of the parties; and any order directing the payment of such costs shall be certified by the registrar of the Supreme Court of Canada to the court in which the petition was filed, and the same proceedings for the recovery of such costs may thereupon be taken in the last mentioned court as if the order for payment of costs had been made by that court or by the judge before whom the petition was tried. 39 V., c. 26, s. 16.

55. If, on the trial of any election petition under this Act, it is determined that the election is void by reason of any act of an agent committed without the knowledge and consent of the candidate, and that costs should be awarded to the petitioner in the premises, the agent may be condemned to pay such costs; and the court or judge shall order that such agent shall be summoned to appear at a time

fixed in such summons, in order to determine whether such agent shall be condemned to pay such costs :

If he does not appear.

2. If, at any time, so fixed, the agent so summoned does not appear, he shall be condemned, on the evidence already adduced, to pay the whole or a due proportion of the costs awarded to the petitioner ; and if he appears, the court or judge after hearing the parties and such evidence as is adduced, shall give such judgment as to law and justice appertains :

If he appears.

Process to recover costs.

3. The petitioner shall have process to recover such costs against such agent in like manner as he might have such process against the respondent ; and no process shall issue against the respondent to recover such costs until after the return of process against such agent. 38 V., c. 10, s. 4.

WITHDRAWAL AND ABATEMENT OF ELECTION PETITIONS.

Withdrawal of petitions, to be by leave of the court or the judge.

56. No election petition under this Act shall be withdrawn without the leave of the court or judge (according as the petition is then before the court or before the judge for trial) upon special application made in and at the prescribed manner, time and place :

To be after notice.

2. No such application shall be made until the prescribed notice has been given, in the electoral district to which the petition relates, of the intention of the petitioner to make an application for the withdrawal of his petition :

Substitution of a petitioner.

3. On the hearing of the application for withdrawal, any person, who might have been a petitioner in respect of the election to which the petition relates, may apply to the court or judge to be substituted as a petitioner for the petition so desirous of withdrawing the petition :

Additional security may be ordered in certain cases.

4. The court or judge may, if it or he thinks fit, substitute as petitioner any such applicant as aforesaid, and may also, if the proposed withdrawal is, in the opinion of the court or judge, induced by any corrupt bargain or consideration, by order direct that the security given on behalf of the original petitioner shall remain as security for any costs that may be incurred by the substituted petitioner, and that, to the extent of the sum named in such security, the original petitioner shall be liable to pay the costs of the substituted petitioner :

If not ordered.

5. If no such order is made with respect to the security given on behalf of the original petitioner, security to the same amount as would be required in the case of a new petition, and subject to the like conditions, shall be given on behalf of the substituted petitioner before he proceeds with his petition, and within the prescribed time after the order of substitution :

Effect of substitution.

6. Subject as aforesaid, a substituted petitioner shall stand in the same position, as nearly as may be, and be subject to the same liabilities as the original petitioner :

7. If a petition is withdrawn, the petitioner shall be liable to pay the costs of the respondent, unless the court or judge otherwise orders: Costs.

8. When there are more petitioners than one, no application to withdraw a petition shall be made except with the consent of all the petitioners. All petitioners must join in withdrawal. 37 V., c. 10, s. 54.

57. In every case of withdrawal of an election petition, under this Act, if the court or judge is of opinion that the withdrawal of such petition was the result of any corrupt arrangement or in consideration of the withdrawal of any other petition, the court or judge shall report such opinion to the Speaker, stating the reasons therefor and the circumstances attending the withdrawal. Report to Speaker if withdrawal is corrupt. 37 V., c. 10, s. 55.

58. An election petition under this Act shall be abated by the death of a sole petitioner, or of the survivor of several petitioners: Abatement by death of petitioner.

2. The abatement of a petition shall not affect the liability of the petitioner for the payment of costs previously incurred: Costs.

3. On the abatement of a petition, the prescribed notice of such abatement having taken place shall be given in the electoral district to which the petition relates; and within the prescribed time after the notice is given, any person who might have been a petitioner in respect of the election to which the petition relates, may apply to the court or judge, in the prescribed manner, and at the prescribed time and place, to be substituted as a petitioner: Notice of abatement.

4. The court or judge may, if it or he thinks fit, substitute as a petitioner any such applicant who is desirous of being substituted, and on whose behalf security to the same amount is given as is required in the case of a new petition. Substitution of new petitioner. 37 V., c. 10, s. 56.

59. If before or during the trial of any election petition under this Act, any of the following events happens in the case of the respondent, that is to say,— Abatement by death, &c., of respondent.

(a.) If he dies;

(b.) If the House of Commons has resolved that his seat is vacant;

(c.) If he gives notice to the court or judge in and at the prescribed manner and time, that he does not intend to oppose or further to oppose the petition;

(d.) If he is summoned to Parliament as a member of the Senate,—

Notice of such event having taken place shall be given in the electoral district to which the petition relates; and within the prescribed time after the notice is given any person who might have been a petitioner in respect of the election to which the petition relates, may apply to the New respondent.

court or judge to be admitted as a respondent to oppose the petition or so much thereof as remains undisposed of, and such person shall, on such application, be admitted accordingly to oppose such petition or such undisposed of portion thereof, either with the respondent, if there is one, or in place of the respondent; and any number of persons, not exceeding three, may be so admitted; and if either of such events happens during the trial, the judge shall adjourn the same, in order that notice that such event has happened may be given as herein provided; and the person or persons so admitted shall be subject to the same liability as the respondent with respect to any costs thereafter incurred. 37 V., c. 10, s. 57.

Adjournment
of trial.

Liability of
new respon-
dent.

Respondent
not opposing
petition.

60. A respondent who has given the prescribed notice that he does not intend to oppose or further oppose the petition, shall not be allowed to appear or act as a party against such petition in any proceedings thereon, and shall not sit or vote in the House of Commons until the House has been informed of the report on the petition; and the court or judge shall, in all cases in which such notice has been given in the prescribed time and manner, report the same to the Speaker. 37 V., c. 10, s. 58.

Double
return, and
respondent
not opposing.

61. When an election petition under this Act complains of a double return, and the respondent has given notice in the prescribed time and manner that it is not his intention to oppose the petition, and no party has been admitted, in pursuance of this Act, to oppose the petition, then the petitioner, if there is no petition complaining of the other member returned on such double return, may withdraw his petition, by notice addressed to the prescribed officer, and upon such withdrawal, the prescribed officer shall report the fact to the Speaker, and the House of Commons shall, thereupon, give the necessary directions for amending the said double return, in such manner as the case requires. 37 V., c. 10, s. 59.

RULES OF COURT.

Judges of the
court to make
rules.

62. The judges of the several courts in each Province respectively, or a majority of them, may, from time to time, make, revoke and alter general rules and orders (in this Act referred to as rules of court), for the effectual execution of this Act and of the intention and object thereof, and the regulation of the practice and procedure and costs with respect to election petitions and the trial thereof, and the certifying and reporting thereon:

Their effect.

2. Any general rules and orders made as aforesaid, and not inconsistent with this Act, shall be deemed to be within the powers conferred by this Act, and shall, while unre-
voked, be of the same force as if they were herein enacted:

3. Any general rules and orders made in pursuance of this section, shall be laid before the House of Commons within three weeks after they are made, if Parliament is then sitting, and if Parliament is not then sitting, within three weeks after the beginning of the then next session of Parliament. 37 V., c. 10, s. 44.

To be laid before the House of Commons.

63. Until rules of court have been made by the judges of the several courts in each Province in pursuance of this Act, and so far as such rules do not extend, the principles, practice and rules on which election petitions touching the election of members of the House of Commons in England were, on the twenty-sixth day of May, one thousand eight hundred and seventy-four, dealt with, shall be observed so far as consistently with this Act they can be observed by the said courts and the judges thereof. 37 V., c. 10, s. 45.

Practice in cases not provided for.

GENERAL PROVISIONS.

64. The court or a judge shall, upon sufficient cause being shown, have power on the application of any of the parties to a petition, to extend, from time to time, the period limited by this Act for taking any steps or proceedings by such party. 37 V., c. 10, s. 43

Extension of time may be given.

65. The travelling expenses of the judge, and all expenses incurred by the sheriff or other officer in consequence of any sitting for the trial of an election petition, and providing a court room and accessories, shall be defrayed in like manner as ordinary travelling expenses of the judge in the Province are payable by Canada. 37 V., c. 10, s. 47.

Travelling and other expenses.

66. Every person who, according to the law of the Province in which the petition is to be tried, is entitled to practise as an attorney-at-law or solicitor, before the superior courts of such Province, may practise as attorney, solicitor or agent, and any person who, according to such law, is entitled to practise as a barrister-at-law or advocate before such courts, may practise as counsel, in the case of such petition, and all matters relating thereto, before the court or judge in such Province. 37 V., c. 10, s. 67;—38 V., c. 10, s. 7.

Who may practise in cases under this Act.

67. An election petition may be presented, and the trial of an election petition under this Act shall be proceeded with, notwithstanding the acceptance by the respondent of an office of profit under the Crown, or the resignation of his seat, but the respondent may, notwithstanding anything in this or any other Act contained, accept office at any time

Provision as to acceptance of office, &c.

after the election, subject always to the provisions of the ninth section of "*The Act respecting the House of Commons.*" 37 V., c. 10, s. 38, *part.*

To what elections this Act applies.

68. All elections shall be subject to the provisions of this Act, and shall not be questioned otherwise than in accordance herewith. 37 V., c. 10, s. 63, *part.*

SUMMARY TRIAL OF CORRUPT PRACTICES AT ELECTIONS.

Persons appearing to the judge to have committed corrupt practices, to be summoned to appear for summary trial.

69. If, on the trial of an election petition relating to the election of a member of the House of Commons, it is determined that any person has been guilty of a corrupt practice within the meaning of this Act, or if, on such trial, there is in the opinion of the judge sufficient evidence available that any person has been guilty of such corrupt practice as aforesaid to warrant his being put on his trial, the judge shall order that such person shall be summoned to appear at a time and place to be fixed in such summons,—the time not being more than thirty days from the date of the summons, and the place being the nearest convenient court house or other available room,—in order to be summarily tried for the offence, which shall be specified in the summons. 39 V., c. 9, s. 1.

May be bound by recognizance so to appear.

70. The judge may, by recognizance, bind such person to appear at the said time and place to be tried, and may, by recognizance, bind any person whom he considers necessary to be examined touching the matter, to attend at the said time and place, and give evidence upon the trial; and any such recognizance shall be of the same effect, and any forfeiture thereof shall be enforced in the like manner, and any refusal to enter into the same shall entail the same consequences, as if the recognizance had been given or required in any of the superior courts having criminal jurisdiction within the Province in which the election was held. 39 V., c. 9, s. 2.

Issue of the summons to be reported by the judge.

71. The judge shall, forthwith after the issue thereof, report to the secretary of the Province in which the election was held, for the information of the Lieutenant Governor, and also to the Secretary of State of Canada for the information of the Governor General, the fact of the issuing of such summons. 39 V., c. 9, s. 3.

Witnesses to be summoned and by whom.

72. The county attorney, or other officer on whom in case the person had been charged with an indictable offence the like duty would have devolved, shall subpoena to attend at the trial the witnesses who, at the trial of the election petition, deposed to any facts material to the charge, and

such other witnesses as he thinks requisite to prove the charge. 39 V., c. 9, s. 4.

73. The Attorney General of Canada shall instruct Counsel for prosecution to assist the local authorities in the due prosecution of the accused. 39 V., c. 9, s. 5.

74. If the accused, being duly served a reasonable time before the time fixed for the trial, or being bound by recognizance to appear to be tried, fails to appear at the time and place fixed for the trial, the trial may be proceeded with in his absence. 39 V., c. 9, s. 6.

75. The judge, or, if he is unable to attend, then at his request some other judge competent under this Act to try an election petition for any district of the Province within which the electoral district in question is situate, or being one of the judges of a superior court having criminal jurisdiction within such Province, shall, without a jury and in a summary manner, try the accused, and shall, after hearing the counsel for the prosecution and also (if the accused is present), such accused or his counsel, and also such evidence as is adduced on either side, give such judgment as to law and justice appertains. 39 V., c. 9, s. 7.

76. The judge shall be received and attended at the trial in the same manner, as far as circumstances admit, as if he were holding a sitting of the Provincial court of which he is a member. 39 V., c. 9, s. 8.

77. The travelling expenses of the judge and any expenses necessarily incurred by the sheriff or other officer in connection with the trial, shall be defrayed out of any moneys provided by Parliament for the purpose. 39 V., c. 9, s. 9.

78. The judge trying the accused is, for all the purposes of such trial and the proceedings connected therewith, or relating thereto, hereby constituted a court of record, under the name of "*The Court for the summary trial of corrupt practices at Elections,*" and shall, subject to the provisions of this Act, have the same powers, jurisdiction and authority as if he were sitting in any superior court having criminal jurisdiction within the Province; and the record of any such case shall be filed among the records of such superior court, as indictments are and as part of such records. 39 V., c. 9, s. 10.

79. Witnesses shall be summoned or subpœnaed and sworn in the same manner as nearly as circumstances

admit, as in cases in a superior court having criminal jurisdiction within the Province. 39 V., c. 9, s. 11.

Witnesses bound to attend and give evidence.

80. Any witness, summoned or subpoenaed to attend and give evidence at the trial, whether for or against the accused, shall be bound to attend, and remain in attendance throughout the whole trial; and if he fails so to do, he shall be held guilty of contempt of court and may be proceeded against therefor accordingly. 39 V., c. 9, s. 12.

Proceedings in case of witnesses disobeying the order of the court.

81. Upon proof to the satisfaction of the judge of the service of the subpoena upon any witness who fails to attend, and that the presence of such witness is material to the ends of justice, he may, by his warrant, cause such witness to be apprehended and forthwith brought before him to give evidence and to answer for his disregard of the subpoena; and such witness may be detained on such warrant before the judge or in the common gaol with a view to secure his presence as a witness, or in the discretion of the judge he may be released on a recognizance with or without sureties conditioned for his appearance to give evidence and to answer for his default in not attending as for a contempt:

Fine and imprisonment for contempt.

2. The judge may, in a summary manner, examine into and dispose of the charge of contempt against such witness, who, if found guilty thereof, shall be liable to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding ninety days, with or without hard labor, or to both. 39 V., c. 9, s. 13.

Punishment of offender if convicted.

82. In case of conviction of a corrupt practice the offender shall be sentenced to imprisonment in the common gaol for a term not exceeding three months with or without hard labor and to a fine not exceeding two hundred dollars and to pay the costs of the prosecution—which shall be taxed by the proper officer under the direction of the judge; and if the said fine and costs are not paid before the expiration of such term, then to imprisonment for such further time as they remain unpaid, not exceeding three months. 39 V., c. 9, s. 14.

Application of fines.

83. All fines recovered under this Act shall belong to Her Majesty for the public uses of Canada. 39 V., c. 9, s. 15.

Provision, if offender has been already tried.

84. No such summons, in respect of a corrupt practice, shall be issued or prosecuted if it appears to the court or judge that a criminal prosecution for the same matter against the same person has been tried before the issue of the summons. 39 V., c. 9, s. 16.

Pending prosecution stayed.

85. Upon the issue of any such summons, any criminal prosecution pending in any other court in respect of the same matter shall be stayed. 39 V., c. 9, s. 17.

86. No person tried under the provisions of this Act for any such corrupt practice shall be subject to be otherwise criminally prosecuted in respect of the same matter; but nothing in this section contained shall affect any disqualification imposed on such person under the operation of any statute. 39 V., c. 9, s. 18.

Offender not to be twice tried.
Proviso: as to disqualification.

SCHEDULE.

(Form of Affidavit on production of Books and Papers.)

In the (name of Court)

Election for holden on the day of A.D.

I, of make oath and say:—

1. That I have in my possession or power the documents relating to the matters in question set forth in the first and second parts of the first schedule hereto annexed;

2. I object to produce the said documents set forth in the second part of the said first schedule;

3. (*State upon what grounds objection is made, and verify the facts as far as may be*);

4. I have had, but have not now, in my possession or power the documents relating to the matters in question set forth in the second schedule hereto annexed;

5. The last mentioned documents were last in my possession or power on (*state when*);

6. (*State what has become of the last mentioned documents, to whom they have been given, and in whose possession they now are*);

7. According to the best of my knowledge, remembrance, information and belief, I have not now, and never had in my own possession, custody or power, or in the possession, custody or power of my agents or attorneys, agent or attorney, or in the possession, custody or power of any other person on my behalf, any deed, account, book of accounts, minutes, voucher, receipt, letter, memorandum, paper, or writing, or any copy of or extract from any such document or other document whatever, relating to the matters in question, or any of them, or wherein any entry has been made relative to such matters, or any of them, other than and except the documents set forth in the first and second schedule hereto annexed.

Sworn, &c.

(*Annex the schedules mentioning the documents in question.*)

37 V., c. 10, schedule.



CHAPTER 10.

An Act respecting inquiries as to Corrupt Practices at A.D. 1886.
Elections of Members of the House of Commons.

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

1. Whenever the House of Commons, by address, represents to the Governor General that a judge in his report on the trial of an election petition under "*The Dominion Controverted Elections Act*," states that corrupt practices have, or that there is reason to believe that corrupt practices have extensively prevailed at the election, or that he is of opinion that the inquiry into the circumstances of the election has been rendered incomplete by the action of any of the parties to the petition, and that further inquiry as to whether corrupt practices have extensively prevailed is desirable,—or whenever the House of Commons by address represents to the Governor General that a petition has been, within sixty days after the publication in the *Canada Gazette* of the receipt of the return to a writ of election, by the Clerk of the Crown in Chancery (if Parliament is sitting at the expiration of the period of sixty days, or, if Parliament is not then sitting, within fourteen days after the then next meeting of Parliament), presented to the House of Commons, signed by any twenty-five or more electors of the district, stating that no petition charging the existence of corrupt practices has been presented under "*The Dominion Controverted Elections Act*," and that corrupt practices have, or that there is reason to believe that corrupt practices have, extensively prevailed at the election, and having annexed thereto a solemn declaration under the statute in that behalf, signed by the petitioners, stating that they are such electors, and that the allegations of the petition are true to the best of their knowledge and belief,—and when the House of Commons, by such address, prays the Governor General to cause inquiry to be made under this Act by one or more judges of the Supreme Court of Canada, or by one or more judges competent under "*The Dominion Controverted Elections Act*," to try an election petition in the Province within which the district in question is situate, or by one or more persons named in such address,—such persons being county court judges, or being barristers-at-law or advocates of not less than seven years standing, and not holding any office or place of profit under the Crown,—the Governor General may appoint one or

On address from House of Commons for inquiry as to corrupt practices at an election, Commission of inquiry to issue.

Who may be appointed commissioners.

In case of
decease or
inability of
any commis-
sioners, sur-
viving or con-
tinuing com-
missioners to
act.

more of such judges or such person or persons, as the case may be, to be a commissioner or commissioners for the purpose of making inquiry into the existence of such corrupt practices; and if any of the commissioners so appointed die, resign or become incapable to act, the surviving or continuing commissioners or commissioner may act in such inquiry as if they or he had been solely appointed to be commissioners or a commissioner for the purposes of such inquiry; and all the provisions of this Act concerning the commissioners appointed to make any such inquiry shall be taken to apply to such surviving or continuing commissioners or commissioner, and in case a sole commissioner is originally appointed, then to such sole commissioner. 39 V., c. 10, s. 3.

Commis-
sioners' oath
of office.

2. Every commissioner shall, before taking any other step under this Act, take an oath in the form following, that is to say:—"I, A.B, do swear that I will truly and faithfully execute the powers and trusts vested in me by the '*Act respecting inquiries as to corrupt practices at elections of Members of the House of Commons,*' according to the best of my knowledge and judgment. So help me God;" and every such oath shall be taken before a judge of the Supreme Court of Canada or before a judge competent to try an election petition for any district of the Province within which the district in question is situate. 39 V., c. 10, s. 4.

Before whom
to be taken.

Secretary to
commission.

3. The commissioners may appoint, and at their pleasure dismiss, a secretary, and so many clerks, messengers and officers as are thought necessary by the Minister of Justice for the purpose of conducting the inquiry to be made by them; and the remuneration of such persons shall be fixed by the Governor in Council. 39 V., c. 10, s. 5.

Proceedings
of commis-
sioners.

4. The commissioners shall, upon their appointment, or within a reasonable time afterwards, from time to time, hold meetings for the purposes of the inquiry at some convenient place within the district or within ten miles thereof, and may adjourn such meetings from time to time, and from place to place within the district or within ten miles thereof, as to them seems expedient; and they shall give notice of their appointment and of the time and place of holding their first meeting by publishing the same in two newspapers in general circulation in the district or the neighborhood thereof: Provided always, that they shall not adjourn the inquiry for any period exceeding one week, without the approbation of the Minister of Justice; and they may, with the approbation of the Minister of Justice, hold meetings for the purposes of deliberation, in the capital city of the Province within which the district is situate, or in the city of Ottawa, and adjourn the same, from time to time, as they deem proper. 39 V., c. 10, s. 6.

Notice.

Proviso: as to
adjourn-
ments, and as
to place of
sitting.

5. The commissioners shall, by all such lawful means as to them appear best, with a view to the discovery of the truth, inquire into the manner in which the election, or if the report or petition has referred to two or more elections, the latest of such elections, has been conducted, and whether any corrupt practices have been committed at such election, and if so the nature and particulars of such corrupt practices; and if they find that corrupt practices have been committed at the election into which they are hereinbefore authorized to inquire, they may make the like inquiries concerning the latest previous election, and so, in like manner, from election to election as far back as they think fit; but if, upon inquiry concerning any election, they do not find that corrupt practices have been committed thereat, they shall not inquire concerning any previous election; and they shall, from time to time, report to the Governor General the evidence taken by them, and what they find concerning the premises; and especially they shall report with respect to each election the names of all persons whom they find to have been guilty of any corrupt practice thereat, with the particulars thereof, and all other things whereby in their opinion the truth may be better known touching the premises. 39 V., c. 10, s. 7.

Duties of commissioners.

In certain cases inquiry may extend to former elections.

But in such cases only.

Report to the Governor and particulars to be contained in it.

6. Every report shall be laid before Parliament within fourteen days after such report is made, if Parliament is sitting at the expiration of the said period of fourteen days, or if Parliament is not then sitting, within fourteen days after the then next meeting of Parliament. 39 V., c. 10, s. 8.

Report to be laid before Parliament.

7. The commissioners may, by a summons under their hands and seals, or under the hand and seal of any one of them, require the attendance before them, at a place and reasonable time specified in the summons, of any person whose evidence in their or his judgment may be material to the subject matter of the inquiry, and require any person to bring before them such books, papers, deeds and writings as appear necessary for arriving at the truth of the matters to be inquired into; and all such persons shall attend the commissioners, and shall answer all questions put to them by the commissioners touching the matters to be inquired into, and shall produce all books, papers, deeds, and writings required of them and in their custody or under their control according to the tenor of the summons. 39 V., c. 10, s. 9.

Power to examine and command attendance of witnesses and production of papers.

8. The commissioners, or one of them, shall administer an oath or an affirmation, where an affirmation would be admitted in a court of justice, to every person examined before them. 39 V., c. 10, s. 10, *part.*

To swear witnesses.

Witness not excused from answering on certain grounds.

Proviso : witness giving answer tending to criminate him, may obtain a certificate.

Effect of such certificate.

Proviso : as to statements made by witnesses.

Punishment of persons disobeying summons of commissioners.

If the commissioners are not judges.

For refusing to answer or produce papers, &c.,

Or being guilty of any contempt.

9. No person called as a witness shall be excused from answering any question relating to any corrupt practice at the election forming the subject of inquiry, on the ground that the answer thereto may criminate or tend to criminate himself: Provided always, that when any witness answers every question relating to the matters aforesaid which he is required to answer, and the answer to which may criminate, or tend to criminate him, he shall be entitled to receive from the commissioners, under their hands, a certificate stating that he was, upon his examination, required by them to answer one or more questions relating to the matters aforesaid, the answer or answers to which criminated, or tended to criminate him, and had answered every such question; and if any information, indictment or penal action is at any time thereafter pending in any court against such witness in respect of any corrupt practices committed by him previously to the time of his giving his evidence, at any election concerning which he has been so examined, the court shall, on production and proof of such certificate, stay such proceedings, and may, in its discretion, award to him any costs to which he has been put: Provided, that no statement made by any person in answer to any question put by the commissioners shall, except in the case of an indictment for perjury, be admissible in evidence in any legal proceeding. 39 V., c. 10, s. 11.

10. If any person, on whom any summons has been served by the delivery thereof to him, or by the leaving thereof at his usual place of abode, fails to appear before the commissioners at the time and place specified therein, then if the commissioners are judges of any of the courts hereinbefore referred to, any of such commissioners and any court of which any one of them is a member, may proceed against the person so failing in the same manner as if he had failed to obey any writ of subpoena, or any process lawfully issuing from the court to which such judge belongs, or from such judge; and if the commissioners are not such judges, they may certify such default under their hands and seals, or under the hand and seal of any one of them, to any court or judge competent to try an election petition under "*The Dominion Controverted Elections Act*," in the Province within which the district in question is situate, whereupon such court or judge shall proceed against such person in manner aforesaid: and if any person so summoned to attend as aforesaid, or having appeared before the commissioners, refuses to be sworn or to make answer to any question put to him by them touching the matters in question, or to produce and show to them any papers, books, deeds or writings in his possession or under his control, which they deem necessary to be produced, or if any person is guilty of any contempt of the commissioners, or their office, the commissioners shall

have the same powers, to be exercised in the same way, as any such court or judge under like circumstances arising in the course of proceedings in an election petition under the said Act may, by law, exercise in that behalf: and all officers concerned in the administration of justice shall give their aid and assistance in matters within the scope of their duty to the commissioners in the execution of their office. 39 V., c. 10, s. 12.

Duty of officers of justice.

11. The commissioners may, if they deem fit, award to any witness, summoned to appear before them, a reasonable sum for travelling expenses and maintenance, according to a scale which shall be fixed by the Governor in Council, and they shall certify to the Minister of Justice the name of any such witness, and the sum awarded. 39 V., c. 10, s. 13.

Remuneration of witnesses.

12. The Governor in Council may order the payment of the necessary expenses of any inquiry under this Act; and every commissioner not being a judge shall be paid at the conclusion of the inquiry, besides his travelling and other expenses, such sum as is fixed by the Governor in Council; and every commissioner shall, after the making of the report hereinbefore directed, lay before the Governor in Council a statement of the number of days he has been actually employed in the inquiry, together with an account of his travelling and other expenses; and any payments by this Act authorized shall be made out of any moneys provided by Parliament for that purpose. 39 V., c. 10, s. 14.

Payment of necessary expenses of commissioners.

Out of what funds.

13. The commissioners shall have such and the like protection and privileges in case of any action brought against them for any act done or omitted to be done in the execution of their duty, as are given by any Act in force to justices of the peace acting in the execution of their office. 39 V., c. 10, s. 15.

Protection of commissioners.

14. Whenever it appears by the report of the commissioners under this Act that any person named by them has been guilty of a corrupt practice and has not been furnished by them with a certificate of indemnity, such report, with the evidence taken by the commissioners, shall be laid before the Attorney General of Canada, who shall, if in his opinion there is sufficient evidence available for a prosecution, certify such opinion to the Secretary of State, who shall thereupon communicate the report with the evidence to the Lieutenant Governor of the Province in which the election was held; and the Attorney General of Canada shall instruct counsel to assist in any prosecution which is thereon instituted by the local authorities charged with the administration of justice. 39 V., c. 9, s. 19.

Report of commissioners that any person has been guilty of corrupt practice.

Proceedings in consequence.

Petitioner
must deposit
\$1,000 with
the account-
ant.

15. The person or persons presenting a petition to the House of Commons under this Act, shall deposit with the accountant of the House the sum of one thousand dollars, and such petition shall not be received by the House of Commons unless such deposit has first been made; and there shall be attached to the said petition on its presentation a certificate, given under the hand of the said accountant, certifying that the said deposit of one thousand dollars has been duly made. 42 V., c. 6, s. 1.

Application
of the money
if the peti-
tioner fails.

16. Whenever, by the report of the commissioner or commissioners appointed to investigate and inquire into the matters set forth in such petition, it appears that the petition was not well founded, and that corrupt practices had not extensively prevailed within the electoral district referred to in the petition, at the election referred to therein, the said sum of one thousand dollars or so much thereof as is required for the purpose, shall be applied to pay the expenses of the inquiry, and the balance remaining after paying such expenses shall be paid to the person or persons who made such deposit. 42 V., c. 6, s. 2.

Money to be
returned to
him if he
succeeds.

17. Whenever, by the report of the commissioner or commissioners appointed to investigate and inquire into the matters set forth in such petition, it appears that the petition was well founded and that corrupt practices had extensively prevailed within the electoral district referred to in the petition, at the election referred to therein, the said sum of one thousand dollars shall be paid back to the person or persons who deposited the same. 42 V., c. 6, s. 3.

OTTAWA : Printed by BROWN CRAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER II.

An Act respecting the Senate and House of Commons. A.D. 1886.

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

DEMISE OF THE CROWN.

1. No Parliament of Canada, summoned, or called by Her Majesty, or Her Heirs and Successors, shall determine or be dissolved by the demise of the Crown, but such Parliament shall continue, and may meet, convene and sit, proceed and act, notwithstanding such demise of the Crown, in the same manner as if such demise had not happened. 31 V., c. 22, s. 1.

Parliament not to be dissolved by demise of the Crown.

2. Nothing in the next preceding section shall alter or abridge the power of the Crown, to prorogue or dissolve the Parliament of Canada. 31 V., c. 22, s. 2.

Right to prorogue, &c., not affected.

PRIVILEGES AND IMMUNITIES OF MEMBERS AND OFFICERS.

3. The Senate and the House of Commons respectively, and the members thereof respectively, shall hold, enjoy and exercise such and the like privileges, immunities and powers as, at the time of the passing of "*The British North America Act, 1867*," were held, enjoyed and exercised by the Commons House of Parliament of the United Kingdom, and by the members thereof, so far as the same are consistent with and not repugnant to the said Act, and also such privileges, immunities and powers as are from time to time defined by Act of the Parliament of Canada, not exceeding those at the time of the passing of such Act held, enjoyed and exercised by the Commons House of Parliament of the United Kingdom and by the members thereof respectively. 31 V., c. 23, s. 1.

Privileges, immunities and powers of the Senate and House of Commons defined.

4. Such privileges, immunities and powers shall be part of the general and public law of Canada, and it shall not be necessary to plead the same, but the same shall, in all courts in Canada and by and before all judges, be taken notice of judicially. 31 V., c. 23, s. 2.

Such privileges to be noticed judicially.

Printed copy
of journals to
be evidence
thereof.

5. Upon any inquiry touching the privileges, immunities and powers of the Senate and of the House of Commons or of any member thereof respectively, any copy of the journals of the Senate or House of Commons, printed or purporting to be printed by the order of the Senate or House of Commons, shall be admitted as evidence of such journals by all courts, justices and others, without any proof being given that such copies were so printed. 31 V., c. 23, s. 3.

In suit, &c.,
court or
Judge to stay
proceedings,
on proof that
the publica-
tion was by
authority of
either House.

6. Any person who is a defendant in any civil or criminal proceedings commenced or prosecuted in any manner for or on account of or in respect of the publication of any report, paper, votes or proceedings, by such person or by his servant, by or under the authority of the Senate or House of Commons, may bring before the court in which such proceedings are so commenced or prosecuted or before any judge of the same, first giving twenty-four hours' notice of his intention so to do to the prosecutor or plaintiff in such proceedings or to his attorney or solicitor, a certificate under the hand of the Speaker or Clerk of the Senate or House of Commons, as the case may be, stating that the report, paper, votes or proceedings, as the case may be, in respect whereof such civil or criminal proceedings have been commenced or prosecuted, was or were published by such person or by his servant, by order or under the authority of the Senate or House of Commons, as the case may be, together with an affidavit verifying such certificate; and such court or judge shall thereupon immediately stay such civil or criminal proceedings, and the same and every writ or process issued therein shall be and shall be deemed and taken to be finally put an end to, determined and superseded by virtue of this Act. 31 V., c. 23, s. 4.

And also on
proof of cor-
rectness of
copy.

7. If any civil or criminal proceedings are commenced or prosecuted for or on account or in respect of the publication of any copy of such report, paper, votes or proceedings, the defendant at any stage of the proceedings may lay before the court or judge, such report, paper, votes or proceedings, and such copy with an affidavit verifying such report, paper, votes or proceedings, and the correctness of such copy; and the court or judge shall immediately stay such civil or criminal proceedings, and the same and every writ or process issued therein, shall be and shall be deemed to be finally put an end to, determined and superseded by virtue of this Act. 31 V., c. 23, s. 5.

What proof
may be made
under the
plea of
general issue,
in action for
publishing

8. In any civil or criminal proceeding commenced or prosecuted for printing any extract from or abstract of any such report, paper, votes or proceedings, such report, paper, votes or proceedings, may be given in evidence, and it may be shown that such extract or abstract was published *bonâ*

vide and without malice, and if such is the opinion of the jury, a verdict of not guilty shall be entered for the defendant. 31 V., c. 23, s. 6. extracts, &c., of such reports, &c.

INDEPENDENCE OF PARLIAMENT.

9. Except as hereinafter specially provided—

(a.) No person accepting or holding any office, commission or employment, permanent or temporary in the service of the Government of Canada, at the nomination of the Crown, or at the nomination of any of the officers of the Government of Canada, to which any salary, fee, wages, allowance, emolument, or profit of any kind is attached ; No person holding an office of emolument under the Government of Canada.—

(b.) No sheriff, registrar of deeds, clerk of the peace, or county crown attorney in any of the Provinces of Canada— Nor any sheriff, &c.—

Shall be eligible as a member of the House of Commons, or shall sit or vote therein : Shall be a member of the House of Commons.

2. Nothing in this section shall render ineligible, as aforesaid, any person holding any of the following offices, that is to say : President of the Privy Council, Minister of Finance and Receiver General, Minister of Justice, Minister of Militia and Defence, Secretary of State, Minister of the Interior, Minister of Railways and Canals, Minister of Public Works, Postmaster General, Minister of Agriculture, Minister of Inland Revenue, Minister of Customs or Minister of Marine and Fisheries, or any office which is hereafter created, to be held by a member of the Queen's Privy Council for Canada and entitling him to be a Minister of the Crown, or shall disqualify him to sit or vote in the House of Commons, provided he is elected while he holds such office and is not otherwise disqualified : Exception as to members of Her Majesty's Privy Council holding certain offices.

3. Whenever any person holding the office of President of the Privy Council, Minister of Finance and Receiver General, Minister of Justice, Minister of Militia and Defence, Secretary of State, Minister of the Interior, Minister of Railways and Canals, Minister of Public Works, Postmaster General, Minister of Agriculture, Minister of Inland Revenue, Minister of Customs, or Minister of Marine and Fisheries, or any office which is hereafter created, entitling him to be a Minister of the Crown, and being at the same time a member of the House of Commons, resigns his office, and within one month after his resignation accepts any of the said offices, he shall not thereby vacate his seat, unless the Administration, of which he was a member, has resigned and a new Administration has been formed and has occupied the said offices : Certain officers may resign one office and accept another within a month without vacating their seats. Exception in case of change of Administration.

4. Nothing in this section shall render ineligible any person holding any office, commission or employment of the nature or description mentioned in paragraph (a) of subsection one of this section, as a member of the House of Commons, or shall disqualify him from sitting or voting therein, if, by his commission or other instrument of appointment Acceptance of office of the nature mentioned in subsection (a) without salary or emolument not to vacate

seat in House
of Commons.

ment, it is declared or provided that he shall hold such office, commission or employment without any salary, fees, wages, allowances, emolument or other profit of any kind, attached thereto. 41 V., c. 5, s. 1;—42 V., c. 7, s. 13, *part*;—47 V., c. 14, s. 1.

No contractor,
&c., with
Government
of Canada to
be a member.

10. No person, directly or indirectly, alone or with any other, by himself or by the interposition of any trustee or third party, holding or enjoying, undertaking or executing any contract or agreement, expressed or implied, with or for the Government of Canada on behalf of the Crown, or with or for any of the officers of the Government of Canada, for which any public money of Canada is to be paid, shall be eligible as a member of the House of Commons, or shall sit or vote in the said House. 41 V., c. 5, s. 2.

Election of
disqualified
person to be
void.

11. If any such person hereinbefore declared ineligible as a member of the House of Commons, is nevertheless returned as a member, his election and return shall be null and void. 41 V., c. 5, s. 3.

Member be-
coming dis-
qualified to
vacate his
seat.

12. If any member of the House of Commons accepts any office or commission, or is concerned or interested in any contract, agreement, service or work which, by the ninth or tenth section of this Act, renders a candidate incapable of being elected to, or of sitting or voting in the House of Commons, or knowingly sells any goods, wares or merchandise to, or performs any service for the Government of Canada, or for any of the officers of the Government of Canada, for which any public money of Canada is paid or to be paid, whether such contract, agreement or sale is expressed or implied, and whether the transaction is single or continuous, the seat of such member shall thereby be vacated, and his election shall thenceforth be null and void. 41 V., c. 5, s. 4.

Penalty on
person dis-
qualified,
sitting or
voting.

13. If any person disqualified or declared incapable of being elected to, or of sitting or voting in the House of Commons by the ninth or tenth section of this Act, or if any person duly elected, who has become disqualified to continue a member or to sit or vote, under the next preceding section of this Act, nevertheless sits or votes, or continues to sit or vote therein, he shall thereby forfeit the sum of two hundred dollars for each and every day on which he so sits or votes; and such sum shall be recoverable from him by any person who sues for the same in any court of competent civil jurisdiction in Canada. 41 V., c. 5, s. 5.

How recover-
able.

14. The four sections of this Act, next preceding, shall extend to any transaction or act begun and concluded during a recess of Parliament. 41 V., c. 5, s. 6.

As to acts
done in recess.

Shareholders
in certain in-
corporated

15. This Act shall not extend to disqualify any person as a member of the House of Commons by reason of his being

a shareholder in any incorporated company having a contract or agreement with the Government of Canada, except any company which undertakes a contract for the building of any public work, and any company incorporated for the construction or working of any part of the Canadian Pacific Railway: Provided that, upon the completion of the said railway according to the contract for the construction thereof executed on the twenty-first day of October, one thousand eight hundred and eighty, and upon its being duly opened for traffic, the disqualification of the shareholders of the Canadian Pacific Railway Company from becoming or being members of the Senate or House of Commons of Canada by reason of their being such shareholders shall be removed and shall cease and determine. 41 V., c. 5, s. 7;—49 V., c. 9, s. 7 part.

companies not disqualified.

Exception.

Proviso: as to shareholders in the C. P. R. Co. after completion of the railway.

16. In every contract, agreement or commission to be made, entered into or accepted by any person with the Government of Canada, or any of the departments or officers of the Government of Canada, there shall be inserted an express condition, that no member of the House of Commons shall be admitted to any share or part of such contract, agreement or commission, or to any benefit to arise therefrom; and in case any person, who has entered into or accepted, or who shall enter into or accept any such contract, agreement or commission, admits any member or members of the House of Commons to any part or share thereof, or to receive any benefit thereby, every such person shall for every such offence forfeit and pay the sum of two thousand dollars, recoverable with costs in any court of competent jurisdiction by any person who sues for the same. 41 V., c. 5, s. 8.

Government contracts to contain a clause that no member shall become interested therein.

Penalty for contravention.

17. Nothing contained in this Act shall apply or extend to render ineligible or disqualify as a member of the House of Commons,—

Further exceptions.

(a.) Any person on whom the completion of any contract or agreement, expressed or implied devolves by descent or limitation, or by marriage, or as devisee, legatee, executor or administrator, until twelve months have elapsed after the same has so devolved on him; or—

Persons on whom contracts devolve, &c.

(b.) Any contractor for the loan of money or of securities for the payment of money to the Government of Canada under the authority of Parliament, after public competition, or respecting the purchase or payment of the public stock or debentures of Canada, on terms common to all persons; or—

Lenders of money to Government, &c.

(c.) Any officer of the militia, or militiaman, not receiving any salary or emolument out of the public money of Canada, except his daily pay when called out for drill or on active service, or allowances, or sums paid for enrolment, and any pay or remuneration allowed him for the care of arms or for drill instruction:

Militia officers and men.

Proviso.

Provided, such person, contractor, militia officer or man, is not otherwise ineligible or disqualified. 41 V., c. 5, s. 9 ;— 47 V., c. 14, s. 4, *part.*

Members of Senate not to become contractors with Government.

18. No person who is a member of the Senate, shall directly or indirectly, knowingly and wilfully be a party to, or be concerned in, any contract under which the public money of Canada is to be paid : and if any person, who is a member of the Senate, knowingly and wilfully becomes a party to or concerned in any such contract, he shall forfeit the sum of two hundred dollars for each and every day during which he continues to be such party or so concerned ; and such sum may be recovered from him by any person who sues for the same, in any court of competent jurisdiction in Canada : Provided always, that this section shall not render any senator liable for such penalties, by reason of his being a shareholder in any incorporated company, having a contract or agreement with the Government of Canada, except any company which undertakes a contract for the building of any public work, and any company incorporated for the construction or working of any part of the Canadian Pacific Railway, until, in such last case, the said railway is completed according to the contract for the construction thereof executed on the twenty-first day of October, one thousand eight hundred and eighty, and is duly opened for traffic. 41 V., c. 5, s. 10 ;—49 V., c. 9, s. 7 *part.*

Penalty for contravention.

Proviso: as to senators being members of companies contracting, except C. P. Railway, or public works.

Limitation of suits for penalties.

19. No person shall be liable to any forfeiture or penalty imposed by this Act, unless proceedings are taken for the recovery thereof within twelve months after such forfeiture or penalty has been incurred. 41 V., c. 5, s. 11.

EXAMINATION OF WITNESSES.

Examination on oath at bar of Senate.

20. Witnesses may be examined upon oath or upon affirmation, if affirmation is allowed by law, at the bar of the Senate, and for that purpose the Clerk of the Senate may administer such oath or affirmation to any such witness. 31 V., c. 24, s. 1.

And before select committees on private Bills of either House.

21. Any select committee of the Senate or House of Commons to which any private Bill has been referred, by either House, respectively, may examine witnesses upon oath or affirmation, if affirmation is allowed by law, upon matters relating to such Bill, and for that purpose the chairman or any member of such committee may administer such oath or affirmation, to any such witness. 31 V., c. 24, ss. 2 and 3.

Examination on oath or affirmation before other committees.

22. Whenever any witness or witnesses is or are to be examined by any other committee of the Senate or House of Commons, and the Senate or House of Commons has resolved that it is desirable that such witness or witnesses shall be examined upon oath, such witness

or witnesses shall be examined upon oath or affirmation if affirmation is allowed by law; and such oath or affirmation shall be administered by the chairman or any member of any such committee, as aforesaid. 39 V., c. 7, ss. 1 and 2. By whom administered.

23. Every such oath or affirmation shall be in the forms A and B respectively, in the schedule to this Act, 39 V., c. 7, s. 4, *part.* Forms of oath &c.

SPEAKERS' SALARIES.

24. The following salaries shall be payable to the officers hereinafter mentioned respectively:— Speakers' salaries.

(a.) To the Speaker of the Senate the sum of four thousand dollars per annum;

(b.) To the Speaker of the House of Commons the sum of four thousand dollars per annum. 36 V., c. 31, s. 14.

INDEMNITY.

Comp. V. Ed. VII
25. In each session of Parliament there shall be allowed to each member of the Senate and House of Commons, attending at such session, ten dollars for each day's attendance, if the session does not extend beyond thirty days; and if the session extends beyond thirty days, then there shall be payable to each member of the Senate and House of Commons attending at such session a sessional allowance of one thousand dollars and no more. 26 V., c. 31, s. 13, *part.* Members' indemnity.

26. A deduction at the rate of eight dollars per day shall be made from such sessional allowance, for every day on which the member does not attend a sitting of the House of which he is a member, or of some committee thereof, if the House sits on such day; but each day during the session, after the first on which the member attends as aforesaid, on which there has been no sitting of such House, in consequence of its having adjourned over such day, or on which the member was in the place where the session was held, but was prevented by sickness from attending any such sitting as aforesaid, shall be reckoned as a day of attendance at such session, for the purposes of such indemnity; and a member shall, for the said purposes, be held to be at the place where the session is held, whenever he is within ten miles of such place. 31 V., c. 3, s. 2; 36 V., c. 31, s. 13. *part.* Deductions for non-attendance.
What shall be reckoned as days of attendance.

27. A member shall not be entitled to the said sessional allowance for less than thirty-one days' attendance reckoned as aforesaid, but his allowance for any less number of days Allowance for less than 31 days' attendance.

shall be ten dollars for each day's attendance. 31 V., c. 3, s. 3;—36 V., c. 31, s. 13, *part.*

How the indemnity shall be payable.

Chief V. Edwards VII

28. The said compensation may be paid, from time to time, as the member becomes entitled to it, to the extent of seven dollars for each day's attendance as aforesaid, but the remainder shall be retained by the clerk or accountant of the proper House, until the close of the session, when the final payment shall be made. 31 V., c. 3, s. 4;—39 V., c. 8, s. 1.

Case of a member for part of a session provided for.

29. If any person is, from any cause a member of either House for a part only of any session, then provided he is a member for upwards of thirty days during such session, he shall be entitled to the sessional allowance hereinbefore mentioned, subject to the deduction aforesaid for non-attendance as a member, and also to a deduction of eight dollars for each day of such session before he was elected or appointed or after he ceased to be a member, as the case may be; but if he is a member for only thirty days or less, he shall be entitled only to ten dollars for each day's attendance at such session, whatever is the length thereof. 31 V., c. 3, s. 5;—36 V., c. 31, s. 13, *part.*

Allowance for mileage.

30. There shall also be allowed to each member of the Senate and of the House of Commons ten cents for each mile of the distance between the place of residence of such member and the place at which the session is held, reckoning such distance going and coming, according to the nearest mail route, which distance shall be determined and certified by the Speaker of the Senate or House of Commons, as the case may be. 31 V., c. 3, s. 6.

Final payment at the close of the session.

31. The sum due to each member at the close of any session shall be calculated and paid to him by the clerk of the Senate, if he is a senator, or by the accountant of the House of Commons, if he is a member of the House of Commons, on his making and signing before the clerk or accountant or assistant accountant of the House of which he is a member, as the case may be, or a justice of the peace, a solemn declaration (to be kept by the clerk of the Senate or accountant of the House of Commons, as the case may be), stating the number of days' attendance and the number of miles of distance according to the nearest mail route as determined and certified by the Speaker, for which such member is entitled to the said allowance and the amount of such allowance, after deducting the number of days, if any, which are to be deducted under any preceding section of this Act; and such declaration may be in the form C in the schedule to this Act, and shall have the same effect as an affidavit in the same form. 31 V., c. 3, s. 7;—31 V., c. 27, s. 12, *part.*

Declaration to be made.

32. There is hereby granted to Her Majesty out of any unappropriated moneys forming part of the Consolidated Revenue Fund of Canada an annual sum, sufficient to enable Her Majesty to advance to the clerk of the Senate and to pay over to the Minister of Finance and Receiver General, for the Senate and House of Commons respectively, such sums as are required to pay the estimated amount of the sessional allowance hereinbefore mentioned. 31 V., c. 3, s. 8;—31 V., c. 27, s. 12, part.

Grant for paying the allowance.

33. The clerk of the Senate and the accountant of the House of Commons shall respectively account for all moneys received by them under this Act, in the same manner as for moneys advanced to them for the contingent expenses of the Senate and House of Commons, and they may, respectively, apply any surplus thereof to the payment of such contingent expenses, and may supply any deficiency of such estimated amount out of any moneys in their hands respectively, applicable to the payment of such contingent expenses. 31 V., c. 2, s. 9;—31 V., c. 27, s. 12, part.

Officers to account for moneys received by them.

— { as to mileage
see 54-55 Vic; Ch: 21

SCHEDULE { as to 15 days at Senate at home
FORM A. { see 62-63 Vic; Ch: 12

“The evidence you shall give on this examination shall be the truth, the whole truth, and nothing but the truth. So help you God. 39 V., c. 7, s. 4, part.

FORM B.

You do solemnly, sincerely and truly affirm and declare, that the evidence you shall give on this examination shall be the truth, the whole truth and nothing but the truth.

FORM C.

I, A. B., one of the members of the Senate (or House of Commons), solemnly declare, that I reside at _____ in _____ which is distant by the nearest mail route _____ miles, as determined by the Speaker of this House, from _____ where the session of the Parliament of Canada, which began on the _____ day of _____ one thousand eight hundred and _____ was held—

That the first day during the said session on which I was present, at _____ where the said session was held, was the day of _____ one thousand eight hundred and _____

That on the said day and on each day of the said Session, after the said day on which there was a sitting of the said House, I attended such sitting, or a sitting of some committee thereof,* except only on days** on of which I was prevented by sickness from attending as aforesaid, though I was then present at ***

(Signature), A.B.

Declared before me at this day of
one thousand eight hundred and
C.D.,

clerk (or accountant or assistant accountant) of the Senate (or the House of Commons) or Justice of the Peace for the of (as the case may be)

[If the member attended a sitting of the House or of some committee on every sitting day after the first on which he so attended, omit the words from * to ***;—and if his non-attendance was not on any day occasioned by sickness, omit the words from ** to ***]

If the person making the declaration became or ceased to be a member after the commencement of the session, vary the form, so as to state correctly the facts upon which the sum due to the member is to be calculated.] 31 V., c. 3, sch.



CHAPTER 12.

An Act respecting the Representation of the Province of Manitoba in the Senate. A.D. 1886.

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

1. The Province of Manitoba shall be represented in the Senate of Canada by three members, until it has, according to decennial census, a population of seventy-five thousand souls, and from thenceforth it shall be represented therein by four members. 33 V., c. 3, s. 3.

Representation in the Senate.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 13.

An Act respecting the House of Commons.

A.D. 1886.

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

DISQUALIFICATIONS AS MEMBERS.

1. No person who, on the day of the nomination at any election to the House of Commons, is a member of any Legislative Council or of any Legislative Assembly of any Province now included, or which is hereafter included within the Dominion of Canada, shall be eligible as a member of the House of Commons, or shall be capable of being nominated or voted for at such election, or of being elected to or of sitting or voting in the House of Commons, and if any one so declared ineligible is, nevertheless, elected and returned as a member of the House of Commons, his election shall be null and void. 35 V., c. 15, s. 1;—36 V., c. 2, s. 1.

Members of a Provincial Legislature not eligible as members of the House of Commons. Election to be void.

2. If any member of a Provincial Legislature, notwithstanding his disqualification as in the next preceding section hereof mentioned, receives a majority of votes at any such election, such majority of votes shall be thrown away, and the returning officer shall return the person having the next greatest number of votes, provided he is otherwise eligible. 35 V., c. 15, s. 2.

Votes recorded for person ineligible under s. 1 to be thrown away.

3. If any member of the House of Commons is elected and returned to any Legislative Assembly, or is elected or appointed a member of any Legislative Council and accepts the seat, his election as a member of the House of Commons shall thereupon become null and void, and his seat shall be vacated, and a new writ shall issue forthwith for a new election, as if he was naturally dead: Provided always, that any member of the House of Commons, so elected or appointed without his knowledge or consent, and who, without taking his seat in the Provincial Legislature, within ten days after having been notified of his election or appointment, or if he is not within the Province at the time, then within ten days after his arrival within the Province, resigns his seat and notifies the Speaker of the

A member of the House of Commons elected or appointed to a seat in a Provincial Legislature and accepting it, to vacate his seat in the Commons. Proviso: as to members elected or appointed without their knowledge.

House of Commons of such resignation, he shall hold his seat in the House of Commons as if no such election or appointment to a seat in a Provincial Legislature had been made. 36 V., c. 2, s. 2.

Penalty on persons hereby declared ineligible, sitting or voting in the House of Commons.

4. If any person who is by this Act declared ineligible as a member of the House of Commons, or incapable of sitting or voting therein, nevertheless so sits or votes, he shall forfeit the sum of two thousand dollars for every day he sits or votes; and such sum may be recovered from him by any person who sues for the same, by action in any form allowed by law in the Province in which the action is brought, in any court having jurisdiction. 36 V., c. 2, s. 3.

RESIGNATION OF MEMBERS.

Members of House of Commons may resign their seats, and how.

5. Any member of the House of Commons who wishes to resign his seat, may do so by giving, in his place in the House, notice of his intention to resign,—in which case, and immediately after such notice has been entered by the clerk on the journals of the House, the Speaker shall forthwith address his warrant, under his hand and seal, to the Clerk of the Crown in Chancery, for the issue of a writ for the election of a new member in the place of the member resigning: or—

Further provision in such case.

2. Such member may address and cause to be delivered to the Speaker a declaration of his intention to resign his seat, made in writing under his hand and seal before two witnesses,—which declaration may be so made and delivered either during a session of Parliament, or in the interval between two sessions; and the Speaker shall, upon receiving such declaration, forthwith address his warrant, under his hand and seal, to the Clerk of the Crown in Chancery, for the issue of a writ for the election of a new member in the place of the member so resigning, and a writ shall issue accordingly; and an entry of the declaration so delivered to the Speaker shall be thereafter made in the journals of the House:

Warrant for new writ of election.

Resignation to vacate seat.

3. The member so tendering his resignation shall be held to have vacated his seat, and shall cease to be a member of the House. 41 V., c. 5, s. 12, *part.*

Proceedings when a member wishes to resign and there is no Speaker, or he is himself the Speaker.

6. If any member of the House of Commons wishes to resign his seat in the interval between two sessions of Parliament, and there is then no Speaker, or if such member is himself the Speaker,—he may address and cause to be delivered to any two members of the House, the declaration before mentioned of his intention to resign; and such two members, upon receiving such declaration, shall forthwith address their warrant, under their hands and seals, to the Clerk of the Crown in Chancery, for the issue of a new writ for the election of a member in the place of the member so

notifying his intention to resign, and such writ shall issue accordingly ; and the member so tendering his resignation shall be held to have vacated his seat and shall cease to be a member of the House. 41 V., c. 5, s. 13. Seat vacated.

7. No member shall tender his resignation while his election is lawfully contested, or until after the expiration of the time during which it may by law be contested on other grounds than corruption or bribery. 41 V., c. 5, s. 12, *part.* Not to resign while election is contested, &c.

VACANCIES.

8. If any vacancy happens in the House of Commons by the death of any member, or by his accepting any office, the Speaker, on being informed of such vacancy by any member of the House in his place, or by notice in writing under the hands and seals of any two members of the House, shall forthwith address his warrant to the Clerk of the Crown in Chancery for the issue of a new writ for the election of a member to fill the vacancy ; and a new writ shall issue accordingly : Proceedings in case of vacancy by death or acceptance of office.

2. If, when such vacancy happens or at any time thereafter before the Speaker's warrant for a new writ has issued, there is no Speaker of the House, or if the Speaker is absent from Canada, or if the member whose seat is vacated is himself the Speaker,—then, any two members of the House may address their warrant, under their hands and seals, to the Clerk of the Crown in Chancery, for the issue of a new writ for the election of a member to fill such vacancy ; and such writ shall issue accordingly. 41 V., c. 5, s. 14. If there is no Speaker, or he is absent, or the member is himself the Speaker.

9. A warrant may issue to the Clerk of the Crown in Chancery for the issue of a new writ for the election of a member of the House of Commons to fill any vacancy arising subsequently to a general election, and before the first meeting of Parliament thereafter, by reason of the death or acceptance of office of any member ; and such writ may issue at any time after such death or acceptance of office : Warrant for filling a vacancy occurring before Parliament meets after a general election.

2. The election to be held under such writ, shall not in any manner affect the rights of any person entitled to contest the previous election ; and the report of any judge, appointed to try such previous election, or of the Supreme Court of Canada in case of an appeal, shall determine whether the member who has so died or accepted office, or any other person, was duly returned or elected thereat,—which determination, if adverse to the return of such member, and in favor of any other candidate, shall avoid the election held under this section, and the candidate declared duly elected at the previous election shall be entitled to take his seat as if no such subsequent election had been held. 41 V., c. 5, s. 15. Proviso : saving right of any person to contest.
Effect of report of judge trying the petition.

INTERNAL ECONOMY.

10. The person who fills the office of Speaker at the time of any dissolution of Parliament, shall, for the purposes of the following provisions of this Act, be deemed to be the Speaker until a Speaker is chosen by the new Parliament. 31 V., c. 27, s. 8, *part.*

11. The Speaker of the House of Commons for the time being, and any four members of the Queen's Privy Council for Canada, for the time being, appointed by the Governor in Council as commissioners under this Act (they and each of them being also members of the House of Commons), and the names and offices of whom and their appointment as commissioners shall be communicated by message from the Governor General to the House of Commons in the first week of each session of Parliament, shall be commissioners for the purposes of the following sections of this Act; and any three of the said commissioners, whereof the Speaker of the House of Commons for the time being shall be one, may carry the said provisions into execution, and in the event of the death, disability, or absence from Canada of the Speaker during any dissolution or prorogation of Parliament, any three of the commissioners may carry the said provisions into execution. 31 V., c. 27, s. 1 *and* s. 8, *part.*

12. An estimate shall annually be prepared by the clerk of the House of Commons of the sums which will probably be required to be provided by Parliament for the payment of the indemnity and mileage of members, and of salaries, allowances, and contingent expenses of the House, and of the several officers and clerks thereof under his direction, during the year commencing on the first day of July in each year; and an estimate shall annually be prepared by the sergeant-at-arms of the House of Commons of the sums which will probably be required to be provided by Parliament for the payment of salaries or allowances of the messengers, doorkeepers and servants of the House under his direction, and of the contingent expenses under his direction, during the year as aforesaid; and such estimates shall be submitted to the Speaker for his approval, and shall be subject to such approval and to such alterations as the Speaker considers proper; and the Speaker shall thereupon prepare an estimate of the sums requisite for the several purposes aforesaid, and shall sign the same, and such several estimates of the clerk, sergeant-at-arms and Speaker, shall be transmitted by the Speaker to the Minister of Finance and Receiver General for his approval, and shall be laid severally before the House of Commons with the other estimates for the year. 31 V., c. 27, s. 2.

13. All sums of money voted by Parliament upon such estimates or payable to members of the House of Commons,

under the " *Act respecting the Senate and House of Commons* " shall be paid over to and held by the Minister of Finance and Receiver General, subject to the order of the commissioners, or any three of them, of whom the Speaker shall be one, and shall be paid or transferred to them or their order at any time, and from time to time, in such sums as they deem requisite. 31 V., c. 27, s. 4.

bers' indemnity, to be subject to order of commissioners.

14. All the sums mentioned in the next preceding section, shall be paid according to the directions of the commissioners from time to time; and the Speaker shall appoint an officer for that purpose, who shall be called the accountant of the House of Commons, and shall take from him such security for the faithful discharge of his duties as the commissioners think fit; and an account shall be opened in one of the banks of Canada, in the name of the said accountant; and the commissioners shall, from time to time, pay or transfer such sums as they deem necessary for that purpose, to the credit of the said accountant, by an order signed by the Speaker and two others of the commissioners; and in case of the death or removal from office of any such accountant, the moneys standing to his credit in the account aforesaid shall be forthwith paid by such bank to the commissioners. 31 V., c. 27, s. 5.

Accountant to be appointed.

To give security.

Advance of money to accountant, &c.

In case of death or removal of accountant.

15. If the sums voted by Parliament are in any year more than sufficient to pay and discharge all charges thereon, the commissioners shall, within six weeks after the end of the session, after retaining in their hands a sum sufficient to answer all demands in respect of the same, which are likely to arise before the beginning of the then next session, pay the surplus to the Minister of Finance and Receiver General, to the credit of the Consolidated Revenue Fund of Canada. 31 V., c. 27, s. 7.

Surplus moneys to be re-paid to Receiver General.

OFFICERS.

16. If any complaint or representation is at any time made to the Speaker for the time being, of the misconduct or unfitness of any clerk, officer, messenger or other person attendant on the House of Commons, the Speaker may cause an enquiry to be made into the conduct or fitness of such person; and if thereupon it appears to the Speaker that such person has been guilty of misconduct, or is unfit to hold his situation, the Speaker may, if such clerk, officer, messenger or other person has been appointed by the Crown, suspend him and report such suspension to the Governor General, and if he has not been appointed by the Crown, the Speaker may suspend or remove such person. 31 V., c. 27, s. 9.

Speaker may suspend or remove, as the case may be, any clerk, officer or messenger, guilty of misconduct.

Clerk and
other officers,
to take oath
of allegiance.

17. The clerk of the House of Commons shall subscribe and take before the Speaker, the oath of allegiance; and all other officers, clerks and messengers of the House of Commons shall subscribe and take before the clerk of the House of Commons, the oath of allegiance; and the clerk of the House of Commons shall keep a register of all such oaths.
31 V., c. 27, s. 10.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 14.

An Act respecting the Office of Speaker of the
House of Commons.

A.D. 1886.

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

1. Whenever the Speaker of the House of Commons, from illness or other cause, finds it necessary to leave the chair during any part of the sittings of the said House, on any day, he may call upon the Chairman of Committees, or, in his absence, upon any member of the House, to take the chair and to act as Deputy Speaker during the remainder of such day, unless the Speaker himself resumes the chair before the close of the sittings for that day. 48-49 V., c. 1, s. 1.

Speaker leaving the chair may call upon the Deputy Speaker to act during his absence.

2. Whenever the House is informed by the clerk at the table of the unavoidable absence of Mr. Speaker, the Chairman of Committees, if present, shall take the chair and shall perform the duties and exercise the authority of Speaker in relation to all the proceedings of the House, as Deputy Speaker, until the meeting of the House on the next sitting day, and so on from day to day on the like information being given to the House until the House otherwise orders: Provided, that if the House adjourns for more than twenty-four hours the Deputy Speaker shall continue to perform the duties and exercise the authority of Speaker for twenty-four hours only after such adjournment. 48-49 V., c. 1, s. 2.

In case of unavoidable absence of the Speaker, the Deputy may act as such.

Proviso.

3. If, at any time during a Session of Parliament the Speaker is temporarily absent from the House, and a Deputy Speaker thereupon performs the duties and exercises the authority of Speaker, as hereinbefore provided, or pursuant to the standing orders or other order, or a resolution of the House, every act done and proceeding taken in or by the House in the exercise of its powers and authority, shall be as valid and effectual as if the Speaker himself was in the chair; and every act done, and warrant, order, or other document issued, signed or published by such Deputy Speaker in relation to any proceedings of the House of Commons, or which under any Statute would be done, issued, signed or published by the Speaker if then able to act, shall have the same effect and validity as if the same had been done, issued, signed or published by the Speaker for the time being. 48-49 V., c. 1, s. 3.

Validity of acts done while the Deputy Speaker is in the chair.



CHAPTER 15.

An Act respecting the Library of Parliament. A.D. 1886.

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

1. All books, paintings, maps, and other effects in the joint possession of the Senate and House of Commons of Canada, or which are hereafter added to the existing collection, shall be vested in Her Majesty, for the use of both Houses of Parliament, and shall be kept in a suitable portion of the Parliament buildings appropriated for that purpose. 34 V., c. 21, s. 1. Books, &c.,
vested in Her
Majesty.

2. The direction and control of the library of Parliament and of the officers and servants connected therewith, shall be vested in the Speaker of the Senate and the Speaker of the House of Commons for the time being, assisted, during each session, by a joint committee to be appointed by the two Houses. 34 V., c. 21, s. 2. Administra-
tion.

3. The Speakers of the two Houses of Parliament, assisted by the joint committee, may, from time to time, make such orders and regulations for the government of the Library, and for the proper expenditure of moneys voted by Parliament for the purchase of books, maps or other articles to be deposited therein, as to them seem meet, subject to the approval of the two Houses of Parliament. 34 V., c. 21, s. 3. Regulations
may be made.

4. The officers and servants of the library of Parliament shall consist of:— Officers and
servants for
the library.

(a.) Two officers, one of whom shall be called the General Librarian, and the other of whom shall be called the Parliamentary Librarian—which officers shall be appointed by joint commission, under the Great Seal, as Librarians of Parliament, and shall have equal powers as respects the control and management of the library;

(b.) Two first-class clerks;

(c.) Two second-class clerks;

(d.) Three third-class clerks;

(e.) One chief messenger;

(f.) Three messengers:

Appointment and tenure of office.

2. All such officers and servants shall be appointed by the Governor in Council, and shall hold office during pleasure. 48-49 V., c. 45, s. 1.

Salaries and pay, how to be fixed, &c.

5. The salary of each officer so appointed by joint commission shall be such sum not exceeding three thousand dollars, and of the chief messenger such sum not exceeding seven hundred dollars, as the Governor in Council directs; and the salaries of the other officers and of the servants of the library shall be fixed, from time to time, by the Governor in Council, according to the scale of salaries provided for in any Act or Acts relating to the Civil Service in force at the time of the passing of the Order in Council. 48-49 V., c. 45, s. 2.

Responsibility of officers and servants.

6. The general librarian, parliamentary librarian, and other officers and servants of the library of Parliament shall be responsible for the faithful discharge of their official duties, as the same are defined by regulations agreed upon, as aforesaid, by the Speakers of the two Houses, and concurred in by the said joint committee on the library. 34 V., c. 21, s. 5;—48-49 V., c. 45, s. 3.

Salaries.

7. The salaries of the officers and servants of the library of Parliament, and any casual expenses connected therewith, shall be paid out of moneys provided by Parliament for that purpose. 34 V., c. 21, s. 6.

Stationery

8. The supply of stationery required for the use of the library shall be furnished by the Department of Public Printing and Stationery, and charged to the Houses of Parliament. 34 V., c. 21, s. 7;—49 V., c. 22, s. 6.



CHAPTER 16.

An Act respecting the High Commissioner for Canada A.D. 1886.
in the United Kingdom.

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

1. The Governor in Council may, under the Great Seal of Canada, from time to time, appoint an officer to be called "The High Commissioner for Canada," who shall hold office during pleasure. 43 V., c. 11, s. 1. Appointment of High Commissioner.

2. The High Commissioner shall,—

(1.) Act as representative and resident agent of Canada in the United Kingdom, and in that capacity execute such powers and perform such duties as are, from time to time, conferred upon and assigned to him by the Governor in Council ; His duties under Governor in Council.

(2.) Take the charge, supervision and control of the immigration offices and agencies in the United Kingdom, under the Minister of Agriculture ; Under Minister of Agriculture.

(3.) Carry out such instructions as he, from time to time, receives from the Governor in Council respecting the commercial, financial and general interests of Canada in the United Kingdom and elsewhere. 43 V., c. 11, s. 2. As to financial and general interests of Canada.

3. The High Commissioner shall receive a salary of not more than ten thousand dollars per annum, and the same shall be payable out of any unappropriated moneys forming part of the Consolidated Revenue Fund of Canada. 43 V., c. 11, s. 3. Remuneration.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 17.

An Act respecting the Civil Service of Canada.

A. D. 1886.

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

SHORT TITLE.

1. This Act may be cited as "*The Civil Service Act.*" Short title.
48-49 V., c. 46, s. 1.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—

(a.) The expression "Head of a Department" means the Minister of the Crown for the time being presiding over such department; Interpretation.
"Head of a Department."

(b.) The expression "Deputy," "Deputy Head," or "Deputy Head of the Department," means the Deputy of the Minister of the Crown presiding over such department, and also includes the "Auditor General," in all cases in which such meaning is not inconsistent with his powers and duties under "*The Consolidated Revenue and Audit Act.*" 48-49 V., c. 46, s. 2. "Deputy Head."

CONSTITUTION OF THE CIVIL SERVICE.

3. The Civil Service, for the purposes of this Act, includes and consists of all classes of employees, elsewhere than in the North-West Territories, in or under the several departments of the executive government of Canada and in the office of the Auditor General, included in the schedules A and B to this Act, appointed by the Governor in Council or other competent authority before the first day of July, one thousand eight hundred and eighty-two, or thereafter appointed in the manner provided by the Civil Service Act for the time being in force, and such officers and employees in the North-West Territories holding positions, which, if held in other parts of Canada, would bring them under the provisions of this Act, as the Governor in Council brings under the provisions hereof. 48-49 V., c. 46, s. 3. Of whom the Civil Service shall consist.
As to North-West Territories.

Two divisions.

Inside division.

Outside division.

4. The service shall be divided into two divisions:—

The first or inside departmental division shall comprise employees of those classes mentioned in schedule A, employed on the several departmental staffs at Ottawa, and in the office of the Auditor General :

The second or outside departmental division shall comprise employees of those classes mentioned in schedule B, and who are employed otherwise than on the departmental staffs at Ottawa. 48-49 V., c. 46, s. 4.

Regulations to be made by Order in Council.

5. The Governor in Council may, from time to time, make general rules and regulations, not inconsistent with the provisions of this Act, respecting the appointments and promotions of the officers in the Civil Service and all other matters pertaining thereto. 48-49 V., c. 46, s. 5.

Governor in Council to determine number of employees.

6. The Governor in Council shall, from time to time, determine the number of officers, chief clerks, clerks, messengers and other employees that are required for the working of the several departments in each division of the Civil Service, but the collective amount of the salaries of each department shall, in no case, exceed that provided for by vote of Parliament for that purpose :

If the actual number exceeds that allowed.

2. If the number of employees then attached to any department in either division thereof is greater than the number allowed to the department, as herein provided, the Governor in Council shall name the persons to fill the several offices ; and the remainder shall be supernumerary clerks, without being eligible for increase of salary, of that class respectively in which they rank, and shall so remain until promoted in the manner herein provided or until severed from the service. 48-49 V., c. 46, s. 6.

As to employees on 20th July, 1885.

7. Any person who is a member of the Civil Service, and who was such member on the twentieth day of July, one thousand eight hundred and eighty-five, shall be classified in the class in which he has been appointed. 48-49 V., c. 46, s. 7.

BOARD OF EXAMINERS.

Board of examiners of candidates for the service : their appointment and duties.

8. A board of examiners shall, from time to time, be appointed by the Governor in Council, who, for the purposes of this Act, shall be known and are hereinafter referred to as "The Board," consisting of three members ; and they shall examine all candidates for admission to the Civil Service, and give certificates of qualification to such persons as are found qualified, according to such regulations as are authorized by the Governor in Council for the guidance of the board :

Secretary.

2. The Governor in Council may appoint a secretary to the board, who may be one of the members of the board, at a salary not exceeding one thousand dollars per annum, and

may also appoint a clerk to assist the board, who holds a certificate of having passed the qualifying examination, and who shall be a third-class clerk :

3. Each member of the board shall receive a salary of six hundred dollars per annum : Salary of members.

4. The members of the board, while engaged in their work, shall be paid such travelling expenses as are determined by the Governor in Council : Travelling expenses.

5. Such persons as are selected by the board to assist them in the conduct of examinations shall receive such sum, not exceeding five dollars a day, as is fixed by the Governor in Council : Assistants.

6. The meetings of the board shall be held at such times, and the proceedings thereof shall be governed by such rules and regulations as the Governor in Council, from time to time, determines : Meetings.

7. The board shall be supervised by the Secretary of State. 48-49 V., c. 46, s. 8. Supervision of board.

9. The board may obtain the assistance of persons who have had experience in the education of the youth of Canada, and with such assistance shall hold, or cause to be held, periodical examinations for admission to the Civil Service, in the cities of Halifax, St. John, N. B., Charlottetown, Quebec, Montreal, Ottawa, Toronto, Hamilton, London, Winnipeg, Victoria and such other places as are determined by the Governor in Council ; it shall not be necessary to hold such examinations in all the said places, but the times and places at which the examinations shall be held shall be determined, from time to time, by the Governor in Council ; examinations shall, as far as possible, be in writing, and the cost thereof shall be defrayed out of moneys previously voted by Parliament for that purpose. 48-49 V., c. 46, s. 9. Who may be appointed as assistants. Places and times of examinations. Expenses, how paid.

APPOINTMENTS AND SALARIES IN THE SERVICE.

10. Except as herein otherwise provided,—

(a.) All appointments to the Civil Service shall be during pleasure, and no person shall be appointed or promoted to any place below that of a Deputy Head unless he has passed the requisite examination and served the probationary term hereinafter mentioned ; Conditions of appointment. During pleasure and after examination.

(b.) No person shall be appointed to any place in the first or inside departmental division of the Civil Service other than that of a Deputy Head, on probation or otherwise, whose age exceeds thirty-five years, or who has not attained, in case the appointment is to a lower grade than that of a third-class clerk, the full age of fifteen years, or in other cases, the full age of eighteen years. 48-49 V., c. 46, s. 10. Limits as to age.

Appointment of Deputy Heads to be during pleasure.

11. The Deputy Heads of departments shall be appointed by the Governor in Council, and shall hold office during pleasure; but whenever such pleasure is exercised in the direction of removing a Deputy Head from his office, a statement of the reasons for so doing shall be laid on the table of both Houses of Parliament within the first fifteen days of the next following session. 48-49 V., c. 46, s. 11.

Salaries.

12. The salaries of the Deputy Heads shall be determined by the Governor in Council, according to the duties and responsibilities of their respective departments. The minimum salary of a Deputy Head shall be three thousand two hundred dollars, and the maximum salary shall be four thousand dollars. 48-49 V., c. 46, s. 12.

Minimum.

Maximum.

Duties and powers of a Deputy Head

13. The Deputy Head of each department shall, subject to the directions of the Head of the department, oversee and direct the officers, clerks and employees in the department, and shall have general control of the business thereof, and shall perform such other duties as are assigned to him by the Governor in Council. 48-49 V., c. 46, s. 13.

By whom performed in his absence.

14. In the absence of any Deputy Head, a chief clerk named by the Head of the department shall perform the duties of such Deputy Head, unless the performance of such duties is otherwise provided for by the Governor in Council; and there shall be in the office of the Auditor General a chief clerk who shall, at all times, act for the Auditor General in his absence. 48-49 V., c. 46, s. 14.

Chief clerkships.

15. A chief clerkship in any department shall only be created by Order in Council, passed after—

Condition of creation of office.

(a.) The Deputy Head has reported that such an officer is necessary for the proper performance of the public business in the department, stating the reasons on which he has arrived at that conclusion;

Concurrence of head, &c.

(b.) The concurrence of the Head of the department in such report; and—

(c.) The salary has been voted by Parliament. 48-49 V., c. 46, s. 15.

Salary.

16. The minimum salary paid to a chief clerk shall be one thousand eight hundred dollars, with an annual increase of fifty dollars up to a maximum of two thousand four hundred dollars. 48-49 V., c. 46, s. 16.

First-class clerkship; condition of creation.

17. A first-class clerkship shall only be created by Order in Council, passed on the report of the Deputy Head, concurred in by the Head of the department, setting forth the reasons for creating the office, and after the salary has been voted by Parliament. 48-49 V., c. 46, s. 17.

18. The minimum salary of a first-class clerk shall be one thousand four hundred dollars per annum, with an annual increase of fifty dollars up to a maximum of one thousand eight hundred dollars. 48-47 V., c. 46, s. 18. Salary.

19. A second-class clerkship shall only be created by Order in Council passed on the report of the Deputy Head, concurred in by the Head of the department, setting forth the reasons for creating the office, and after the salary has been voted by Parliament. 48-49 V., c. 46, s. 19. Second-class clerkship; condition of creation.

20. The minimum salary of a second-class clerk shall be one thousand one hundred dollars per annum, with an annual increase of fifty dollars up to a maximum of one thousand four hundred dollars. 48-49 V., c. 46, s. 20. Salary.

21. A third-class clerkship, or the office of a messenger, a packer or a sorter, shall only be created by Order in Council passed on the report of the Deputy Head, concurred in by the Head of the department, setting forth the reasons for creating the office, and after the salary has been voted by Parliament. 48-49 V., c. 46, s. 21. Third-class clerkship, &c., condition of creation.

22. The minimum salary of a third-class clerk shall be four hundred dollars per annum, with an annual increase of fifty dollars up to a maximum of one thousand dollars. 48-49 V., c. 46, s. 22. Salaries of third-class clerks.

23. The minimum salary of a messenger, packer or sorter shall be three hundred dollars per annum, with an annual increase of thirty dollars up to a maximum of five hundred dollars. 48-49 V., c. 46, s. 23. Of messengers, &c.

24. The salary of a clerk on appointment or promotion to any class shall begin at the minimum of such class, except in the case of third-class clerks, who may receive, in addition, fifty dollars for each optional subject (not to exceed four) in which they have passed before their appointment, and except in the case of lower grade permanent employees who, upon passing the qualifying examination, may be appointed third-class clerks, provided there is no increase of salary. 48-49 V., c. 46, s. 24. Initial salary and increase.

Promotion.

25. The officers, clerks and employees mentioned in schedule B to this Act shall be paid according to the scale thereby established, and the salaries of officers, clerks and employees in the second or outside division of departments other than the Customs, Inland Revenue and Post Office Departments Salaries to be regulated as per schedule B.

shall, subject to the provisions of any Act relating thereto, be fixed in each case by the Governor in Council. 48-49 V., c. 46, s. 25.

Conditions of increase. **26.** No officer, clerk or employee shall receive any increase of salary except by Order in Council passed on the report of the Deputy Head, concurred in by the Head of the department, stating that such officer, clerk or employee is deserving of such increase:

May be suspended for neglect. 2. The increase of salary of any officer, clerk or employee authorized under this Act for the then current year may be suspended by the Head of the department for neglect of duty or misconduct, and may be subsequently restored by such Head, but without arrears. 48-49 V., c. 46, s. 26.

From what time payable **27.** The increase of salary shall be payable from the first day of the official quarter next succeeding the date on which, from his length of service, any clerk or employee for whom such increase is recommended is eligible for such increase:

In case of promotion. 2. In case of promotion, the increase of salary shall become payable from the day on which such promotion takes place. 48-49 V., c. 46, s. 27.

Appointment must have been according to law. **28.** No salary shall be paid to any member of the Civil Service whose appointment or promotion, or whose increase of salary after the first day of July, one thousand eight hundred and eighty-two, has not been made in the manner provided by the Civil Service Act in force at the time of such appointment, promotion or increase. 48-49 V., c. 46, s. 28.

EXAMINATIONS.

No appointment without examination. **29.** Except as herein otherwise provided, no appointment shall be made to either division of the Civil Service unless the person appointed has passed an examination, which shall be of two kinds—

Preliminary, for what appointments. The first or "preliminary" examination, to qualify for the following appointments:—

Messengers in either division,

Porters,

Sorters,

Packers,

Letter Carriers,

Mail Transfer Agents,

Box Collectors,

Tide Waiters,

Assistant Inspectors of Weights and Measures,

Temporary copyists, and—

For such other offices in the lower grades as are determined by the Governor in Council:

The second or "qualifying" examination to qualify for the following appointments:— Qualifying examination.

Third-class clerkships in the first division;

Third-class clerkships and the offices of landing-waiters and lockers, in the second division for Customs service;

Third-class clerkships and the office of exciseman, in the second division for Inland Revenue service;

Third class clerkships, railway and marine mail clerkships, and the offices in the second division for Post Office service:

But nothing in this section shall be construed to prevent candidates passing both examinations, at their option. Candidates may pass both examinations voluntarily. 48-49 V., c. 46, s. 29.

30. No person shall be admitted either to the preliminary or qualifying examination until he has satisfied the board— Conditions for preliminary or qualifying examination.

(a.) That at the time appointed for such examination he will, if the examination is for a place below that of a third-class clerk, be of the full age of fifteen years, and in other cases be of the full age of eighteen years, and if for the inside departmental division, that his age will not then be more than thirty-five years;

(b.) That he is free from any physical defect or disease which would be likely to interfere with the proper discharge of his duties;

(c.) That his character is such as to qualify him for employment in the service. 48-49 V., c. 46, s. 30.

31. The preliminary and qualifying examinations shall be held under such regulations, not inconsistent with this Act, as are, from time to time, made by the Governor in Council and published in the English and French languages in the *Canada Gazette*. To be held under regulations. 48-49 V., c. 46, s. 31.

32. The examinations shall be open to all persons who comply with the requirements of this Act as to proof of age, health and character, and conform to the regulations made as herein provided, upon payment of such fees as are determined by the Governor in Council; and all examinations under this Act shall be held in the English or French language, or in both, at the option of the candidate. To whom examinations shall be open. Fees. In either language. 48-49 V., c. 46, s. 32.

33. Notice of every examination to be held under this Act for admission into the Civil Service shall be published in the English and French languages in the *Canada Gazette* at least one month before the date fixed for the examination, and the notice so published shall state— Notice of time and place of holding.

(a.) When and where the examination is to be held;

(b.) The subjects to which the examination will extend. 48-49 V., c. 46, s. 33.

Lists of persons found qualified to be made.

34. Immediately after each examination a list of the persons who are found qualified shall be made out, and published in the *Canada Gazette*. 48-49 V., c. 46, s. 34.

NEW APPOINTMENTS.

Proceedings when new appointments are required.

35. Whenever it becomes necessary to make any appointment to any of the classes to which it is herein provided that first appointments shall only be made after qualifying examination, such necessity shall be reported to the Head of the department by his Deputy; and upon such report being approved by the Head of the department, and after the salary to be paid has been voted by Parliament, the Head of the department shall select and submit to the Governor in Council for probation, from the lists of qualified candidates made by the board, a person fitted for the vacant place:

Selection of candidates.

Probation.

2. The person so selected shall not receive a permanent appointment until he has served a probationary term of at least six months:

Rejection during probation.

3. The Head of the department or the Deputy Head may, at any time during the period of probation, reject any clerk or employee appointed to his department. 48-49 V., c. 46, s. 35.

Report of Deputy Head as to competency.

36. No probationary clerk shall remain in any department more than one year, unless, at or before the end of that time, the Deputy Head signifies to the Head of the department in writing that the clerk is considered by him competent for the duty of the department:

Provision in case of rejection.

2. If he is rejected the Head of the department shall report to the Governor in Council the reasons for rejecting him, and another clerk shall thereupon be selected in like manner in his stead; and the Head of the department shall decide whether the name of the person rejected shall be struck off the list as unfit for the service generally, or whether he shall be allowed another trial. 48-49 V., c. 46, s. 36.

As to offices requiring special qualifications.

37. When the Deputy Head of a department in which a vacancy occurs reports, for reasons set forth in such report,—

(a.) That the qualifications requisite for such office or employment are wholly or in part professional or technical;

(b.) That the requisite qualifications are not possessed by any person then in the service of that department; and—

(c.) That it would be for the public interest that the examination herein provided for should, as regards such vacancy, be wholly or partially dispensed with;

The Governor in Council may, without reference to the age of the person, if the Head of the department concurs in such report, select and appoint such person as is deemed best fitted to fill the vacancy, subject to such examination as is suggested in the report ; and such appointment shall be made from the Civil Service, if any person employed therein is found available :

Selection and appointment.

From the service if available.

2. City Postmasters ; Inspectors, Collectors and Preventive Officers in the Customs Department ; Inspectors of Weights and Measures ; Deputy Collectors and Preventive Officers in the Inland Revenue Department, may be appointed without examination and without reference to the rules for promotion herein prescribed :

Exception as to certain enumerated officers.

3. The qualifying examination may be dispensed with in the case of any person actually and continuously employed on and since the first day of July, one thousand eight hundred and eighty-two, if the Deputy Head of the department, with the concurrence of the Head of the department, reports that the said employee has the requisite qualifications for the place to be filled by him ; and such person may receive an appointment in the Civil Service for which he is otherwise eligible, if at the date of such temporary employment his age did not exceed thirty-five years. 48-49 V., c. 46, s. 87.

In what cases qualifying examination may be dispensed with.

38. If a vacancy occurs in the office of the Auditor General, the report required as to such vacancy shall be made to the Minister of Finance and Receiver General. 48-49 V., c. 46, s. 38.

Vacancy in Auditor General's office.

PROMOTIONS.

39. No promotion in either division of the Civil Service shall take place without special examination, under regulations made by the Governor in Council :

Promotion to be by examination under regulations.

2. Except as herein otherwise provided, such examination shall be open to any person who holds a position below that to which the promotion is to be made in either division of the service of the department in which the vacancy to be filled by promotion exists ; and shall be in such subjects as are determined from time to time for each department by the Governor in Council, and in such subjects, as by report of the Deputy Head of the department in which the promotion is to be made, concurred in by the Head of the department, are submitted to the board as best adapted to test the fitness of the candidates for the vacant office :

To whom open.

Subjects of examination.

3. When the vacancy to be filled by promotion exists in the inside division, the examination shall not be open to per-

In inside division.

sons employed in the outside division who, at the date of their first appointment, were of a greater age than thirty-five years:

May be dispensed with as to professional men.

4. In the case of barristers, attorneys, engineers, military or civil, officers of artillery in the Militia Department and graduates of the Royal Military College, architects, actuaries, land surveyors and draughtsmen, when employed or when seeking promotion in the line of their profession, the examination may be dispensed with on a report from the Deputy Head, concurred in by the Head of the department, that it is not necessary:

Special case of excisemen.

5. No such examination shall be required for the re-employment or promotion of excisemen who passed the departmental examinations for the special class in the excise service before the first day of July, one thousand eight hundred and eighty-two. 48-49 V., c. 46, s. 39.

Yearly estimate of probable vacancies, in first division.

40. Once in each year the Deputy Head of each department shall make an estimate of the number of vacancies likely to occur therein during the ensuing year, in the first division in the classes of—

- (a.) Chief clerks;
- (b.) First-class clerks;
- (c.) Second-class clerks:

Additions.

2. To the number so estimated shall be added such further number as the Deputy Head of the department deems necessary to compensate for any death, failure of health, or other contingency:

In second division.

3. A similar estimate shall be made at the same time of the number of vacancies likely to occur in the second division, to which promotions can be made:

Use of estimate

4. The numbers so estimated shall be those with reference to which the examinations for promotion shall be held, as herein provided. 48-49 V., c. 46, s. 40.

Notices of examinations.

41. Notice of each examination for promotion in the service shall be published in the English and French languages in the *Canada Gazette* at least one month before the examination is to be held; and such notice shall state the number of promotions expected in each class in each division. 48-49 V., c. 46, s. 41.

Selection for vacancies in higher classes.

42. Except as herein otherwise provided, when any vacancy occurs in one of the higher classes, in either division, the Head of the department shall select from the list of successful candidates for promotion, the person whom he considers best fitted for the office, having due reference to any special duties incident to such office, to the qualification and fitness shown by the candidates respectively, during their examination, and to the record of their

previous conduct in the service: Provided, that when no person employed in the department is found suitable for promotion therein, an examination shall be held of persons employed in the service of other departments with a view to the promotion being made as far as practicable from the service. 48-49 V., c. 46, s. 42.

Proviso: if no officer is found fit.

43. Every promotion so made shall be subject to a probation of not less than six months; but at any time during the first year the Head of the department may reject the person promoted, or he may be definitely accepted at any time during the second period of six months after his promotion:

Promotion subject to probation.

2. If the person so selected is rejected he shall then return to the performance of the duties in which he was previously engaged. 48-49 V., c. 46, s. 43.

If rejected.

44. When any clerk who is promoted on probation is rejected, the Head of the department shall select another in his stead from the candidates whose names still remain on the lists of qualified persons, made by the board. 48-49 V., c. 46, s. 44.

Further selection.

45. During the period for which a clerk is promoted on probation the duties of the office previously held by him shall, if necessary, be performed by a person selected for that purpose by the Head of the department. 48-49 V., c. 46, s. 45.

His former duties, by whom performed.

46. An exchange of positions between two officers serving in different departments, or in different divisions of the same department, and the filling of a vacancy in one department by a transfer from another division of the same department or from another department, may be authorized by the Governor in Council, to be made without examination of either officer; but such exchange or transfer shall be made without increase of salary of either of the persons exchanging or transferred; and no person shall be transferred from an outside to an inside division, whose age at the date of his first appointment exceeded thirty-five years. 48-49 V., c. 46, s. 46.

Exchange of positions by officers without examination.

Condition.

SUPERNUMERARY AND TEMPORARY CLERKS.

47. When, from a temporary pressure of work or from any other cause, the assistance of temporary clerks becomes necessary in any branch of the first or second division, the Head of the department may—if he is satisfied that such necessity exists—on the requisition of the Deputy Head of the department, select from the lists of qualified candidates, for whom no vacancies have, up to that time, been found, such number of temporary clerks as are required, or, if the list does not furnish such a person, may employ any other

Employment of assistance in cases of temporary pressure.

Term of employment limited, &c.

person qualified for the service in question; but such other person shall not be continued in such temporary employment after the period in which a preliminary or qualifying examination is held, unless he presents himself for examination and obtains a certificate of having passed the necessary examination:

The same, and rate of remuneration.

2. Persons who were in the temporary employment of the several departments on the first day of July, one thousand eight hundred and eighty-two, may be continued in such employment so long as the Heads of the respective departments deem necessary; the rate of remuneration to be paid for such temporary service shall not, however, exceed the minimum salary of a third-class clerk, unless the service to be performed is technical and requires special qualifications; and such temporary employment shall not be considered as giving any claim to permanent appointment:

Out of what funds payable

3. The temporary and supernumerary clerks so employed shall be paid only out of money voted by Parliament for payment of the contingencies of the department, division or office of the service in which such clerks are employed, or out of money voted by Parliament for the construction of works upon which they are employed. 48-49 V., c. 46, s. 47.

PRIVATE SECRETARIES.

Private secretaries of Ministers.

48. Any member of the Civil Service may be appointed private secretary to the Head of a department, and may be paid an additional salary not exceeding six hundred dollars a year whilst so acting:

Salary must have been voted.

2. No salary shall be payable to any private secretary unless the amount has been voted by Parliament. 48-49 V., c. 46, s. 48.

GENERAL PROVISIONS.

As to leave of absence.

49. The Head of a department, and in his absence the Deputy Head of such department, may grant to each officer, chief clerk, clerk or other employee, leave of absence for purposes of recreation for a period not exceeding three weeks in each year; and every such officer, clerk or employee, whether in the first or second division, shall take the leave so granted at such time during each year as the Head or Deputy Head of the department determines:

In case of illness, &c.

2. In case of illness or for any other reason which to him seems sufficient, the Governor in Council may grant to any officer, chief clerk, clerk or other employee, leave of absence for a period not exceeding twelve months. 48-49 V., c. 46, s. 49.

Suspension of officers for cause

50. The Head of a department, and in his absence the Deputy Head of such department, may,—

(a.) Suspend from the performance of his duty or from the receipt of his salary any officer or employee guilty of misconduct or negligence in the performance of his duties ; In what cases.

(b.) Remove such suspension ; but no person shall receive any salary or pay for the time during which he was under suspension : Removal of suspension.

2. All cases of suspension by the Deputy Head of the department shall be reported by him to the Head of the department. 48-49 V., c. 46, s. 50. Report in such cases.

51. No extra salary or additional remuneration of any kind whatsoever shall be paid to any Deputy Head, officer or employee in the Civil Service of Canada, unless a sum has been placed for that purpose in each case in the estimates submitted to and voted by Parliament : In what cases only additional pay shall be allowed.

2. When the duties of any superior officer or clerk during his absence, or by reason of his death, but not through superannuation, are continuously performed by an officer or clerk of an inferior class or junior rank, during a period of more than three months, the officer or clerk performing such duties may, on the report of the Deputy Head, concurred in by the Head of the department, under an Order in Council, and provided that funds are available under parliamentary vote for such payment, receive in addition to his ordinary pay, the difference between such ordinary pay and the pay of the officer or clerk whose duties he has performed, for the time he has performed such duties : Case of inferior officer performing duties of superior.

3. When the absence of any officer is not occasioned by his employment on other duties by the Government, by leave of absence, or on account of illness certified by an authorized medical practitioner, appointed by the Governor in Council for that purpose, his salary for each day of such absence, shall be deducted from his monthly salary. 48-49 V., c. 46, s. 51. Deduction from pay for unauthorized absence.

52. All payments of money to permanent employees, other than salaries, to be made under the provisions of this Act, and whether specifically stated in the estimates submitted to Parliament, or payable under sub-section two of the next preceding section, shall be made only under the authority of the Governor in Council. 48-49 V., c. 46, s. 53. Certain payments to be made only under Order in Council.

53. Any officer, clerk or employee who has resigned, shall be eligible, without examination, under the authority of an Order in Council, to re-enter the service, at the same salary in the class in which he was serving at the time of such resignation, provided that funds are available for the payment of his salary. 48-49 V., c. 46, s. 52. As to officers having resigned and wishing to re-enter service.

Act not to prejudice certain officers.

54. Nothing contained in this Act shall prejudicially affect the salary or emoluments of any Deputy Head, officer, clerk or employee in the Civil Service of Canada, appointed on or before the first day of July, one thousand eight hundred and eighty-two, so long as he is continued in office, nor shall anything herein contained affect any salary or emolument granted and fixed by any Act in force on the day in this section before mentioned. 48-49 V., c. 46, s. 54.

Powers of Governor in Council not impaired. Proviso.

55. No provision herein contained shall impair the power of the Governor in Council to remove or dismiss any Deputy Head, officer, clerk or employee, but no such Deputy Head, officer, clerk or employee, whose appointment is of a permanent nature shall be removed from office except by authority of the Governor in Council. 48-49 V., c. 46, s. 55.

Attendance books to be kept; their use.

56. There shall be kept in each department, and in the office of the Auditor General, at the seat of Government, and in each office of the second division, a book or books to be called the attendance book, which shall be in such form as is determined by the Governor in Council, in which each officer, clerk and employee of such office or department shall sign his name, at such times as are determined by the Governor in Council. 48-49 V., c. 46, s. 56.

Oath of allegiance by officers and employees.

57. The Deputy Heads of departments and all officers, chief clerks, clerks, messengers, sorters and packers of the Civil Service who have not already done so, and every Deputy Head, officer, chief clerk, clerk, messenger, sorter or packer hereafter appointed, before any salary is paid him, shall take and subscribe the oath of allegiance and also the oath contained in schedule C to this Act, or such other oath as is provided by some other Act, in that behalf:

Addition to oath in certain cases.

2. In the case of the Clerk of the Privy Council, and all officers, clerks and employees under him, and in the case of any officer, clerk or employee of whom the Governor in Council requires the same, there shall be added to the oath at the asterisks, in the form of the oath in the said schedule C, the words contained in schedule D to this Act:

Clerk of P.C. for Canada.

3. The Clerk of the Queen's Privy Council for Canada shall take and subscribe the said oaths before the Governor General or some one appointed by him to administer the same:

Before whom in Ottawa.

4. In the case of persons residing or coming to reside at the city of Ottawa, the oaths shall be taken and subscribed before the Clerk of the Privy Council:

And elsewhere.

5. In other cases the oaths may be taken and subscribed before a justice of the peace or other proper authority who shall forward the same to the Clerk of the Privy Council:

Register.

6. The Clerk of the Privy Council shall keep a register of all such oaths. 48-49 V., c. 46, s. 57.

58. The Secretary of State shall lay before Parliament, within fifteen days after the commencement of each session, a report of the proceedings of the board of examiners under this Act during the preceding year, which report shall include a copy of the examination papers, a statement of all examinations held and of the number of candidates at each, and the names of the successful candidates, and also the rules and regulations made during the year under the provisions of section five of this Act :

Annual report by Secretary of State. and what it must show.

2. The Secretary of State shall lay before Parliament in like manner a return of the names and salaries of all persons appointed to or promoted in the Civil Service during the said year, specifying the office to which each has been appointed or promoted. 48-49 V., c. 46, s. 58.

Further particulars.

59. The Secretary of State shall cause to be printed each year a list, to be called the Civil Service List of Canada, of all persons employed in the several departments of the Civil Service, together with those employed in the two Houses of Parliament, upon the first day of July next preceding, showing the dates of their several appointments and promotions, their age, rank in the service, and salary ; and shall lay the same before Parliament within the first fifteen days of each session. 48-49 V., c. 46, s. 59.

Yearly Civil Service list to be printed and laid before Parliament.

SCHEDULE A.

- (a.) Deputy Heads of departments ;
- (b.) Officers who have special professional or technical qualifications ;
- (c.) Chief clerks ;
- (d.) First-class clerks ;
- (e.) Second-class clerks ;
- (f.) Third-class clerks ;
- (g.) Messengers, packers and sorters. 48-49 V., c. 46, sch. A.

SCHEDULE B.

All the officers, clerks and employees hereinafter enumerated and such other officers in the lower grades as are determined by Order in Council :

CUSTOMS.

	Scale of Salaries.
Inspectors - - - - salary from	\$1,600 to 2,500
Collectors - - - - - "	400 to 4,000
Surveyors - - - - - "	1,200 to 2,500

	Scale of Salaries.
Chief clerks - - - - salary from	\$1,200 to 2,000
Clerks - - - - "	400 to 1,200
Chief Landing Waiters - - - - "	800 to 1,200
Landing Waiters - - - - "	400 to 1,000
Gaugers - - - - "	600 to 1,200
Chief Lockers - - - - "	800 to 1,200
Lockers - - - - "	400 to 800
Tide Surveyors - - - - "	800 to 1,000
Tide Waiters - - - - "	400 to 600
Messengers - - - - "	200 to 500
Appraisers - - - - "	800 to 2,000
Assistant Appraisers - - - - "	600 to 1,500

INLAND REVENUE.

Chief Inspector - - - - -	\$2,800
Inspectors - - - - -	\$1,600 to 2,500
Collectors - - - - -	500 to 2,200
Deputy Collectors - - - - -	400 to 1,500
Clerks (Accountants) - - - - -	600 to 1,200
Special Class Excisemen - - - - -	1,200
First, Second and Third-class Excisemen -	600 to 1,000
Probationary Excisemen - - - - -	500
Messengers - - - - -	200 to 500

To which may be added for surveys of important manufactories an additional salary, for the special class Excisemen who perform that duty, not exceeding \$200 per annum.

POST OFFICE.

Post Office Inspectors.

Chief Inspector.....	\$2,800
1st Class, on appointment.....	2,200
After 10 years' service.....	2,400
" 20 "	2,600
2nd Class, on appointment.....	2,000
After 10 years' service.....	2,200
" 20 "	2,400

Assistant Post Office Inspectors.

On appointment, \$1,200, with an annual increase of \$50, to a maximum of \$1,600.

The scale of salaries of clerks in Post Office Inspectors' offices shall be the same as for clerks in City Post Offices :

Railway Mail Clerks.

	On Appointment.		After 2 years service in any class of Railway Mail Clerks.		After 5 years service in any class of Railway Mail Clerks.		After 10 years service in any class of Railway Mail Clerks.	
	Day Service.	Night Service.	Day Service.	Night Service.	Day Service.	Night Service.	Day Service.	Night Service.
	£	£	£	£	£	£	£	£
Chief Clerks	1,000	.....	1,200	.....	1,350	.....	1,500	.....
1st Class.....	720	880	800	1,000	880	1,100	960	1,200
2nd Class.....	600	720	640	800	720	880	800	1,000
3rd Class.....	480	600	520	640	560	700	640	800

— To Clerks other than Chief Clerks, in addition to regular salary an allowance not exceeding half a cent per mile for every mile travelled on duty in the Post Office cars.

Marine Mail Clerks.

	On appointment.		After 2 years.		After 5 years.		After 10 years.		After 15 years.	
	Salary.	Trip Allowance.	Salary	Trip Allowance.	Salary	Trip Allowance.	Salary.	Trip Allowance.	Salary.	Trip Allowance.
	£	£	£	£	£	£	£	£	£	£
1st Class....	480	80	540	80	600	80	800	100	1,000	100
2nd Class....	360	*50	420	50	.....	.....	.....	.....	.....	.....

NOTE.—Trip means the round voyage from Quebec or Halifax to Liverpool and back.

* Only one-half, or \$25, to be allowed whilst learning duty.

City Postmasters.

Class 1, where postage collections exceed—
 \$80,000.....\$2,600
 do 2, do are from 60,000 to \$80,000..... 2,400
 do 3, do 40,000 to 60,000..... 2,200
 do 4, do 20,000 to 40,000..... 2,000
 do 5, do are less than 20,000..... 1,400
 to \$1,800, as the Postmaster General determines. These salaries shall not be supplemented by any allowances, commissions or perquisites whatsoever.

Assistant Postmasters.

Class 1.....	\$2,000
do 2.....	1,800
do 3.....	1,600
do 4.....	1,400
do 5.....	\$1,100 to 1,400

Clerks in City Post Offices.

3rd Class, \$400 by annual increase of \$40 to \$800.

2nd Class, \$900 by annual increase of \$50 to \$1,200.

1st Class—Specific duties in each case with fixed salaries to be determined by the Postmaster General: no salary shall be less than \$1,200 or more than \$1,500;

Superintendent of Letter Carriers not to exceed \$800;

Mail transfer agents, \$400, with an annual increase of \$40 to a maximum of \$600;

Letter Carriers, Messengers, Box Collectors and Porters, \$360 to \$600 by annual increase of \$30.

DEPARTMENT OF JUSTICE.

Inspector of Penitentiaries.

The same scale as Post Office Inspector. 48-49 V., c. 46, sch. B.

SCHEDULE C.

“ I (A.B.), solemnly and sincerely swear that I will faithfully and honestly fulfil the duties which devolve upon me as _____ and that I will not ask, or receive any sum of money, services, recompense or matter or thing whatsoever, directly or indirectly, in return for what I have done or may do in the discharge of any of the duties of my said office, except my salary or what may be allowed me by law or by an Order of the Governor in Council; * * * * * So help me God.” 48-49 V., c. 46, sch. C.

SCHEDULE D.

(After the asterisks in schedule C.)

“ And that I will not, without due authority in that behalf, disclose or make known any matter or thing which comes to my knowledge by reason of my employment as (as the case may be).” 48-49 V., c. 46, sch. D.



CHAPTER 18.

An Act respecting the Superannuation of persons employed in the Civil Service of Canada. A.D. 1886

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

SHORT TITLE.

1. This Act may be cited as "*The Civil Service Superannuation Act.*" 46 V., c. 8, s. 18. Short title.

APPLICATION OF ACT.

2. The Civil Service, for the purposes of this Act includes and consists of—

(a.) All officers, clerks and employees in or under the several departments of the Executive Government who are paid a yearly salary, and to whom "*The Civil Service Act*" applies ; Who shall be deemed civil servants.
Persons under Civil Service Act.

(b.) All such officers, clerks and employees of the second or outside division of the Civil Service, as the Governor in Council, from time to time, designates, and to whom "*The Civil Service Act*" does not apply, and who are paid a yearly salary and employed in an established capacity ; Certain persons in the outside service.

(c.) The permanent officers and servants of the Senate and House of Commons, and the permanent officers and servants employed in the Library of Parliament, who, for the purposes of this Act, shall be deemed to be in the Civil Service, saving all rights and privileges of either House in respect to the appointment or removal of its officers and servants ; Officers and servants of Senate and Commons.

(d.) All persons now contributing to the superannuation fund ; Present contributors to the fund.

(e.) All persons to whom this Act is by some other Act declared to apply. 46 V., c. 8, s. 1. Certain others.

SUPERANNUATION.

3. The Governor in Council may grant to any person who has served in an established capacity in the Civil Service for ten years or upwards, and who has attained the Conditions of allowance.

age of sixty years, or is incapacitated by bodily infirmity from properly performing his duties, a superannuation allowance calculated on his average yearly salary during the then last three years, and not exceeding the following rates, that is to say:—

Rates of allowance.

(a.) If he has served for ten years, but less than eleven years, an annual allowance of ten fiftieths of such average salary, and if for eleven years and under twelve years, an annual allowance of eleven fiftieths thereof, and in like manner a further addition of one fiftieth of such average salary for each additional year of service up to thirty-five years, when an annual allowance of thirty-five fiftieths may be granted; but no addition shall be made for any service beyond thirty-five years;

Maximum rate for 35 years.

Breaks in service not to be counted

(b.) If the service has not been continuous, the period or periods during which such service has been interrupted shall not be counted, and the Order in Council made in any such case shall be laid before Parliament at its then current or next ensuing session. 46 V., c. 8, s. 2.

Governor in Council may add to service of persons appointed on account of special qualifications.

4. The Governor in Council may, in the case of any person who entered the Civil Service after the age of thirty years, as being possessed of some peculiar professional or other qualifications or attainments required for the office to which he was appointed, and not ordinarily to be acquired in the public service, add to the actual number of years' service of such person, such further number of years not exceeding ten, as is considered equitable, for reasons stated in the Order in Council made in the case; and such additional number of years shall be taken as part of the term of service on which the superannuation allowance of such person shall be computed; and the Order in Council in any such case shall be laid before Parliament at its then current or next ensuing session. 46 V., c. 8, s. 3.

Preliminary inquiry by Treasury Board.

5. The superannuation of every civil servant shall be preceded by an inquiry by the Treasury Board—

(a.) Whether the person it is proposed to superannuate is eligible within the meaning of this Act; and—

(b.) Whether his superannuation will result in benefit to the service, and is therefore in the public interest; or—

(c.) Whether it has become necessary in consequence of his mental or physical infirmity:

Report of Board.

2. No civil servant shall be superannuated unless the Treasury Board reports that he is eligible within the meaning of this Act and that such superannuation will be in the public interest. 46 V., c. 8, s. 4.

Deductions from salaries.

6. A deduction towards making good the superannuation allowances hereinbefore mentioned, shall be made from the salary of every person in the Civil Service to whom this Act applies, at the rate of two per centum per annum on such

salary, if it is six hundred dollars or upwards, and of one and a-quarter per centum per annum thereon, if it is less than six hundred dollars, and the sum so deducted shall form part of the Consolidated Revenue Fund of Canada; but such deduction shall be made only during the first thirty-five years of service. 46 V., c. 8, s. 5.

Proviso.

7. The full superannuation allowance shall only be granted to persons who have been subject to the said deduction during ten years or upwards,—the superannuation allowance of any person who has not paid it, or has paid it for a less period, being subject to a diminution of one per centum for every year less than ten during which he has not paid it; except that the superannuation allowance of any person hereafter retiring, shall not be subject to any such diminution by reason of his not having paid the abatement hereinbefore mentioned, during any year or years after his first thirty-five years of service. 46 V., c. 8, s. 6.

Ten years' contribution requisite for full allowance.

Diminution for less period of contribution.

Exception.

8. Retirement shall be compulsory on every person to whom the superannuation allowance hereinbefore mentioned is offered, and such offer shall not be considered as implying any censure upon the person to whom it is made; nor shall any person be considered as having any absolute right to such allowance, but it shall be granted only in consideration of good and faithful service during the time upon which it is calculated:

Compulsory retirement.

Allowance conditional on good service.

2. Nothing herein contained shall be understood as impairing or affecting the right of the Governor in Council to dismiss or remove any person from the Civil Service. 46 V., c. 8, s. 7.

Right of dismissal not impaired.

9. If the Head of a department reports with respect to any person employed in his department, and about to be superannuated, from any cause other than that of ill-health or age, that the service of such person has not been satisfactory, the Governor in Council may, as to him seems fit, grant such person a superannuation allowance less than that to which he would have otherwise been entitled. 46 V., c. 8, s. 8.

Diminution when Head of Department reports unsatisfactory service.

10. If any person to whom this Act applies, is constrained, from any infirmity of mind or body, to quit the Civil Service before the period at which a superannuation allowance might be granted him, the Governor in Council may allow him a gratuity not exceeding one month's pay for each year of his service; and if any such person is so constrained to quit the service before such period, by reason of severe bodily injury, received without his own fault, in the discharge of his public duty, the Governor in Council may allow him a gratuity not exceeding three month's pay for every two years' service, or a superannuation allowance not exceeding

Gratuity when yearly allowance not earned.

Gratuity in case of bodily injury on duty.

one-fifth of his average salary during the then last three years. 46 V., c. 8, s. 9.

Provision for abolition of office, reduction of staff, &c.

11. If any person to whom this Act applies is removed from office in consequence of the abolition of his office for the purpose of improving the organization of the department to which he belongs, or is removed, or retired from office to promote efficiency or economy in the Civil Service, the Governor in Council may grant him such gratuity or superannuation allowance as will fairly compensate him for his loss of office, not exceeding such as he would have been entitled to if he had retired in consequence of permanent infirmity of body or mind, after adding ten years to his actual term of service. 46 V., c. 8, s. 10.

Pensioners under sixty liable to serve if required, under penalty of loss of allowance.

12. Every person who receives a superannuation allowance, and is under the age of sixty years, and is not disabled by bodily or mental infirmity, may be called upon to fill, in any part of Canada, any public office or situation for which his previous services render him eligible, and which is not lower in rank or emolument than that from which he retired; and, if he refuses or neglects so to do, he shall forfeit his said allowance. 46 V., c. 8, s. 11.

Service before Confederation to be counted.

13. Service in an established capacity in any of the departments of the Executive Government or offices of the Legislature of any of the Provinces now included in the Dominion of Canada, before such Province became a portion thereof, by any person who has thereafter entered the Civil Service, shall be reckoned in computing his period of service for the purposes of this Act. 46 V., c. 8, s. 12.

Discretionary power of Governor in Council.

14. In any case of doubt the Governor in Council may, by general or special regulations, determine to what persons the provisions of this Act do or do not apply, and the conditions on which, and the manner in which, they shall apply in any case or class of cases. 46 V., c. 8, s. 13.

Payment of allowances.

15. The allowances and gratuities granted under this Act shall be payable out of the Consolidated Revenue Fund of Canada. 46 V., c. 8, s. 14.

REPORT OF SUPERANNUATIONS.

Annual return to be made to Parliament.

16. The Minister of Finance and Receiver General shall lay before Parliament, within fifteen days after the commencement of each session thereof, a statement of all superannuations and retiring allowances in the Civil Service within the year, giving the name and rank of each person

superannuated or retired, his salary, age and length of service, the allowance granted to him on retirement, the cause of his superannuation and whether the vacancy has been subsequently filled, and if so, whether by promotion or by a new appointment, and the salary of the new appointee. 46 V., c. 8, s. 15.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 19.

An Act respecting Public Officers.

A.D. 1886.

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

COMMISSIONS.

1. The Governor in Council may make regulations declaring and determining what officers or classes of officers in the Civil Service, now or hereafter to be appointed under Orders in Council, shall receive commissions under the Great Seal or under the Privy Seal respectively, and what fee shall be paid thereon; and such commissions may be issued to the officers who have not received and are declared entitled to receive them; but nothing done under the provisions of this section shall affect any commission in force on the second day of June, in the year one thousand eight hundred and eighty-six, nor shall any regulation made under the same affect the validity of any commission issued before the said day. 49 V., c. 5, ss. 1 and 2.

Regulations may be made as to issue of commissions.

Certain commissions not affected.

2. Commissions issued under the foregoing provisions of this Act shall be recorded in the office of the Registrar General of Canada, and notice of the appointments shall be inserted in the *Canada Gazette* by the Secretary of State, and a list of such commissions issued during the year shall be laid before Parliament within the first fifteen days of its next ensuing session in each year. 49 V., c. 5, s. 3.

Publication of notice and report to Parliament.

3. Upon the demise of the Crown, it shall not be necessary to renew any commission by virtue whereof any officer of Canada or any functionary in Canada held his office or profession during the previous reign; but a proclamation shall be issued by the Governor General, authorizing all persons in office as officers of Canada who held commissions under the late Sovereign, and all functionaries who exercised any profession by virtue of any such commissions to continue in the due exercise of their respective duties, functions and professions; and such proclamation shall suffice; and the incumbents shall, as soon thereafter as possible, take the usual and customary oath of allegiance, before the proper officer or officers thereunto appointed:

Proclamation substituted for renewal of commissions, on demise of the crown.

Oath of allegiance to be taken.

Effect of such proclamation.

2. Upon such proclamation being issued, and oath taken, each and every such officer of Canada and functionary shall continue in the lawful exercise of the duties and functions of his office or profession, as fully as if appointed *de novo* by commission derived from the Sovereign for the time being; and all acts and things *bonâ fide* done and performed by such incumbents in their respective offices, and in the due and faithful performance of their duties, functions and professions, between the time of such demise and the proclamation so to be issued—such oath of allegiance being duly taken—shall be deemed to be legally done, and valid accordingly. 31 V., c. 36, s. 1.

Rights of the Crown saved.

4. Nothing in the preceding section shall prejudice or in anywise affect the rights or prerogative of the Crown, with respect to any office or appointment derived or held by authority from it, or prejudice or affect the rights or prerogatives thereof in any other respect whatsoever. 31 V., c. 36, s. 2.

SECURITY BY PUBLIC OFFICERS.

Bonds, with sureties, to be given by persons hereafter appointed to certain public offices.

5. Every person appointed to any civil office or employment, or commission in any public department of the Government of Canada, or to any office or employment of public trust, or wherein he is concerned in the collection, receipt, disbursement or expenditure of any public money under the Government of Canada, and who by reason thereof is required to give security, with surety or sureties, or otherwise, shall, within one month after notice of such appointment, if he is then in Canada, or within three months if he is then absent from Canada (unless he sooner arrives in Canada, and then within one month after such arrival), give and enter into a bond or bonds, or other security or securities, in such sum and with such sufficient surety or sureties as are approved of by the Governor in Council or by the principal officer or person in the office or department to which he is appointed, for the due performance of the trust reposed in him, and for his duly accounting for all public moneys intrusted to him, or placed under his control. 31 V., c. 37, s. 2.

Bonds given by officers of Canada may be in the form in Schedule.

6. Whenever any person is required, under this Act or under any other Act of the Parliament of Canada, or any other Act affecting officers of Canada, or by any order of the Governor in Council, to give bond or security for the due performance of the duties of any office to which he has been or is about to be appointed, such person may either solely, or together with any surety or sureties, as the case may be, give such security by bond to Her Majesty in the form A in the schedule to this Act, or to the like effect. 35 V., c. 19, s. 1.

7. Whenever a bond made according to the form A set forth in the schedule to this Act, or any other bond expressed to be made in pursuance of this Act, or referring thereto, contains the form of words set forth in column "one" of the said form, such bond shall be construed and have the same effect as if it contained the form of words set forth in column "two" of the said form. 35 V., c. 19, s. 2.

How certain forms of words shall be understood in such bonds.

8. Any recitals may be inserted prior to the condition of the bond, and the feminine gender may be substituted for the masculine, or the plural number for the singular, or *vice versa*, in any form in the first column of the said form, and corresponding changes shall, in such case, be taken to be made in the corresponding form in the second column; and any express exceptions or qualifications or additions, made, introduced or annexed in the first column, shall be taken to be made in the corresponding form in the second column. 35 V., c. 19, s. 3.

Recitals:—
genders,
numbers, &c.

9. Any bond or part of a bond which does not take effect by virtue of the three sections of this Act next preceding, shall nevertheless be as effectual to bind the obligors therein, so far as the rules of law and equity will permit, as if the said sections had not been passed. 35 V., c. 19, s. 4.

As to bonds not taking effect under this Act.

10. Every surety in any such bond shall make the affidavit in the form B, in the schedule to this Act or to the effect thereof, before a justice of the peace, and every such bond or security shall be proved as to the due execution and delivery of the same, by an affidavit of the attesting witness, made before a justice of the peace; and every such bond or security, with the several affidavits thereunto annexed, shall be recorded at full length in the Department of the Secretary of State of Canada, in the manner herein-after mentioned; and the original bond or security and the affidavits thereunto annexed shall, after such registration, be deposited in the said Department of the Secretary of State of Canada:

Attestation,
deposit and
record of
bonds.

2. Every such bond or security, and the affidavits thereunto annexed, shall be recorded and deposited as aforesaid, within one month after being entered into or given, if the person on whose behalf it is entered into or given, resides or is in Canada; and if he is absent from Canada, then within three months after being entered into or given, unless such person arrives sooner in Canada, and then within one month after such arrival. 31 V., c. 37, s. 3;—43 V., c. 3, s. 1, *part*.

Time within which it is to be done.

11. The Secretary of State shall make an entry, and shall, if required, give a certificate, in writing, under his hand and seal, of every such bond or security brought

Entry of bond and certificate thereof, by Secretary of State.

to him to be registered as aforesaid, and therein shall mention the day on which such bond or security is so registered, expressing also in what book, page or number the same is recorded :

Separate book to be kept for the purpose.

2. The Secretary of State shall, for the purpose of so registering bonds or securities provide a separate register book, every page of which, and every bond or security recorded therein, shall be numbered ; and the day of the month and year when every such bond or security is registered, shall be entered in the margin of the said register book, and in the margin of the bond or security : Provided always, that no bond or security given by any person, under this Act, to Her Majesty, Her heirs or successors, shall constitute any other or greater lien or claim upon the lands or tenements, goods or chattels of such person, than if such bond had been given to one of Her Majesty's subjects :

Proviso : as to effect of bond as a lien.

Alphabetical lists of names, to be kept.

3. The Secretary of State shall keep separate alphabetical lists of the names of the principals and of the names of the sureties mentioned in such bonds or securities, with reference to the book, page or number where the bonds or securities containing such names are to be found, and shall enter and register the said bonds or securities in the same order of time in which they respectively come to his hands. 31 V., c. 37, s. 4.

Order of entry.

Commission may be declared void for non-compliance with this Act.

12. If any person, who, by reason of his appointment to or holding any such civil office, employment or commission in any public department, or of public trust as aforesaid, or who, by reason of being concerned in the collection, receipt, disbursement or expenditure of any public money as aforesaid, is required or bound to give any such security, or to register and deposit any such bond or security as aforesaid, neglects to give such security, or to cause such bond or security to be duly registered and deposited in the manner and within the period in this Act prescribed, he shall be liable to forfeit the appointment, office, employment or commission, in respect whereof such security should have been given and such bond or security registered and deposited as aforesaid ; and his appointment or commission shall be void, from and after the time when the Governor General declares the same to be void under this Act ; but such voidance shall not annul or make void any act or order, or other matter or thing done by such person during the time he actually held such appointment, office, employment or commission :

Voidance not to annul acts done.

Exception : case of loss of bond, &c.

2. No such forfeiture shall take place by reason of any such bond or security not being registered or deposited, if the proper sureties have been given and the proper bond made out, and when the failure of registry and deposit have arisen from the loss of such bond or security in the transmission thereof from a distance ; but in every

New bond,

such case a new bond or security, specifying the reason of such delay, shall be made out and signed, registered and deposited, within the like period, after the person giving such security receives notice of the loss (regard being had to the place where he then is), as is required by this Act, for the registry thereof, if such loss had not occurred. 31 V., c. 37, s. 5.

13. Every such person as aforesaid, who has given any bond or other security, with surety or sureties for the due execution of the trust reposed in him, or for duly accounting for public moneys coming to his hands, shall give notice, in writing, to the Secretary of State, or to the principal officer or person of the department to which he belongs, of the death, bankruptcy, insolvency, or residence out of Canada, of any surety or person bound for or with him in any such security :

Notice to be given of death, &c., of surety.

2. Such notice shall be given within one month after the fact comes to the knowledge of such person as aforesaid, if he then is or resides in Canada, or within three months if he is out of Canada,—unless he sooner arrives in Canada, and then within one month after such arrival ; and any person who neglects to give such notice within such period as aforesaid, shall forfeit, to the use of Her Majesty, one-fourth part of the sum for which the surety so dead, bankrupt, insolvent or resident out of Canada, became security, recoverable in any court of competent jurisdiction, at the suit of the Crown :

Delay for giving notice.

Penalty for neglect.

3. Every such person who, upon the death, bankruptcy, insolvency or residence out of Canada of any surety, neglects to give the security of another surety, to be approved in like manner as such surety dying or becoming bankrupt, insolvent or resident out of Canada, was approved, within such period from his having given notice of the death, bankruptcy or insolvency, or residence out of Canada of the former surety, as is by this Act limited for giving, registering and depositing the original security, or neglects to register and deposit the bond or security of such new surety, within such period from his having given the security of such new surety as is, by this Act, limited for the registering and depositing of the original bond or security (the same regard being had to the place in which the person then is), shall be liable to forfeit the appointment, office, employment or commission, in respect whereof such new security ought to have been given, and such new bond or security registered and deposited as aforesaid ; and his appointment or commission shall be void from and after the time when the Governor General declares the same to be void in like manner, and under and subject to such provisions as aforesaid. 31 V., c. 37, s. 6.

Neglect to provide new surety,—

Or to register and deposit the bond,—

Punishable by forfeiture of appointment.

How sureties of public officers may relieve themselves from further responsibility.

14. When any person has become surety to the Crown for the due accounting for public moneys, or the proper performance of any public duty, by any such person as aforesaid, such surety, when no longer disposed to continue such responsibility, may give notice thereof to his principal, and also to the Secretary of State; and all accruing responsibility on the part of such person as such surety shall cease at the expiration of three months from the receipt of the last of such notices, or upon the acceptance by the Crown of the security of another surety, whichever first happens; and the principal shall, within one month from the receipt of the last of such notices, give the security of another surety, and register and deposit the bond of such new surety, or in default of so doing, shall be liable to forfeit and be deprived of the appointment, office, employment or commission in respect whereof such new security ought to have been given, and such new bond or security registered and deposited as aforesaid; and his appointment or commission shall be void from and after the time when the Governor General declares the same to be void, in like manner, and under and subject to such provisions as aforesaid. 31 V., c. 37, s. 7.

Voidance of commission.

Governor may remit penalty in certain cases.

15. The Governor in Council may remit the forfeiture or penalty in any case in which the failure to give security or to register and deposit any bond or security under this Act, has not arisen from any wilful neglect of the person bound to give, register or deposit the same:

Or may extend delay for giving security, &c.

2. If it appears to the Governor in Council that the period hereinbefore limited for giving the security of a new surety as aforesaid is, in consequence of particular accidents, casualties or circumstances, insufficient, or that, by reason of the distance or loss of letters or illness, or the refusal of any surety to give the security, or of such surety not being deemed eligible and being rejected, or any other accident or casualty, further time will be necessary to enable the security of such new surety to be given,—the Governor in Council may allow such further period for giving the security of such new surety as appears to him reasonable and proper:

But not for more than two months, and an entry must be made.

3. Such extended period shall in no case exceed two months beyond the period allowed by this Act; and the precise period proposed to be allowed, together with the special grounds for allowing the same, shall be either entered in the book in which the original security has been registered, or indorsed on the back of the original bond or other security itself; and the person required to give the security of such new surety, shall not be subject to any forfeiture or penalty for not giving the same within the time limited by this Act, if he gives it within the extended period so allowed as aforesaid. 31 V., c. 37, s. 8.

16. The Governor in Council may approve of the security given, or the affidavit of qualification filed by any public officer of Canada, although the same has been given or filed after the time limited by this Act ; and in such case the office or commission of such public officer shall be deemed not to have been voided by such default, but to have remained and to remain in full force and effect. 31 V., c. 37, s. 9.

Governor may approve of security given &c., after time limited.

17. No act of any public officer of Canada, whose security has been given, registered or deposited, or whose affidavit of qualification has been filed after the time limited by this Act, shall by such default be void or voidable. 31 V., c. 37, s. 10.

Acts of public officers not void or voidable for delay in giving security, &c.

18. When the securities of the principal and sureties have been executed at different times (whether they were taken in one and the same bond, deed or other instrument, or in different ones), the period limited for registering and depositing such securities, shall be estimated from the time of execution thereof, by the person who was the last to execute the bond, deed or other instrument, or the last bond, deed or other instrument, as the case may be. 31 V., c. 37, s. 11.

Within what delay securities executed at different times shall be registered.

19. No neglect, omission or irregularity, in giving or receiving the bonds or other securities, or in registering the same, within the periods or in the manner prescribed by this Act, shall vacate or make void any such bond or security, or discharge any surety from the obligations thereof. 31 V., c. 37, s. 12.

Neglect, &c., not to vacate bond or discharge surety.

20. All bonds or other securities hereby required to be registered and deposited, shall be registered and deposited by the proper officer, notwithstanding the period prescribed for registering and depositing the same has expired ; but no such registering and depositing of any such bond or other security shall be deemed to waive any forfeiture or penalty, or shall exempt the person on whose behalf the same are registered and deposited from any forfeiture or penalty under any of the provisions of this Act. 31 V., c. 37, s. 13.

Proper officer to register and deposit bonds even after delay expired ; but no exemption from penalty to ensue.

21. Nothing in any of the preceding sections of this Act as to the giving of security shall apply to or affect any officer of any department, with respect to which special provision is made by law, for the giving of security by its officers, and the exacting of security from them, unless such special provision does not extend or apply to such officer. 31 V., c. 37, s. 14.

Act not to affect cases specially provided for.

22. The Governor in Council may direct that whenever any public officer of Canada is required to give security as

Governor in Council may authorize

security of
certain com-
panies to be
accepted for
officers of
Canada.

aforesaid, for the due performance of the trust reposed in him, and for his duly accounting for all public moneys intrusted to him or placed under his control, or for the due fulfilment in any way of his duty, or of any obligation undertaken towards the Crown, the bond or policy of guarantee of any incorporated or joint stock company, incorporated and empowered to grant guarantees, bonds, covenants or policies, for the integrity and faithful accounting of public officers or other like purposes, and named in the Order in Council, may be accepted as such security, upon such terms as are determined by the Governor in Council. 31 V., c. 37, s. 16.

Statement of
bonds to be
laid before
Parliament.

23. The Secretary of State shall cause to be prepared, for the information of the Parliament of Canada, within fifteen days after the opening of every session thereof, a detailed statement of all bonds or securities registered as aforesaid at his office, and of any changes or entries that have been made in reference to the names and residence of any sureties, and of the amounts in which they have become severally liable, since the period of the previous return submitted to the said Parliament. 31 V., c. 37, s. 15.

SCHEDULE.

FORM A.

KNOW ALL MEN BY THESE PRESENTS, THAT WE,

of the
of , in the County of
, in the Province of
in the Dominion of Canada
(hereinafter called "the principal"); and
of the , of , in the of
, in the Province of
and of the said of
(hereinafter called "the sureties"), are respectively held
and firmly bound unto our Sovereign Lady the Queen, her
heirs and successors, in the respective penal sums following,
that is to say:—"the principal" in the sum of dollars
of lawful money of Canada, and each of "the sureties" in
a sum of dollars of like lawful money, to be paid to
our said Sovereign Lady the Queen, her heirs and successors,
for which said respective payments, well and faithfully to
be made, we severally—and not jointly, or each for the other
—bind ourselves, and our respective heirs, executors, and
administrators, firmly by these presents, sealed with our
respective seals.

Dated this day of in the
year of Our Lord one thousand eight hundred and ,
and in the year of Her Majesty's reign.

WHEREAS "the principal," having been appointed to the office or employment of is required by law to give security to the Crown for the due performance of the duties appertaining thereto; and "the sureties" have consented to become his sureties for such his performance of the said duties; and this bond is given in pursuance of "*An Act respecting Public Officers*":—

COLUMN ONE.

Now the condition of this obligation is that if "the principal" faithfully discharges the duties of the said office and duly accounts for all moneys and property which come into his custody by virtue of the said office, this obligation shall be void.

Signed, sealed and
delivered in the
presence of }

COLUMN TWO.

Now the condition of the above obligation is such that, if "the principal," so appointed to the said office or employment as aforesaid, do and shall, from time to time and at all times, so long as he shall hold the said office or employment, or be and remain charged with the actual discharge of the duties appertaining thereto, or any of them, faithfully, honestly, and diligently do, perform, fulfil and discharge all and every such duties, in every respect, in accordance with the laws now in force in that behalf, as also all and singular such other duties as, by competent authority in that behalf, now are or hereafter shall or may be attached to the said office or employment, or imposed upon or required to be performed by the incumbent for the time being of the said office or employment, whether such last mentioned duties are regulated or imposed by any Act or Acts heretofore passed by the respective Legislatures of the late Province of Canada, or of either of the Provinces of Nova Scotia, New Brunswick, British Columbia or Prince Edward Island or which have been or may hereafter be passed by the Parliament of or in force in the Dominion of Canada, or by any Order in Council or regulations made under any such Act, and whether such duties are extended, increased or otherwise varied or altered, by any such Act or Acts, so to be passed, or by any such Order in Council or regulations as aforesaid, or are regulated or imposed, or are extended, increased or otherwise varied or altered by competent authority, and shall duly account for and pay over all such moneys or securities for money or valuable securities or property as shall come into his hands, custody or control, by virtue of or in consequence of his holding the said office; And further, if "the principal," upon his removal from, or his resignation of the said office or employment, or if (in the event of his death during his tenure of the said office or employment), his legal representatives, or some or one of them, do and shall quietly surrender and deliver up the same, and all the moneys, securities for money, valuable securities, or property, books, papers, instruments, instructions, maps, plans, letters and writings, and other things whatever, which then may be, or ought to be, in his possession, custody or keeping, by virtue of or in consequence of his holding the said office, or relating or in any wise appertaining thereto, then the above obligation shall be null and void and of no effect; otherwise the same shall be and remain in full force and virtue.

AFFIDAVITS TO BE ANNEXED TO THE BOND.

Affidavit of Witness.

PROVINCE of _____ } I,
of _____ } of the _____ of _____, in the
To WIT ; } of _____,

in the Province of _____,
_____ make oath and say that I was personally
present, and did see
the obligors in the above bond or writing obligatory
named, duly execute the said instrument by sign-
ing, sealing, and, as their respective acts and deeds,
delivering the same; and that I am a subscribing
witness to such execution.

SWORN before me, at the _____ of _____
in the said _____ of _____
this _____ day of _____ A.D.
one thousand eight hundred and _____ }
a J.P. for the said County. }

*A separate Affidavit in this form shall be made by a witness
to the execution by each obligor, if the same person does not
witness the execution by all of them. 35 V., c. 19, sch.*

FORM B.

PROVINCE of _____,) I, A.B., the obligor (or one of the sure-
County of _____,) ties), in the annexed bond named,
To WIT :) make oath and say, as follows :

1. I am seized and possessed to my own use of real (or
real and personal) estate in the Province of _____, in
Canada, of the actual value of \$ _____, over and above
all charges upon or incumbrances affecting the same.

2. My Post Office address is as follows:—

SWORN before me, at _____, in the
County of _____, this _____ day
of _____, A.D. one thousand eight
hundred and _____
J. P., for the County
of _____, in the Province of _____

A separate Affidavit to be made by the obligor and by each Surety.

31 V., c. 37, sch.;—35 V., c. 19, sch.

INDORSEMENT ON BOND.

The indorsement on the bond shall show :—1. The date of its receipt by the Secretary of State ; 2. The names of the principal and sureties, and the amount for which each is bound ; 3. The date of the bond ; 4. The office for the faithful discharge of the duties whereof it is given ; 5. The registration number ; 6. The folio on which it is entered in the register of bonds ; 7. The folio and book in which it is recorded in the office of the Secretary of State, certified by the signature of the Secretary or his deputy.
35 V., c. 19, sch.

OTTAWA : Printed by BROWN CHAMBERLIN, LAW Printer to the Queen's Most Excellent Majesty.



CHAPTER 20.

An Act respecting certain Contingent Charges of the A.D. 1886.
Departments of the Public Service.

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

1. This Act may be cited as "*The Contingencies Act.*" Short title.

2. The contingencies of each department of the civil service mean and include only—
What contingencies include.
 - (a.) Subscriptions to and advertising in newspapers ;
 - (b.) The purchase of maps, &c. ;
 - (c.) Telegraphing ;
 - (d.) Postages, freight and express charges ;
 - (e.) Wages of charwomen, and other expenses of cleaning offices ;
 - (f.) Travelling expenses, including cab hire ;
 - (g.) Extra clerks, to the extent sanctioned by "*The Civil Service Act*" ;
 - (h.) Petty expenses, not exceeding in any Department, a sum apportioned by Order in Council. 31 V., c. 35, s. 1 ;—49 V., c. 27, s. 3.

3. Whenever any contingency is required by any department, whether for an article to be furnished or service to be performed, the deputy head of the department shall apply therefor by requisition, in writing, to the person by whom the same is to be furnished or performed ; and such requisition shall, whenever it can be so made, be antecedent to the delivery of the article or performance of the service. 31 V., c. 35, s. 3. Deputy heads to give orders for contingencies.

4. Every account rendered to the deputy head of a department to be certified, shall be accompanied by the original requisition, in respect of which such account accrued, and, when certified by him, shall be forwarded for payment to an officer of the Department of Finance, who shall be called the Accountant of Contingencies, and, except as hereinafter mentioned, shall then be paid by him. 31 V., c. 35, s. 4. And certificates for payment.

5. Every such certificate shall expressly state that each item contained in the account has been incurred by the What the certificate shall expressly state.

authority and upon the order of either the head or deputy head of the department, and that the articles or services charged for have been received or performed, and that the prices charged are in his opinion, severally fair and just, and that the expenditure incurred is necessary for the public service; but the Accountant of Contingencies shall nevertheless investigate the account, and ascertain the correct price before paying the same; and the Treasury Board shall, from time to time, prescribe the mode of investigating accounts, and the standard by which the correct price shall be ascertained by the Accountant of Contingencies before such payment. 31 V., c. 35, s. 5.

Reference to the Auditor and the Treasury Board.

6. If it appears to the Accountant of Contingencies that any such account is for a purpose not included under the above definition of contingencies, or that it is in excess of the amount for which authority has been given, or that the amount, or any part thereof, has been previously paid, or that there is any other error therein, he shall withhold payment, and submit the account to the Auditor General; and if the Auditor General, after conference with the deputy head of the department signing the requisition, is of opinion that there is any irregularity in the same, he shall submit it to the Treasury Board before payment. 31 V., c. 35, s. 6.

Monthly account by deputy head.

7. The deputy head of each department shall submit to the head thereof, monthly, an account in detail of the expenditure for contingencies, during the month. 31 V., c. 35, s. 7.

Account to Treasury Board of sums paid in advance.

8. The Accountant of Contingencies shall submit, monthly, through the Auditor General, to the Treasury Board, a statement of all sums which have been paid in advance and to be accounted for, and which remained unaccounted for at the end of the last preceding month. 31 V., c. 35, s. 8.

Account to Auditor General.

9. The Accountant of Contingencies shall render to the Auditor General, monthly, a statement, in detail, accompanied by vouchers, of all sums paid by him during the month, and of all moneys received, with a bank certificate of the balance at his credit at the end of the month. 31 V., c. 35, s. 9.

Estimates for contingencies and application of sums voted.

10. The estimates for contingencies of each department shall be prepared and submitted to Parliament separately, but may be voted in one sum, and in that case, and so soon as conveniently may be after the same have been voted by Parliament, the Governor in Council shall assign a certain sum for defraying the contingencies of each department, reserving a certain amount for general expenses, not specially applicable to any individual department, to be expended

upon requisition and certificate of the Secretary of the Treasury Board, in such manner as is hereinbefore provided, in respect to the contingencies of any department. 31 V., c. 35, s. 10.

11. All matters connected with the superintendence of the government buildings, at the seat of Government, other than the heating, maintenance and repairs thereof, shall be in charge of the Accountant of Contingencies, under the Treasury Board, and such board shall make regulations in respect thereof, subject to the approval of the Governor in Council. 31 V., c. 35, s. 11.

As to certain expenses connected with Government buildings.

12. An account shall be laid before Parliament each year, showing the amount expended under the several heads of service specified in the second section of this Act. 31 V., c. 35, s. 17.

Account to Parliament.

13. This Act shall apply as well to the outside service of the several departments as to the departments of the civil service at the seat of Government. 31 V., c. 35, s. 18.

Application of Act.

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CHAPTER 21.

An Act respecting the Department of Justice.

A D. 1886.

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

1. There shall be a department of the Civil Service of Canada, which shall be called "The Department of Justice" over which the Minister of Justice of Canada, for the time being, appointed by the Governor General by commission under the Great Seal, shall preside; and the Minister of Justice shall, *ex-officio*, be Her Majesty's Attorney General of Canada, and shall hold office during pleasure, and shall have the management and direction of the Department of Justice. 31 V., c. 39, s. 1.

Department constituted. Minister of Justice to preside; to be Atty.-Gen.

2. The Governor in Council may also appoint an officer who shall be called the "Deputy of the Minister of Justice" and such officers, clerks and servants as are requisite for the proper conduct of the business of the department, all of whom shall hold office during pleasure. 31 V., c. 39, s. 4, *part, and s. 5.*

Deputy of the Minister of Justice.

Officers and clerks of the department.

3. The duties of the Minister of Justice shall be as follows:—He shall be the official legal adviser of the Governor General and the legal member of Her Majesty's Privy Council for Canada; he shall see that the administration of public affairs is in accordance with law; he shall have the superintendence of all matters connected with the administration of justice in Canada, not within the jurisdiction of the Governments of the Provinces composing the same; he shall advise upon the legislative Acts and proceedings of each of the Legislatures of the Provinces of Canada, and generally advise the Crown upon all matters of law referred to him by the Crown; and he shall be charged generally with such other duties as are at any time assigned by the Governor in Council to the Minister of Justice. 31 V., c. 39, s. 2.

Duties of the Minister as official legal adviser of the Crown.

As to legislative Acts.

General duties.

4. The duties of the Attorney General of Canada shall be as follows: He shall be intrusted with the powers and charged with the duties which belong to the office of the Attorney General of England by law or usage so far as

His powers and duties as Attorney General.

Advising
heads of
departments.

Instruments
under Great
Seal.

Penitentiaries
and prisons.

Litigation for
the Crown.

General
duties.

the same powers and duties are applicable to Canada, and also with the powers and duties which, by the laws of the several Provinces, belonged to the office of Attorney General of each Province up to the time when "*The British North America Act, 1867*," came into effect, and which laws, under the provisions of the said Act, are to be administered and carried into effect by the Government of Canada; he shall advise the heads of the several departments of the Government upon all matters of law connected with such departments; he shall be charged with the settlement and approval of all instruments issued under the Great Seal of Canada; he shall have the superintendence of penitentiaries and the prison system of Canada; he shall have the regulation and conduct of all litigation for or against the Crown or any public department, in respect of any subjects within the authority or jurisdiction of Canada; and he shall be charged generally with such other duties as are at any time assigned by the Governor in Council to the Attorney General of Canada. 31 V., c. 39, s. 3.

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CHAPTER 22

An Act respecting the Department of the Interior. A. D. 1886.

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

1. There shall be a department of the Civil Service of Canada which shall be called "The Department of the Interior," over which the Minister of the Interior, for the time being, appointed by the Governor General, by commission under the Great Seal of Canada, shall preside; and he shall hold office during pleasure, and shall have the management of the Department of the Interior. 36 V., c. 4, s. 1.

Department of the Interior constituted.

2. The Governor in Council may appoint an officer who shall be called the "Deputy of the Minister of the Interior," and such departmental officers, agents, clerks and servants as are requisite for the proper conduct of the business of the department, all of whom shall hold office during pleasure. 36 V., c. 4, s. 6, *part*, and s. 7.

Deputy of the Minister, and other officers may be appointed.

3. The Minister of the Interior shall have the control and management of the affairs of the North-West Territories. 36 V., c. 4, s. 2.

Minister to manage the North-West Territories, &c.

4. The Minister of the Interior shall have the control and management of all Crown Lands which are the property of Canada, including those known as Ordnance and Admiralty Lands, and all other public lands not specially under the control of the Public Works Department, the Department of Railways and Canals, or of that of Militia and Defence, and excepting also Marine Hospitals and Lighthouses and land connected therewith, and St. Paul's, Sable and Portage Islands. 36 V., c. 4, s. 4, *part*.

The Ordnance and other public lands.

Exceptions.

5. Persons employed in one branch of the department may be directed by the Minister to perform any duty in or with respect to any other branch. 40 V., c. 9, s. 11.

Employees in one branch may be employed in another.

Yearly report
to Parlia-
ment.

6. The Minister of the Interior shall annually lay before Parliament within fifteen days after the meeting thereof, a report of the proceedings, transactions and affairs of the department during the year then next preceding. 36 V., c. 4, s. 11.

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CHAPTER 23.

An Act respecting the Geological and Natural History Survey of Canada. A.D. 1886.

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

1. The Minister of the Interior shall have the control and management of the Geological Survey of Canada, and there shall be a branch of the Department of the Interior known as the Geological Survey Branch, which shall, under the control of the Minister, take charge of and conduct the Geological Survey of Canada. 40 V., c. 9, s. 1. Survey to be under control of Minister of the Interior.

2. The Governor in Council may, from time to time, appoint a suitable person, to be the Director of the Geological Survey, with such assistants as are necessary to carry out the provisions of this Act. 40 V., c. 9, s. 5, *part*. Appointments and remuneration.

3. The objects and purposes of the survey and the museum in connection therewith shall be, to elucidate the geology and mineralogy of Canada and to make a full and scientific examination of the various strata, soils, ores, coals, oils and mineral waters, and of its recent *fauna* and *flora*, so as to afford to the mining, metallurgical and other interests of the country, correct and full information as to its character and resources. 40 V., c. 9, s. 2. Objects of the survey.

4. The persons in charge of the said survey shall— Duties of the persons employed on it.
(a.) Collect, classify and arrange such specimens as are necessary to insure a complete and exact knowledge of the mineralogical resources of the several Provinces and Territories of Canada; carry on palæontological investigations, study and report upon the *fauna* and *flora* of Canada, and make such other researches as will best tend to ensure the carrying into effect the object and purposes of this Act; Collections and arrangement thereof. Researches.

(b.) Collect the necessary materials for a Canadian museum of natural history, mineralogy and geology; Materials for Museum.

(c.) Report, from time to time, in such manner and form as the Minister directs, their proceedings under this Act, and furnish proper maps, diagrams, drawings and collections of specimens to illustrate the same. 40 V., c. 9, s. 3. Reports.

Yearly report
of Director ;
what to show.

5. The Director of the Geological Survey shall, as soon as may be after the close of each calendar year, make a full report to the Minister, of the proceedings and work of the survey for the year, and the results thereof, in such manner and form, and with such details, maps, diagrams and drawings as are requisite to elucidate the same ; and the Minister shall cause the same to be laid before Parliament, with such remarks, explanations and recommendations as he thinks proper. 40 V., c. 9, s. 4.

To be laid be-
fore Parlia-
ment.

Museum to
be open to the
public.

6. The museum shall be opened to the public from ten o'clock in the forenoon until four o'clock in the afternoon, daily, Sundays excepted, and shall be furnished with such books, instruments and apparatus as are necessary for scientific reference, and for the prosecution of the survey ; and the Governor in Council may, from time to time, cause the enlargement of the museum, and the distribution of duplicate specimens to scientific, literary and educational institutions in Canada and other countries. 40 V., c. 9, s. 8.

Measure-
ment and
marks for
topographi-
cal purposes.

7. The Director of the Geological Survey shall, for the purpose of obtaining an accurate basis from which the geological and topographical features of the country may be ascertained, and for the purpose of connecting together local and partial surveys, cause such topographical, geographical or other measurements or observations to be made, and such monuments or marks to be placed, as are deemed necessary. 40 V., c. 9, s. 9.

Railway and
canal com-
panies to fur-
nish plans and
sections of
their works.

8. All railway and canal companies over which the Parliament of Canada has jurisdiction, shall, if incorporated after the twenty-second day of May, one thousand eight hundred and sixty-eight, furnish to the Geological Survey, without charge, certified copies of all plans and sections of their surveys ; and all such companies theretofore incorporated, shall furnish such plans and sections upon the demand of the Director of the Geological Survey, and at the cost of the Department. 40 V., c. 9, s. 10.



CHAPTER 24.

An Act respecting the Department of Agriculture. A. D. 1886.

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

1. There shall be a department, called "The Department of Agriculture," over which the Minister of Agriculture, for the time being, appointed by Commission under the Great Seal, shall preside; and the Minister shall have the management and direction of the department and shall hold office during pleasure. 31 V., c. 53, s. 1. Department constituted.
Minister.

2. The Governor in Council may appoint an officer who shall be called the Deputy of the Minister of Agriculture, and such other officers and clerks as are required for the proper conduct of the business of the department, all of whom shall hold office during pleasure. 31 V., c. 53, s. 2. Deputy of the Minister and officers.

3. The duties and powers of the Minister of Agriculture, shall extend to the execution of laws enacted by the Parliament of Canada, and of orders of the Governor in Council, relating to the subjects enumerated in the following section, as well as to the direction of all public bodies, officers and servants employed in the execution of such laws and orders. 31 V., c. 53, s. 4. Duties and powers of Minister.

4. The following subjects shall be under the control and direction of the Minister of Agriculture, that is to say :— Subjects under control of the Minister.

1. Agriculture ;
2. Immigration and Emigration ;
3. Public Health and Quarantine ;
4. The Marine and Immigrant Hospital at Quebec ;
5. Arts and Manufactures ;
6. The Census, Statistics and the Registration of Statistics ;
7. Patents of Invention ;
8. Copyright ;
9. Industrial Designs and Trade Marks ;
10. Experimental Farm Stations. 31 V., c. 53, s. 5 ;—
49 V., c. 23, s. 5.

5. The Governor in Council may, at any time, assign any other duty or power to the Minister of Agriculture, and may Duties and powers may be varied.

also assign any of the duties or powers hereinbefore enumerated to any other member of the Queen's Privy Council for Canada. 31 V., c. 53, s. 6.

Annual report
to the
Governor.

6. The Minister of Agriculture shall make and submit to the Governor General an annual report of the proceedings of his department, to be laid before both Houses of Parliament within twenty-one days from the commencement of each session. 31 V., c. 53, s. 7.

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CHAPTER 25.

An Act respecting the Department of Marine and the Department of Fisheries. A.D 1886.

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

1. There shall be a department which shall be called "The Department of Marine," and a department which shall be called "The Department of Fisheries" over both of which the Minister of Marine and Fisheries for the time being, appointed by the Governor General by commission under the Great Seal, shall preside; and the Minister shall have the management and direction of the said departments, and shall hold office during pleasure. 31 V., c. 57, s. 1;—47 V., c. 18, s. 1.

Departments constituted.
Minister.

2. The Governor in Council may appoint an officer who shall be called the Deputy Minister of Marine and who shall be the Deputy Head of the Department of Marine, and an officer who shall be called the Deputy Minister of Fisheries, and who shall be the Deputy Head of the Department of Fisheries; and the Governor in Council may also appoint such other officers as are necessary for the proper conduct of the business of the said departments, all of whom shall hold office during pleasure. 31 V., c. 57, s. 2;—37 V., c. 23, s. 1;—47 V., c. 18, s. 2.

Deputy Ministers and officers.

3. The duties, powers and functions of the Department of Marine shall extend and apply to the subjects and boards and other public bodies, officers and other persons, and services and properties of the Crown, enumerated in the schedule to this Act, of which the said department shall have the control, regulation, management and supervision. 31 V., c. 57, s. 5, *part*;—47 V., c. 18, s. 3, *part*.

Matters under the control of the Department of Marine.

4. The Department of Fisheries shall administer all laws relating to the subject of sea, coast and inland fisheries and the management, regulation and protection thereof, and all matters and things relating thereto, or assigned by the Governor in Council to the said department. 47 V., c. 18, s. 3, *part*.

Matters under the control of the Department of Fisheries.

Tenders to be invited for works and supplies.

5. The Minister shall invite tenders by public advertisement for the execution of all works, except in cases of pressing emergency, in which delay would be injurious to the public interest, or where, from the nature of the work, it can be more expeditiously and economically executed by the officers and servants of the department; and the said Minister shall also in like manner invite tenders for all contracts for supplies. 31 V., c. 59, s. 8;—33 V., c. 18, s. 6.

Security to be taken.

6. The Minister, whenever any public work is being carried out by contract under his direction, shall take all reasonable care that good and sufficient security is given to and in the name of Her Majesty for the due performance of the work, within the amount and time specified for its completion; and also whenever it seems to the Minister inexpedient to let such work to the lowest tenderer, he shall report the same and obtain the authority of the Governor in Council, previous to passing by such lowest tender. 33 V., c. 18, s. 7.

Provision when lowest tender is not taken.

Annual report to the Governor.

7. The Minister shall make and submit to the Governor General, an annual report on all the works under his control, to be laid before both Houses of Parliament within fifteen days from the commencement of each session, showing the state of each work and the amount received and expended in respect thereof, with such further information as is requisite. 33 V., c. 18, s. 5.

SCHEDULE.

The administration of any laws relating to the following subjects:—

1. Pilots and pilotage, and decayed pilots' funds;
2. Beacons, buoys, lights and lighthouses and their maintenance;
3. Harbors, ports, piers and wharves, steamers and vessels belonging to the Government of Canada, except gunboats or other vessels of war;
4. Harbor commissioners and harbor masters;
5. Classification of vessels, and examination and granting of certificates of masters and mates and others in the merchant service;
6. Shipping masters and shipping offices;
7. Inspection of steamboats and boards of steamboat inspection;
8. Inquiries into causes of shipwrecks;
9. Establishment, regulation and maintenance of Marine and Seamen's Hospitals and care of distressed seamen, and generally such matters as refer to the marine and navigation of Canada. 31 V., c. 57, schedule;—47 V., c. 18, s. 3.



CHAPTER 26.

An Act respecting the Department of the Secretary of State. A. D. 1886.

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

DEPARTMENT OF SECRETARY OF STATE.

1. There shall be a department which shall be called "The Department of the Secretary of State of Canada," over which the Secretary of State of Canada for the time being, appointed by the Governor General by commission under the Great Seal, shall preside; and the Secretary of State shall have the management and direction of the department, and shall hold office during pleasure. 31 V., c. 42, s. 1.

Department constituted: Secretary of State to preside.

2. The Governor in Council may also appoint an officer who shall be called the "Under Secretary of State," and such other officers as are necessary for the proper conduct of the business of the said department, all of whom shall hold office during pleasure. 31 V., c. 42, s. 2.

Under Secretary and officers.

3. The Secretary of State shall have charge of the State correspondence, shall keep all State records and papers not specially transferred to other departments, and shall perform such other duties as are, from time to time, assigned to him by the Governor in Council. 31 V., c. 42, s. 3.

General duties of Secretary.

4. The Secretary of State shall be the Registrar General of Canada, and as such shall register all instruments of summons, proclamations, commissions, letters patent, letters patent of land, writs and other instruments and documents issued under the Great Seal, and all bonds, warrants of extradition, warrants for removal of prisoners, leases, releases, deeds of sale, surrenders, and all other instruments requiring registration:

To be Registrar General.

His duties as such.

2. The Governor in Council may, by commission under the Great Seal, appoint an officer who shall be called the "Deputy Registrar General of Canada," and shall hold office during pleasure; and such Deputy Registrar may sign and certify the registration of all instruments and documents required to be registered, and all such copies of the same,

Deputy Registrar General and his duties.

or of any records in the custody of the Registrar General as are required to be certified or authenticated as being copies of any instruments, documents or records as aforesaid. 48-49 V., c. 2, s. 1.

Governor in Council may transfer duties under this Act to any other department.

5. The Governor in Council may, at any time, assign any of the duties and powers hereby assigned to and vested in the Secretary of State, to any other member of the Queen's Privy Council for Canada, and his department, and from the period appointed for that purpose by any Order in Council such duties and powers shall be transferred to, and vested in such other member of the Queen's Privy Council for Canada and his department. 31 V., c. 42, s. 40.

Yearly report to Parliament.

6. The Secretary of State shall annually lay before Parliament, within ten days after the meeting thereof, a report of the proceedings, transactions and affairs of the department during the year then next preceding. 31 V., c. 42, s. 41.

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CHAPTER 27.

An Act respecting the Department of Public Printing and Stationery A.D 1896.

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

INTERPRETATION.

1. In this Act, unless the context otherwise requires,—
- (a.) The expression “Minister” means the Secretary of State of Canada or the member of Her Majesty’s Privy Council for Canada in charge, for the time being, of the department hereby constituted: Interpretation. “Minister.”
- (b.) The expression “Queen’s Printer” means the Queen’s Printer and Controller of Stationery hereinafter mentioned. “Queen’s Printer.”
- 49 V., c. 22, s. 1.

CONSTITUTION OF THE DEPARTMENT.

2. There shall be a department which shall be called “The Department of Public Printing and Stationery,” over which the Secretary of State of Canada or such other member of the Queen’s Privy Council for Canada as the Governor in Council, from time to time, directs, shall preside, and the Secretary of State, or such other member of the said Privy Council shall have the management and direction of the department. Department constituted. 49 V., c. 22, s. 2.

3. All printing, stereotyping or electrotyping, lithography or binding work, or work of a like nature, and paper and other material therefor, required for the use of the Senate and the House of Commons, and of the several departments of the Government of Canada—whether for the inside service or the outside service—shall be procured and executed subject to the superintendence and audit of the proper officer of the department: the proper officer of the department shall also superintend and execute the purchase and distribution of all paper, books and all other articles of stationery of whatsoever kind, and the distribution and sale of all books or publications issued by order of either or both Houses of Parliament, or any department of the Government of Canada, and also the audit of all accounts for the advertising required Certain work to be done and articles supplied by the department.

Advertising
for public
service.

for the public service ; and all work and supplies in this section before mentioned shall be done, purchased and distributed through the department exclusively; except that books, which are procured for addition to the Library of Parliament, may be procured as before the second day of June, in the year one thousand eight hundred and eighty-six. 49 V., c. 22, s. 3.

Appointment
of Queen's
Printer.

4. The Governor in Council may, by commission under the Great Seal, appoint an officer who shall be called the Queen's Printer and Controller of Stationery, shall hold office during pleasure, and shall be the deputy head of the department with the present salary of the Queen's Printer ; he shall, under the Minister, have the management and control of the several services to which this Act relates, and shall have such powers and shall perform such duties as are conferred upon and assigned to him by this Act or by any other Act of the Parliament of Canada, or by any Order in Council made thereunder; but all such powers shall be exercised and duties performed subject to the control of the Minister and as he directs; and wherever, in any Act of the Parliament of Canada, any power is conferred upon or any duty is assigned to the Queen's Printer, such power may be exercised and such duty shall be performed by the Queen's Printer appointed under this Act :

His duties.

How to be
performed.

Qualification
of Queen's
Printer.

2. No person shall be appointed Queen's Printer unless he has been actively employed for at least ten years in the management of a printing establishment in Canada, or in the superintendence of the printing and cognate services of the Parliament or Government of Canada :

Appointment
of officers.

3. The Governor in Council may also appoint a Superintendent of Printing, a Superintendent of Stationery and an Accountant, who shall respectively have the rank of a chief clerk in the Civil Service of Canada; the Governor in Council may also appoint such other officers, clerks and servants as are necessary for the proper conduct of the business of the department; and the said superintendents, accountant, officers, clerks and servants shall hold office during pleasure, and shall perform such services as are, from time to time, assigned to them by the Governor in Council or by the Minister :

Qualification
of superin-
tendent of
printing.

4. No person shall be appointed Superintendent of Printing unless he has had at least five year's experience in the management of a printing house in Canada, or in the management and superintendence of similar services for the Parliament or Government of Canada, or in both ; no person shall be appointed Superintendent of Stationery unless he has had at least five years' experience in the active management of a stationery establishment in Canada, or in the management and superintendence of similar work for the Parliament or Government of Canada, or in both ; and no person shall be appointed Accountant unless he has a com-

And of super-
intendent of
stationery.

And of
accountant.

petent knowledge of book-keeping and accounts, and has had at least five years' experience in the measuring and auditing of printing and binding work, either in a printing or publishing establishment, or in the service of the Parliament or Government of Canada, or in both :

5. The Superintendent of Printing, the Superintendent of Stationery and the Accountant, being appointed as experts in the work to be performed by them, shall not be subject to the ordinary Civil Service examinations. 49 V., c. 22, s. 4. Exemption from examination.

PUBLIC PRINTING.

5. A Government establishment shall be organized at Ottawa and shall be under the management of the Superintendent of Printing,—in which establishment all printing, electrotyping, stereotyping, lithographing and binding and other work of like nature required for the service of the Parliament and Government of Canada shall be executed: Printing, &c., to be done in a government establishment.

2. The Superintendent of Printing shall have authority to employ such apprentices, journeymen, skilled hands or workmen, as are necessary to perform the work of the establishment and to remove the same, and shall purchase such material, other than printing and other paper, as are necessary for such service: Employment of workmen.

3. All persons employed under the provisions of the next preceding sub-section shall be paid in accordance with weekly or monthly pay-rolls audited by the Accountant; and the provisions of "*The Civil Service Act*" shall not apply to the persons so employed: Their payment.

4. The Superintendent of Printing shall make all purchases authorized by this section upon requisitions duly approved by the Minister or as he directs, and payment therefor shall be made, after audit by the Accountant. 49 V., c. 22, s. 5. Purchases, how made.

STATIONERY OFFICE.

6. An office shall be established as a branch of the department which shall be called the Stationery Office, and shall be under the management of the Superintendent of Stationery: Stationery office.

2. The Superintendent of Stationery shall, under the direction of the Minister, have charge of the purchase and supply of all printing and other paper and of all other articles of stationery required for the use of members and employees of the two Houses of Parliament and of the several departments of the Government of Canada; he shall also have charge of the sale of all the official publications of the Parliament and Government of Canada which are issued for sale, as well as of the distribution of all public documents and papers to the officials and other persons who are entitled to receive the same without payment: Purchase and supply of stationery.
Official publications.

Documents
for Parlia-
ment.

3. The Superintendent of Stationery shall furnish to such officer as is designated by either House of Parliament or by any committee or joint committee appointed for the purpose, such number of copies of any document which is printed under the provisions of this Act as such House or committee decides to be necessary for the use of each such House or for distribution to the members thereof :

Purchases to
be made upon
requisition.

4. All purchases made under the authority of this section shall be so made upon requisition approved by the Minister or the Queen's Printer, and in the case of printing paper for parliamentary printing, the *Canada Gazette* and departmental reports, in accordance with contracts entered into with the like approval after tenders have been called for ; and moneys received by the Superintendent of Stationery shall be paid over to the Accountant for the public uses of Canada, and by him deposited from time to time in some chartered bank of Canada to the credit of the Minister of Finance and Receiver General, and shall form part of the Consolidated Revenue Fund of Canada. 49 V., c. 22, s. 6.

Application
of moneys.

Supply of
stationery to
departments
and Houses of
Parliament.

7. The Superintendent of Stationery shall supply any articles of stationery to any department of the Civil Service according to such regulations as are approved by the Governor in Council, upon requisition therefor, signed by the deputy head of such department ; and to either House of Parliament, according to regulations approved by such House, upon requisition therefor, signed by the clerk of such House of Parliament ; and the quantity supplied, and the value thereof shall be charged against such department or House of Parliament ; and an account shall be furnished monthly of the same, respectively, to each deputy head of a department and the clerk of each House of Parliament, accompanied by the several requisitions in respect of the several articles mentioned in the said account, and such deputy head or clerk shall, if the same is found correct, certify to the correctness of such account, and return it to the Superintendent of Stationery. 49 V., c. 22, s. 7.

Account to
be furnished.

ACCOUNTANT.

Duty of
accountant.

8. The Accountant shall, under direction of the Minister and the Queen's Printer, audit all accounts for any of the services under the control of the department, keep the accounts of the department, receive and deposit all cash paid in, and render statements of account to the clerks of the two Houses of Parliament and the deputy heads of the several departments, as and when the same are required by this Act or by regulations made by, or instructions received from, the Minister. 49 V., c. 22, s. 8.

CANADA GAZETTE, ETC

9. The Queen's Printer shall print and publish or cause to be printed and published, for the Government, under his superintendence, the official Gazette of Canada, which shall be known as the *Canada Gazette*, the Statutes of Canada, and all such official and departmental and other reports, forms, documents, commissions, and other papers, as he is required to print and publish, or cause to be printed and published, by or under the authority of the Governor in Council; and whatever is printed under his superintendence, by authority of this Act, shall be held to be printed by him. 49 V., c. 22, s. 9.

Publication of *Canada Gazette*, Statutes, &c.

10. All Proclamations issued by the Governor General or under the authority of the Governor in Council, and all official notices, Orders in Council, regulations, advertisements and documents relating to the Dominion of Canada, or matters under the control of the Parliament thereof, and requiring publication, shall be published in the *Canada Gazette*, unless some other mode of publication thereof is required by law. 49 V., c. 22, s. 10.

Certain documents to be printed in *Canada Gazette*.

11. The Governor in Council may, from time to time, prescribe the form, mode and conditions of publication of the *Canada Gazette*, and designate the public bodies, officers and persons to whom it shall be sent without charge, and regulate the price of subscription thereto, and the charges to be paid for the publication of notices, advertisements and documents; and all sums payable for such last mentioned charges shall be paid in advance to the Accountant and by him accounted for and paid over to the Minister of Finance and Receiver General, in such manner as the Governor in Council or the Minister directs, and shall form part of the Consolidated Revenue Fund of Canada. 49 V., c. 22, s. 11.

Powers of Governor as to *Gazette*.

Application of moneys.

GENERAL PROVISIONS.

12. Each deputy head of a department and the clerk of each House of Parliament shall furnish to the Minister, when required, an estimate of the probable quantity, quality and variety of all articles commonly known as "stationery," and of the probable amount, in value, of printing and binding which may be required for the purposes of each such department or House of Parliament for the then ensuing financial year. 49 V., c. 22, s. 12.

Estimates to be furnished to the Minister.

13. The Minister shall report to the Governor in Council, the total probable amount, in quantities, qualities and value required for the stationery, printing and binding for the departments of the Civil Service and for the two Houses of Parliament for such year, as may be required and ordered by either House of Parliament, and a requisite sum there-

Minister to report to Governor in Council as to such estimates.

for shall be placed in the Estimates as a separate item, and an apportionment in respect of each department and each House of Parliament shall be made by the Governor in Council which may be increased or varied from time to time, so that the whole sum voted by Parliament in any year, together with the value of the stock on hand, is not exceeded; and the Minister shall further report to the Governor in Council, the mode or modes in which he proposes that the said articles shall be procured, and the regulations under which tenders may be asked for the same and as to the terms of acceptance thereof, and as to the mode of collection and disposal of the waste paper of the several departments and Houses of Parliament; and upon the approval by the Governor in Council of such reports, any necessary supplies of stationery, to the extent of the appropriation made by Parliament, may be procured, and any necessary arrangements for printing and binding may be made in accordance with the provisions of this Act, and all stationery so procured shall be placed in the custody of the Superintendent of Stationery, as hereinbefore mentioned. 49 V., c. 22, s. 13.

And as to other matters.

Obtaining of supplies.

Statement for Auditor General.

Stock to be taken.

Audit Act, c. 29, to apply.

Account to be laid before Parliament.

How expenses shall be met.

14. The Queen's Printer shall furnish a statement monthly to the Auditor General, with the accounts and vouchers therefor, of all printing and binding executed for, and all stationery and articles purchased and supplied to each department and each House of Parliament during the preceding month, certified as correct by the deputy head of such department, or by the clerk of either House of Parliament, as the case may be, in the manner provided with respect to contingencies by "*The Contingencies Act*"; and the Auditor General shall, quarterly or more frequently at his discretion, cause the stock of stationery in store to be checked with the quantities purchased and supplied :

2. The provisions of "*The Consolidated Revenue and Audit Act*" shall, so far as applicable, extend to the accounts and charges incurred under this Act. 49 V., c. 22, s. 14.

15. An account shall be laid before Parliament each year, showing the value of the stock of stationery on hand at the beginning of the year, the amount expended during the year for stationery, printing and binding, the amounts charged against each department and each House of Parliament and the stock on hand at the end of the year. 49 V., c. 22, s. 15.

16. The expenses to be incurred under the provisions of this Act, shall be paid out of such moneys as are appropriated for the purpose by Parliament, and shall be accounted for in like manner as other moneys expended for the public service. 49 V., c. 22, s. 16.



CHAPTER 28.

An Act respecting the Department of Finance and the Treasury Board. A.D 1886.

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

1. Unless the context otherwise requires, the expression "Minister of Finance" or "Receiver General," in any Act of the Parliament of Canada, or in any document, means the "Minister of Finance and Receiver General;" and the expression "Deputy Minister of Finance," or the expression "Deputy Receiver General," in any such Act or document as aforesaid, means the "Deputy of the Minister of Finance and Receiver General." 42 V., c. 7, ss. 2 and 3. Interpretation.

DEPARTMENT OF FINANCE.

2. There shall be a department of the Civil Service of Canada, which shall be called "The Department of Finance," over which the Minister of Finance and Receiver General for the time being, appointed by the Governor General by commission under the Great Seal of Canada, shall preside; and the said Minister shall hold office during pleasure, and shall have the management and direction of the department. 32-33 V., c. 4., s. 1. Department constituted.

3. The Department of Finance shall have the supervision, control and direction of all matters relating to the financial affairs and public accounts, revenue and expenditure of Canada, which are not, or in so far as they are not, by law, or by order of the Governor in Council, assigned to any other department of the civil service, and such other duties as are, from time to time, assigned to it by the Governor in Council. 32-33 V., c. 4, s. 2;—41 V., c. 7, s. 21. Duties of department.

4. The Governor in Council may appoint an officer who shall be called the Deputy of the Minister of Finance and Receiver General, and such officers, clerks and servants as are requisite for the proper conduct of the business of the department, all of whom shall hold office during pleasure. 41 V., c. 7, s. 17. Deputy of the Minister of Finance, &c.

To keep certain public accounts.

5. The Deputy of the Minister of Finance and Receiver General shall, under the Minister of Finance and Receiver General, keep the accounts with the financial agents of Canada in England, and with the bank or banks receiving or paying public moneys, and the accounts of moneys paid for interest on Canadian stock, debentures or other Canadian securities. 41 V., c. 7, s. 19.

Appropriation book.

6. The Deputy of the Minister of Finance and Receiver General shall classify all appropriations of public moneys and keep posted up a book to be called the appropriation book, containing an account, under separate and distinct heads, of every such appropriation, whether permanent or temporary, entering under each head the amounts drawn on account of such appropriation with the dates and names of the persons to whom payments are made; and shall, under the Minister of Finance and Receiver General, keep the public accounts of Canada. 41 V., c. 7, s. 20, *part.*

Public accounts.

Certain returns to be sent to him.

7. All returns and statements required from savings banks, chartered or other banks, and all other institutions required to make financial statements or returns, shall, when no other provision is made in that behalf, be transmitted to the Deputy of the Minister of Finance and Receiver General. 41 V., c. 7, s. 20, *part.*

Distribution of business.

8. All officers and clerks of and in the Department of Finance shall respectively have and perform such duties as are assigned to them by law, or by the Governor in Council, or by the Minister of Finance and Receiver General: and such arrangements, distribution or union of the various duties, functions and business devolving on the several branches of the said department, or such amalgamation thereof, may be made, as the Minister of Finance and Receiver General, with the approval of the Governor in Council, from time to time directs. 32-33 V., c. 4, s. 3.

TREASURY BOARD.

Treasury Board; its constitution and duties.

9. There shall be a board to be called "The Treasury Board," consisting of the Minister of Finance and Receiver General, the Minister of Customs, the Minister of Inland Revenue, the Minister of Justice, the Secretary of State of Canada, and one other of the Ministers composing the Queen's Privy Council for Canada, to be nominated by the Governor in Council; the said board shall act as a Committee of the Queen's Privy Council for Canada, on all matters relating to finance, revenue and expenditure, or public accounts, which are referred to it by the council, or to which the board thinks it necessary to call the attention of the council, and shall have power to require from any public department, board or officer, or

other person or party bound by law to furnish the same to the Government, any account, return, statement, document, or information which the board deems requisite for the due performance of its duties. 32-33 V., c. 4, s. 4, *part*;—48-49 V., c. 47, s. 1.

10. The Minister of Finance and Receiver General shall be the chairman of the Treasury Board; and the Deputy of the Minister of Finance and Receiver General, shall be *ex-officio* the secretary thereof, and through him the board shall communicate with any public department, or officer, or other person. 32-33 V., c. 4, s. 4, *part*;—41 V., c. 7, s. 18;—48-49 V., c. 47, s. 2.

Chairman and Secretary of Treasury Board.

11. A plan of account books and accounts adapted to the requirements of each department or branch of the public service in order to exhibit, in a convenient form, the whole of the receipts and payments in respect of each vote, shall be designed under the superintendence of the Treasury Board; and the Governor in Council may, on report from the Treasury Board, prescribe, from time to time, the manner in which each department of the public service shall keep its accounts. 41 V., c. 7, s. 23.

Plan of accounts to be made under Treasury Board.

Power of Governor in Council.

12. The Treasury Board may direct any officer or person employed in collecting, managing or accounting for any branch of the revenue, to keep any books or accounts which it deems advisable to direct to be kept for the purpose of obtaining and furnishing any statistical information concerning the trade or commerce of Canada, the public works thereof, or other matters of public interest. 41 V., c. 7, s. 24.

Treasury Board may direct books and accounts to be kept by officers, &c.



CHAPTER 29.

An Act respecting the Public Revenue, the raising of A.D. 1896.
loans authorized by Parliament, and the auditing of
the Public Accounts.

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

SHORT TITLE.

1. This Act may be cited as "*The Consolidated Revenue and Audit Act.*" Short title.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—
- (a.) The expression "public moneys," "public revenue" or "revenue," means and includes and applies to all revenue of the Dominion of Canada, and all branches thereof, and all public moneys, whether arising from duties of customs, excise or other duties,—or from the post office,—or from tolls for the use of any canal, railway or other public work,—or from fines, penalties or forfeitures,—or from any rents or dues,—or any other source whatsoever,—whether such moneys belong to Canada or are collected by officers of Canada for or on account of or in trust for any Province forming part of Canada, or for the Government of the United Kingdom, or otherwise; Interpretation.
"Public Moneys" or "Revenue."
- (b.) The expression "certify" includes "examine and certify if found correct"; "Certify."
- (c.) The expression "sub-accountant" means any officer or person receiving or expending public moneys and accounting for the same to or through any Minister or officer of any public department; "Sub-accountant."
- (d.) The expression "Department," when used in connection with the duty of preparing appropriation accounts, includes every public officer to whom the duties are assigned by the Treasury Board; "Department."

2. Any officer, functionary or person whose duty it is to receive any moneys forming part of the revenue, or who is intrusted with the custody or expenditure of any such moneys,—although he is not regularly employed in collecting, managing or accounting for the same,—shall be subject Who shall be subject to this Act.

to the provisions of this Act, so far as regards the accounting for and paying over such moneys, whatever is the office or employment by virtue of which he receives, or is intrusted with the same. 41 V., c. 7, s. 1, and s. 37, part.

CONSOLIDATED REVENUE FUND.

- 3.** All public moneys and revenue over which the Parliament of Canada now has the power of appropriation, shall form one Consolidated Revenue Fund to be appropriated for the public service of Canada, in the manner and subject to the charges hereinafter mentioned, and in the following order, that is to say:—
- What moneys shall form part of Consolidated Revenue Fund.** *First.*—The costs, charges and expenses incident to the collection, management and receipt thereof, subject to be reviewed and audited in such manner as is hereby or is hereafter by law provided;
- Charges thereon.** *Second.*—The annual interest of the public debts of the several Provinces of Canada, Nova Scotia and New Brunswick, at the Union;
- First: collection, &c.** *Third.*—The salary of the Governor General;
- Second: public debt.** *Fourth.*—The principal and interest at a rate not exceeding four per cent. per annum of the loan of three million pounds sterling, authorized by the Act passed in the thirty-first year of Her Majesty's reign, chapter thirteen, to be raised for the purpose of constructing the Intercolonial Railway, upon the guarantee of the payment of interest on such loan at a rate not exceeding four per centum per annum by the Commissioners of Her Majesty's Treasury;
- Third: salary of Governor General.** *Fifth.*—An annual sum at the rate of one per centum per annum, as a sinking fund on the entire amount of principal money of the loan herein last before mentioned;
- Fourth: Intercolonial Railway.** *Sixth.*—Any sum issued out of the Consolidated Fund of the United Kingdom under "*The Canada Railway Loan Act, 1867,*" with the interest thereon at the rate of five per centum per annum;
- Fifth: sinking fund.** *Seventh.*—The sum of one million pounds sterling, which, by the thirty-second section of the Act passed in the thirty-first year of Her Majesty's reign, chapter thirteen, the Government of Canada is empowered to raise for the completion of the Intercolonial Railway, but without the guarantee of the Commissioners of Her Majesty's Treasury, and interest thereon; 31 V., c. 32, s. 1.
- Sixth: advance for same.** *Eighth.*—The principal and interest of the loan authorized by the third section of the Act passed in the session held in the thirty-second and thirty-third years of Her Majesty's reign, chapter one, not exceeding three hundred thousand pounds sterling, or one million four hundred and sixty thousand dollars, with the guarantee of the Government of the United Kingdom, for the purpose of meeting a like sum, payable out of the Consolidated Revenue Fund, to

the Hudson's Bay Company, under a certain agreement with the said Company, mentioned in the Act last cited ;

Ninth.—Such sums as are required to form a sinking fund at the rate of one per centum per annum on the entire amount of the loan last mentioned; 32-33 V., c. 1, s. 3;—34 V., c. 3, s. 1. Ninth: sinking fund.

Tenth.—Any sum issued out of the Consolidated Fund of the United Kingdom, under the Act of the Parliament of the United Kingdom, known as "*The Canada (Rupert's Land) Loan Act, 1869,*" with interest thereon at the rate of five per centum per annum; 35 V., c. 5. Tenth: advance for same.

Eleventh.—The principal and interest of any loan guaranteed by the Treasury under the Act passed in the thirty-seventh year of Her Majesty's reign, chapter two, and the Act of the Parliament of the United Kingdom known as "*The Canada (Public Works) Loan Act, 1873;*" Eleventh: Public Works loan guaranteed.

Twelfth.—Such sums as are required to form a sinking fund at the rate of one per cent. per annum on the entire amount of the loan guaranteed by the Treasury as herein last before mentioned ; Twelfth: sinking fund

Thirteenth.—Any sum issued out of the Consolidated Fund of the United Kingdom, under "*The Canada (Public Works) Loan Act, 1873,*" with interest thereon at the rate of five per cent. per annum ; 37 V., c. 2, s. 3. Thirteenth: advance for same.

Fourteenth.—The yearly salaries of the judges of the Supreme and Exchequer Courts. 38 V., c. 11, s. 6, *part.* Salaries of judges of Supreme Court.

4. The grants payable to the several Provinces constituting the Dominion of Canada shall be charged upon the Consolidated Revenue Fund of Canada, and payable out of any unappropriated moneys forming part thereof 31 V., c. 32, s. 3. Grants to the Provinces to be a charge on the fund.

PUBLIC DEBT AND THE RAISING OF LOANS AUTHORIZED BY PARLIAMENT.

5. The Governor in Council may, from time to time, make such regulations as he deems necessary for the management of the public debt of Canada and the payment of the interest thereon,—and may, subject to the provisions of the next following section, provide for the creation and management of a sinking fund or other means of securing the repayment of any loans raised under the authority of Parliament,—and may appoint one or more fiscal agents of Canada in the city of London, England, or elsewhere, and agree with them as to the rate of compensation to be allowed them for negotiating loans and for paying the interest on the public debt and for other services connected with the management of the said debt,—and may pay the sums necessary to provide such sinking fund or other means as aforesaid, and such compensation, out of the Consolidated Revenue Fund. 31 V., c. 32, s. 2. Governor in Council to make regulations as to the debt and payment of interest.
Fiscal agents, &c.

How loans,
&c., author-
ed by Parlia-
ment may be
raised.

6. Whenever, in any Act passed by the Parliament of Canada, authority is given to the Governor in Council to raise, by way of loan, any sum of money for the public service, or the security of Canada is authorized to be given for any sum of money deposited in any government savings bank, or otherwise intrusted for safe keeping to the Government of Canada,—then, unless there is some provision to the contrary in the Act by which such authority as aforesaid is given, such sum shall, in the discretion of the Governor in Council, be raised or such security given in one of the following ways, or partly in one and partly in another or others thereof, that is to say:—

By issue of
debentures.

(a.) By the issue and sale, or the delivery as such security, of debentures of Canada, which shall be in such form, for such separate sums, and at such rate of interest not exceeding six per centum per annum, and the principal and interest whereof shall be made payable at such periods and places, as the Governor in Council deems most expedient, and subject to such regulations as he sees fit to make; and such principal and interest shall be chargeable on the Consolidated Revenue Fund;

By issue of
Dominion
Stock.

(b.) By the issue and sale, or the delivery as such security, of "Canada Dominion Stock," bearing such rate of interest not exceeding six per cent. per annum as is deemed most advisable, payable half yearly, and the principal and interest whereof shall be chargeable on the Consolidated Revenue Fund,—such stock not to be redeemable until the time fixed by the regulations hereinafter mentioned, but at and after that time to be redeemable at the option of the Governor in Council on giving six months' notice of such redemption, and to be subject to such regulations as to the inscription, transfer, management and redemption thereof, as the Governor in Council sees fit to make;

Governor in
Council may
provide a
sinking fund
general or
special.

(c.) [On authorizing the issuing of debentures or stock under the two paragraphs next preceding the Governor in Council may provide for a special sinking fund with respect to such issue, and may, at any time, provide for a general sinking fund for all such portions of the debentures or stock of Canada as have been or are hereafter issued without provision for a sinking fund with respect to them: Provided, that the amount to be invested in any such sinking fund shall not exceed one half of one per cent. per annum on the amount of the debentures or stock to which it relates;]

Proviso.

By grant of
terminable
annuities.

(d.) By the granting of terminable annuities chargeable on the Consolidated Revenue Fund,—such annuities being granted on terms in accordance with the most approved English tables, and based on a rate of interest not exceeding six per cent. per annum, and subject to such regulations as the Governor in Council sees fit to make;

By issue of
Exchequer
bills or bonds.

(e.) By the issue and sale, from time to time, of Exchequer bills or Exchequer bonds, in sums of not less than four hundred dollars, in such form, and bearing such rate of interest

not exceeding six per cent. per annum, and redeemable at such periods and places as the Governor in Council deems most advisable, and subject to such regulations as he sees fit to make. 35 V., c. 6, s. 1.

7. The Governor in Council may, from time to time, as the interests of the public service require, change the form of any part of the then existing funded debt of Canada, including any debentures for which Canada is liable, by substituting one class of the securities aforesaid for another or for such debentures,—provided that neither the capital of the debt, nor the annual charge for interest is thereby increased, except in any case in which four per cent. Dominion stock or five per cent. Dominion stock or debentures is or are substituted for securities bearing a higher rate of interest,—in which case only, the amount of the capital may be increased by an amount not exceeding the difference between the then present value of the security bearing the higher interest and that of the four per cent. stock or five per cent. stock or debentures substituted for it; but no such substitution shall be made, unless the consent of the holder of the security for which another is substituted is obtained, or such security is previously purchased or redeemed by or on account of Canada; and such substitution may be made by the sale of the one class of securities and the purchase of those for which it is desired to substitute them. 35 V., c. 6, s. 2;—38 V., c. 4.

Governor in Council may change the form of any part of funded debt, and on what conditions.

8. The Governor in Council may, from time to time, as the exigencies of the public service require, in the event of the Consolidated Revenue Fund being at any time insufficient to meet the charges placed thereon by law, direct the proper officer to raise, by temporary loans chargeable on the said fund, in such manner and form, in such amounts, for such periods not exceeding six months, at rates of interest not exceeding seven per cent. per annum, as the Governor in Council directs, such sums as are necessary to enable the said fund to meet such charges; but the sums to be so raised shall never exceed the amount of the deficiencies in the Consolidated Revenue Fund to meet the charges thereon then due or payable either as principal or interest, and shall be applied to no other purpose whatsoever; and an account in detail of all such temporary loans shall be laid before the House of Commons within the first fifteen days of the session then next ensuing. 35 V., c. 6, s. 3.

May raise temporary loans in certain cases of exigency.

Proviso.

Accounts to Parliament.

9. The regulations made or to be made by the Governor in Council, as to the inscription, transfer, management and redemption of any Canada Dominion Stock, debentures or other Canada securities above mentioned, under this or any other Act, shall, in so far as they are not inconsistent with the Act under which they are made, have the same

Certain regulations made by Governor in Council to have force of law.

Officers not bound to see to trusts.

force and effect as if embodied and enacted in an Act of the Parliament of Canada; and no officer of the Government of Canada employed in the inscription, transfer, management or redemption of any such stock or securities, or in the payment of any dividend or interest thereon, shall be bound to see to the execution of any trust expressed or implied to which such stock or securities are subject, or shall be liable in any way to any person for anything by him done as such officer, in accordance with any such regulations as aforesaid. 35 V., c. 6, s. 4.

Duty of Deputy Minister as to debentures.

10. The Deputy of the Minister of Finance and Receiver General shall countersign all Canada debentures,—keep a debenture book, which shall contain a record and description of all debentures outstanding or authorized to be issued, showing the date of issue, period of redemption, when they were cancelled, and times of payment of interest,—and an interest account respecting them; and also a register of Provincial notes or Dominion notes issued or cancelled. 41 V., c. 7, s. 20, *part*.

Examining and cancelling debentures, &c.

11. The Auditor General and the Deputy of the Minister of Finance and Receiver General shall examine and cancel debentures, Dominion or Provincial notes, and other securities representing the debt of Canada and which have been redeemed. 41 V., c. 7, s. 22.

Act respecting Dominion notes not affected.

12. Nothing in this Act shall be construed as altering or affecting the provisions of the "*Act respecting Dominion Notes*," or the debentures to be issued and held for securing the redemption of such notes, or in any way to authorize any increase of the public debt without the express authority of Parliament, except in the manner and to the extent hereinbefore provided in case of the substitution of four per cent. Dominion stock or five per cent. Dominion stock for other securities, and except also as provided in section eight of this Act. 35 V., c. 6, s. 5;—38 V., c. 4.

Public debt not to be increased except as hereinbefore provided.

COLLECTION OF THE REVENUE.

Governor in Council to determine what officers are necessary, &c.

13. The Governor in Council may, from time to time, determine what officers or persons it is necessary to employ in collecting, managing or accounting for the revenue, and in carrying into effect the laws thereunto relating, or for preventing any violation of such laws; and may assign their names of office, and such salaries or pay for their labor and responsibility in the execution of the duties of their respective offices and employments, as to the Governor in Council seems reasonable and necessary, and may appoint the times and manner in which the same shall be paid: but no such officer so appointed shall receive a higher annual salary than is allowed in his case by any Act of the Parlia-

Proviso: as to salaries.

ment of Canada respecting the civil service generally, then in force; nor shall any such salary be paid until voted by Parliament. 41 V., c. 7, s. 2.

14. The salary or pay allowed to any such officer or person as aforesaid shall be in lieu of all fees, allowances or emoluments of any kind whatsoever, except actual and authorized disbursements, shares of seizures, forfeitures and penalties; and no such officer or person, receiving a salary at or exceeding the rate of one thousand dollars per annum, shall exercise any other calling, profession, trade or employment whatsoever, with a view to derive profit therefrom, directly or indirectly, or shall hold any other office of profit whatsoever, except, in either case, with the express permission of the Governor in Council. 41 V., c. 7, s. 3.

No fees allowed.
Officers receiving \$1,000 or more, to give their whole time.
Exception.

15. No officer or person regularly employed in the collection or management of the revenue, or in accounting for the same shall, while he remains such officer or so employed, be compelled to serve in any other public office or in any municipal or local office, or on any jury or inquest or in the Militia. 41 V., c. 7, s. 4.

Exemption from certain public services.

16. Every person appointed to any office or employment relative to the collection or management of the revenue, or to the accounting for the same, shall, upon his admission to such office or employment, take, before such officer as the Governor in Council appoints to receive the same, an oath in the form following, that is to say:—

Oath of office.

“I, A. B., do swear to be true and faithful in the execution, to the best of my knowledge and power, of the trust committed to my charge, by my appointment as
“ , and that I will not require, take or receive any fee, perquisite, gratuity or reward, or emolument, whether pecuniary or of any other sort or description whatever, either directly or indirectly for any service, act, duty, matter or thing done or performed or to be done or performed in the execution or discharge of any of the duties of my said office or employment, on any account whatsoever, other than my salary, or what shall be allowed me by law, or by order of the Governor in Council. So help me God.” 41 V., c. 7, s. 5.

Form of oath.

17. The Governor in Council may, from time to time, make such divisions of Canada into ports, revenue districts or otherwise, as are required with regard to the collection or management of the revenue,—and may assign the officers or persons by whom any duty or service relative to any such purpose shall be performed within or for any such district or division, and the places within the same, where such duty or service shall be performed,—and may make all such regulations concerning such officers and

Governor in Council to divide Canada into ports, districts, &c., for revenue purposes, and make regulations.

Application of general regulation or order.

persons, and the conduct and management of the business to them intrusted, as are consistent with the law, and as he deems expedient for carrying it into effect, in the manner best adapted to promote the public good; and any general regulation or order made by the Governor in Council for any purpose whatsoever for which an order or regulation may be so made under the provisions of this Act, shall apply to each particular case within the intent and meaning of such general regulation or order, as fully and effectually as if the same had been made with reference to such particular case, and the officers, functionaries or persons concerned had been specially named therein. 41 V., c. 7, s. 6, *part.*

Officers employed to be deemed the proper officers.

18. Every person employed on any duty or service relating to the collection or management of the revenue, by the order or with the concurrence of the Governor in Council, shall be deemed to be the proper officer for that duty or service; and every act, matter or thing required by any law in force to be done or performed by, to or with any particular officer nominated for that purpose in such law, which is done or performed by, to or with any person appointed or authorized by the Governor in Council to act for or on behalf of such particular officer, shall be deemed to be done or performed by, to or with such particular officer:

At what place any duty shall be performed.

2. Every act, matter or thing required by any law, at any time in force, to be done or performed at any particular place within any port, or within any other such district or division of Canada as aforesaid, which is done or performed at any place within such port, district or division, appointed by the Governor in Council for such purpose, shall be deemed to be done or performed at the particular place so required by law. 41 V., c. 7, s. 7.

Officers of the revenue service may be employed in another branch.

19. Any officer or person employed in the collection, management or accounting for any branch of the revenue, may be employed in the collection, management or accounting for any other branch thereof, whenever it is deemed advantageous for the public service so to employ him. 41 V., c. 7, s. 8.

Hours of attendance, &c.

20. The Governor in Council may, from time to time, appoint the hours of the general attendance of the officers and persons employed in the collection and management of the revenue, at their proper offices and places of employment,— and may also appoint the times during such hours, or the seasons of the year, at which any particular portions of the duties of such officers or other persons shall be performed by them respectively; and a notice of the hours of general attendance so appointed shall be kept constantly posted up in some conspicuous place in such offices and places of employment. 41 V., c. 7, s. 9.

Notice to be posted.

AUDITOR GENERAL.

21. The Governor General may, for the more complete examination of the public accounts of Canada, and for the reporting thereon to the House of Commons, appoint an officer, under the Great Seal of Canada, to be called the Auditor General of Canada, and such officer may be paid out of the Consolidated Revenue Fund, a salary of three thousand two hundred dollars per annum. 41 V., c. 7, s. 11.

Auditor General.

Appointment and salary.

22. The Auditor General shall hold office during good behavior, but shall be removable by the Governor General on address of the Senate and House of Commons. 41 V., c. 7, s. 12.

Tenure of office.

23. The Governor in Council shall, from time to time, appoint the officers, clerks and other persons in the office of the Auditor General, and may regulate the numbers and salaries of the respective grades or classes into which the said officers, clerks and others shall be divided. 41 V., c. 7, s. 13, *part.*

Officers and clerks under him.

24. The Auditor General may, from time to time, make orders and rules for the conduct of the internal business of his office, and may prescribe regulations and forms for the guidance of principal and sub-accountants in making up and rendering their periodical accounts for examination: Provided always, that all such rules, regulations and forms shall be approved by the Treasury Board previously to the issue thereof:

Auditor General to make rules as to business of his office.

Proviso: for approval by Treasury Board.

2. In any case in which the Auditor General deems it necessary to report for the information of the Governor in Council, such report shall be made through the Minister of Finance and Receiver General. 41 V., c. 7, s. 15.

Report to Governor in Council.

HOW PUBLIC MONEYS SHALL BE DEALT WITH.

25. All public moneys, from whatever source of revenue derived, shall be paid to the credit of the account of the Minister of Finance and Receiver General through such officers, banks or persons, and in such manner as the said Minister, from time to time, directs and appoints. 41 V., c. 7, s. 25.

To be paid to credit of Minister of Finance, &c.

26. The Governor in Council may, from time to time, appoint the times and mode in which any officer or person employed in the collection or management of, or the accounting for any part of the revenue, shall account for and pay over the public moneys which come into his hands,—and may determine the times and mode in which, and the officer by whom, any licenses on which any duty is payable, are to be issued: Provided, that such accounts and payments shall be

Time and mode of such payments.

As to license duty.

Proviso.

rendered and made by such officers and persons respectively at least once every month. 41 V., c. 7, s. 26.

Ministers, deputies, &c., to pay in gross revenues of their departments or offices,—when and how. **27.** The Minister of Customs, the Minister of Inland Revenue, the Postmaster General, and all other Ministers, deputies of Ministers, officers, clerks or persons charged with the receipt of public moneys, shall cause the gross revenues of their several departments or offices to be paid at such times and under such regulations as the Minister of Finance and Receiver General, from time to time, prescribes, to an account to be called “the account of the Minister of Finance and Receiver General,” at such bank or banks as are determined by the Minister of Finance and Receiver General; and daily accounts of such moneys so deposited shall be rendered to the Auditor General in such form as the Treasury Board prescribes. 41 V., c. 7, s. 27.

Daily accounts to Auditor General.

Payment of revenue into banks.

28. Every officer of the Customs or of the Inland Revenue or otherwise employed in the collection of the revenue, receiving money for the Crown, shall deposit the same to the credit of the account of the Minister of Finance and Receiver General, from time to time, in such bank as the said Minister appoints; and every such officer shall keep his cash book written up daily; and all the books, accounts and papers of such officer shall, at all times during office hours, be open to the inspection and examination of any officer or person whom the Minister of Finance and Receiver General authorizes to inspect or examine the same; and daily accounts of such moneys so deposited shall be rendered to the Auditor General in such form as the Treasury Board prescribes: Provided, that where such money is received at a place where there is no bank into which it can conveniently be paid, the same shall be paid over in such manner as the Minister of Finance and Receiver General directs; and accounts of such money shall be rendered to the Auditor General in such form as the Treasury Board prescribes. 41 V., c. 7, s. 28.

Cash books.

Books open to inspection.

Daily accounts.

Proviso: when there is no bank.

PROCEEDINGS AS TO VOTES OF MONEY.

Warrant of the Governor to Minister of Finance. **29.** When any sum of money has been granted to Her Majesty by a resolution of the House of Commons or by an Act of Parliament, to defray expenses for any specified public services, the Governor General may, from time to time, under his sign manual, countersigned by a member of the Treasury Board, authorize and require the Minister of Finance and Receiver General to issue out of the moneys appropriated for defraying the expenses of such services, and in his hands, the sums required, from time to time, to defray such expenses, not exceeding the amount of the sum so voted or granted. 41 V., c. 7, s. 29.

30. When any sum of money has been granted to Her Majesty by a resolution of the House of Commons or by an Act of Parliament, to defray expenses for any specified public services, and as soon as the Governor General has issued his warrant authorizing the payment of such sum or sums as are required to defray such expenses, the Minister of Finance and Receiver General may, from time to time, on the application of the Auditor General, cause credits to be issued in favor of the deputy heads, officers, clerks or other persons connected with the several departments or services charged with expenditure of the moneys so authorized. Such credits shall issue on the several banks authorized to receive public moneys (and statements in duplicate of moneys drawn for under such credits, together with the cheques paid by the banks in connection therewith, shall be rendered at such times and under such forms and once in each month or more often, as the Treasury Board directs,) one duplicate of such statement together with the cheques to be rendered to the Auditor General, and the other duplicate to the Minister of Finance and Receiver General; whereupon the Auditor General, being satisfied of the correctness of the statement, may request the Minister of Finance and Receiver General to cause cheques to be prepared to reimburse the banks for such advances under such credits to cover the expenditures made or authorized,—such cheques being signed by the Minister of Finance and Receiver General and countersigned by the Auditor General or their respective deputies or officers thereunto duly authorized; but no such credit shall issue in favor of any officer or other person in excess of any appropriation authorized by an Act of Parliament. 41 V., c. 7, s. 30.

Minister of Finance to issue credits in favor of the proper departments and persons.

Credits to be on certain banks; accounts thereof in duplicate.

Statements to be rendered to Auditor General and Minister of Finance.

Cheques to make good expenditures on such credits.

No credit to exceed appropriation.

31. The Auditor General shall see that no cheque issues for the payment of any public money for which there is no direct parliamentary appropriation, or in excess of any portion of such appropriation, the expenditure of which has been authorized by the Governor in Council; and he shall report to the Governor in Council through the Minister of Finance and Receiver General, any case in which a sub-accountant has expended money out of the proceeds of any accountable credit, for any purpose for which there is no legislative authority or beyond the amount for which there is such authority. 41 V., c. 7, s. 31.

Duty of Auditor General as to the issue of cheques.

To report to Governor in Council in case of excess.

32. No cheque for public money shall issue except upon the certificate of the Auditor General that there is parliamentary authority for the expenditure, save only in the following cases:—

No cheque of Finance Minister except on certificate of Auditor General. Exceptions. Opinion of law officers that it may issue.

(a.) If, upon any application for a cheque, the Auditor General has reported that there is no parliamentary authority for issuing it, then upon the written opinion of the Attorney General of Canada, that there is such authority, citing it, the

Minister of Finance and Receiver General may authorize the Deputy Minister of Finance and Receiver General to prepare the cheque, irrespective of the Auditor General's report ;

Accidents during recess of Parliament.

(b.) If, when Parliament is not in session, any accident happens to any public work or building which requires an immediate outlay for the repair thereof, or any other occasion arises when any expenditure not foreseen or provided for by Parliament is urgently and immediately required for the public good, then upon the report of the Minister of Finance and Receiver General that there is no parliamentary provision, and of the Minister having charge of the service in question that the necessity is urgent, the Governor in Council may order a special warrant to be prepared, to be signed by the Governor General for the issue of the amount estimated to be required, which shall be placed by the Minister of Finance and Receiver General to a special account, against which cheques may issue from time to time, in the usual form, as they are required :

Special warrants.

Provision if the Auditor General refuses to certify that a cheque may issue.

(c.) If the Auditor General has refused to certify that a cheque of the Minister of Finance and Receiver General may issue, on the ground that the money is not justly due, or that it is in excess of the authority granted by Council, or for any reason other than that there is no parliamentary authority, then upon a report of the case prepared by the Auditor General and the Deputy of the Minister of Finance and Receiver General, the Treasury Board shall be the judge of the sufficiency of the Auditor General's objection, and may sustain him or order the issue of the cheque in its discretion :

Statement to be submitted to Parliament in such cases.

2. The Auditor General shall in all such cases prepare a statement of all such legal opinions, reports of Council, special warrants and cheques issued without his certificate, and of all expenditure incurred in consequence thereof, which he shall deliver to the Minister of Finance and Receiver General, to be by him presented to Parliament not later than the third day of the session thereof then next ensuing. 41 V., c. 7, s. 32.

Vouchers to be required by Auditor General.

33. No payment shall be authorized by the Auditor General in respect of work performed, or material supplied by any person in connection with any part of the public service of Canada, unless, in addition to any other voucher or certificate which is required in that behalf, the officer, under whose special charge such part of the public service is, certifies that such work has been performed, or such materials supplied, as the case may be, and that the price charged is according to contract, or if not covered by a contract, is fair and just. 41 V., c. 7, s. 33.

ANNUAL ACCOUNTS FOR PARLIAMENT AND AUDIT OF ACCOUNTS.

Public accounts, how to be kept.

34. The Public Accounts of Canada shall be kept by double entry in the office of the Minister of Finance and

Receiver General; and an annual statement shall be prepared as soon as possible after the termination of each fiscal year exhibiting the state of the public debt and the amount chargeable against each of the public works for which any part of the debt has been contracted; also the state of the Consolidated Revenue Fund and the various trusts and special funds under the management of the Government of Canada, and such other accounts and matters as are required to show what the liabilities and assets of Canada really are at the date of such statement. 31 V., c. 32, s. 4.

Annual statement and what it shall show.

35. The Minister of Finance and Receiver General shall cause an account to be prepared and transmitted to the Auditor General, on or before the thirty-first day of October in every year, showing the issues made from the Consolidated Revenue Fund in the financial year ended on the thirtieth day of June preceding, for the interest and management of the public funded and unfunded debt, for the civil list, and all other issues in the financial year, for services directly under his control; and the Auditor General shall certify and report upon the same with reference to the Acts of Parliament, under the authority of which such issues have been directed; and such accounts and reports shall be laid before the House of Commons by the Minister of Finance and Receiver General, on or before the thirty-first day of January, in the following year, if Parliament is then sitting, and if not sitting, then within one week after Parliament is next assembled. 41 V., c. 7, s. 34.

Account by Minister of Finance for Auditor General; what to show.

Report of Auditor General.

Account and report to be laid before Parliament.

36. The Deputy of the Minister of Finance and Receiver General shall prepare and submit to the Minister of Finance and Receiver General the public accounts to be annually laid before Parliament, such accounts to be countersigned by the Auditor General. 41 V., c. 7, s. 35.

Yearly accounts for Parliament.

Auditor General to countersign.

37. The public accounts shall include the period from the thirtieth of June in one year to the thirtieth of June in the next year, which period shall constitute the financial year; all estimates submitted to Parliament shall be for the services coming in course of payment during the financial year; and all balances of appropriation which remain unexpended at the end of the financial year, shall lapse and be written off: Provided, that upon cause being shown to the satisfaction of the Governor in Council, he may, by Order in Council to be made before the first of August of each year, extend the time for finally closing the account of any appropriation, for a period of not more than three months from the end of the financial year,—after the expiration of which extended time, and not before, the balance of such appropriation shall lapse and be written off. 41 V., c. 7, s. 36.

What period the said public accounts shall include.

Balances un-used.

Proviso, for extension of time for closing of accounts of appropriation.

38. On or before the thirty-first day of October in every year, accounts of the appropriation of the several supply

Accounts of appropriation of supply

grants to be prepared by department and transmitted for examination.

grants comprised in the Appropriation Act for the year ending thirtieth June then last, or of any other Act, shall be prepared by the several departments, and be transmitted for examination to the Auditor General and to the Deputy of the Minister of Finance and Receiver General, and when certified and reported upon, as hereinafter directed, they shall be laid before the House of Commons; and such accounts shall be called the "Appropriation Accounts" of the moneys expended for the services to which they respectively relate; and the Treasury Board shall determine by what departments such accounts shall be prepared and rendered to the Auditor General, and the Auditor General shall certify and report upon such accounts, as hereinafter directed; and each account shall be examined under the direction of the Auditor General, by such officer or clerk in his office as he directs; and such officer or clerk shall certify to the due examination of such account, and the Auditor General shall certify that the account has been examined under his direction and is correct. 41 V., c. 7, s. 37, *part.*

Treasury Board to decide by what departments.

Examination by Auditor General and certificate.

Departmental appropriation accounts.

39. The Treasury Board shall direct that the department charged with the expenditure of any vote, under the authority of the Governor in Council, shall prepare the appropriation account thereof. 41 V., c. 7, s. 37, *part.*

Duty of department preparing appropriation accounts.

40. The department charged with the duty of preparing the appropriation account of a grant shall, if required so to do by the Auditor General, transmit to him, together with the annual appropriation account of such grant, a balance sheet so prepared as to show the debtor and creditor balances in the ledger of such department on the day when the said appropriation account was closed, and to verify the balances appearing upon the annual appropriation account: Provided always, that the Auditor General may, if he thinks fit, require the said department to transmit to him, in lieu of such balance sheet, a certified statement showing the actual disposition of the balances appearing upon the annual appropriation account on the last day of the period of such account. 41 V., c. 7, s. 38.

Proviso: another statement may be required by Auditor General.

Treasury Board may alter times for accounting.

41. The Treasury Board may alter the period at or to which any accountant for public moneys, public officer, corporation or institution, is required to render any account or to make any return, whenever in its opinion such alteration will facilitate the correct preparation of the public accounts or estimates for the financial year. 41 V., c. 7, s. 39.

Deputy heads, &c., to audit details.

42. The deputy heads of the several departments or the officers, clerks or other persons charged with the expenditure of public moneys, shall respectively audit the details of the accounts of the several services in the first instance, and

be responsible for the correctness of such audit. 41 V., c. 7, s. 40.

43. Every appropriation account, when rendered to the Auditor General, shall be accompanied by an explanation showing how the balances on the grants included in the previous account have been adjusted, and shall also contain an explanatory statement of any excess of expenditure over the grants included in such account; and such statement, as well as the appropriation account, shall be signed by the proper officer of such department. 41 V., c. 7, s. 41.

Explanation as to balances to accompany accounts.

44. Every appropriation account shall be examined by the Auditor General, on behalf of the House of Commons; and in the examination of such accounts, the Auditor General shall ascertain, first, whether the payments which the accounting department has charged to the grant are supported by vouchers or proofs of payment; and, second, whether the money expended has been applied to the purposes for which such grant was intended to provide: Provided always, that whenever the Auditor General is required by the Minister of Finance and Receiver General, to ascertain whether the expenditure included, or to be included, in any appropriation account, or any portion of such expenditure, is supported by the proper authority, the Auditor General shall examine such expenditure with that object, and shall report to the Minister of Finance and Receiver General any expenditure which appears upon such examination, to have been incurred without such authority; and if the Minister of Finance and Receiver General does not, thereupon, see fit to sanction such unauthorized expenditure, it shall be regarded as being not properly chargeable to a Parliamentary grant, and shall be reported to the House of Commons, in the manner hereinafter provided. 41 V., c. 7, s. 42.

Examination of appropriation accounts by Auditor General.

Proviso: examination as to whether any expenditure was authorized.

Report to House of Commons if unauthorized.

45. The Auditor General shall, in order that such examinations may, as far as possible, proceed *pari passu* with the cash transactions of the several accounting departments, have free access, at all convenient times, to the books of account and other documents relating to the accounts of such departments, and may require the several departments concerned to furnish him, from time to time, or at regular periods, with accounts of the cash transactions of such departments respectively up to such times or periods. 41 V., c. 7, s. 43.

Auditor General to have free access to books of account.

46. In conducting the examination of the vouchers relating to the appropriation of the grants for the several services sanctioned by the Appropriation Act of the year, or by any Act of Parliament, the Auditor General shall test

Auditor General to test castings and computations.

the accuracy of the additions and computations of the several items of such vouchers; but if he is satisfied that the accounts bear evidence that the vouchers have been completely checked, examined and certified as correct in every respect, and that they have been allowed, and passed by the proper departmental officers, he may admit the same as satisfactory evidence of payment in support of the charges to which they relate: Provided always, that if the Minister of Finance and Receiver General desires any such vouchers to be examined by the Auditor General in greater detail, the Auditor General shall cause such vouchers to be subjected to such further examination in detail as the Minister of Finance and Receiver General thinks fit to prescribe. 41 V., c. 7, s. 44.

May admit vouchers if satisfied of correctness.

Proviso: if Minister of Finance requires further examination.

Objections arising to be communicated to department accounting.

47. If, during the progress of the examination by the Auditor General hereinbefore directed, any objection arises to any item to be introduced into the appropriation account of any grant, such objections shall, notwithstanding such account has not been rendered to him, be immediately communicated to the department concerned; and if the objections are not answered to his satisfaction by such department, they shall be referred by him to the Treasury Board, and the Treasury Board shall determine in what manner the items in question shall be entered in the annual appropriation account. 41 V., c. 7, s. 45.

Auditor General in reporting to Parliament, to call attention to excess of expenditure, &c.

48. In reporting as hereinbefore directed for the information of the House of Commons, the result of the examination of the appropriation accounts, the Auditor General shall call attention to every case in which cheques have been issued without his certificate,—or in which it appears to him that a grant has been exceeded,—or that money received by a department from other sources than the grants for the year to which the account relates has not been applied or accounted for according to the directions of Parliament,—or that a sum charged against a grant is not supported by proof of payment,—or that a payment so charged did not occur within the period of the account, or was for any other reason not properly chargeable against the grant. 41 V., c. 7, s. 46.

To present his report if Minister of Finance does not present it.

49. If the Minister of Finance and Receiver General does not, within the time prescribed by this Act, present to the House of Commons any report made by the Auditor General on the appropriation accounts, or any other accounts, the Auditor General shall forthwith present such report. 41 V., c. 7, s. 47.

Auditor General to examine and audit certain other accounts if required.

50. Besides the appropriation accounts of the grants of Parliament, the Auditor General shall examine and audit, if required so to do by the Minister of Finance and Receiver General, and in accordance with any regulations which

are prescribed for his guidance in that behalf by the Treasury Board, the following accounts, viz: the accounts of all receipts of revenues forming the Consolidated Revenue Fund of Canada; the accounts current with the several banks and financial agents of Canada; the accounts relating to the issue or redemption of loans; the accounts with the several Indian tribes, known as the Indian Fund; the accounts with the several Provinces forming the Dominion of Canada; the accounts with the Government of the United Kingdom,—and any other public accounts which, though not relating directly to the receipts or expenditure of the Dominion of Canada, the Treasury Board directs him to examine and audit. 41 V., c. 7, s. 48.

Accounts with Provinces and Imperial Government, &c.

51. The accounts which, by the next preceding section, the Minister of Finance and Receiver General is empowered to subject to the examination of the Auditor General, shall be rendered to him by the departments or officers directed so to do by the Minister of Finance and Receiver General; and the expression "Accountant" when used in this and the following sections of this Act, with reference to any such accounts, means the department or officer that is so required by the Minister of Finance and Receiver General to render the same; and every public officer into whose hands public moneys, either in the nature of revenue or fees of office, are paid by persons bound by law or regulation so to do, or by subordinate or other officers whose duty it is to pay such moneys, wholly, or in part, into the account of the Minister of Finance and Receiver General, or to apply the same to any public service, shall, at such times and in such form as the Treasury Board determines, render an account of his receipts and payments to the Auditor General; and the Clerk of the Queen's Privy Council for Canada shall inform the Auditor General of the appointment of every such officer. 41 V., c. 7, s. 49.

By whom such accounts shall be rendered.

Term "accountant" interpreted.

Duty of Clerk of Privy Council as to appointments.

52. The Auditor General shall examine the several accounts transmitted to him with as little delay as possible, and when the examination of each account is completed he shall make a statement thereof in such form as he deems fit, and if it appears from the statement so made up of any account, being an account current, that the balance thereon agrees with the accountant's balance, or if it appears from any account rendered by an accountant, as well as from the statement of such account by the Auditor General that the accountant is "even and quit," the Auditor General shall sign and pass such statement of account so made up by him as aforesaid: Provided always, that in all other cases, the Auditor General after having made up the statement of account as hereinbefore directed, shall transmit the same to the Minister of Finance and Receiver General, who, having considered such statement, shall return it to

Examination to be made with as little delay as possible.

Statement by Auditor General when examination is completed.

Proviso: statement to be sent to Minister of Finance who shall examine it, &c.

him, with his certificate attached thereto, directing him to sign and pass the account, either conformably to the statement thereof, or with such alterations as he deems just and reasonable; and a statement of the account made up by the Auditor General in accordance with such certificate from the Minister of Finance and Receiver General shall then be signed and passed by the Auditor General: Provided further, that a list of all accounts which the Auditor General has signed and passed (such list to be so prepared as to show thereon the charge, discharge and balance of each account respectively,) shall be submitted by him to the Treasury Board twice in every year, that is to say, not later than the first week of February, and the first week of August. 41 V., c. 7, s. 50.

Proviso: list of accounts examined to be submitted to Treasury Board and when.

Certificate to accountant and what to show:—its effect.

53. As soon as any account has been signed and passed by the Auditor General, he shall transmit to the accountant a certificate, in which the total amounts of the sums forming, respectively, the charge and discharge of such account, and the balance, if any, remaining due to or by such accountant, shall be set forth; and every such certificate shall be signed by him, and shall be valid and effectual to discharge the accountant, as the case may be, either wholly or from so much of the amount with which he was chargeable, as he appears by such certificate to be discharged from: Provided always, that when any account, not being an account current has been signed and passed by the Auditor General with a balance due thereon to the Crown, he shall not make out or grant any such certificate as aforesaid until the accountant satisfies him, either that he has discharged the full amount of such balance, and any interest which is, as hereinafter provided, payable thereon, or that he has been relieved from the payment thereof, or of so much thereof as has not been paid, by an Order in Council passed on a report from the Treasury Board. 41 V., c. 7, s. 51.

Proviso: no certificate unless Auditor General is satisfied as to balance.

Statement required after examination and audit as to securities, stamps, &c.

54. Whenever the Auditor General is required by the Minister of Finance and Receiver General to examine and audit the accounts of the receipt, expenditure, sale, transfer or delivery of any securities, stamps, Canadian or other Government stock or annuities, provisions or stores, the property of Her Majesty, he shall, after the examination of such accounts has been completed, transmit a statement thereof, or a report thereon to the Minister of Finance and Receiver General, who shall, if he thinks fit, signify his approval of such accounts: and the Auditor General on receipt of such approval shall thereupon transmit to the accountant a certificate in a form to be, from time to time, determined by the Auditor General, which shall be to such accountant a valid and effectual discharge from so much as he thereby appears to be discharged from. 41 V., c. 7, s. 52.

Approval of Minister of Finance and discharge of accountant.

55. The Auditor General may examine any person on oath or affirmation on any matter pertinent to any account submitted to him for audit; and such oath or affirmation may be administered by him to any person whom he desires to examine. 41 V., c. 7, s. 53.

Power to examine persons on oath.

56. The Auditor General may apply to any judge of the Exchequer Court of Canada, or to any judge of a superior court of any Province of Canada, for an order that a subpoena be issued from the court, commanding any person therein named to appear before him at the time and place mentioned in such subpoena, and then and there to testify to all matters within his knowledge relative to any account submitted to him, and (if so required) to bring with him and produce any document, paper or thing which he has in his possession relative to any such account as aforesaid; and such subpoena shall issue accordingly upon the order of such judge; and any such witness may be summoned from any part of Canada whether within or without the ordinary jurisdiction of the court issuing the subpoena; and any reasonable travelling expenses shall be tendered to any witness so subpoenaed at the time of such service. 41 V., c. 7, s. 54.

Auditor General may obtain writs of subpoena.

And of duces tecum.

Expenses.

57. If, by reason of the distance at which any person, whose evidence is required by the Auditor General, resides from the seat of government, or for any other cause, the Auditor General deems it advisable, he may issue a commission, under his hand and seal, to any officer or person therein named, empowering him to take such evidence, and report the same to him; and such officer or person, being first sworn before some justice of the peace faithfully to execute the duty intrusted to him by such commission, shall, with regard to such evidence, have the same powers as the Auditor General would have had if such evidence had been taken before him, and may, in like manner, apply to and obtain from any judge of any of the courts aforesaid, a subpoena for the purpose of compelling the attendance of any person, or the production of any document, paper or thing before him: and such subpoena shall issue accordingly on the order of such judge; or such subpoena may issue on the application of the Auditor General to compel such attendance, or the production of any document, paper or thing before such commissioner. 41 V., c. 7, s. 55.

Auditor General may issue commissions to take evidence.

Powers of commissioners.

58. Every person summoned, in the manner hereinbefore provided, to attend before the Auditor General or any commissioner appointed as aforesaid, who fails, without valid excuse, to attend accordingly,—or, being commanded to produce any document, paper or thing in his possession, fails to produce the same,—or refuses to be sworn or to answer any lawful and pertinent question put to him by the Auditor General or by such commissioner,—shall, for each

Penalty on persons summoned failing to attend, or produce papers, &c.

And punishment as for contempt of court.

such offence, forfeit the sum of one hundred dollars to the Crown, for the public uses of Canada, to be recovered in any manner in which debts due to the Crown are recoverable, and may likewise be dealt with by the court out of which the subpoena issued, as a person who has refused to obey the process of such court, and who is guilty of a contempt thereof. 41 V., c. 7, s. 56.

Balances to be paid over in case of termination of charge, de- cease, &c.

Report if im- properly re- tained, and proceedings for recovery.

59. Every accountant, on the termination of his charge as such accountant, or in the case of a deceased accountant, his representatives shall, forthwith, pay over any balance of public money then due to the Crown in respect of such charge, to the public officer authorized to receive the same; and whenever it appears to the Auditor General that balances of public money have been improperly and unnecessarily retained by an accountant, he shall report the circumstances of such cases to the Minister of Finance and Receiver General, who shall take such measures as to him seem expedient for the recovery, by legal process or by other lawful ways and means, of the amount of such balance or balances, together with interest upon the whole or upon such part of such balance or balances, for such period of time and at such rate as to the Minister of Finance and Receiver General appears just and reasonable. 41 V., c. 7, s. 57.

LIABILITY OF ACCOUNTANTS,—CIVILLY.

Penalty for not account- ing as requir- ed by law.

Evidence in action and burden of proof.

60. Every officer or person who refuses or neglects to transmit any account, statement or return, with the proper vouchers, to the officer or department to whom he is lawfully required to transmit the same, on or before the day appointed for the transmission thereof, shall, for such refusal or neglect, forfeit and pay to the Crown, for the public uses of Canada, the sum of one hundred dollars, recoverable, with costs, as a debt due to the Crown, and in any court and in any way in which debts to the Crown are recoverable: and in any action for the recovery of such sum, it shall be sufficient to prove, by any one witness or other evidence, that such account, statement or return ought to have been transmitted by the defendant, as alleged on the part of the Crown; and the burden of proof that the same was so transmitted shall rest upon the defendant. 41 V., c. 7, s. 58.

Notice to per- sons neglect- ing to pay over.

61. Whenever the Minister of Finance and Receiver General has reason to believe that any officer or person has received money for the Crown, or for which he is accountable to the Crown, or has in his hands any public money applicable to any purpose, and has not paid over or duly applied and accounted for the same,—he may direct a notice to such officer or person or to his representatives in case of his death, requiring him, within a time to be therein named, from the service of such notice, to pay over, or apply and account

for such money to the Minister of Finance and Receiver General, or to the officer mentioned in the notice, and to transmit to him the proper vouchers that he has so done. 41 V., c. 7, s. 59.

62. If any officer or person fails to pay over, apply or account for any such money, and to transmit such vouchers as aforesaid within the time limited by the notice served on him,—the Minister of Finance and Receiver General shall state an account as between such officer or person and the Crown in the matter to which the notice relates, charging interest from the service thereof, and shall deliver a copy thereof to the Attorney General of Canada; and such copy shall be sufficient evidence to support any information or other proceeding for the recovery of the amount therein shown to be in the hands of the defendant, as a debt due to the Crown, saving to the defendant the right to plead and give in evidence all such matters as are legal and proper for his defence; and the defendant shall be liable for the costs of such information or proceeding, whatever the judgment therein is, unless he proves that before the time limited in such notice, he paid over or applied and duly accounted for the money therein mentioned, and transmitted the proper vouchers with such account, or unless he is sued for the same in a representative character, and is not personally liable for such money, or to render such account. 41 V., c. 7, s. 60.

Proceedings against person refusing to obey the notice.

Evidence in such case.

Costs.

63. Whenever any such officer or person as aforesaid has transmitted an account, either before or after notice as aforesaid, but without vouchers or with insufficient vouchers for any sum for which he therein takes credit,—the Minister of Finance and Receiver General may notify such officer or person, in the manner mentioned in the next preceding section but one, to transmit vouchers or sufficient vouchers within such period as the Minister of Finance and Receiver General deems fit after the service of the notice; and if such vouchers are not transmitted within that time, the Minister of Finance and Receiver General may state an account against such officer or person, disregarding the sums for which he has taken credit, but for which he has transmitted no vouchers or insufficient vouchers, and may deliver a copy of such account to the Attorney General of Canada; and such copy shall be sufficient evidence to support an information or other proceeding for the recovery of the amount therein shown to be in the hands of the defendant,—saving to the defendant the right to plead and give in evidence all such matters as are legal and proper for his defence; but such defendant shall be liable for the costs of the information or proceeding, whatever the judgment therein is, unless the vouchers by him transmitted within the time limited by the notice served on him, or

Proceedings in case of insufficient vouchers.

Evidence.

Costs.

before such service, are found of themselves sufficient for his defence, and for his discharge from all sums demanded of him. 41 V., c. 7, s. 61.

Proceedings
in case public
money ap-
pears to have
been received,
and has not
been paid
over.

64. If, at any time, it clearly appears, by the books or accounts kept by or in the office of any officer or person employed in the collection or management of the revenue, or in accounting for the same, or by his written acknowledgement or confession, that such officer or person has, by virtue of his office or employment, received moneys belonging to Her Majesty, and amounting to a sum certain, which he has refused or neglected to pay over to the officer duly appointed to receive the same, and in the manner and at the time lawfully appointed,—then, upon affidavit of the facts, by any officer cognizant thereof, and thereunto authorized by the Governor in Council, made before a justice or judge of any court having jurisdiction in civil matters to the amount of the sums so ascertained as aforesaid, such justice or judge shall cause to be issued against and for the seizure and sale of the goods, chattels and lands of the officer or person so in default as aforesaid, such writ or writs as might have issued out of such court, if the bond given by him had been put in suit, and judgment had been thereupon obtained in favor of Her Majesty, for a like sum, and any delay by law allowed between judgment and execution had expired; and such writ or writs shall be executed by the sheriff or other proper officer; and such sum as aforesaid shall be levied under them with costs, and all further proceedings shall be had, as if such judgment as aforesaid had been actually obtained. 41 V., c. 7, s. 62.

Seizure and
sale of de-
faulters
goods.

Payment of
price of pro-
perty sold
under writ of
extent to dis-
charge all
further claim
of Her
Majesty there-
on.

65. Whenever any estate belonging to a public accountant is sold under any writ of extent or any decree or order of any court of record, and the purchaser thereof, or of any part thereof, has paid his purchase money into the hands of any public accountant authorized to receive the same, such purchaser shall be wholly exonerated and discharged from all further claims of Her Majesty, for or in respect of any debt arising upon the account of such accountant, although the purchase money so paid is not sufficient in amount to discharge the whole of such debt. 41 V., c. 7, s. 63.

Public money
unapplied to
the purposes
for which it
was granted
to be paid
back.

66. If any officer or person has received public money for the purpose of applying it to any specific purpose, and has not so applied it within the time or in the manner provided by law, or if any person having held any public office and having ceased to hold the same, has in his hands any public money received by him as such officer for the purpose of being applied to any specific purpose to which he has not so applied it,—such officer or person shall be deemed to have received such money for the Crown for the public

uses of Canada, and may be notified by the Treasury Board to pay such sum back to the Minister of Finance and Receiver General; and the same may be recovered from him as a debt due to the Crown, in any manner in which debts due to the Crown are recoverable,—and an equal sum may, in the meantime, be applied to the purpose to which such sum ought to have been applied. 41 V., c. 7, s. 64. Recovery if not paid.

67. If, by reason of any malfeasance, or of any gross carelessness or neglect of duty, by any officer or person employed in the collection or management of the revenue or in collecting or receiving any moneys belonging to the Crown, for the public uses of Canada, any sum of money is lost to the Crown,—such officer or person shall be accountable for such sum as if he had collected and received the same, and it may be recovered from him on proof of such malfeasance, gross carelessness or neglect, in like manner as if he had so collected and received it. 41 V., c. 7, s. 65. Liability for loss occasioned by malfeasance or culpable neglect.

68. Nothing in this Act shall weaken or impair any remedy which the Crown has for recovering or enforcing the payment or delivering of any money or property belonging to the Crown, for the public uses of Canada, and in the possession of any officer or person whomsoever, by virtue of any other Act or law. 41 V., c. 7, s. 66. Other Crown remedies not affected.

LIABILITY CRIMINALLY.

69. Every officer, or person acting in any office or employment, connected with the collection or management of the revenue who— Punishment of officers.

(a.) Receives any compensation or reward for the performance of any official duty, except as by law prescribed, or— Receiving bribes.

(b.) Conspires or colludes with any other person to defraud the Crown, or makes opportunity for any person to defraud the Crown, or— Conspiring to defraud.

(c.) Designedly permits any violation of the law by any other person, or— Permitting breach of law.

(d.) Wilfully makes or signs any false entry in any book, or wilfully makes or signs any false certificate or return in any case, in which it is his duty to make an entry, certificate or return, or— Making false entries.

(e.) Having knowledge or information of the violation of any revenue law by any person, or of fraud committed by any person against the Crown, under any revenue law of Canada, fails to report in writing, such knowledge or information to his next superior officer, or— Not giving information.

(f.) Demands or accepts or attempts to collect, directly or indirectly as payment or gift or otherwise, any sum of money, or other thing of value, for the compromise, adjustment or settlement of any charge or complaint for any vio-

lation or alleged violation of law, except as expressly authorized to do by law, or by the authority of the department of which he is an officer,—

Misdemeanor. Shall be dismissed from office, and is guilty of a misdemeanor, and shall, on conviction, be liable to a fine not exceeding five hundred dollars, and to imprisonment for any term not exceeding one year. 41 V., c. 7, s. 67.

Punishment.

Offering bribes to revenue officers for certain purposes.

70. Every person who, directly or indirectly, promises, offers or gives, or causes or procures to be promised, offered or given any money, goods, right in action, bribe, present or reward, or any promise, contract, undertaking, obligation or security for the payment or delivery of any money, goods, right in action, bribe, present or reward, or any other valuable thing whatever, to any officer, or any person acting in any office or employment connected with the collection or management of the revenue, with intent—

To influence his decision.

(a.) To influence his decision or action on any question or matter which is then pending, or may, by law, be brought before him in his official capacity; or—

To induce him to connive at fraud.

(b.) To influence such officer or person to commit, or aid or abet in committing any fraud on the revenue, or to connive at, collude in, or allow or permit any opportunity for the commission of any such fraud; and,—

Punishment of persons offering and officers receiving bribes.

Every officer or person who in anywise accepts or receives any such moneys, goods, right in action, bribe, present or reward, or any promise, contract, undertaking, obligation or security for the payment or delivery thereof, or any other valuable thing whatever, or any part of the same respectively,—

Misdemeanor.

Is guilty of a misdemeanor, and liable, on conviction, to a fine not exceeding three times the amount so offered or accepted, and to imprisonment for any term not exceeding one year: and every officer or person who holds any office or place under the Crown, and is convicted under this section shall forfeit his office or place; and every person who is convicted under this section shall be for ever disqualified to hold any office of trust, honor or profit, under the Crown. 41 V., c. 7, s. 68.

Imprisonment.

Forfeiture of office and disqualification.

Becoming interested in manufacture of excisable articles.

71. Every officer and every person acting in any office or employment connected with the collection of the revenue who is or becomes, directly or indirectly, interested in the manufacture or production of any article subject to excise, or who trades in any article subject to excise duties, shall incur a penalty not exceeding five hundred dollars and not less than fifty dollars, which shall be recoverable in any court of competent jurisdiction. 41 V., c. 7, s. 69.

Penalty.

Other remedies of Her Majesty not impaired.

72. Nothing herein contained shall prevent, lessen, or impeach any remedy which Her Majesty or any other person has against such offender or his sureties, or against any other person whomsoever; but nevertheless the conviction of any

such offender shall not be received in evidence in any suit, or action at law or in equity, against him. 41 V., c. 7, s. 70, *part.*

GENERAL PROVISIONS.

73. All books, papers, accounts and documents of what kind soever, and by whom and at whose cost soever the paper and materials thereof have been procured or furnished, kept or used by, or received or taken into the possession of any officer or person employed or having been employed in the collection or management of the revenue or in accounting for the same, by virtue of his employment as such, shall be deemed to be chattels belonging to Her Majesty,—and all moneys or valuable securities received or taken into his possession by virtue of his employment shall be deemed to be moneys and valuable securities belonging to Her Majesty. 41 V., c. 7, s. 70, *part.*

Books of account, papers, moneys, &c., to belong to Her Majesty.

74. Whenever proof on oath or by affirmation or declaration is required, by any law relating to the collection or management of the revenue or to the accounting for the same, or is necessary for the satisfaction or consideration of the Governor in Council in any matter relating to the collection or management of the revenue or to the accounting for the same, and no person or officer is specially named as the officer or person before whom the same is to be made,—it may be made before any collector or chief officer of the Customs for the port or place where such proof is required, or before the persons acting for them respectively, or before such other officer or person as is appointed by the Governor in Council to receive the same; and such officers and persons shall administer such oath or affirmation or receive such declaration; and in any case or class of cases where an oath is required by this Act or by any law in force, in any matter relating to the collection or management of the revenue or the accounting for the same, the Governor in Council, may authorize the substitution for such oath, of a solemn affirmation or of a declaration, which shall then avail to all intents and purposes as such oath would have done. 41 V., c. 7, s. 71.

Before whom oaths or affirmations may be taken.

Affirmation may be substituted for oath by Governor in Council.

75. Upon all examinations and inquiries made by order of the Governor in Council for ascertaining the truth as to any fact relative to any matter concerning the collection or management of the revenue or the accounting for the same, or the conduct of officers or persons employed therein,—and upon like examination and inquiries made by the collector of Customs or by the chief officer employed in the collection and management of the revenue, in or at any port, district or place, or by any person or officer authorized by the Governor in Council to make such examinations and inquiries,

Inquiries concerning revenue matters.

Examination on oath.

any person to be examined as a witness shall deliver his testimony on oath,—which oath shall be administered to him by the officer or person making the examination or inquiry. 41 V., c. 7, s. 72, *part*.

Appeal to
Treasury
Board by ac-
countant dis-
satisfied.

76. Whenever an accountant is dissatisfied with any disallowance or charge in his accounts made by the Auditor General, such accountant may appeal to the Treasury Board, who, after such further investigations as they consider equitable, whether by *vivâ voce* examination or otherwise, may make such order, directing the relief of the appellant, wholly or in part, from the disallowance or charge in question, as appears to them to be just and reasonable; and the Auditor General shall govern himself accordingly. 41 V., c. 7, s. 73.

Holidays;
what days
shall be.

77. No day shall be kept as a public holiday by the officers and persons employed in the collection and management of the revenue, except Christmas day, New Year's day and Good Friday in every year,—any day appointed by proclamation of the Governor General for the purpose of a general fast, or of a general thanksgiving,—such days as are appointed for the celebration of the birth-day of Her Majesty and Her Royal successors, and any other statutory holiday—and such other days as are, from time to time, appointed as holidays by the Governor in Council. 41 V., c. 7, s. 10.

REMISSION OF DUTIES, FORFEITURES, &C.

Governor in
Council may
remit duties,
forfeitures,
&c., in certain
cases.

78. The Governor in Council, whenever he deems it right and conducive to the public good, may remit any duty or toll payable to Her Majesty, imposed and authorized to be imposed by any Act of the Parliament of Canada, or by any Act or Ordinance of the legislature of the late Province of Canada, or of any of the Provinces of Nova Scotia, New Brunswick, British Columbia or Prince Edward Island, in force in Canada, and relating to any matter within the scope of the powers of the Parliament thereof, or any forfeiture or pecuniary penalty imposed or authorized to be imposed by any such Act or Ordinance for any contravention of the laws relating to the collection of the revenue, or to the management of any public work producing toll or revenue, although any part of such forfeiture or penalty is given by law to the informer or prosecutor, or to any other person; and such remission may be total or partial, conditional or unconditional, and may be granted either before or after, or pending any suit or proceeding for the recovery of any duty, toll, penalty or forfeiture, and either before or after any payment thereof has been made or enforced by process or execution; and such remission may be exercised by forbearance from instituting any suit or pro-

How such re-
mission may
be made.

Stay of pro-
ceedings.

ceeding for the recovery of any duty, toll, penalty or forfeiture, or, if the same has been already instituted, then by the delay, stay or discontinuance of any such suit or proceeding, or by the forbearance to enforce, or by the stay or abandonment of any execution or process upon any judgment, or by the entry of satisfaction upon any judgment, or by the refund of any sum of money paid to the Minister of Finance and Receiver General for such duty, toll, penalty or forfeiture, or whereof payment has been enforced by any execution or process upon any judgment as aforesaid: **Refund.** Provided always, that no duties of customs or excise, paid to Her Majesty on any goods, shall be remitted or refunded on account of such goods having, after the payment of such duties, been lost or destroyed by fire or other unavoidable accident: **Proviso: as to goods destroyed by accident.**

2. If the remission is conditional, the condition, if accepted by the person to whom the remission is accorded, shall be lawful and valid, and the performance thereof, or the remission only, if unconditional, shall have the same effect as if the remission had been made after the duty, toll, penalty or forfeiture had been sued for and recovered; and if the condition is not performed, it may be enforced, or all proceedings may be had, as if there had been no remission: **Effect of conditional remission.**

3. No remission shall be made in any case unless such case has been considered, and the remission, whether total or partial, conditional or unconditional, has been recommended by the Treasury Board, and sanctioned and ordered by the Governor in Council: **Failure to perform condition.** **Recommendation by the Treasury Board.**

4. A detailed statement of all remissions and refunds of any tolls or duties shall be annually submitted to both Houses of Parliament, within the first fifteen days of the next ensuing session thereof. 41 V., c. 7, s. 74. **Returns to Parliament.**

79. If the Governor in Council directs that the whole or any part of any penalty imposed by any law relating to the revenue be remitted or returned to the offender, such remission or return shall have the effect of a pardon for the offence for which the penalty is incurred, which shall thereafter have no legal effect prejudicial to the person to whom such remission is granted. 41 V., c. 7, s. 75, *part.* **Effect of remission as pardon.**

80. The Attorney General of Canada may sue for and recover in Her Majesty's name any penalty, or enforce any forfeiture imposed by any law relating to the revenue, before any court or other judicial authority before which such penalty or forfeiture is recoverable or enforceable under such law, or may direct the discontinuance of any suit in respect of any such penalty or forfeiture by whom or in whose name soever the same has been brought; and the whole of the penalty or forfeiture when recovered or enforced, shall belong to Her Majesty for the public uses of Canada, unless the **Recovery of penalties and enforcement of forfeitures.**

Governor in Council, as he may do if he sees^dfit, allows^dany portion thereof to the seizing officer or other person^d by whose information or aid the penalty or forfeiture has been recovered or enforced. 41 V., c. 7, s. 75, *part.*

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CHAPTER 30.

An Act respecting the Currency.

A.D. 1886

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

- 1.** The denominations of money in the currency of Canada, shall be dollars, cents and mills,—the cent being one hundredth part of a dollar, and the mill one tenth part of a cent. 34 V., c. 4, s. 2.

Denominations in currency.
- 2.** The currency of Canada shall be such, that the British sovereign of the weight and fineness now prescribed by the laws of the United Kingdom, shall be equal to and shall pass current for four dollars eighty-six cents and two-thirds of a cent of the currency of Canada, and the half sovereign of proportionate weight and like fineness, for one half the said sum: and all public accounts throughout Canada shall be kept in such currency; and in any statement as to money or money value, in any indictment or legal proceeding, the same shall be stated in such currency; and in all private accounts and agreements rendered or entered into on or subsequent to the first day of July, one thousand eight hundred and seventy-one, all sums mentioned shall be understood to be in such currency, unless some other is clearly expressed, or must, from the circumstances of the case, have been intended by the parties. 34 V., c. 4, s. 3.

Standard of value of Canada currency.

Public accounts, &c., to be kept in it.
- 3.** No Dominion note or bank note payable in any other currency than the currency of Canada, shall be issued or re-issued by the Government of Canada, or by any bank, and all such notes issued before the first day of July, one thousand eight hundred and seventy-one, shall be redeemed, or notes payable in the currency of Canada shall be substituted or exchanged for them. 34 V., c. 4, s. 5.

No bank notes, &c., to be in any other currency.
- 4.** Any gold coins which Her Majesty causes to be struck for circulation in Canada, of the standard of fineness prescribed by law for the gold coins of the United Kingdom, and bearing the same proportion in weight to that of the British sovereign, which five dollars bear to four dollars eighty-six cents and two-thirds of a cent, shall pass current

Gold coins may be struck for Canada.

and be a legal tender in Canada for five dollars; and any multiples or divisions of such coin, which Her Majesty causes to be struck for like purposes, shall pass current and be a legal tender in Canada at rates proportionate to their intrinsic value respectively; and any such coins shall pass by such names as Her Majesty assigns to them in her proclamation declaring them a legal tender, and shall be subject to the like allowance for remedy as British coin. 34 V., c. 4, s. 6.

Certain silver and copper coins struck by order of Her Majesty to be a legal tender throughout Canada.

5. The silver, copper or bronze coins which Her Majesty has heretofore caused to be struck for circulation in the Provinces of Quebec, Ontario, and New Brunswick, under the Acts then in force in the said Provinces respectively, shall be current and a legal tender throughout Canada, at the rates in the said currency of Canada assigned to them respectively, by the said Acts, and under the like conditions and provisions: and such other silver, copper or bronze coins as Her Majesty causes to be struck for circulation in Canada, shall pass current and be a legal tender in Canada, at the rates assigned to them respectively by Her Majesty's Royal proclamation,—such silver coins being of the fineness now fixed by the laws of the United Kingdom, and of weights bearing respectively the same proportion to the value to be assigned to them, which the weights of the silver coins of the United Kingdom bear to their nominal value; and all such silver coins aforesaid, shall be a legal tender to the amount of ten dollars, and such copper or bronze coins to the amount of twenty-five cents, in any one payment; and the holder of the notes of any person to the amount of more than ten dollars, shall not be bound to receive more than that amount in such silver coins in payment of such notes if presented for payment at one time, although any of such notes is for a less sum. 34 V., c. 4, s. 7.

Amount which may be tendered in one payment.

No other coins of silver or copper to be so.

6. No other silver, copper or bronze coins than those which Her Majesty causes to be struck for circulation in Canada, or in some Province thereof, shall be a legal tender in Canada. 34 V., c. 4, s. 8.

As to foreign gold coins.

7. Her Majesty may, by proclamation, from time to time, fix the rates at which any foreign gold coins of the description, date, weight and fineness, mentioned in such proclamation, shall pass current, and be a legal tender in Canada: Provided that until it is otherwise ordered by any such proclamation, the gold eagle of the United States of America, coined after the first day of July, one thousand eight hundred and thirty-four, and before the first day of January, one thousand eight hundred and fifty-two, or after

Proviso: as to U.S. Eagle.

the said last mentioned day, but while the standard of fineness for gold coins then fixed by the laws of the said United States remains unchanged, and weighing ten pennyweights, eighteen grains, troy weight, shall pass current and be a legal tender in Canada for ten dollars; and the gold coins of the said United States being multiples and halves of the said eagle, and of like date and proportionate weights, shall pass current and be a legal tender in Canada for proportionate sums. 34 V., c. 4, s. 9.

8. The stamp of the year on any foreign coin made current by this Act, or any proclamation issued under it, shall establish *prima facie* the fact of its having been coined in that year; and the stamp of the country on any foreign coin shall establish *prima facie* the fact of its being of the coinage of such country. 34 V., c. 4, s. 10. Proof of date, &c., of coins.

9. No tender of payment in money in any gold, silver or copper coin which has been defaced by stamping thereon any name or word, whether such coin is or is not thereby diminished or lightened, shall be a legal tender. 32-33 V., c. 18, s. 17, *part*. Defaced coin not a legal tender.

10. All sums of money payable on and after the first day of July, one thousand eight hundred and seventy-one to Her Majesty, or to any person, under any Act or law in force in Nova Scotia, passed before the said day, or under any bill, note, contract, agreement or other document or instrument, made before the said day in and with reference to that Province, or made after the said day out of Nova Scotia and with reference thereto, and which were intended to be, and but for such alteration would have been payable in the currency of Nova Scotia, as fixed by law previous to the fourteenth day of April, one thousand eight hundred and seventy-one, shall hereafter be represented and payable, respectively, by equivalent sums in the currency of Canada, that is to say, for every seventy-five cents of Nova Scotia currency, by seventy-three cents of Canada currency, and so in proportion for any greater or less sum: and if in any such sum there is a fraction of a cent in the equivalent in Canada currency the nearest whole cent shall be taken. 34 V., c. 4, s. 4. Payments in Nova Scotia on and after 1st July, 1871 to be in Canada currency. How to be calculated.

11. Any debt or obligation contracted before the first day of July in the year one thousand eight hundred and eighty-one, in the currency then lawfully used in the Province of British Columbia, or in the Province of Prince Edward Island, shall, if payable thereafter, be payable by an equivalent sum in the currency hereby established. 44 V., c. 4, s. 1. As to debts in B.C. & P.E.I. contracted before 1st July, 1881.

Sums mentioned in certain Acts to be currency of Canada.

12. All sums mentioned in dollars and cents in "*The British North America Act, 1867*," and in all Acts of the Parliament of Canada shall, unless it is otherwise expressed, be understood to be sums in the currency by this Act established.
31 V., c. 45, s. 2.

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CHAPTER 31,

An Act respecting Dominion Notes.

A.D. 1886.

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

- 1.** The expression “specie” in this Act means coin current by law in Canada, at the rates and subject to the provisions of the law in that behalf, or bullion of equal value according to its weight and fineness. 31 V., c. 46, s. 13, *part.* Interpreta-
tion.
- 2.** The Governor in Council may authorize the issue of Dominion notes to an amount not exceeding that herein specified; and such Dominion notes may be of such denominational values and in such form, and signed by such persons and in such manner, by lithograph, printing or otherwise as he, from time to time, directs; and such notes shall be redeemable in specie on presentation at branch offices established or at banks with which arrangements are made as hereinafter provided at Montreal, Toronto, Halifax, St. John, N.B., Winnipeg, Charlottetown and Victoria, and at that one of the said places at which they are respectively made payable. 31 V., c. 46, s. 8, *part.*;—43 V., c. 13, s. 4, *part.* Issue of Dom-
inion notes.
- 3.** The amount of Dominion notes issued and outstanding at any time may, by Order in Council, founded on a report of the Treasury Board, be increased to, but shall not exceed twenty million dollars, by amounts not exceeding one million dollars at one time, and not exceeding four million dollars in any one year: Provided that the Minister of Finance and Receiver General shall always hold, for securing the redemption of such notes issued and outstanding, an amount in gold, or in gold and Canada securities guaranteed by the Government of the United Kingdom, equal to not less than twenty-five per cent. of the amount of such notes,—at least fifteen per cent. of the total amount of such notes being so held in gold; and provided also, that the said Minister shall always hold for the redemption of such notes an amount equal to the remaining seventy-five per cent. of the total amount thereof, in Dominion debentures issued by authority of Parliament. 43 V., c. 13, s. 1, *part.* Amount of
Dominion
notes.

Proviso: a-
mount in gold
and guaran-
teed securi-
ties to be held
for redemp-
tion.

And in
unguaranteed
debentures.

Notes to be a legal tender.

4. Such notes shall be a legal tender in every part of Canada except at the offices at which they are respectively made payable: the proceeds thereof shall form part of the Consolidated Revenue Fund of Canada, and the expenses lawfully incurred under this Act shall be paid out of the said fund. 43 V., c. 13, s. 5, *part*.

Debentures may be delivered to Minister of Finance, and disposed of by him for the purposes of this Act.

5. Debentures of Canada may be issued and delivered to the Minister of Finance and Receiver General for the general purposes of this Act, and to enable him to comply with its requirements,—such debentures being held as aforesaid for securing the redemption of Dominion notes, and the said Minister having full power to dispose of them, and of the guaranteed debentures aforesaid, either temporarily or absolutely, in order to raise funds for such redemption, and for the purpose of procuring the amounts of gold required to be held by him under this Act; but nothing herein contained shall be construed to authorize the issue of debentures not otherwise authorized by Parliament, or any increase of the debt of Canada beyond the amount so authorized. 43 V., c. 13, s. 2.

Proviso.

Amount to be issued against gold only.

6. If any amount of Dominion notes is issued and outstanding at any time in excess of the amount then authorized as aforesaid, the Minister of Finance and Receiver General shall hold gold to the full amount of such excess, for the redemption of such notes; and any amount of such notes which the public convenience requires may be issued and remain outstanding, provided the excess of such amount over that so authorized is represented by an equal amount of gold held by the Minister of Finance and Receiver General as aforesaid; and the issue of Dominion notes so represented in full by gold, shall not be deemed an increase of the public debt; but except in the case of notes so issued against an equal amount of gold, the total amount of Dominion notes outstanding shall never exceed the amount authorized under section three of this Act. 33 V., c. 10, s. 6.

Minister of Finance to publish monthly statements.

7. The Minister of Finance and Receiver General shall publish monthly in the *Canada Gazette* a statement of the amount of Dominion notes outstanding on the last day of the preceding month, and of the gold, guaranteed debentures and unguaranteed debentures then held by him for securing the redemption thereof, distinguishing the amounts of each so held at each of the cities at which Dominion notes are redeemable; and such statements shall be made up from returns made to the said Minister by the branch offices, bank or banks at which such notes are redeemable. 43 V., c. 13, s. 3.

Offices or agencies for redemption of notes.

8. The Governor in Council may, in his discretion, establish branch offices of the Department of Finance at Montreal, Toronto, Halifax, St. John, N.B., Winnipeg, Charlottetown

and Victoria, respectively, or any of them, for the redemption of Dominion notes, or may make arrangements with any chartered bank or banks for the redemption thereof, and may allow a fixed sum per annum for such service at all or any of the said places; and gold or debentures held at any such branch office or by any such bank for the redemption of Dominion notes, shall be deemed to be held by the Minister of Finance and Receiver General: Provided that any Assistant Receiver General appointed at any of the said cities under the "*Act respecting Government Savings Banks*," shall be an agent for the issue and redemption of such notes. 33 V., c. 10, s. 7;—39 V., c. 4;—43 V., c. 13, s. 4, *part*.

9. Provincial notes issued under the Act of the late Province of Canada, passed in the session held in the twenty-ninth and thirtieth years of Her Majesty's reign, chapter ten, shall be held to be notes of the Dominion of Canada, and shall be redeemable in specie on presentation at Montreal, Toronto, Halifax or St. John, N.B., and at that one of the said places at which they are respectively made payable, and shall be (as provided by the lastly mentioned Act) a legal tender except at the offices at which they are respectively made payable. 31 V., c. 46, s. 8, *part*.

Redemption
of Provincial
notes.

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 32.

An Act respecting the Customs.

A. D. 1886.

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

SHORT TITLE.

1. This Act may be cited as "*The Customs Act.*" 46 V., Short title. c. 12, s. 1.

INTERPRETATION.

2. In this Act, or in any other laws relating to the Customs, unless the context otherwise requires:—

(a.) The expression "port" means a place where vessels or vehicles may discharge or load cargo; Interpretation.
"Port."

(b.) The expression "collector" means the Collector of the Customs at the port or place intended in the sentence, or any person lawfully deputed, appointed or authorized to do the duty of collector thereat; "Collector."

(c.) The expression "officer" means an officer of the Customs; "Officer."

(d.) The expression "vessel" means any ship, vessel or boat of any kind whatsoever, whether propelled by steam or otherwise, and whether used as a sea-going vessel or on inland waters only, unless the context is manifestly such as to distinguish one kind or class of vessel from another, and the word "vessel" includes "vehicle"; "Vessel."

(e.) The expression "vehicle" means any cart, car, wagon, carriage, barrow, sleigh or other conveyance of what kind soever, whether drawn or propelled by steam, by animals, or by hand or other power, and includes the harness or tackle of the animals, and includes also the fittings, furnishings and appurtenances of the vehicle; "Vehicle."

(f.) The expression "master" means the person having or taking charge of any vessel or vehicle; "Master."

(g.) The expression "conductor" means the person in charge, or having the chief direction of any railway train; "Conductor."

- "Owner," &c. (h.) The expression "owner," "importer," or "exporter" means the owners, importers or exporters, if there are more than one in any case, and includes persons lawfully acting on their behalf;
- "Goods." (i.) The expression "goods" means goods, wares and merchandise, or movable effects of any kind, including carriages, horses, cattle and other animals, except where these latter are manifestly not intended to be included by the said expression;
- "Warehouse." (j.) The expression "warehouse" means any place, whether house, shed, yard, dock, pond or other place in which goods imported may be lodged, kept and secured without payment of duty;
- "Customs warehouse." (k.) The expression "Customs warehouse" includes sufferance warehouse, bonding warehouse and examining warehouse;
- "Oath." (l.) The expression "oath" includes declaration and affirmation;
- "Seized and forfeited," &c. (m.) The use of the expressions "seized and forfeited," "liable to forfeiture," or "subject to forfeiture," or any other expression which might of itself imply that some act subsequent to the commission of the offence is necessary to work the forfeiture, shall not be construed as rendering any such subsequent act necessary, but the forfeiture shall accrue at the time of and by the commission of the offence, in respect of which the penalty of forfeiture is imposed:
- General provisions. All the expressions and provisions of this Act or of any such law as aforesaid, shall receive such fair and liberal construction and interpretation as will best insure the protection of the revenue and the attainment of the purpose for which this Act or such law was made, according to its true intent, meaning and spirit. 46 V., c. 12, s. 4.

DEPARTMENT OF CUSTOMS.

- Department constituted. **3.** There shall be a department of the Civil Service which shall be called the "Department of Customs," over which the Minister of Customs for the time being, appointed by the Governor General, by commission under the Great Seal, shall preside. 31 V., c. 43, s. 1.
- Commissioner and Assistant Commissioner. **4.** There shall be a Commissioner of Customs, who shall be the Deputy of the Minister of Customs, and an Assistant Commissioner, appointed by the Governor in Council, both of whom shall hold office during pleasure, and shall have such powers and perform such duties, respectively, as are assigned to them by the Governor in Council, or by the Minister of Customs. 31 V., c. 43, s. 2.
- Of what matters the Department shall have the control. **5.** The Department of Customs shall have the control and management of the collection of the duties of Customs, and of matters incident thereto, and of the officers and persons employed in that service. 31 V., c. 43, s. 3, *part.*

DUTIES OF CUSTOMS.

6. The duties imposed by any Act relating to the Customs shall be held to be duties within the meaning of "*The Consolidated Revenue and Audit Act*," and of any Act amending the same, and shall, with all matters and things thereunto relating, be subject to the provisions of the said Act or Acts, and to the regulations and orders of the Governor in Council, made under the authority thereof, in so far as the same are not inconsistent with this Act; and all moneys arising from such duties, or from any penalties hereby imposed, and belonging to Her Majesty, shall be paid over by the officer receiving the same to the Minister of Finance and Receiver General, and shall form part of the Consolidated Revenue Fund of Canada. 46 V., c. 12, s. 14.
- Duties to be within the Audit Act and Orders under it.
7. The true amount of Customs duties payable to Her Majesty with respect to any goods imported into Canada or exported therefrom, and the additional sum, if any, payable under the next following section of this Act, shall, from and after the time when such duties should have been paid or accounted for, constitute a debt due and payable to Her Majesty, jointly and severally, from the owner of the goods at the time of the importation or exportation thereof, and from the importer or exporter thereof, as the case may be; and such debt may, at any time, be recovered with full costs of suit, in any court of competent jurisdiction. 46 V., c. 12, s. 15.
- Duties and penalties if any, be a debt to Her Majesty, and how recoverable.
8. If, in any case, the true value for duty of any goods, as finally determined under this Act or as determined in any action or proceeding to recover unpaid duties, exceeds by twenty per centum, or more, the value for duty as it appears by the bill of entry thereof, there shall be levied and collected upon the same, in addition to the duty payable on such goods, when properly valued, a sum equal to one-half of the duty so payable; and if the owner or importer refuses or neglects to pay the said duty and additional sum, the goods shall be seized and forfeited. 46 V., c. 12, s. 102.
- Additional duty in cases of undervaluation.
9. Whenever any dispute arises as to whether any or what duty is payable on particular goods, and there is no previous decision in the matter by any competent tribunal, or there are decisions inconsistent with each other, the Governor in Council may declare the duty payable on the kind of goods in question, or that such goods are exempt from duty; and any Order in Council containing such declaration and fixing such duty, if any, and published in the *Canada Gazette*, shall, until Parliament otherwise provides, have the same force and effect as if such duty had been fixed and declared by statute. 46 V., c. 12, s. 11.
- Governor in Council may, in doubtful cases, declare the duty, or that the goods are free.
- Effect of order.

What must appear in invoices of goods.

What currency to be used.

Value of such currency, how ascertained.

Proviso: when value depends on rate of exchange.

Further proviso.

Greater or less quantities.

Allowance for tare or draft to be regulated by O. C.

Proviso: if true tare is known.

Duties on non-enumerated

10. All invoices of goods shall be made out in the currency of the country whence the goods are imported, and shall contain a true statement of the value of such goods; and in computing the value for duty of such currency, the rate thereof shall be such as has been ordered and proclaimed, from time to time, by the Governor in Council, who is hereby empowered to make such order; and the rate ordered shall be based upon the actual value of the standard coins or currency of such country as compared with the standard dollar of Canada in so far as such comparative values are known; and whenever the value of a currency has not been proclaimed, or whenever there is no fixed standard value, or whenever from any cause the value of such currency has become depreciated, there shall be attached to the invoice of the goods imported the certificate of some Consul resident in such place or country, shewing the extent of such depreciation, or the true value of the currency in which such invoice is made out, then and there, as compared with the standard dollar of Canada: Provided however, that whenever the value of a depreciated currency is dependent upon the rate of exchange on London, it shall be optional with the importer, with the consent of the collector of Customs, to compute the value for duty at the rate of exchange certified by the bank through which the same is drawn, as current at the time and place when and whence the goods were exported to Canada: Provided also, that when the currency value is so determined at the time of entry, either by a Consul's certificate, or by the certificate of the bank as hereinbefore provided, such rate or value shall be final and not open to any re-adjustment by reason of the subsequent production of any certificate not corresponding in rate or value with that adopted. 46 V., c. 12, s. 12, *part*.

11. Whenever duties are imposed according to any specific quantity or to any specific value, the same shall be deemed to apply in the same proportion to any greater or less quantity or value, and to any fractional part of such specific quantity. 46 V., c. 12, s. 13.

12. Whenever duties are charged according to the weight, tale, gauge or measure, such allowances shall be made for tare and draft upon the packages as are prescribed by regulation made by the Governor in Council; but when the original invoice of any goods is produced, and a declaration of the correctness thereof made as hereinafter provided, the tare according to such invoice shall be deducted from the gross weight of the goods instead of the allowances aforesaid, subject to such further regulations as are made, from time to time, by the Governor in Council. 46 V., c. 12, s. 64.

13. On each and every non-enumerated article which bears a similitude, either in material or quality, or the use to which

it may be applied, to any enumerated article chargeable with duty, the same rate of duty shall be payable which is charged on the enumerated article which it most resembles in any of the particulars before mentioned. 46 V., c. 12, s. 6. ted articles resembling enumerated.

14. If any non-enumerated article equally resembles two or more enumerated articles on which different rates of duty are chargeable, the duty on such non-enumerated article shall be the same as that on the enumerated article which it resembles, paying the highest duty. 46 V., c. 12, s. 7. On articles resembling more than one enumerated.

15. On all articles manufactured from two or more materials, the duty shall be that charged on the article, if there is a difference of duty, which is charged with the highest duty. 46 V., c. 12, s. 8. Made of more than one material.

16. If an article is enumerated in the tariff under two or more names or descriptions, and there is a difference of duty, the highest duty provided shall be charged and collected thereon. 46 V., c. 12, s. 9. Enumerated under more than one name.

17. Spirits and strong waters, from whatsoever substance distilled or prepared, having the flavor of any kind of spirits or strong waters, subject to a higher duty than whiskey, shall be liable to the duty imposed on spirits or strong waters of which they have the flavor. 46 V., c. 12, s. 10. Spirits and strong waters.

18. Goods derelict, flotsam, jetsam or wreck, or landed or saved from any vessel wrecked, stranded or lost, brought or coming into Canada, shall be subject to the same duties and regulations as goods of the like kind imported are subject to. 46 V., c. 12, s. 60. Goods wrecked or derelict.

19. If the duties on such goods are not paid within eighteen months from the time when the same were delivered to the proper officer, as hereinafter mentioned, the same may be sold in like manner, and for the same purposes as goods imported may, in such default, be sold; and if they are sold for more than enough to pay the duty and charges thereon, the surplus shall be paid over to the person entitled to receive it. 46 V., c. 12, s. 62. Sale if duty is not paid within 18 months.

20. The collector or any appraiser may take samples of any goods imported, for the purpose of ascertaining whether any and what duties are payable on such goods; and such samples shall be disposed of as the Minister of Customs directs. 46 V., c. 12, s. 65. Samples may be taken.

REPORT AND ENTRY INWARDS.

21. No goods shall be unladen from any vessel arriving at any port or place in Canada, from any place out of Canada, Goods not to be unladen

except after
due entry.

Exception.

And at the
hours and
places ap-
pointed for
the purpose.

Stowage of
cargo not to
be altered.

Forfeiture for
contraven-
tion and de-
tention until
security is
given.

or from any vessel having dutiable goods on board brought coastwise, nor shall bulk be broken within three leagues of the coast, until due entry has been made of such goods, and warrant granted for the unloading of the same; and no goods shall be so unladen (unless for the purpose of lightening the vessel in crossing over or getting free from a shoal, rock, bar or sand-bank) except between sunrise and sunset, and on some day not being a Sunday or statutory holiday, and at some hour and place at which an officer of the Customs is appointed to attend the unloading of goods, or at some place for which a sufferance has been granted by the collector or other proper officer, for the unloading of such goods; and if, after the arrival of the vessel within three leagues of the coast, any alteration is made in the stowage of the cargo so as to facilitate the unlawful unloading of any part thereof, or if any part thereof is fraudulently staved, destroyed or thrown overboard, or any package is opened, it shall be deemed a breaking of bulk; and all goods unladen contrary to this Act shall be seized and forfeited; and if bulk is broken contrary to this Act, the master shall forfeit two hundred dollars, and the vessel may be detained until the said sum is paid, or satisfactory security is given for the payment thereof; and unless payment is made or security is given, within thirty days, such vessel may, at the expiration thereof, be sold to pay the said sum. 46 V., c. 12, s. 16.

Governor in
Council may
appoint
places of
entry.

22. The Governor in Council may, by regulation from time to time, appoint the ports and places of entry for the purposes of this Act, and may, in like manner, increase or diminish the number, or alter the position or limits thereof. 46 V., c. 12, s. 17.

Goods import-
ed to be
brought in at
a place of
entry.

23. All goods imported into Canada, whether by sea, land, coastwise, or by inland navigation, whether dutiable or not, shall be brought in at a port of entry where a Custom House is lawfully established. 46 V., c. 12, s. 18.

Vessels may
be boarded
when within
3 miles of
anchorage
and report
demanded.

24. In the case of every vessel bound for any sea-port in Canada, from any port out of Canada, the collector or proper officer of such Canadian port may cause such vessel to be boarded by an officer of Customs detailed by him for such service, at any place within three marine miles of the anchorage ground, and such officer may demand from the master or purser of such vessel a correct copy of the report inwards intended by such master or purser to be presented at the Custom House on arrival; and such boarding officer may remain on board the vessel until she anchors; and the copy of the report so received by him shall be deposited by him at the Custom House as the vessel's report inwards, for comparison with that to be presented by the master or purser in person. 46 V., c. 12, s. 26.

Officer may
remain on
board.

25. The master of every vessel coming from any port or place out of Canada, or coastwise, and entering any port in Canada, whether laden or in ballast, shall go without delay, when such vessel is anchored or moored, to the Custom House for the port or place of entry where he arrives, and there make a report in writing to the collector or other proper officer, of the arrival and voyage of such vessel, stating her name, country and tonnage, the port of registry, the name of the master, the country of the owners, the number and names of the passengers, if any, the number of the crew, and whether the vessel is laden or in ballast, and if laden, the marks and numbers of every package and parcel of goods on board, and where the same was laden, and the particulars of any goods stowed loose, and where and to whom consigned, and where any and what goods, if any, have been laden or unladen, or bulk has been broken, during the voyage, what part of the cargo and the number and names of the passengers which are intended to be landed at that port, and what and whom at any other port in Canada, and what part of the cargo, if any, is intended to be exported in the same vessel, and what surplus stores remain on board,—as far as any of such particulars are or can be known to him. 46 V., c. 12, s. 25.

Report to be made by master of vessel arriving from sea or coastwise.

Contents of such report.

26. The master or person in charge of any vessel, whether laden or in ballast, arriving by inland navigation in any port or place of entry in Canada, from any place beyond the limits of Canada, and having any goods therein (whether any duty is payable on such goods or not) shall go without delay, when such vessel is anchored or moored, directly to the Custom House for such port or place of entry, and make a report in writing, in such form as is appointed for that purpose by competent authority, to the collector or other proper officer, of the arrival of such vessel, stating in such report the marks and numbers of every package and parcel of goods in such vessel, or in the charge and custody of such person, from what place the same are respectively brought, and to what place and to whom they are consigned or belong, as far as such particulars are known to him; and he shall then and there produce such goods to the collector or other proper officer, and shall declare that no goods have been unladen from such vessel or have been put out of his possession, between the time of his coming within the limits of Canada and of his making his report and affidavit, and shall further answer all such questions concerning such vessel or goods as are demanded of him by such collector or officer. 46 V., c. 12, s. 27.

Duty of master of a vessel arriving by inland navigation.

Report for entry.

Production of goods and declaration by master.

27. The master shall, at the time of making his report, if required by the officer of Customs, produce to him the bills of lading of the cargo, or true copies thereof, and shall make and subscribe an affidavit referring to his report and

Production of bills of lading.

Answering questions, &c

declaring that all the statements made in the report are true; and shall further answer all such questions concerning the vessel and cargo, and the crew, and the voyage, as are demanded of him by such officer, and shall, if required, make the substance of any such answer part of his report. 46 V., c. 12, s. 28.

Penalty for contravention.

28. If any goods are unladen from any vessel before such report is made, or if the master fails to make such report, or makes an untrue report, or does not truly answer the questions demanded of him, as provided in the next preceding section, he shall incur a penalty of four hundred dollars, and the vessel may be detained until such penalty is paid. 46 V., c. 12, s. 29.

Goods not reported liable to forfeiture.

Proviso.

29. All goods not reported, found on board of any vessel or landed, shall be seized and forfeited, unless it appears that there was no fraudulent intention,—in which case the master shall be allowed to amend his report; but the necessary discharging of any goods for the purpose of lightening the vessel in order to pass any shoal, or otherwise for the safety of such vessel, shall not be deemed an unlawful landing or breaking of bulk. 46 V., c. 12, s. 30.

As to goods intended for another port.

30. If the contents of any package intended for importation into another port, or for exportation, are unknown to the master, the officer may open and examine it, and cause it for that purpose to be landed if he sees fit; and if any prohibited goods are found therein, all the goods in such package shall be seized and forfeited. 46 V., c. 12, s. 31.

Provision as to goods not intended to be landed at the first port.

Where the entry shall be completed.

31. If any goods are brought in any decked vessel, from any place out of Canada to any port of entry therein, and not landed, but it is intended to convey such goods to some other port in Canada in the same vessel there to be landed, the duty shall not be paid or the entry completed at the first port, but at the port where the goods are to be landed, and to which they shall be conveyed accordingly under such regulations and with such security or precautions for compliance with the requirements of this Act, as the Governor in Council, from time to time, directs. 46 V., c. 12, s. 45.

Report to be made by conductor on importation by railway.

32. The conductor of every railway train carrying freight arriving at any port in Canada, from any foreign port, shall come directly, and before bulk is broken, to the Custom House at such port, and report all merchandise on board his train or in any particular car belonging to such train, stating the marks and numbers of every package and parcel of goods on board, and where the same was laden, and where and to whom it is consigned, and what part thereof, if any, is intended to pass *in transitu* through Canada to some port or

place in the United States, or to be transhipped at some other port in Canada, to be exported to a port or place out of Canada; and if any goods are unladen before such report is made, except by written permission of the collector or proper officer of Customs, or if the conductor fails to make such report, or makes an untrue report, or does not truly answer any questions put to him respecting the same, he shall incur a penalty of four hundred dollars. 46 V., c. 12, s. 33.

Penalty for
contraven-
tion.

33. The person in charge of any vehicle, arriving by land in any place in Canada, and containing goods, whether any duty is payable on such goods or not, and the person in charge of any vehicle so arriving, if the vehicle or its fittings furnishings or appurtenances, or the animals drawing the same, or their harness or tackle, is or are liable to duty, and every person whosoever so arriving in Canada from any port or place out of Canada, on foot or otherwise, and having with him or in his charge or custody, any goods, whether such goods are dutiable or not, shall come to the nearest Custom House or to the station of the nearest officer of Customs, before unloading or in any manner disposing of the same, and make a report in writing to the collector or proper officer of Customs, stating the contents of each and every package and parcel of goods, and the quantities and values of the same; and shall also then answer all questions respecting such goods or packages, and the vehicle, fittings, furnishings and appurtenances, and animals, and the harness or tackle appertaining thereto, as the said collector or proper officer of Customs requires of him, and shall then and there make due entry of the same, in accordance with the law in that behalf. 46 V., c. 12, s. 34.

Entry to be
made by any
person bring-
ing goods by
land.

Report and
what it must
show.

Questions
concerning
goods, &c.,
to be an-
swered.

And entry
made.

34. Every importer of goods by sea or from any place out of Canada shall, within three days after the arrival of the importing vessel, make due entry inwards of such goods, and land the same; and every importer of goods imported by inland navigation in a decked vessel of one hundred tons burthen or more, shall, within twenty-four hours of the arrival of the importing vessel, make due entry inwards of such goods, and land the same; and every importer of goods imported by inland navigation in any undecked vessel, or in any vessel less than one hundred tons burthen, or by land, shall, forthwith, after the importation of such goods, produce the same to the proper officer and make due entry thereof. 46 V., c. 12, s. 40.

Within what
time entries
shall be made
if imported by
sea, &c.

If by inland
navigation or
by land.

35. The person entering any goods inwards shall deliver to the collector or other proper officer, an invoice of such goods shewing the place and date of purchase and the name or style of the firm or person from whom the goods were purchased, and a full description thereof in detail, giving the quantity and value of each kind of goods so imported,

Bills of entry
inwards:
what to show.

Duplicate.
If importation
is by water.

and a bill of entry thereof, in such form as is appointed by competent authority, fairly written or printed, or partly written and partly printed, and in duplicate, containing the name of the importer,—and if imported by water, the name of the vessel and of the master, and of the place to which bound, and of the place, within the port, where the goods are to be unladen,—and the description of the goods, and the marks and numbers and contents of the packages, and the place from which the goods are imported, and of what country or place such goods are the growth, produce or manufacture. 46 V., c. 12, s. 41.

Duties to be
paid down
unless goods
are ware-
housed.

Warrant and
permit.

36. Unless the goods are to be warehoused in the manner by this Act provided, the importer shall, at the same time, pay down, or cause to be so paid, all duties upon all goods, entered inwards; and the collector or other proper officer shall, immediately thereupon, grant his warrant for the unloading of such goods, and grant a permit for the conveyance of such goods further into Canada, if so required by the importer. 46 V., c. 12, s. 42.

In default of
entry, goods
may be taken
to warehouse
and sold if
duties are not
paid within a
certain time.

37. In default of such entry and landing, or production of the goods, or payment of duty, the officer of Customs may convey the goods to a Customs warehouse, or some secure place appointed by the collector for such purpose, there to be kept at the risk and charge of the owner;—and if such goods are not duly entered within one month from the date of their being so conveyed to the Customs warehouse, or other appointed place, and all charges of removal and warehouse rent duly paid at the time of such entry, the goods shall be sold by public auction to the highest bidder, and the proceeds thereof shall be applied, first to the payment of duties and charges; and the overplus, if any, after discharging the vessel's lien, or other charges for transportation, shall be paid to the owner of the goods or to his lawful agent: Provided always, that if the same cannot be sold for a sum sufficient to pay the duties and charges if offered for sale for home consumption, or the charges if offered for sale for exportation, such goods shall not be sold, but shall be destroyed. 46 V., c. 12, s. 43.

Proviso: as
to goods not
worth the
charges on
them.

Quantity and
value to be
stated in
entry.

38. The quantity and value of any goods shall always be stated in the bill of entry thereof, although such goods are not subject to duty, and the invoice thereof shall be produced to the collector. 46 V., c. 12, s. 49.

Entries by bill
of sight, how
and in what
cases made.

39. If the importer of any goods whereon an *ad valorem* duty is imposed, or the person authorized to make the declaration required with regard to such goods, makes and subscribes a declaration before the collector or other proper officer, that he cannot, for want of full information, make perfect entry thereof, and takes the oath in such cases provided,

then the collector or officer may cause such goods to be landed on a bill of sight for the packages and parcels thereof, by the best description that can be given, and to be seen and examined by such person and at his expense, in the presence of the collector or other proper officer, or of such other officer of the Customs as is appointed by the said collector or other proper officer, and to be delivered to such person, on his depositing in the hands of the collector or officer a sum of money sufficient in the judgment of the collector or officer to pay the duties thereon; and if the importer does not complete a perfect entry within the time appointed by the collector, the money so deposited shall be taken and held to be the duty accruing on such goods, and shall be dealt with and accounted for accordingly. 46 V., c. 12, s. 79.

Deposit of money for duty.

Provision if perfect entry is not made as stipulated.

40. Such sight entry may be made as aforesaid and the goods may be delivered, if such importer or person as aforesaid makes oath or affirms that the invoice has not been and cannot be produced, and pays to the collector or proper officer aforesaid a sum of money sufficient in the judgment of such collector or officer to pay the duties on such goods; and such sum shall then be held to be the amount of such duties. 46 V., c. 12, s. 80.

If importer swears that no invoice has been or can be produced.

41. No entry shall, except in cases in which it is otherwise provided herein, or by regulation of the Governor in Council, be deemed perfect unless a sufficient invoice of the goods to be entered, duly certified in writing thereon as correct by the person, firm or corporation from whom the said goods were purchased, has been produced to the collector, and duly attested as required by this Act. 46 V., c. 12, s. 81.

Entry not perfect without invoice, unless otherwise ordered by O. C.

42. With the bill of entry of any goods, there shall be produced and delivered to and left with the collector an invoice of the goods, as provided in the next preceding section, attested by the oath of the owner, and if the owner is not the person entering such goods, then verified by the oath of the importer or consignee, or (subject to the provision hereinafter made) other person who may lawfully make such entry and verify such invoice in the form or to the effect of the oath or oaths prescribed by the Governor in Council in that behalf,—which oath or oaths shall be written or printed, or partly written and partly printed on such invoice, or on the bill of entry, as the case may be, or shall be annexed thereto, and shall in either case distinctly refer to such invoice so that there can be no doubt as to its being the invoice to which such oath is intended to apply, and shall be subscribed by the person making it and certified by the signature of the person before whom it is made; and the bill of entry shall also contain a statement of the quantity and value for duty of the goods therein mentioned, and shall be signed by the per-

Invoice to be attested on oath, and by whom.

Form of oath.

Contents and attestation of bill of entry.

son making the entry, and shall be verified in the form or to the effect of the oath prescribed by the Governor in Council in that behalf. 46 V., c. 12, s. 82.

As to cases where there are more than one owner of the goods.

43. If there are more than one owner, importer or consignee of any goods, any one of them cognizant of the facts may take the oath required by this Act; and such oath shall be sufficient unless the goods have not been obtained by purchase in the ordinary way, and some owner, resident out of Canada, is the manufacturer or producer of the goods, or concerned in the manufacture or production thereof,—in which case the oath of such non-resident owner, or one of them, if there are more than one, cognizant of the facts shall be requisite to the due attestation of the invoice. 46 V., c. 12, s. 83.

Invoice to be attested by the owner of the goods, and by importer or consignee.

44. The invoice of any goods produced and delivered to the collector, with the bill of entry thereof, shall, if required by the collector, be attested by the oath of the owner or one of the owners of such goods, and shall also be verified by the oath of the importer or consignee or other person who may, under this Act, lawfully make entry of such goods and verify such invoice, if the owner or one of the owners is not the person entering such goods, and shall also, if required by the collector, be attested by the oath of the non-resident owner being the manufacturer or producer of such goods, in the case mentioned in the next preceding section, although one of the owners is the person entering the goods and verifying the invoice on oath. 46 V., c. 12, s. 84.

And by non-resident owner, &c.

Provision in case of death, &c., of owner, &c.

45. If the owner, importer or consignee of any goods is dead or a bankrupt or insolvent, or if for any cause his personal estate is being administered by another person, his executor, curator, administrator or assignee, or person administering as aforesaid, may, if cognizant of the facts, take any oath and make any entry which such owner, importer or consignee might otherwise have taken or made. 46 V., c. 12, s. 85.

No person but the owner, &c., to take the oath; unless a certain declaration is attached to bill of entry.

46. No person other than the owner, consignee or importer of the goods of which entry is to be made, shall be allowed to take any oath connected with the entry, unless there is attached to the bill of entry therein referred to, a declaration by the owner, consignee or importer of the said goods, or his attorney and agent duly appointed to transact business with the collector, pursuant to the provisions in that behalf of this Act, to the same effect as the oath, distinctly referring to the invoice presented with such bill of entry, and signed by such owner, importer or consignee, or by his attorney and agent appointed as aforesaid, either in presence of the agent making the entry, or of a justice of the peace or notary public, who shall attest the signature. 46 V., c. 12, s. 89.

47. Such declaration shall be kept by the collector; and if there is any wilfully false statement in such declaration, the goods shall be liable to seizure and forfeiture in the same manner and with the same effect as if such false statement were contained in the oath, and the person making such false statement shall be subject to the same penalties, forfeitures and punishments as if he had himself taken the oath and had made such false statement therein; but such written declaration may be dispensed with under the order of the Governor in Council, when it is deemed advisable, in the interests of commerce, to dispense therewith. 46 V., c. 12, s. 90.

Declaration to be kept by collector: penalty for false statement in it.

48. The collectors of Customs at all ports in Canada, shall retain and put on file, after duly stamping the same, all invoices of goods imported at such ports respectively—of which invoices they shall give certified copies or extracts, whenever called upon so to do by the importers,—and such copies or extracts so duly certified by the collector or other proper officer and bearing the stamp of the Custom House at which they are filed, shall be considered and received in all courts of justice as *prima facie* evidence of the contents thereof; and the collector shall be entitled to demand for each certificate a fee of fifty cents before delivering the same; but in no case shall an invoice be shown to or a copy thereof given to any person other than the said importer, or an officer of Customs, except upon the order or subpoena of a court of justice. 46 V., c. 12, s. 95.

Collector to retain and file invoices.

Certified copies to be evidence.

Fee.

Proviso.

GOODS DAMAGED OR LOST.

49. If any goods imported by water, or partly by water and partly by land, on which duties (*ad valorem* or specific, or both) are payable, receive damage during the voyage of importation between the actual departure of the vessel in which they are laden from the foreign port of exportation and the actual arrival of the goods at the port of destination in Canada, whereby such goods have become lessened in value, an abatement may be made, in the manner hereinafter provided, in the duty payable upon such goods, or if duty has been paid thereon, a refund of a part of such duty may be made proportionate to the damage sustained, if the claim therefor is made in due form and is properly substantiated at the first landing from such vessel of the said goods, and while they are in the custody of the Crown, or as soon after such first landing as they can be examined: Provided always, that such examination is completed and certified by the collector of Customs, Customs appraiser or other proper officer, who shall assess such damage within ten days of such landing. 46 V., c. 12, s. 53.

Abatement of duties on goods imported and damaged.

Time for making claim limited.

Proviso.

If imported
by railway
or other land
conveyance.

50. If any goods imported by railway, or by any other vehicle,—on which goods duties (*ad valorem* or specific, or both), are payable, receive damage during the course of transportation, after they are laden on such railway or other vehicle, and before they arrive at the port of destination in Canada, whereby they become lessened in value, an abatement may be made in the manner hereinafter provided in the duty payable upon such goods, if the claim for such abatement is made in due form within ten days of the arrival of such goods at the port of destination in Canada, and is substantiated in the same manner as is provided in the next preceding section. 46 V., c. 12, s. 54.

Time for
claim.

Duty of
collector or
appraiser.

51. The collector of Customs or appraiser or other proper officer whose duty it is to examine and assess the amount of damage sustained in course of importation, shall do so with all possible despatch on being notified so to do, and shall certify the exact cause and extent of such damage with reference to the value of the goods in the principal markets of the country whence imported, and not according to the value in Canada. 46 V., c. 12, s. 55.

Certificate.

What shall
not be re-
garded as
evidence of
damage.

52. The collector or appraiser shall not regard as evidence of the existence or amount of damage any price realized at an auction or forced sale of the goods,—nor shall he estimate nor shall any damage be allowed which has originated from decay, dampness or other cause existing before the voyage commenced and which has rendered the goods unfit to withstand the ordinary risks of the voyage of importation,—nor shall he estimate nor shall any allowance be made for or duty refunded for rust on iron or steel or any manufacture thereof, except on polished Russia iron and Canada plates, and on such only to the extent of fifty per cent.,—nor shall any allowance be made for stains or injury to any packages holding liquids, or the labels thereon, unless the contents of such packages have, at the same time, received actual specific damage by the admixture therewith of water or other foreign substance. 46 V., c. 12, s. 56.

No allowance
in certain
cases.

Percentage
of damage to
be deducted
for duty.

53. When the collector or appraiser has ascertained the percentage of damage, such percentage shall be deducted from the original value of the goods, and duty shall then be levied and collected on such reduced value at an *ad valorem* rate which shall be equivalent to the rate of specific or specific and *ad valorem* duty which should have been collected upon such goods if they had not been so damaged. 46 V., c. 12, s. 57.

Return of
duty on goods
lost before
landing: and
on what con-
ditions.

54. Whenever any vessel is entered at the Custom House at any port in Canada, on board of which there are any goods on which any duty has been levied or collected or on which any duty has been deposited, and thereafter the said goods

are lost or destroyed before the same are landed from such vessel, or from any vessel or craft employed to lighten such vessel,—then, on proof being made on the oath of one or more credible witness or witnesses, before and to the satisfaction of the collector or proper officer of the Customs at the place, who shall administer the oath, that such goods, or any part thereof, specifying the same, have been so lost or destroyed before the landing of the same, the duties on the whole or the part thereof so proved to be lost or destroyed shall, if the same have been paid or deposited, be returned to the owner or his agent. 46 V., c. 12, s. 58.

55. An allowance may be made for deterioration by natural decay during the voyage of importation, upon perishable articles, such as green fruits and vegetables, imported into Canada; but in assessing the same, and in estimating the damage by breakage upon brittle goods, such as crockery, china, glass and glassware, under the provisions of this Act, such allowance or damage shall only be made and allowed for the amount of loss in excess of twenty-five per cent. of the whole quantity damaged, and only if claim is made therefor and the loss or damage certified upon examination made by the appraiser or proper officer of Customs, within three days of the landing or arrival of such goods at the port of destination thereof; and if the duty has been paid on the full value thereof, a refund of such duty may be allowed and paid on application to the Minister of Customs, in the proportion and on fulfilment of the conditions hereinbefore specified, but not otherwise. 47 V., c. 30, s. 4.

Allowance for damage to certain goods on voyage.

APPRAISERS.

56. The Governor in Council may appoint one or more appraisers to be called Dominion Customs appraisers, with jurisdiction at all ports and places in Canada; and may also appoint Customs appraisers with jurisdiction at such ports and places in Canada as are designated in the Order in Council in that behalf; and every such appraiser shall, before acting as such, take and subscribe the following oath of office before any collector or other person duly authorized to administer such oath:—

Appointment of appraisers: local or for all Canada.

To be sworn.

“ I, A. B., having been appointed an appraiser of goods, Oath of office.
 “ wares and merchandise, and to act as such at the port of
 “ . . . (or as the case may be) do solemnly
 “ swear (or affirm) that I will faithfully perform the duties
 “ of the said office without partiality, fear, favor or affection,
 “ and that I will appraise the value of all goods submitted
 “ to my appraisement, according to the true intent and mean-
 “ ing of the laws imposing duties of Customs in Canada;
 “ and that I will use my best endeavors to prevent all
 “ fraud, subterfuge or evasion of the said laws, and more

“especially to detect, expose and frustrate all attempts to undervalue any goods, wares or merchandise on which any duty is chargeable. So help me God.

“ A. B.,

“ Appraiser for
(as the case may be).

“ Sworn before me, this _____ day of
“ 18 _____
(as the case may be.)

—46 V., c. 12, s. 66.

Appraiser
may be sent
to any port to
appraise
goods.

57. If no appraiser is appointed in any port of entry, the collector there shall act as appraiser, but without taking any special oath of office as such; and the Minister of Customs may, at any time, direct any appraiser to attend at any port or place for the purpose of valuing any goods, or of acting as appraiser there during any time,—which such appraiser shall accordingly do without taking any new oath of office; and every appraiser shall be deemed an officer of the Customs. 46 V., c. 12, s. 67.

VALUATION FOR DUTY.

Calculation
of value for
duty.

58. Whenever any duty *ad valorem* is imposed on any goods imported into Canada, the value for duty shall be the fair market value thereof, when sold for home consumption, in the principal markets of the country whence and at the time when the same were exported directly to Canada. 46 V., c. 12, s. 68.

What shall be
deemed the
fair market
value for duty
ad valorem.

Proviso: as
cash articles.

59. Such market value shall be the fair market value of such goods in the usual and ordinary commercial acceptance of the term, at the usual and ordinary credit, and not the cash value of such goods, except in cases in which the article imported is, by universal usage, considered and known to be a cash article, and so *bonâ fide* paid for in all transactions in relation to such article; and all invoices representing cash values, except in the special cases herein referred to, shall be subject to such additions as to the collector or appraiser of the port at which they are presented appear just and reasonable, to bring up the amount to the true and fair market value, as required by this section. 46 V., c. 12, s. 69.

Special pro-
vision as to the
value of cer-
tain articles.

60. If any difficulty arises in determining the fair market value for duty of goods imported into Canada, which are the manufacture or production of foreign countries or of Great Britain, such as musical instruments, sewing machines, agricultural machines or implements, medical preparations,

commonly called patent medicines, and other similar goods, the prices of which are published by the manufacturers or producers, or persons acting on their behalf, the Governor in Council may, from time to time, fix and determine a certain rate of discount which may be deducted from such published prices of any such manufactures or productions, and the remainder of such published prices, after deducting such rate of discount, shall be deemed and taken to be the fair market values for duty of any such manufactures or productions as are specified in such Order in Council. 37 V., c. 6, s. 9.

61. In determining the dutiable value of goods, except when imported from Great Britain and Ireland, there shall be added to the cost, or the actual wholesale price, or fair market value, at the time of exportation, in the principal markets of the country from whence the same have been imported into Canada, the cost of inland transportation, shipment and transshipment, with all the expenses included, from the place of growth, production or manufacture, whether by land or water, to the vessel in which shipment is made, either *in transitu* or direct to Canada, subject to such regulations as are made by the Governor in Council: Provided, that in case of any dispute respecting the proper amount of such inland transportation charges, the Minister of Customs may determine the same, and his decision shall be final in that respect:

Cost of inland transportation, &c., to be deemed part of value.

Proviso: in case of dispute.

2. When any manufactured article is imported into Canada in separate parts, each such part shall be charged with the same rate of duty as the finished article, on a proportionate valuation, and when the duty chargeable thereon is specific, or specific and *ad valorem*, an average rate of *ad valorem* duty, equal to the specific or specific and *ad valorem* duty so chargeable, shall be ascertained and charged upon such parts of the manufactured article. 48-49 V., c. 61, s. 11.

Duty on articles manufactured in separate parts.

62. The Governor in Council shall, from time to time, establish such regulations, not inconsistent with law, as are required to secure a just, faithful and impartial appraisal of all goods imported into Canada, and just and proper entries of the actual or fair market value thereof, and of the weights, measures or other quantities thereof, as each case requires; and such regulations, whether general or special, so made by the Governor in Council, shall have the full force and authority of law; and the appraisers of Canada and every one of them, and every person who acts as such appraiser, or the collector of Customs, as the case may be, shall, by all reasonable ways and means in his or their power, ascertain, estimate and appraise the true and fair market value and wholesale price, (any invoice or affidavit thereto to the contrary notwithstanding), of the goods at the time of exportation, and in the principal markets of the country whence the same have been imported into Canada,

Governor in Council may make regulations for ensuring fair valuation.

Duty of appraisers.

and the proper weights, measures or other quantities, and the fair market value or wholesale price of every of them, as the case requires. 42 V., c. 15, s. 10.

No refund of duty for alleged inferiority of value, &c., except in certain cases.

None if goods cannot be identified.

Minister of Customs to decide.

Drawback in country of manufacture to form part of value.

No deduction from value by reason of drawback, &c.

Proviso.

As to deduction for value of packages.

63. No refund of duty paid shall be allowed because of any alleged inferiority or deficiency in quantity of goods imported and entered, and which have passed into the custody of the importer under permit of the collector of Customs, or because of the omission in the invoice of any trade discount, or other matter or thing, which might have the effect of reducing the value of such goods for duty, unless the same has been reported to the collector of Customs within ten days of the date of entry, and the said goods have been examined by the said collector or by an appraiser, or other proper officer of Customs, and the proper rate or amount of reduction certified by him after such examination; and if such collector or proper officer reports that the goods in question cannot be identified as those named in the invoice and entry in question, no refund of the duty or any part thereof shall be allowed; and all applications for refund of duty in such cases shall be submitted, with the evidence and all particulars, for the decision of the Minister of Customs, who may order payment on finding the evidence sufficient and satisfactory. 42 V., c. 15, s. 11.

64. Whenever a drawback of duties has been allowed by the Government of the country where the goods were manufactured, the amount of such drawback shall be taken and considered to be a part of the fair market value of such goods; and in cases where the amount of such drawback has been deducted from the value of such goods upon the face of the invoice under which entry is to be made, or is not shown thereupon, the collector of Customs, or proper officer, shall add the amount of such deduction or drawback and collect and cause to be paid the lawful duty thereon. 46 V., c. 12, s. 70.

65. No deduction of any kind shall be allowed from the value of any goods imported into Canada, because of any drawback paid, or to be paid thereon, or because of any special arrangement between the seller and purchaser having reference to the exportation of such goods, or the exclusive right to territorial limits for the sale thereof, or because of any royalty payable upon patent rights but not payable when goods are purchased for exportation, or on account of any other consideration by which a special reduction in price might or could be obtained: Provided, that nothing herein shall be understood to apply to general fluctuations of market values. 46 V., c. 12, s. 71.

66. No deduction from the value of goods contained in any invoice shall be allowed on account of the assumed

value of any package or packages, where no charge for such package or packages has been made in such invoice; and where such charge is made the Customs officer shall see that the charge is fair and reasonable, and represents no more than the original cost thereof. 46 V., c. 12, s. 72.

67. No deduction from the value of goods in any invoice shall be made on account of charges for packing, or for straw, twine, cord, paper, cording, wiring or cutting, or for any expense incurred or said to have been incurred in the preparation and packing of goods for shipment, and all such charges and expenses shall, in all cases, be included as part of the value for duty. 46 V., c. 12, s. 73.

None for packing, straw, cording, &c.

68. The Governor in Council may provide that in the cases and on the conditions to be mentioned in the Order in Council, goods *bonâ fide* exported to Canada from any country, but passing *in transitu* through another country, shall be valued for duty as if they were imported directly from such first mentioned country. 46 V., c. 12, s. 74.

As to goods passing through any country.

69. The standards or instruments by which the colors and grades of sugar are to be regulated, and the classes to which sugars shall be held to belong, with reference to duty chargeable thereon, shall be selected and furnished, from time to time, to the collectors of such ports of entry as are necessary, by the Minister of Customs, in such manner as he deems expedient; and the decision of the appraiser, or of the collector of a port where there is no appraiser, as to the class to which any sugar belongs, and the duties to which it is subject, shall be final and conclusive, unless upon appeal to the Commissioner of Customs, within thirty days, such decision is, with the approval of the Minister, changed; and the decision of the Commissioner with such approval shall be final. 46 V., c. 12, s. 75.

Standards for qualities of sugar.

Decision of appraiser valid, unless appealed from.

70. The value for duty on which any *ad valorem* duties on sugar, molasses, melado, syrup of sugar, or sugar cane, syrup of molasses or of sorghum, concentrated melado or concentrated molasses, and sugar candy, shall, unless otherwise provided, be calculated and taken, shall include the value of the packages containing the same, and the shipping and other charges on such articles; and the value for duty shall be the value of the goods "free on board," at the place or port whence last exported direct to Canada; and the Governor in Council may declare what charges shall be included in such value so defined. 43 V., c. 18, s. 1, *part*;— 46 V., c. 12, s. 77.

Value of sugar for duty, how ascertained.

71. If the importer, owner, consignee or agent is dissatisfied with the first appraisement, any appraiser, or any collector acting as such, or the persons to be selected as

Power of appraiser or collector to examine per-

sons on oath,
&c.

hereinafter mentioned, to examine and appraise any goods, may call before him or them and examine upon oath any owner, importer, consignee or other person, touching any matter or thing which such appraiser, collector or persons deem material in ascertaining the true value of any goods imported, and may require the production on oath of any letters, accounts, invoices or other papers or account books relating to the same in the possession of such owner, importer, consignee or other person. 46 V., c. 12, s. 96.

Penalty for
refusing to
attend or
answer.

72. Every person called, as provided in the next preceding section, who neglects or refuses to attend, or declines to answer, or refuses to answer in writing, if required, to any interrogatories, or to subscribe his name to his deposition or answer, or to produce any such papers or account books, as provided by the next preceding section, when required so to do, shall incur a penalty of fifty dollars; and if such person is the owner, importer or consignee of the goods in question, the appraisement which the appraiser or collector acting as such shall make thereof, shall be final and conclusive. 46 V., c. 12, s. 97.

Penalty for
wilfully false
answers.

73. If the owner, importer or consignee of the goods in question, wilfully swears falsely in any such examination, the goods shall be seized and forfeited; and all depositions or testimony in writing taken under either of the two sections next preceding shall be filed in the office of the collector at the place where the same are made or taken—there to remain for future use or reference. 46 V., c. 12, s. 98.

Depositions to
be filed.

Importer, &c.,
dissatisfied
may appeal in
certain cases.

74. If the importer, owner, consignee or agent, having complied with the requirements of this Act, is dissatisfied with the appraisement made, as aforesaid, of any such goods, he may forthwith give notice in writing to the collector of such dissatisfaction,—on the receipt of which notice the collector shall select two discreet and experienced persons, familiar with the character and value of the goods in question, to examine and appraise the same, agreeably to the foregoing provisions; and all invoices, entries and other papers connected with the appraisement, and all evidence taken by or before the appraiser, or collector of Customs acting as such, and by or before the said persons, shall be transmitted without delay to the commissioner of Customs, who, after due examination of the same, shall decide and determine the proper rate and amount of duty to be collected and paid; and his decision shall be final and conclusive, and the duty shall be levied and collected accordingly. 46 V., c. 12, s. 99.

Revision of
appraisement.

Report to
Commissioner
of Customs:
his decision to
be final.

Remuneration
of persons
called in, and

75. The said persons appointed to appraise shall each be entitled to the sum of five dollars, which shall be paid by the person dissatisfied with the first appraisement, if the value

ascertained by the second appraisement is equal to or greater than that ascertained by such first appraisement, or if the value ascertained by such second appraisement exceeds by ten per cent., or more, the value of the goods for duty as appears by the invoice and bill of entry thereof; otherwise the same shall be paid by the collector out of any public moneys in his hands, and charged in his accounts. 46 V., c. 12, s. 100.

76. Every person chosen to make an appraisement required under this Act, who, after due notice of such choice has been given to him in writing, declines or neglects to make such appraisement, shall, for so refusing or neglecting without good and sufficient cause, incur a penalty of forty dollars and costs. 46 V., c. 12, s. 101.

WAREHOUSING.

77. The warehousing ports already established and such ports of entry as the Governor in Council, from time to time, appoints, shall be warehousing ports. 46 V., c. 12, s. 116.

78. The importer of any goods into Canada may, subject to such rules and regulations as are, from time to time, prescribed by the Governor in Council in that behalf, enter the same for exportation, on giving security by his own bond with one sufficient surety, for the exportation of the same goods, or may warehouse the same on giving such security by his own bond for the payment of the amount of all duties on such goods, and the performance of all the requirements of this Act with regard to the same at such ports or places as aforesaid, and in such warehouses as are, from time to time, appointed by the Governor in Council in that behalf, and the penalty of the said bond shall be double the amount of the duty to which such goods are subject. 46 V., c. 12, s. 117.

79. The owner of any warehoused goods may remove the goods under the authority of the collector or other proper officer from any warehousing port to any other warehousing port in Canada, or from one warehouse to another in the same port, under good and sufficient bonds to the satisfaction of such officer. 46 V., c. 12, s. 119.

80. Upon entry of goods at any frontier port or Custom House, under the authority and with the sanction of the collector or other proper officer of Customs at such port or Custom House, and under bonds to his satisfaction, and subject to such regulations as are made in that behalf by the Governor in Council, the importer may pass the goods on to any port in any other part of Canada. 46 V., c. 12, s. 120.

Requirements as to transfer of goods in bond.

81. No transfer of the property in goods warehoused shall be valid for the purposes of this Act unless the transfer is in writing signed by the importer or his duly authorized agent, or is made by process of law, and unless such transfer is produced to the collector or other proper officer of the proper port and is recorded by him in a book kept for that purpose in the Custom House :

Proviso: for whole packages, &c.

2. No such transfer of less than a whole package shall be valid, and no more than three transfers of the same goods shall be allowed before entry thereof for duty or for exportation. 46 V., c. 12, s. 121.

Effect of legal transfer.

82. Upon any such transfer of goods in warehouse being lawfully effected as before provided, the proper officer may admit new security to be given by the bond of the new owner of the goods, and may cancel the bond given by the original bonder of such goods, or may exonerate him to the extent of the new security so given ; and the new owner of any such goods shall then be deemed to be the importer thereof for the purposes of this Act. 46 V., c. 12, s. 122.

Owner may sort or repack goods and take samples.

83. During the regular warehouse hours, and subject to such regulations as the collector or other proper officer of Customs at any warehousing port sees fit to adopt, the owner of any warehoused goods may sort, pack, re-pack or make any lawful arrangements respecting the goods warehoused, in order to the preservation or lawful disposal thereof, and may take therefrom moderate samples, without present payment of duty or entry. 46 V., c. 12, s. 118.

Amount of duties: how ascertained.

84. Duties shall be payable in all cases on the quantity and value of goods in the warehouse, as ascertained and stated on first entry, or as originally warehoused. 46 V., c. 12, s. 132.

Duty on warehoused goods.

85. All goods taken out of warehouse shall be subject to the duties to which they would be subject if then imported into Canada, and not to any other. 46 V., c. 12, s. 129.

Unshipping and landing goods.

86. The unshipping, carrying and landing of all goods, and the taking of the same to and from a Customs warehouse or proper place after landing, shall be done in such manner, and at such places, as is appointed by the collector or other proper officer of Customs. 46 V., c. 12, s. 133.

Warehouse rent, &c., by whom payable.

87. Unless otherwise provided by the Governor in Council, warehouse rent and expenses of safe-keeping in warehouse, and all expenses connected with the unshipping, carrying and landing of goods and the taking of the same to and from a Customs warehouse or proper place after landing shall be borne by the importer ; and if any such goods are removed from the place so appointed without leave of such collector or

Penalty for unlawful removal.

other proper officer, they shall be seized and forfeited. 46 V., c. 12, s. 134.

88. The Governor in Council may, from time to time, make regulations for the ex-warehousing of goods, either for consumption, removal, exportation or ship's stores, in any quantity not less than a whole package as originally warehoused, unless the said goods are in bulk, and then in quantities not less than one ton in weight, except when a less weight is the balance remaining of the original entry thereof for warehouse. 46 V., c. 12, s. 135.

As to quantity of goods to be taken out of warehouse at one time.

89. If, after any goods have been duly entered, or landed to be warehoused, or entered and examined to be re-warehoused, and before the same have been actually deposited in the warehouse, the importer further enters the same or any part for home use or for exportation as from the warehouse, the goods so entered shall be considered as warehoused or re-warehoused, as the case may be, although not actually deposited in the warehouse, and may be delivered and taken for home use or for exportation. 46 V., c. 12, s. 136.

Goods entered for warehousing to be deemed warehoused for certain purposes.

90. All warehoused goods shall be finally cleared, either for exportation or home consumption, within two years from the date of the first entry and warehousing thereof; and, in default thereof, the collector or other proper officer may sell such goods for the payment, first of the duties, and secondly of the warehouse rent and other charges; and the surplus, if any, shall be paid to the owner or his lawful agent; and the collector or other proper officer may charge or authorize the occupier of the warehouse to charge a fair warehouse rent, subject to any regulation made by the Governor in Council in that behalf. 46 V., c. 12, s. 123.

Goods to be finally cleared within two years.
Sale for payment of charges.

91. The collector may, if he sees no reason to refuse such permission, permit an importer to abandon to the Crown any whole package or packages of warehoused goods, without being liable to pay any duty on the same; and the same shall then be sold and the proceeds shall belong to the Crown: Provided, that if such goods cannot be sold for a sum sufficient to pay the duties and charges, the same shall not be sold but shall be destroyed. 46 V., c. 12, s. 124.

Importer may be allowed to abandon packages without payment of duty.
Proviso.

92. The Governor in Council may, by regulation, dispense with or provide for the cancelling of bonds for the payment of duties on goods actually deposited in a warehouse, on such terms and conditions and in such cases as he thinks proper. 46 V., c. 12, s. 125.

How bonds for goods in warehouse may be dispensed with.

93. The importer of any cattle or swine may slaughter and cure and pack the same (or if such cattle or swine are imported in the carcase, may cure and pack the same) in bond; and grain

Cattle and swine may be slaughtered and grain

ground in
bond under
regulations.

Extent of
regulations.

and the importer of any wheat, maize or other grain, may grind and pack the same in bond, providing such slaughtering, curing, grinding or packing is done and conducted under such regulations and restrictions as the Governor in Council, from time to time, makes for that purpose; but the said regulations shall not extend to the substitution of other beef, pork, flour or meal for the produce of such imported cattle or swine, wheat, maize or other grain. 46 V., c. 12, s. 130.

Sugar may be
refined in
bond under
regulations.

94. The importer or owner of any sugar, molasses or other material from which refined sugar can be produced, may refine the same in bond, provided such refining is done and conducted under such regulations and restrictions as the Governor in Council, from time to time, makes for that purpose. 46 V., c. 12, s. 131.

No bond for
avoiding or
deferring pay-
ment.

95. No person shall make, nor shall any officer of Customs accept, any bond, note or other document for the purpose of avoiding or deferring the actual payment of duties legally accruing on goods imported into Canada, or arrange for deferring payment of such duties in any way, unless such goods are entered for warehouse and duly deposited therein according to the laws and regulations governing the warehousing of such goods. 46 V., c. 12, s. 126.

Goods taken
out of ware-
house for
exportation
and re-landed
&c., to be
forfeited.

96. If any goods entered to be warehoused are not duly carried into and deposited in the warehouse, or, having been so deposited, are afterwards taken out of the warehouse without lawful permit, or, having been entered and cleared for exportation from the warehouse, are not duly carried and shipped, or otherwise conveyed out of Canada, or are afterwards re-landed, sold, used or brought into Canada, without the lawful permission of the proper officer of the Customs, such goods shall be seized and forfeited. 46 V., c. 12, s. 128.

ENTRY OUTWARDS.

Entry of
vessel out-
wards.

Particulars
of entry.

Proof that
goods im-
ported have
been dis-
charged.

97. The master of every vessel bound outwards from any port in Canada to any port or place out of Canada, or on any voyage to any place within or without the limits of Canada, coastwise or by inland navigation, shall deliver to the collector or other proper officer an entry outwards under his hand, of the destination of such vessel, stating her name, country and tonnage, the port of registry, the name of the master, the country of the owners and the number of the crew; and before any goods or ballast are taken on board such vessel the master shall show that all goods therein imported, except such as were reported for exportation in the same vessel, have been duly entered; except that the proper officer may issue a stiffening order that such goods or ballast as are specified therein may be laden before the former cargo is discharged: and before such vessel departs, the

master shall bring and deliver to the collector or other proper officer, a content in writing under his hand, of the goods laden, and the names of the respective shippers and consignees of the goods, with the marks and numbers of the packages or parcels of the same, and shall make and subscribe a declaration to the truth of such content as far as any of such particulars can be known to him. 46 V., c. 12, s. 141.

Content to be delivered.
Particulars and declaration.

98. The master of every vessel, whether in ballast or laden, shall, before departure, come before the collector or other proper officer, and answer all such questions concerning the vessel, and the cargo, if any, and the crew, and the voyage, as are demanded of him by such officer, and, if required, shall make his answers or any of them part of the declaration made under his hand; and thereupon the collector or other proper officer, if such vessel is laden, shall make out and give to the master a certificate of the clearance of such vessel for her intended voyage with merchandise or a certificate of her clearance in ballast, as the case may be; and if there is merchandise on board, and the vessel is bound to any port in Canada, such clearance shall state whether any and which of the goods are the produce of Canada, and, if the goods are such as are liable to duties, whether the duties thereon have been paid; and in such case the master shall hand the clearance to the collector at the next port in Canada at which he arrives, immediately on his arrival. 46 V., c. 12, s. 142.

Questions to be answered.

Clearance to be granted.

What shall be stated in certain cases.

99. If any vessel departs from any port or place in Canada without a clearance, or if the master delivers a false content, or does not truly answer the questions demanded of him, or if, having received a clearance, such vessel adds to her cargo, or takes another vessel in tow, or performs any work without having mentioned in the report outwards the intention so to do, the master shall incur a penalty of four hundred dollars; and the vessel shall be detained in any port in Canada until the said penalty is paid. 46 V., c. 12, s. 143.

Penalty for leaving without a clearance.

Detention of vessel.

100. The Governor in Council may, by regulation, dispense with any of the requirements of the two sections next preceding which he deems it inexpedient to enforce, with regard to vessels engaged in the coasting trade or inland navigation. 46 V., c. 12, s. 144.

Dispensation as to coasting vessels.

101. Before a clearance is granted to any vessel bound to a port or place out of Canada, the owners, shippers or consignors of the cargo on board such vessel shall deliver to the collector or other proper officer of Customs, entries of such parts of the cargo as are shipped by them respectively, and shall verify the same by oath; and such entries shall specify the kinds and quantities of the articles shipped by them respectively, and the value of the total quantity of each kind of

Entries of goods to be given to collector and what they shall contain.

Oath of owner &c, what to set forth.

Export duty to be paid.

article, and whether the said goods are of Canadian or of foreign production or manufacture; and such oath shall state that such entry contains a full, just and true account of all articles laden on board of such vessel by such owners, shippers, or consignors respectively; and that the values of such articles are truly stated according to their actual cost, or the value which they truly bear at the port and time of exportation; and in case the goods so shipped or any part thereof are or is liable by law to any export duty, the amount of such duty shall be stated in such entry; and no such entry shall be valid, and no clearance shall be granted to such vessel until such duty is paid to the collector or other proper officer of Customs. 46 V., c. 12, s. 145.

As to goods exported.

102. All goods or merchandise exported by sea, by land or by inland navigation, shall be reported at the nearest Custom House, or, if exported from any place where no Custom House is established, they shall be reported within twenty-four hours of the time of such export, at the nearest Custom House, according to such regulations as are established by the Governor in Council from time to time. 46 V., c. 12, s. 19.

Bond to be given for exportation of goods from warehouse,—

Conditions.

Forfeiture for contravention of conditions.

Upon what evidence bond may be cancelled.

103. Upon the entry outwards of any goods to be exported from the Customs warehouse, either by sea or by land, or inland navigation, as the case may be, the person entering the same shall give security by bond in double the duties of importation on such goods, and with a sufficient surety, approved by the collector or other proper officer, that the same shall, when the entry aforesaid is for exportation by sea, be actually exported, and when the entry aforesaid is for exportation by land or inland navigation, shall be landed or delivered at the place for which they are entered outwards, or shall in either case be otherwise accounted for to the satisfaction of the collector or other proper officer, and that such proof or certificate that such goods have been so exported, landed or delivered, or otherwise lawfully disposed of, as the case may be, as shall be required by any regulation of the Governor in Council, shall be produced to the collector or other proper officer within a period to be appointed in such bond; and if any such goods are not so exported, landed or delivered, or otherwise lawfully disposed of, or are fraudulently re-landed in or brought into Canada, in violation of this Act and of the said bond, they shall be seized and forfeited, together with any vessel, boat or vehicle in which they are so re-landed or imported. 46 V., c. 12, s. 137.

104. If within the period appointed by the said bond, there is produced to the proper collector or officer of Customs, the written certificate of some principal officer of Customs or colonial revenue at the place to which the goods were exported, or if such place is a foreign country, of any

British or Foreign Consul or Vice-Consul resident there, stating that the goods were actually landed and left at some place, naming it, out of Canada, as provided by the said bond, such bond shall be cancelled; or if it is proved to the satisfaction of the proper collector or officer of Customs, that the said goods have been lost, such bond may be cancelled. 46 V., c. 12, s. 138.

105. Warehoused goods may be delivered as ship's stores for any vessel of the burden of fifty tons or upwards, bound on a voyage to a port out of Canada, the probable duration of which voyage out and home will not be less than thirty days, —also for any vessel bound for and engaged in the deep sea fishing,—proof being first made by affidavit of the master or owner, to the satisfaction of the proper officer, that the stores are necessary and intended for the purposes aforesaid: Provided, that the Minister of Customs may define and limit the kind, quantity and class of goods which may be so delivered as ship's stores: As to warehoused goods taken as ship's stores.

2. If such stores or any part thereof are or is re-landed, sold or disposed of in Canada without due entry and payment of duty, such stores and the vessel for which the same were delivered from warehouse shall be seized and forfeited. Forfeiture for re landing, &c., without payment of duty. 46 V., c. 12, s. 140.

106. The owners, shippers or consignors of any goods consigned to a port or place out of Canada, to be transported by railway or other land conveyance, shall enter the same for exportation at the Custom House nearest to the place of lading; and such entry shall specify the kinds and quantities of the articles laden by them respectively, and the proper name and description of the railway over which such goods are to be transported, or of any other conveyance to be used for the same purpose; and they shall verify the same by oath, and such oath shall be of the same form and tenor as that required from owners, shippers or consignors of goods to be transported by sea; and if any of such goods are liable by law to any export duty, such duty shall be clearly stated upon such entry, and no railway car or other vehicle upon which such goods are laden shall be permitted to leave the limits of the port at which such entry should have been made until such duty is paid to the collector or other proper officer of Customs; and if any such car or vehicle is taken out of the limits of such port, contrary to the provisions of this section, the company or person so taking the same shall incur a penalty not exceeding four hundred dollars. Entry of goods outwards by railway or other land conveyance. Form and contents of oath. Export duty. Penalty for sending goods without such entry. 46 V., c. 12, s. 146.

107. The owner, shipper or consignor of any goods who refuses or neglects to make report and entry of the articles shipped or laden by them respectively, as required by section one hundred and one or by the next preceding section, shall Penalty for non-entry.

incur a penalty not exceeding two hundred dollars for each such offence. 46 V., c. 12, s. 147.

Governor in Council may require statistical information as to exports.

108. The Governor in Council may, by regulations from time to time made in that behalf, require such further information with regard to the description, quantity, quality and value of goods exported from Canada, or removed from one port to another in Canada, to be given to the proper officer of the Customs, in the entry of such goods outwards or otherwise, as he deems requisite for statistical purposes, whether such goods are exported or removed by sea, land or inland navigation. 46 V., c. 12, s. 148.

Entry outwards of imported goods must correspond with entry inwards.

109. No entry outwards or any shipping warrant or warrant for taking goods from warehouse for exportation shall be deemed valid, unless the particulars of the goods and packages correspond with the particulars in the entry inwards, nor unless they are properly described in the entry outwards, by the character, denomination and circumstances under which they were originally charged with duty; and any goods laden or taken out of warehouse by an entry outwards or shipping warrant not so corresponding, or not properly describing them, shall be seized and forfeited. 46 V., c. 12, s. 149.

Entry outwards by agent in certain cases.

110. If the owner of any goods is resident more than ten miles from the office of the collector at the port of shipment, he may appoint an agent to make his entry outwards and clear and ship his goods,—but the name of the agent and the residence of the owner shall be subjoined to the name in the entry and shipping warrant; and the agent shall make the declaration on the entry which is required of the owner, and shall answer the questions that are put to him; and any trading corporation or company may appoint an agent for the like purpose. 46 V., c. 12, s. 150.

COASTING VOYAGES.

Governor in Council may declare what shall be a coasting voyage.

111. The Governor in Council may, by regulation, declare any trade or voyage on the seas, rivers, lakes or waters, within or adjacent to Canada, whether to or from any place within or without Canada, to be a coasting trade or a coasting voyage within the meaning of this Act, whether such seas, rivers, lakes or waters are or are not, geographically or for the purposes of other Acts or laws, inland waters; and all carrying by water which is not a carrying by sea or coastwise, shall be deemed to be a carrying by inland navigation; and the Governor in Council may, from time to time, with regard to any such coasting trade, dispense with such of the requirements of this Act as he deems it inexpedient to enforce in any case or class of cases, or may make such further regulations as he deems expedient; and any goods

What shall be inland navigation.

May relieve coasters in certain cases.

carried coastwise, or laden, water-borne or unladen, contrary to such regulations or to any provision of this Act, not dispensed with by such regulations, shall be seized and forfeited. 46 V., c. 12, s. 37. Penalty for contravention.

112. The Governor in Council may grant yearly coasting licenses to British vessels navigating the inland waters of Canada above Montreal, and may direct that a fee of fifty cents shall be payable for each such license, and that the master or person in charge of any vessel navigating the said waters, and not having a coasting license, shall, on entering any port in Canada with such vessel, pay a fee of fifty cents if such vessel is not over fifty tons burthen, and of one dollar if she is more than fifty tons burthen, to the collector on each entry, and a like fee of fifty cents, or one dollar, according to the burthen of the vessel, on each clearance of such vessel at any port; and such fee shall be payable accordingly before such vessel shall be entered or cleared: Provided, that the Governor in Council may reduce or re-adjust such fees, but may not increase them beyond the amount hereby fixed; and provided also, that vessels merely passing through any of the Canadian canals, without breaking bulk, shall not be liable to such fees. 46 V., c. 12, s. 234. Coasting licenses may be granted. Fees on vessels having no coasting license. Proviso. Proviso.

PROTECTION OF THE REVENUE.

113. If any vessel is found hovering, in British waters, within one league of the coasts or shores of Canada, any officer of Customs may go on board and enter into such vessel, and stay on board such vessel, while she remains within the limits of Canada or within one league thereof; and if any such vessel is bound elsewhere, and so continues hovering for the space of twenty-four hours after the master has been, by such officer of Customs, required to depart, such officer may bring the vessel into port, and examine her cargo, and if any goods, the importation of which into Canada is prohibited are on board, such vessel with her apparel, rigging, tackle, furniture, stores and cargo, shall be seized and forfeited; and if the master or person in charge refuses to comply with the lawful directions of such officer, or does not truly answer such questions as are put to him, respecting such ship or vessel or her cargo, he shall incur a penalty of four hundred dollars. 46 V., c. 12, s. 163. Vessels found hovering within certain limits may be boarded and examined. Or brought into port for persisting. Penalty for not obeying officer boarding.

114. If any goods are imported into Canada at any other place than at some port or place of entry at which a Custom House is then lawfully established, or being brought into such port or place of entry by land or inland navigation, are carried past such Custom House, or removed from the place appointed for the examination of such goods by the collector or other officer of the Customs at such port or place, before the same have been examined by the proper officer, and all Forfeiture of goods carried past Custom House on importation, without payment.

Further
penalty.

duties thereon paid and a permit given accordingly, such goods shall be seized and forfeited; and every person concerned in such unlawful importation or removal, shall incur a penalty equal to the value of such goods. 46 V., c. 12, s. 20.

Vessel forfeited in certain cases if worth less than \$800.

115. If any vessel with dutiable goods on board, enters any place other than a port of entry, unless from stress of weather or other unavoidable cause, such goods, except those of an innocent owner, shall be seized and forfeited, together with the vessel in which the same were imported, if such vessel is of less value than eight hundred dollars. 46 V., c. 12, s. 21.

And if the vessel is worth more than \$800.

116. If any vessel worth more than eight hundred dollars, with dutiable goods on board, enters any place other than a port of entry, unless from stress of weather or other unavoidable cause, such goods, except those of an innocent owner, shall be seized and forfeited, and the vessel may be seized, and the master or person in charge thereof shall incur a penalty of eight hundred dollars; and the vessel may be detained until such penalty is paid or security given for the payment thereof; and unless payment is made or satisfactory security is given within thirty days, such vessel may, at the expiration thereof, be sold to pay the said penalty. 46 V., c. 12, s. 22.

Sale of vessel

As to goods unlawfully imported by land.

117. If any goods are unlawfully imported by land, they shall be seized and forfeited, together with the vehicle in or by which such goods are so imported or are removed, and the horses or other cattle employed in drawing such vehicle, or in importing or removing such goods. 46 V., c. 12, s. 23.

Forfeiture of goods and cars for unlawful importation by railway. Penalty on conductor, &c., in such case.

118. If any goods are unlawfully imported on any railway, they shall, in like manner, be seized and forfeited, and the car in which such goods were so imported shall be seized and detached from the train and forfeited; and every conductor, baggage-master, or officer or servant employed on any railway, and every officer or servant employed by any express company, who is privy to or aids or abets in such unlawful importation, shall, upon summary conviction, be liable to a penalty not exceeding two hundred dollars, and not less than fifty dollars, or to imprisonment for a term not exceeding twelve months, and not less than three months, or to both. 46 V., c. 12, s. 24.

Entry void unless goods correspond with report.

119. No entry, and no warrant for the landing of any goods, or for the taking of any goods out of any warehouse, as herein provided, shall be deemed valid, unless the particulars of the goods and packages in such entry or warrant correspond with the particulars of the goods and pack-

ages purporting to be the same in the report of the vessel, or other report, where any is required, by which the importation or entry thereof is authorized, nor unless the goods have been properly described in such entry by the denominations, and with the characters and circumstances according to which such goods are charged with duty or may be imported; and any goods taken or delivered out of any vessel, or out of any warehouse, or conveyed into Canada beyond the port or place of entry, by virtue of any entry or warrant not corresponding with the facts in all such respects, or not properly describing the goods, shall be deemed to be goods landed or taken without due entry thereof, and shall be seized and forfeited; and the collector or proper officer, after the entry of any goods, may, on suspicion of fraud, open and examine any package of such goods, in the presence of two or more credible witnesses, and if, upon examination, the same are found to agree with the entries, they shall be re-packed by such collector or proper officer, at the public cost, but otherwise they shall be seized and forfeited. 46 V., c. 12, s. 48.

Goods not so corresponding to be forfeited.

Suspected packages may be opened.

120. Any package of which the importer or his agent declares the contents to be unknown to him, may be opened and examined by the collector or other proper officer, in the presence of such importer or agent, and at the expense of the importer, who shall also bear the expense of re-packing. 46 V., c. 12, s. 47.

Packages of which contents are unknown.

121. The collector shall cause at least one package in every invoice or entry and at least one package in ten if there are more than ten in any invoice or entry, and so many more as he or any appraiser deems it expedient to examine for the protection of the revenue, to be sent to the examining warehouse, and there to be opened, examined and appraised,—the packages so to be opened being designated by the collector. 46 V., c. 12, s. 106.

Collector to cause one package in ten to be opened.

122. If any goods are found in any package which are not mentioned in the invoice or entry, such goods shall be seized and forfeited. 46 V., c. 12, s. 107.

Forfeiture if fraud is discovered.

123. If any goods are found which do not correspond with the goods described in the invoice or entry, or if the description in the invoice or entry has been made for the purpose of avoiding payment of the duty or of any part of the duty on such goods, or if in any entry any goods have been undervalued for such purpose as aforesaid, such goods shall be seized and forfeited. 46 V., c. 12, s. 108.

Forfeiture of goods for non-correspondence with invoice, &c.

124. All the packages mentioned in any one entry, although some of such packages have been delivered to the importer or any one on his behalf, shall be subject to the

Provision as to packages delivered to importer

before exami- control of the Customs authorities of the port at which they
nation. are entered, until such of the packages as have been sent
for examination to the examining warehouse have been
Bond to be duly examined and approved,—and a bond shall be given
given. by the importer conditioned that the packages so delivered
shall not be opened or unpacked before the package or pack-
ages sent to the examining warehouse have been examined
and passed as aforesaid. 46 V., c. 12, s. 110.

Return of
packages and
provision for
avoiding
delay.

125. Any package delivered without examination, or the goods, if lawfully unpacked, shall, if required by the collector of Customs, be returned to the Custom House within such time as is mentioned in the bond, under the forfeiture of the penalty of such bond; and the collector shall use due diligence in causing such examination to be made, and may, if he sees no objection, permit the remaining packages to be opened and unpacked as soon as those sent to the warehouse have been examined and approved. 46 V., c. 12, s. 111.

Nature and
amount of
bond.

126. The bond mentioned in the two sections next preceding may be a general bond covering the entries to be made by the importer for a period of twelve months from its date; and the penal sum shall be equal to the value of the largest importation made by the importer in question at any one time during the twelve months next immediately preceding; or if such importer has made no importations by which, in the opinion of the collector such penal sum can be properly fixed, the collector shall fix the amount thereof at such sum as he deems equitable. 46 V., c. 12, s. 112.

Collector
may require
further proof
of proper
entry, &c.

127. The collector may require from the importer (or from his agent) of any goods charged with duty, or exempt from duty or conditionally exempt therefrom, before admitting the said goods to entry, such further proof as he deems necessary, by oath or declaration, production of invoice or invoices or bills of lading, or otherwise, that such goods are properly described and rated for duty, or come properly within the meaning of such exemptions. 46 V., c. 12, s. 46.

Collector may
take goods on
paying value
in the invoice
and ten per
cent. in addi-
tion.

128. The collector may, when he deems it expedient for the protection of the revenue and the fair trader, subject to any regulations made by the Governor in Council in that behalf, detain and cause to be properly secured, and may, at any time within fifteen days, declare his option to take, and may take for the Crown, any whole package or packages, or separate and distinct parcel or parcels or the whole of the goods mentioned in any bill of entry, and may pay, when thereunto requested, to the owner or person entering the same, and out of any public moneys in the hands of such collector, the sum at which such goods, packages or parcels are respectively valued for duty in the

bill of entry, and ten per cent. thereon, and also the fair freight and charges thereon to the port of entry, and may take a receipt for such sum and addition when paid. 46 V., c. 12, s. 103.

129. The goods, taken as provided in the next preceding section, shall, whether payment is requested by the owner or person entering the same or not, belong to the Crown from the time they are so taken as aforesaid, and shall be sold or otherwise dealt with in such manner as is provided by any regulation in that behalf, or as the Minister of Customs directs; and the net proceeds of the sale of any such goods shall be applied, first, in repayment to the Consolidated Revenue Fund of the sum so paid to the owner or person entering such goods, and the remainder to or towards the payment of the lawful duty on the same. 46 V., c. 12, s. 104.

How goods so taken shall be dealt with.

Application of proceeds.

130. If the net proceeds of any such sale exceed the amount paid as aforesaid for the goods, and the amount of duty legally accruing thereon, any part of the surplus, not exceeding fifty per centum thereof, may, under any regulation or order of the Governor in Council, be paid to the collector, appraiser or other officer concerned in the taking thereof, as a reward for his diligence. 46 V., c. 12, s. 105.

Bonus to officer for his diligence.

131. The Governor in Council may, by regulation, direct that, after any goods have been entered at the Custom House, and before the same are discharged by the officers and delivered into the custody of the importer or his agent, such goods shall be marked or stamped in such a manner or form as is directed by such regulation for the security of the revenue, and by such officer as is directed or appointed for that purpose. 46 V., c. 12, s. 114.

Duty paid goods to be branded or marked under regulations.

132. When any person has occasion to remove, from any port of entry to any other port or place, any goods duly entered, and on which the duties imposed by law have been paid, the collector or principal officer of the Customs at such port on the requisition in writing of such person, within thirty days after the entry of such goods, specifying the particular goods to be removed, and the packages in which such goods are contained with their marks and numbers, shall give a permit or certificate in writing, signed by him, bearing date of the day it is made, and containing the like particulars, and certifying that such goods have been duly entered at such port and the duties paid thereon, and stating the port or place at which the same were paid, and the port or place to which it is intended to convey them, and the mode of conveyance, and the period within which they are intended to be so conveyed. 46 V., c. 12, s. 115.

Permit certifying that duties have been paid to be granted on request of owner.

Particulars in permit.

POWERS AND DUTIES OF OFFICERS.

Certain officers to be deemed employed for prevention of smuggling

133. Every officer and person who is employed under the authority of any Act relating to the collection of the revenue, or under the direction of any officer in the Customs Department, or who is an officer of the said department, shall be deemed and taken to be duly employed for the prevention of smuggling; and in any suit or information, the averment that such person was so duly employed shall be sufficient proof thereof. 46 V., c. 12, s. 171.

Powers and duty of such officers.

Searching and detaining vessels and vehicles.

134. Every such officer or person as mentioned in the next preceding section, and every sheriff, justice of the peace, or person residing more than ten miles from the residence of any officer of Customs and thereunto authorized by any collector of Customs or justice of the peace, may, upon information, or upon reasonable grounds of suspicion, detain, open and examine any package suspected to contain prohibited property or smuggled goods, or goods respecting which there has been any violation of any of the requirements of this Act, and may go on board of and enter into any vessel or vehicle of any description whatsoever, and may stop and detain the same, whether arriving from places beyond or within the limits of Canada, and may rummage and search all parts thereof, for such goods; and if any such goods are found in any such vessel or vehicle, the officer or person so employed may seize and secure such vessel or vehicle, together with all the sails, rigging, tackle, apparel, horses, harness and all other appurtenances which, at the time of such seizure, belong to or are attached to such vessel or vehicle, with all goods and other things laden therein or thereon; and the same shall be seized and forfeited. 46 V., c. 12, s. 172.

Power to search the person for smuggled goods.

Penalty for resistance.

Questions to be answered.

Penalty for false answer.

135. Any officer of Customs, or person by him authorized thereunto, may search any person on board any vessel or boat within any port in Canada, or on or in any vessel, boat or vehicle entering Canada by land or inland navigation, or any person who has landed or got out of such vessel, boat or vehicle, or who has come into Canada from a foreign country in any manner or way, if the officer or person so searching has reasonable cause to suppose that the person searched has goods subject to entry at the Customs, or prohibited goods, secreted about his person; and every one who obstructs or offers resistance to such search, or assists in so doing, shall incur a penalty of one hundred dollars; and any person who is on board of or has landed from or got out of such vessel, boat or vehicle, or who has entered Canada from a foreign country in any manner or way, may be questioned by such officer, as to whether he has any such goods about his person, and if he denies having any such goods, or does not produce such as he has, and any such goods are found upon him on

being searched, the goods shall be seized and forfeited, and he shall forfeit treble the value thereof: Provido: as to search of person. Provided, that before any person can be searched, as aforesaid, such person may require the officer to take him or her before some police magistrate, justice of the peace, or before the collector or chief officer of the Customs at the port or place, who shall, if he sees no reasonable cause for search, discharge such person, but if otherwise he shall direct such person to be searched; and if such person is a female, she shall not be searched by Females. any but a female; and any such magistrate, justice of the peace or collector of Customs may, if there is no female appointed for such purpose, employ and authorize a suitable female person to act in any particular case or cases. 46 V., c. 12, s. 180.

136. Every officer required to take any person before a police magistrate, justice of the peace, or chief officer of Customs as aforesaid, shall do so with all reasonable despatch; Penalty for searching without cause. and if any officer requires any person to be searched without reasonable cause, such officer shall incur a penalty not exceeding forty dollars. 46 V., c. 12, s. 181.

137. Any officer of Customs having first made oath before a justice of the peace that he has reasonable cause to suspect that goods liable to forfeiture are in any particular building, or in any yard or other place, open or inclosed, may, with such assistance as is necessary, enter therein at any time between sunrise and sunset, but if the doors are fastened admission shall be first demanded, and the purpose for which entry is required declared, when, if admission is not given, he may forcibly enter; and after in either case entry is made, the officer shall search the premises and seize all goods subject to forfeiture; and such acts may be done by an officer of Customs without oath or the assistance of a justice of the peace, in places where no justice resides, or where no justice can be found within five miles at the time of search. Power to enter buildings, &c., in the day time. Without application to a justice of the peace in certain cases. 46 V., c. 12, s. 175.

138. If any building is upon the boundary line between Canada and any foreign country, and there is reason to believe that dutiable goods are deposited or have been placed therein, or carried through or into the same, without payment of duties and in violation of law, and if the collector or proper officer of Customs makes oath before any justice of the peace that he has reason to believe as aforesaid, such collector or officer may search such building and the premises belonging thereto, so far as the same are within the limits of Canada, and if any such goods are found therein, the same shall be seized and forfeited; and every person who is guilty of a violation of the provisions of this section shall incur a penalty not exceeding one thousand dollars and not less than two hundred dollars. As to building on or near the boundary line. Penalty for contravention of this section. 46 V., c. 12, s. 176.

Officers may board vessels and have free access to every part.

139. Officers of Customs may board any vessel at any time or place and stay on board until all the goods intended to be unladen have been delivered; and they shall have free access to every part of the vessel, with power to fasten down hatchways, the fore-castle excepted, and to mark and secure any goods on board; and if any place, box or chest is locked, and the keys are withheld, the officer may open the same:

Penalty if concealed goods are found, and detention of vessel.

2. If any goods are found concealed on board they shall be seized and forfeited, and if any mark, lock or seal upon any goods on board, is wilfully altered, opened or broken before the delivery of the goods, or if any goods are secretly conveyed away, or if hatchways fastened down by the officer are opened by the master, or with his assent, the master shall incur a penalty of four hundred dollars, and the vessel may be detained until the said penalty is paid, or satisfactory security is given for the payment thereof. 46 V., c. 12, s. 165.

Officers may be stationed on board.

140. The collector or other proper officer of the Customs may station officers on board any ship while within the limits of a port, and the master shall provide every such officer with suitable accommodation and food, and, in default of so doing, shall incur a penalty of two hundred dollars. 46 V., c. 12, s. 166.

Writs of assistance in the several provinces.

141. Any judge of the Exchequer Court of Canada, or any judge of any of the superior courts in any Province of Canada, having jurisdiction in the province or place where the application is made, shall grant a writ of assistance upon application made to him for that purpose by Her Majesty's Attorney General of Canada or by a collector of Customs, or by any superior officer of Customs; and such writ shall remain in force so long as any person named therein remains an officer of the Customs, whether in the same capacity or not:

Duration of writ.

As to North-West Territories and Keewatin.

2. For the purposes of this section, any judge of the Court of Queen's Bench, in the Province of Manitoba, shall have jurisdiction over the North-West Territories and the District of Keewatin, and shall grant a writ of assistance for use therein, in like manner and with like effect as he might grant such writ for use in the Province of Manitoba. 46 V., c. 12, s. 177.

Existing writs to remain in force.

142. Every writ of assistance granted before the coming into force of this Act, under the authority of Acts relating to the Customs now repealed shall remain in force, notwithstanding such repeal, in the same manner as if such Acts had not been repealed. 46 V., c. 12, s. 178.

Powers given for effective searching for smuggled goods.

143. Under the authority of a writ of assistance any officer of the Customs, or any person employed for that purpose with the concurrence of the Governor in Council,

expressed either by special order or appointment or by general regulation, may enter, at any time in the day or night, into any building or other place within the jurisdiction of the court from which such writ issues, and may search for and seize and secure any goods liable to forfeiture under this Act, and in case of necessity, may break open any doors and any chests or other packages for that purpose. 46 V., c. 12, s. 179.

144. Any officer or person in the discharge of the duty of seizing goods, vessels, vehicles or property liable to forfeiture under this Act, may call in such lawful aid and assistance in the Queen's name, as is necessary for securing and protecting such seized goods, vessels, vehicles or property; and if no such prohibited, forfeited or smuggled goods are found, such officer or person, having had reasonable cause to suspect that prohibited, forfeited or smuggled goods would be found, shall not be liable to any prosecution, action or other legal proceeding on account of any such search, detention or stoppage. 46 V., c. 12, s. 173.

Power to call for aid.
Reasonable suspicion to justify officers.

PROTECTION OF OFFICERS.

145. No action, suit or proceeding shall be commenced, no writ shall be sued out against, nor a copy of any process served upon any officer of the Customs or person employed for the prevention of smuggling for anything done in the exercise of his office, until one month after notice in writing has been delivered to him, or left at his usual place of abode, by the attorney or agent of the person who intends to sue out such writ or process,—in which notice shall be clearly and explicitly contained the cause of the action, the name and place of abode of the person who is to bring such action, and the name and place of abode of the attorney or agent; and no evidence of any cause of such action shall be produced except of such as is contained in such notice, and no verdict or judgment shall be given for the plaintiff, unless he proves on the trial, that such notice was given; and in default of such proof, the defendant shall receive a verdict or judgment and costs. 46 V., c. 12, s. 226.

What notice of action for things done under this Act shall be given.
What evidence only may be produced on the trial.

146. Any such officer or person against whom any action, suit or proceeding is brought on account of anything done in the exercise of his office, may, within one month after such notice, tender amends to the person complaining, or his agent, and plead such tender in bar to the action, together with other pleas; and if the court or jury, as the case may be, find the amends sufficient, judgment or verdict shall be given for the defendant; and in such case, or if the plaintiff becomes non-suited, or discontinues his action, or judgment is given for the defendant upon demurrer or otherwise, such defendant shall be entitled to full costs of defence:

Defendant may tender amends and plead tender in bar.
Costs to defendant if successful.

Payment into court. 2. The defendant, by leave of the court in which the action is brought, may, at any time before issue joined, pay money into court as in other actions. 46 V., c. 12, s. 227.

Action must be brought within a certain time.

147. Every such action, suit or proceeding shall be brought within three months after the cause thereof, and laid and tried in the place or district where the acts complained of were committed; and the defendant may plead the general issue, and give the special matter in evidence. 46 V., c. 12, s. 228.

If probable cause is certified on record damages and costs to be limited.

148. If in any such action, suit or proceeding, the court or judge before whom the action is tried certifies that the defendant in such action acted upon probable cause, the plaintiff in such action shall not be entitled to more than twenty cents damages nor to any costs of suit, nor in case of a seizure shall the person who made the seizure be liable to any civil or criminal suit or proceeding on account thereof. 46 V., c. 12, s. 229.

GENERAL PROVISIONS.

Report inwards or outwards may be made by purser of steamer.

149. The report for entry, inwards or outwards, required by this Act, may, in the case of any steam vessel carrying a purser, be made by such purser with the like effect in all respects, and subject to the like penalty on the purser and the like forfeiture of the goods in case of any untrue report, as if the report was made by the master;—and the word “master,” for the purposes of this section, shall be construed as including the purser of any steam vessel; but nothing herein contained shall preclude the collector or other proper officer of Customs from calling upon the master of any steam vessel, to answer all such questions concerning the vessel, passengers, cargo and crew, as might be lawfully demanded of him, if the report had been made by him, or to exempt the master from the penalties imposed by this Act for failure to answer any such question, or for answering untruly, or to prevent the master from making such report if he sees fit so to do. 46 V., c. 12, s. 151.

Proviso: masters may be called to answer questions.

Time of importation defined;

150. Whenever on the levying of any duty, or for any other purpose, it becomes necessary to determine the precise time of the importation or exportation of any goods, or of the arrival or departure of any vessel, such importation, if made by sea, coastwise or by inland navigation in any decked vessel, shall be deemed to have been completed from the time the vessel in which such goods were imported, came within the limits of the port at which they ought to be reported, and if made by land, or by inland navigation in any undecked vessel, then from the time such goods were brought within the limits of Canada; and the exportation of any goods shall be deemed to have been commenced from the time of the

And of exportation;

legal shipment of such goods for exportation, after due entry outwards, in any decked vessel, or from the time the goods were carried beyond the limits of Canada, if the exportation is by land or in any undecked vessel; and the time of the arrival of any vessel shall be deemed to be the time at which the report of such vessel was, is or ought to have been made, and the time of the departure of any vessel to be the time of the last clearance of such vessel on the voyage on which she departed. 46 V., c. 12, s. 239.

Of arrival or departure.

151. Whenever the person required to take any oath under any Act or regulation relating to the Customs, is one of the persons entitled by law to take a solemn affirmation instead of an oath in civil cases, such person may, instead of the oath hereby required, make a solemn affirmation to the same effect; and every person before whom any oath is by any such Act or regulation, required or allowed to be taken, or solemn affirmation to be made, shall have full power to administer the same. 46 V., c. 12, s. 238, *part*.

Oath to include affirmation in certain cases.

152. Every oath required under the provisions of this Act connected with the entry of goods may be made in Canada before the collector, sub-collector, surveyor or chief clerk at the port where the goods are entered, or if the person making such oath is not resident there, then before the collector or proper officer of some other port; and when such oath is required to be made out of the limits of Canada, it may be made at any place within the United Kingdom, or at any place in Her Majesty's possessions abroad, before the collector or before the mayor or other chief municipal officer of the place where the goods are shipped, or before a notary public, and at any other place before a British consul, or if there is no British consul, then before a foreign consul at such place. 46 V., c. 12, s. 87.

Before whom attestations of papers for entry may be made.

153. The Commissioner of Customs or other person acting as deputy head of the department, and all officers holding under Order in Council the rank of chief clerk of the inside service in the said department, and all duly appointed inspectors of Customs ports, shall, by virtue of their office, have full authority to administer all oaths and receive all affirmations and declarations required or authorized by this Act; and the Governor in Council may, from time to time, by regulation, appoint or designate such other and additional persons, officers or functionaries, as he sees fit, by name, or by their name of office, in Canada or out of it, as those before whom such oaths may be validly taken, and may, by any Order in Council, relax or dispense with the provisions of this Act touching such oaths, with regard to goods imported by land or inland navigation, or to any other class of cases designated in such regulation. 46 V., c. 12, s. 88.

Certain officers and others authorized by Governor may administer oaths.

Bonds to be to Her Majesty's use, and when to be given.

154. All bonds and securities, of what kind and nature soever, authorized to be taken by any law relating to Customs, trade or navigation, shall be taken to and for the use and benefit of Her Majesty; and such bonds shall be taken before the performance of any act with regard to which the taking of any such bond or bonds is required. 46 V., c. 12, s. 243.

Forms for bonds and papers.

155. All bonds, documents and papers necessary for the transaction of any business at the respective Custom Houses or places or ports of entry in Canada, shall be in such form as the Minister of Customs, from time to time, directs. 46 V., c. 12, s. 244.

Certain certified documents to be *prima facie* evidence.

156. Certificates and copies of official papers, certified under the hand and seal of any of the principal officers of the Customs in the United Kingdom, or of any collector of Colonial revenue in any of the British Possessions in America or the West Indies, or other British Possessions, or of any British Consul or Vice Consul in a foreign country, and certificates and copies of official papers made pursuant to this Act or any Act in force in Canada relating to the Customs or revenue, shall be received as *prima facie* evidence in reference to any matter contained in this Act or any Act relating to the Customs, or on the trial of any suit in reference to any such matter. 46 V., c. 12, s. 245.

Persons transacting Customs business for others to produce written authority.

Their acts to bind their principal.

157. Whenever any person makes application to an officer of the Customs to transact any business on behalf of any other person, such officer may require the person so applying to produce a written authority from the person on whose behalf the application is made, and in default of the production of such authority, may refuse to transact such business; and any act or thing done or performed by such agent, shall be binding upon the person by or on behalf of whom the same is done or performed, to all intents and purposes, as fully as if the act or thing had been done or performed by the principal. 46 V., c. 12, s. 246.

Agent duly authorized may execute bonds for his principal.

Form of appointment.

158. Any attorney and agent duly thereunto authorized by a written instrument, which he shall deliver to and leave with the collector, may, in his said quality, validly make any entry, or execute any bond or other instrument required by this Act, and shall thereby bind his principal as effectually as if such principal had himself made such entry or executed such bond or other instrument, and may take the oath hereby required of a consignee or agent, if he is cognizant of the facts therein averred; and any instrument appointing such attorney and agent shall be valid if it is in the form prescribed by the Minister of Customs. 46 V., c. 12, s. 247.

159. Any partner in or attorney and agent of an unincorporated company, association or co-partnership of persons may, under the name and style usually taken by such company, association or co-partnership, make any entry or execute any bond or other instrument required by this Act, without mentioning the name or names of any of the members or of the other members of the company or association or partnership, and such entry, bond or instrument shall bind them as fully and effectually, and shall have the same effect in all respects as if the name of every such member or partner had been therein mentioned and he had signed the same, and (if it is a bond or other instrument under seal) as if he had thereunto affixed his seal and had delivered the same as his act and deed, and the seal thereunto affixed shall be held to be the seal of each, and every such member or partner, as aforesaid; and the provisions of this section shall apply to any instrument by which any company, association or partnership of persons appoint an attorney or agent to act for them under the next preceding section :

Any partner may execute bonds, &c., without mentioning the other members of the co-partnership.

As to seals.

2. The person who, under this section, makes any entry or executes any bond or instrument on behalf of any company, association or partnership, shall, under the name and style usually taken by them, write his own name with the word "by" or the words "by their Attorney," or words to the like effect, as the case may be, thereunto prefixed. 46 V., c. 12, s. 248.

Proviso: as to form of signature.

160. All goods exempt from duty as being imported or taken out of warehouse for the use of Her Majesty's troops, or for any purpose for which such goods may be imported free of duty, shall, in case of the sale thereof after importation, become liable to and be charged with the duties payable on like goods on their importation for other purposes; and if such duties are not paid, such goods shall be forfeited and may be seized and dealt with accordingly. 46 V., c. 12, s. 63.

Crown goods or goods exempted from duty to be liable thereto if sold.

161. Goods claimed to be exempt from duty under any Act relating to duties of Customs, shall, in the entry thereof, be described and set forth in the words by which they are described to be free in the Act; and goods not answering such description shall be seized and forfeited, or if the collector deems it expedient, he may detain the goods and report the case for the action of the Commissioner of Customs and the decision of the Minister of Customs, as provided in this Act. 46 V., c. 12, s. 217.

How goods claimed to be exempt from duty must be described in the entry.

162. If any vessel which has received damage puts into a port in Canada to which she is not bound, having dutiable goods on board, which it is necessary to land for the purpose of repairing the vessel in order to enable her to proceed on her voyage, the collector, upon application of the

As to duty on goods in vessels unladen, for the purpose of repairing damages.

master or agent, may permit such goods to be unladen and deposited in a warehouse in the custody of the collector ; and the collector shall cause to be taken an exact account of the packages and contents ; and entry of the goods shall then be made by the master or agent, as hereinbefore directed, and they shall remain in the custody of the collector until the vessel is ready for sea, when, upon payment of storage and the reasonable charges of unloading and storing, the collector shall deliver up the same to the master or agent to be exported or carried coastwise as the case may be, under the same security and regulations as if such goods had been imported in the usual manner, and without payment of duty. 46 V., c. 12, s. 59, *part*.

As to such goods if sold.

163. No person shall be entitled to the benefit of the next-preceding section who has sold any of such goods except such as it has been necessary to sell to defray the expense of repairs and charges of the vessel, or as have been authorized by the collector of Customs to be sold ; and if goods are sold for payment of repairs and charges they shall be subject to duty, and shall be warehoused, or the duties thereon paid by the purchaser. 46 V., c. 12, s. 59, *part*.

Provision as to fish and certain articles.

164. Fresh fish, coin or bullion may be landed without entry or warrant, as may also goods in any stranded or wrecked vessel, provided they are duly reported and entered as soon as possible after being safely deposited on shore, and that the landing is in presence of an officer of the Customs or Receiver of Wreck, or other person authorized to act as such receiver under "*The Wrecks and Salvage Act.*" 46 V., c. 12, s. 35.

Or live stock or perishable goods.

165. If a vessel which has live stock or perishable articles on board arrives after business hours, the collector or any officer at the port may permit the master to unlade the same before report ; but report shall in such case be made as soon as possible after the next opening of the Customs office. 46 V., c. 12, s. 36.

Surplus stores of vessels to be dutiable.

166. The surplus stores of vessels arriving in Canada shall be subject to the same duties and regulations as if imported as merchandise ; but if the owner or master desires to warehouse the same for re-shipment for the future use of the vessel, the collector may permit him so to do. 46 V., c. 12, s. 50.

Proviso.

Burden of proof of due entry, on whom to lie.

167. The burden of proof that the proper duties payable with respect to any goods have been paid, and that all the requirements of this Act with regard to the entry of any goods have been complied with and fulfilled, shall, in all cases, lie upon the person whose duty it was to comply with and fulfil the same. 46 V., c. 12, s. 113.

168. Although any duty of Customs has been overpaid, or although, after any duty of Customs has been charged and paid, it appears or is judicially established that the same was charged under an erroneous construction of the law, no such overcharge shall be returned after the expiration of three years from the date of such payment, unless application for repayment has been previously made. 46 V., c. 12, s. 240.

Over-paid duties not returnable after three years.

169. No refund of duty shall be allowed after the lapse of fourteen days from the time of entry, for any alleged misdescription of goods by the importer; and if any error of the kind is discovered by the importer while unpacking his goods, he shall immediately and without further interference with the goods, report the facts to the collector in order that the same may be verified. 46 V., c. 12, s. 241.

No refund after 14 days. As to error discovered while unpacking.

170. No person, unless he is authorized by the Governor in Council, shall import any goods, wares or merchandise from any port or place out of Canada in any vessel which has not been duly registered and has not a certificate of such registry on board. 46 V., c. 12, s. 38.

Importing vessel must be registered.

171. Fire-arms and munitions of war shall not be imported except from the United Kingdom of Great Britain and Ireland, unless upon application to, and permission given by the Minister of Customs. 31 V., c. 7, s. 8.

Importation of arms, &c.

172. Vessels entering the Gut of Annapolis may be reported and entered, and the duties on goods therein imported paid, either at the port of Digby or Annapolis. 46 V., c. 12, s. 51.

Vessels entering the Gut of Annapolis.

173. Vessels entering the Great Bras d'Or or Little Bras d'Or shall be reported and entered at such place as the Minister of Customs, from time to time, directs. 46 V., c. 12, s. 52.

Or the Great and Little Bras d'Or.

174. Whenever the collector of Customs at any port is satisfied that in such port, as well as in the adjacent city or town and its vicinity, there does not exist an extraordinary, infectious, contagious or epidemic disease, which could be transmitted by the vessel, her crew or cargo, he may grant to any vessel requiring a bill of health a certificate under his hand and seal, attesting the fact aforesaid, for which he shall be entitled to ask and receive a fee of one dollar. 46 V., c. 12, s. 152.

Collector may grant bill of health.

ARTICLES SEIZED—HOW DEALT WITH.

175. If any goods, property or vehicle, subject or liable to forfeiture under this Act, or any other law relating to the Customs, are stopped or taken by any police or peace officer or any person duly authorized, such goods, property or

To what place things &c., seized shall be taken.

vehicle shall be taken to the Custom House nearest to the place where the same were stopped or taken, and there delivered to the proper officer authorized to receive the same, within forty-eight hours after the same were stopped or taken. 46 V., c. 12, s. 182.

How smuggled goods stopped on suspicion of being stolen shall be dealt with.

176. If any such goods, property or vehicles are stopped or taken by such police or peace officer, on suspicion that the same have been feloniously stolen, such officer shall carry the same to the police office to which the offender is taken, there to remain until and in order to be produced at the trial of the said offender; and in such case the officer shall give notice in writing to the collector or principal officer of Her Majesty's Customs, at the port nearest to the place where such goods have been detained, of his having so detained the said goods, with the particulars of the same; and immediately after the trial, all such goods shall be conveyed to and deposited in the Custom House or other place appointed as aforesaid, and proceedings relative to the same shall be had according to law. 46 V., c. 12, s. 183.

Seizure or detention to be reported to Commissioner of Customs.

177. Whenever any vessel, vehicle, goods or thing have been seized or detained under any of the provisions of this Act or of any law relating to the Customs, or when it is alleged that any penalty or forfeiture has been incurred under the provisions of this Act or of any law relating to the Customs, the collector or the proper officer shall forthwith report the circumstances of the case to the Commissioner of Customs. 46 V., c. 12, s. 218.

Commissioner to call upon owner or claimant of thing seized for statement under oath.

178. The Commissioner may thereupon notify the owner or claimant of the thing seized or detained, or his agent, or the person alleged to have incurred the penalty or forfeiture, or his agent, of the reasons for the seizure, detention, penalty or forfeiture, and call upon him to furnish within thirty days from the date of the notice, such evidence in the matter as he desires to furnish: such evidence may be by affidavit or affirmation, made before any justice of the peace, any collector of Customs, any commissioner for taking affidavits in any court, or any notary public. 46 V., c. 12, s. 219.

Commissioner to report his opinion to Minister.

179. After the expiration of the said thirty days, or sooner if the person so called upon to furnish evidence so desires, the Commissioner may consider and weigh the circumstances of the case, and report his opinion and recommendation thereon to the Minister of Customs. 46 V., c. 12, s. 220.

Minister's decision in the matter to be binding on claimant accepting it.

180. The Minister may thereupon give his decision in the matter, respecting the seizure, detention, penalty or forfeiture, and the terms, if any, upon which the thing seized or detained may be released or the penalty or forfeiture remitted; and if the owner or claimant of the thing seized or detained

or the person alleged to have incurred the penalty signifies in writing, by himself or his agent, his acceptance of the decision, he shall be bound thereby, and the terms thereof may be enforced and carried out; and in any action, suit or proceeding to recover any money claimed by virtue of such decision the person accepting the same shall not be at liberty to set up that the thing seized was not liable to seizure or detention, or that he had not incurred any penalty or forfeiture. 46 V., c. 12, s. 221.

181. If the said owner or claimant or person, or his agent, within twenty days after being notified of the decision, gives to the Minister of Customs notice in writing that such decision will not be accepted, or if such twenty days elapse without such decision being accepted, proceedings for the condemnation of the thing seized, or for the enforcement of the penalty or forfeiture, may be taken without delay. 46 V., c. 12, s. 222.

Provision if claimant refuses to accept the decision.

182. If the said decision is accepted as by this Act provided, and if the terms thereof are not forthwith complied with, the Minister of Customs may elect either to enforce the terms of the decision or to take proceedings for the condemnation of the thing seized, or for the enforcement of the penalty or forfeiture. 46 V., c. 12, s. 223.

If decision is accepted, but terms are not complied with.

183. If a condition of the decision is that the thing seized or detained shall be released upon payment of a sum of money, and if such money is not paid forthwith after acceptance of the decision, and if the Minister elects to enforce the decision, such thing may be sold and the net proceeds applied towards payment of such sum, and the balance, if any, shall be handed over to the person entitled thereto: and if such net proceeds are not sufficient to pay such sum the person accepting the decision shall be liable to pay the amount of the deficiency, and the same may be recovered from him as a debt due to Her Majesty. 46 V., c. 12, s. 224.

If the decision requires payment of a sum of money which is not paid.

184. If after acceptance of the decision the person required thereby to pay any sum of money as a penalty or forfeiture, does not forthwith pay the same, the amount thereof may be recovered from him as a debt due to Her Majesty. 46 V., c. 12, s. 225.

If a penalty is not paid.

185. Whenever any goods have been seized or detained under any of the provisions of this Act, or of any law relating to the Customs, the importer or exporter thereof, and the owner or claimant thereof, shall, immediately upon being required so to do by the collector or other proper officer of Customs of the port where the seizure or detention took place, produce and hand over all invoices, bills, accounts and statements of the goods so seized or detained, and of all

Importer or exporter of any goods seized or detained, to furnish certain books, papers, &c.

other goods imported into Canada by him at any time within three years next preceding such seizure or detention; and shall also produce for the inspection of such collector or other officer, and allow him to make copies of, or extracts from, all books of account, ledgers, day-books, cash books, letter books, invoice books, or other books wherein any entry or memorandum appears respecting the purchase, importation, cost, value or payment of the goods so seized or detained, and of all other goods as aforesaid. 46 V., c. 12, s. 214.

Penalty for not furnishing such books and papers.

186. If any person required under the next preceding section to produce and hand over invoices, bills, accounts and statements, or to produce for inspection books of account, ledgers, day books, cash books, letter books, invoice books and other books, or to allow copies or extracts to be made therefrom, neglects or refuses so to do, he shall incur a penalty not exceeding one thousand dollars, and not less than two hundred dollars. 46 V., c. 12, s. 215.

Delivery of things seized to owner on deposit of a sum equal to value and costs.

187. Any collector of Customs may, as may also any court or judge having competent jurisdiction to try and determine the seizure, with the consent of the collector at the place where the things seized are, order the delivery thereof to the owner, on the deposit with the collector in money of a sum equal at least to the full duty paid value (to be determined by the collector) of the things seized and the estimated costs of the proceedings in the case; and any sum or sums of money so deposited shall be immediately deposited in some bank appointed for that purpose by competent authority, to the credit of the Minister of Finance and Receiver General, there to remain until forfeited in due course of law or released by order of the Minister of Customs; and if such seized articles are condemned, the money deposited shall be forfeited. 46 V., c. 12, s. 204.

Cattle or perishable articles may be sold as if condemned.

188. If the thing seized is an animal or a perishable article, the collector at whose port the same is, may sell the same so as to avoid the expense of keeping it or to prevent its becoming deteriorated in value: and the proceeds of such sale shall be deposited in some chartered bank to the credit of the Minister of Finance and Receiver General, and shall abide the judgment of the court with respect to the condemnation of the thing seized, if proceedings for condemnation are taken in court, or shall become the property of Her Majesty, if the thing seized becomes condemned without proceedings in court: Provided always, that the collector shall deliver up such animal or perishable article to the claimant thereof, upon such claimant depositing with him a sum of money sufficient in the opinion of the collector to represent the duty paid value of the thing claimed, and the costs of any proceedings to be taken in court for the

Proviso: for delivery of articles seized on sufficient security being given.

condemnation of the thing seized : and the money so deposited shall be paid into some chartered bank to the credit of the Minister of Finance and Receiver General, and shall be dealt with in the same manner as above provided for in the case of the proceeds of a sale of such thing. 46 V., c. 12, s. 205.

As to deposit of money.

189. If notice of intent to claim has been given and the value of the goods or thing seized does not exceed one hundred dollars, and the prosecutor chooses to proceed under this section, he shall forthwith cause the goods to be valued by a competent appraiser ; and if such appraiser certifies them to be under the said value, a summary information in writing may be exhibited in the name of the collector at or nearest to the place of seizure, or in the name of any officer authorized thereto by the Minister of Customs, before two justices of the peace, charging the articles seized as forfeited under some particular Act and section thereof to be therein referred to, and praying condemnation thereof ; and the justices shall thereupon issue a general notice for all persons claiming interest in the seizure to appear at a certain time and place there to claim the articles seized, and answer the information, otherwise such articles will be condemned ; and a copy of the notice shall, at least eight days before the time of appearance, be served upon the person from whose possession the things were taken, or shall be left at or affixed to the building or vessel in which they were seized, if any, and if there remaining, or at two public places nearest the place of seizure : if any person appears to answer the information, the justices shall hear and determine the matter in a summary manner and acquit or condemn the articles, but if no person appears, judgment of condemnation shall be given ; and the justices on condemnation shall issue a warrant to the collector to sell the goods ; and such two justices shall be deemed a court, and each of them a judge thereof for the purposes of this Act. 46 V., c. 12, s. 206.

Provision, if notice of claim has been given, and value is not over \$100.

Proceeding before Justices of the Peace.

Notice to parties.

Hearing if case is defended, &c.

Justices to be a court.

190. Sales of goods forfeited or otherwise liable to be sold under this Act shall be by public auction, and after a reasonable public notice, and subject to such further regulations as are made by the Governor in Council ; but in any case, the Minister of Customs may order vessels, goods, vehicles or things forfeited to be disposed of as he sees fit, instead of being sold by public auction. 46 V., c. 12, s. 212.

Sales to be by public auction.

Exception.

191. The proceeds, after deducting expenses, shall, unless it is otherwise provided, belong to Her Majesty for the public uses of Canada ; but the net proceeds or any portion thereof, may be divided between and paid to the collector or chief officer of the Customs at the port or place where the seizure was made, and the officer or officers by whom the seizure was made, or the information given which led to the

Appropriation and distribution of penalties and forfeitures.

Powers of Governor in Council and of Minister of Customs not affected.

seizure, and any person who has given information or otherwise aided in effecting the condemnation of the thing seized, in such proportions as the Governor in Council in any case or class of cases directs and appoints: but nothing herein contained shall be construed to limit or affect any power vested in the Governor in Council or the Minister of Customs to make and ordain any other plan or system for the redistribution of such net proceeds, or with regard to the remission of penalties or forfeitures imposed by this Act or any other law. 46 V., c. 12, s. 213.

FORFEITURES AND PENALTIES.

Penalty and forfeiture for smuggling goods; using false invoices, &c.

192. If any person, with intent to defraud the revenue of Canada, smuggles or clandestinely introduces into Canada any goods subject to duty, or makes out or passes or attempts to pass through the Custom House any false, forged or fraudulent invoice, or in any way attempts to defraud the revenue by evading the payment of the duty, or of any part of the duty on any goods, such goods shall be seized and forfeited; and every such person, his aiders and abettors shall, in addition to any other penalty or forfeiture to which he and they are subject for such offence, be liable on summary conviction before two justices of the peace to a penalty not exceeding two hundred dollars and not less than fifty dollars, or to imprisonment for a term not exceeding one year and not less than one month, or to both. 47 V., c. 29, s. 2.

Further liability of the offender to fine and imprisonment.

Forfeiture of goods, &c., not reported, and penalty for untrue report.

193. If any goods are unladen from any vessel or vehicle, or put out of the custody of the master or person in charge of the same, before report is made as required by this Act, or if such master or person fails to make such report, or to produce such goods, or makes an untrue report, or does not truly answer the questions demanded of him, he shall for each such offence incur a penalty of four hundred dollars; and if any such goods are not so reported and produced, or if the marks and numbers or other description of any package do not agree with the report made, such goods or package shall be seized and forfeited, and the vessel or vehicle and the animals drawing the same shall be detained until such amount is paid. 46 V., c. 12, s. 39.

Deten vessel or vehicle.

Forfeiture of goods landed without due entry.

194. All goods unladen or landed before due entry thereof and warrant for landing, shall be seized and forfeited, and every person concerned in landing or receiving or concealing goods so landed, shall, for each offence, incur a penalty of four hundred dollars. 46 V., c. 12, s. 44.

Penalties and forfeitures for contravention of regulations.

195. All goods shipped or unshipped, imported or exported, carried or conveyed, contrary to any regulation made by the Governor in Council, and all goods or vehicles and all

vessels under the value of four hundred dollars, with regard to which the requirements of any such regulation have not been complied with, shall be seized and forfeited, and if such vessel is of or over the value of four hundred dollars, the master thereof shall, by such non-compliance, incur a penalty of four hundred dollars, and the vessel may be detained until the said penalty is paid, or satisfactory security is given for the payment thereof; and any such forfeitures and penalties shall be recoverable and may be enforced in the same manner, and before the same court and tribunal, as if incurred by the violation of any provision of this Act. 46 V., c. 12, s. 235.

Recovery thereof.

196. All vessels with the guns, tackle, apparel and furniture thereof, and all vehicles, harness, tackle, horses and cattle made use of in the importation or unshipping or landing or removal of any goods liable to forfeiture under this Act, shall be seized and forfeited; and every person who assists or is otherwise concerned in importing, unshipping, landing or removing, or in the harboring of such goods, or into whose hands or possession the same knowingly come, shall incur a penalty of two hundred dollars or a penalty equal to treble the value of such goods, at the election of the person who sues for the same; and the averment in any information, petition or pleading for the recovery of such penalty, that such person has elected to sue for the sum mentioned in the information, petition or pleading, shall be sufficient proof of such election, without any other evidence of the fact. 46 V., c. 12, s. 162.

Vessels used in conveying forfeited goods to be forfeited.

Penalty for assisting in landing, &c., such goods.

197. Every person who knowingly harbors, keeps, conceals, purchases, sells or exchanges any goods illegally imported into Canada, whether such goods are dutiable or not, or whereon the duties lawfully payable have not been paid, shall, for such offence, forfeit such goods and shall incur a penalty equal to treble the value thereof. 46 V., c. 12, s. 155.

Penalty for harboring smuggled goods.

198. If any two or more persons in company are found together, and they or any of them have any goods liable to forfeiture under this Act,—every such person having knowledge of the fact, is guilty of a misdemeanor, and punishable accordingly. 46 V., c. 12, s. 156.

Persons smuggling goods in company.

199. Every person who is proved to have been on board any vessel or boat liable to forfeiture for having been found within one league of the coasts or shores of Canada, having on board or attached thereto, or conveying or having conveyed anything subjecting such vessel or boat to forfeiture, or who is proved to have been on board any vessel or boat from which any part of the cargo has been thrown overboard or destroyed, or in which any goods have been unlawfully brought into Canada, shall incur a penalty of one hundred dollars, if he has been knowingly concerned in such acts. 46 V., c. 12, s. 164.

Penalty on persons found on board smuggling vessels.

Penalty for procuring persons to assist in smuggling.

200. Every person who, by any means, procures, hires or induces any person or persons to be concerned in the landing, unshipping, carrying or conveying any goods the importation of which is prohibited, or for the landing of which permission has not been granted by the collector or other proper officer of Customs, shall, for every person so procured, hired or induced, incur a penalty of one hundred dollars. 46 V., c. 12, s. 157.

No person making or authorizing any false invoice shall recover any part of the price of the goods.

201. If any person makes, or sends, or brings into Canada, or causes or authorizes the making, sending or bringing into Canada, any invoice or paper, used or intended to be used as an invoice for Customs purposes, in which any goods are entered or charged at a less price or value than that actually charged, or intended to be charged for them, no price or sum of money shall be recoverable by such person, his assigns or representatives, for the price or on account of the purchase of such goods or any part thereof, or on any bill of exchange, note or other security, unless in the hands of an innocent holder for value without notice, made, given or executed for the price of or on account of the purchase of such goods or any part of such price. 46 V., c. 12, s. 92.

Evidence of fraud in invoice or other paper.

202. The production or proof of the existence of any other invoice, account, document or paper made or sent by any person, or by his authority, wherein goods or any of them are charged or entered at or mentioned as bearing a greater price than that set upon them in any such invoice as in the next preceding section mentioned shall be *prima facie* evidence that such invoice was intended to be fraudulently used for Customs purposes; but such intention, or the actual fraudulent use of such invoice, may be proved by any other legal evidence. 46 V., c. 12, s. 93.

Penalty on importer presenting such false invoice

203. Every importer of goods into Canada, and every person on his behalf, who presents, or causes to be presented, with intent to make entry thereunder, any false or fraudulent invoice, such as described in the two sections next preceding, shall incur a penalty equal in amount to the value of the goods represented in such invoice, and the goods shall also be seized and forfeited. 46 V., c. 12, s. 94.

Penalty for false oath respecting entry.

204. If the oath made with regard to any entry is wilfully false in any particular—all the packages and goods included or pretended to be included, or which ought to have been included in such entry, shall be forfeited. 46 V., c. 12, s. 109.

Penalty on persons committing certain offences as to warehoused goods.

205. If any warehoused goods are concealed in or unlawfully removed from any Customs warehouse in Canada, such goods shall be seized and forfeited; and every person who conceals or unlawfully removes any such goods, or aids or abets such concealment or removal, shall incur the penal-

ties imposed on persons illegally importing or smuggling goods into Canada; and on discovery of such concealment or removal, all goods belonging to the importer or owner of the concealed or removed goods, then remaining in the same or any other warehouse, shall be placed under detention until the duty payable on the goods so concealed or removed, and all penalties incurred by him have been paid; and if such duties and penalties are not paid within one month after the discovery of the concealment or removal of such goods, the goods so detained shall be dealt with in the same manner as goods unlawfully imported or smuggled into Canada. 46 V., c. 12, s. 158.

206. If the importer or owner of any warehoused goods, or any person in his employ, by any contrivance, opens the warehouse in which the goods are, or gains access to the goods except in the presence of or with the express permission of the proper officer of the Customs, such importer or owner shall, for every such offence, incur a penalty of one hundred dollars. 46 V., c. 12, s. 159.

Penalty for fraudulent access to warehouse.

207. Every person who, by any contrivance gains access to bonded goods in a railway car, or to goods in a railway car—upon which goods the Customs duties have not been paid, or delivers such bonded or other goods without the express permission of the proper officer of Customs, shall, for every such offence, be liable to imprisonment for a term not exceeding one year and not less than one month. 46 V., c. 12, s. 160.

Obtaining access to goods in any bonded car, &c.

208. Every person who wilfully alters, defaces or obliterates any mark placed by any officer of Customs on any package of warehoused goods, or goods in transit, shall, for every such offence, incur a penalty of five hundred dollars. 46 V., c. 12, s. 161.

Penalty for altering or defacing marks.

209. Every person who makes any entry outwards of goods from warehouse for exportation and who is not the owner or duly authorized by the owner thereof, or the master of the vessel by which they are to be shipped, shall incur a penalty of two hundred dollars. 46 V., c. 12, s. 139.

Penalty on others than owner entering goods outwards.

210. If any person at any time forges or counterfeits any mark or brand to resemble any mark or brand provided or used for the purposes of this Act, or forges or counterfeits the impression of any such mark or brand, or sells or exposes to sale, or has in his custody or possession, any goods with a counterfeit mark or brand, knowing the same to be counterfeit, or uses or affixes any such mark or brand to any other goods required to be stamped as aforesaid, other than those to which the same was originally affixed,—such goods so falsely marked or branded shall be seized and forfeited, and

Penalty for forging marks or selling goods with counterfeit marks.

every such offender, and his aiders, abettors and assistants, shall, for every such offence, be liable, on summary conviction before two justices of the peace, to a penalty of two hundred dollars,—and in default of payment to imprisonment for a term not exceeding twelve months and not less than two months. 46 V., c. 12, s. 167.

Penalty for counterfeiting or using counterfeited papers, &c.

211. Every person who counterfeits, falsifies, or uses when so counterfeited or falsified, any paper or document required under this Act, or for any purpose therein mentioned,—whether written, printed or otherwise, or by any false statement procures such document, knowing the same to be so forged or counterfeited, or forges or counterfeits any certificate relating to any oath or declaration or affirmation hereby required or authorized, is guilty of a misdemeanor. 46 V., c. 12, s. 168.

Taking away seized goods without authority to be felony.

212. Every person who, whether pretending to be the owner or not, either secretly or openly, and whether with or without force or violence, takes or carries away any goods, vessel, vehicle or other thing which have been seized or detained on suspicion, as forfeited under this Act, before the same have been declared by competent authority to have been seized without due cause, and without the permission of the officer or person who seized the same or of some competent authority, shall be deemed to have stolen such goods, being the property of Her Majesty, and is guilty of felony. 46 V., c. 12, s. 185.

Punishment of persons assaulting or obstructing officers.

213. Every person who, under any pretence, either by actual assault, force or violence, or by threats of such assault, force or violence, in any way resists, opposes, molests or obstructs any officer of Customs, or any person acting in his aid or assistance, in the discharge of his or their duty, under the authority of this Act, or any other law in force in Canada relating to Customs, trade or navigation, or who wilfully or maliciously shoots at or attempts to destroy or damage any vessel belonging to Her Majesty, or in the service of Canada, or maims or wounds any officer of the Army, Navy, Marine or Customs, or any person acting in aid or assistance of such officer, while duly employed for the prevention of smuggling, and in execution of his or their duty,—and every person who is found with any goods liable to seizure or forfeiture, under this Act or any other law relating to Customs, trade or navigation, and carrying offensive arms or weapons, or in any way disguised,—and every person who staves, breaks or in any way destroys any such goods, before or after the actual seizure thereof, or scuttles, sinks or cuts adrift any vessel, or destroys or injures any vehicle or animal, before or after the seizure, or wilfully and maliciously destroys or injures, by fire or otherwise, any Custom House, or any building whatsoever in which seized, forfeited or bonded goods are deposited or kept, is guilty of felony. 46 V., c. 12, s. 186.

Firing at Her Majesty's vessels.

Wounding persons in Her Majesty's service.

Or having goods liable to seizure and being armed or disguised.

Or destroying vessels or goods or any Custom House, &c.

Such offences to be felony.

214. Every master or person in charge of any vessel, and every driver or person conducting or having charge of any vehicle or conveyance, who refuses to stop such vessel, vehicle or conveyance when required so to do, in the Queen's name, by an officer of Customs or person employed as such, and every person who is present at any such seizure or stoppage, and who, when called upon in the Queen's name by such officer or person to aid and assist him in a lawful way, refuses so to do, shall be liable, on summary conviction before two justices of the peace, to a penalty of two hundred dollars, and in default of payment to imprisonment for a term not exceeding six months. 46 V., c. 12, s. 174.

Penalty for refusing to stop.

Or to assist.

Recovery of penalty.

215. If any person offers for sale any goods under pretence that the same are prohibited, or have been unshipped and run on shore, or brought in, by land or otherwise, without payment of duties, all such goods, although not liable to any duties or prohibited, shall be seized and forfeited, and every person who offers the same for sale shall be liable, on summary conviction before two justices of the peace, to a penalty of two hundred dollars, or to a penalty equal to treble the value of such goods, at the election of the prosecutor, and in default of payment, to imprisonment for a term not exceeding sixty days. 46 V., c. 12, s. 154.

Forfeiture and penalty for offering for sale goods pretended to be smuggled.

216. Every person required by this Act or by any other law to answer questions put to him by any officer of the Customs, who refuses to answer or does not truly answer such questions, shall, in addition to any other penalty or punishment to which he is liable, incur a penalty of four hundred dollars. 46 V., c. 12, s. 170.

Penalty for not truly answering lawful questions.

217. Every person who has in his possession, in port or on land any goods, derelict, flotsam, jetsam or wreck, and which are dutiable, and does not give notice thereof to the nearest officer of Customs without unnecessary delay, or does not, on demand, pay the duties thereon or deliver the same to the proper officer, shall incur a penalty of two hundred dollars, in addition to all other liabilities and penalties incurred by him, and the goods shall be seized and forfeited; and every person who removes or alters in quantity or quality, any such goods, or unnecessarily opens or alters any package thereof, or abets any such act, before the goods are deposited in a warehouse under the custody of the Customs officers, shall, in addition to all other liabilities and penalties incurred by him, incur a penalty of two hundred dollars. 46 V., c. 12, s. 61.

Penalty for having wrecked goods, &c., without reporting them.

And for removing or altering them.

218. All cane juice, syrup of sugar or of sugar cane, melado, concentrated melado or concentrated molasses, entered as molasses, or under any other name than cane juice, syrup of sugar or of sugar cane, melado, concentrated

Forfeiture for entry of syrups under wrong name.

melado, or concentrated molasses, shall be seized and forfeited. 46 V., c. 12, s. 76.

Penalty on police officer not conveying detained goods to Custom House.

219. Every police or peace officer, who has detained any goods, property or vehicle subject or liable to forfeiture, and who neglects to convey the same to the Custom House, or to give notice of having stopped the same as herein prescribed, shall be liable, on summary conviction, to a penalty of one hundred dollars, and in default of payment to imprisonment for a term not exceeding thirty days. 46 V., c. 12, s. 184.

Penalty on Collector allowing payment to be avoided or deferred.

220. Every collector or other officer of Customs who allows the payment of duties of Customs to be avoided or deferred for any cause or consideration whatsoever, except by regular entry for warehouse, shall be liable to a penalty equal to the full value of such goods, and the duty accruing thereon, which shall be recoverable in any court of competent jurisdiction, from him or his sureties, or either of them; and any goods on which payment of duty has been so avoided or deferred, shall be liable to seizure and be dealt with as goods unlawfully imported into Canada. 46 V., c. 12, s. 127.

Liability of goods.

Penalty on officers of Customs conniving at any evasion of the revenue laws.

221. Every officer of the Customs, and every person employed, with the concurrence of the Minister of Customs, for the prevention of smuggling, who makes any collusive seizure, or delivers up, or makes any agreement to deliver up or not to seize any vessel, boat, carriage, goods or thing liable to forfeiture under this Act, or who takes or accepts a promise of any bribe, gratuity, recompense or reward for the neglect or non-performance of his duty, is guilty of a misdemeanor, and liable for every such offence to a fine of five hundred dollars, and to imprisonment for a term not exceeding two years and not less than three months, and shall be incapable of serving Her Majesty in any office whatsoever; and every person who gives, offers or promises to give, or procure to be given, any bribe, recompense or reward to, or makes any collusive agreement with any such officer or person as aforesaid, to induce him in any way to neglect his duty, or to conceal or connive at any act whereby the provisions of this Act, or any law relating to the Customs, trade or navigation, may be evaded, is guilty of a misdemeanor, and liable for every such offence to a fine of five hundred dollars, and to imprisonment for a term not exceeding two years and not less than three months. 46 V., c. 12, s. 187.

Or persons bribing or tempting them so to connive.

PROCEDURE.

In what courts penalties and forfeitures may

222. All penalties and forfeitures incurred under this Act or any other law relating to the Customs or to trade or navigation, may, in addition to any other remedy provided

by this Act or by law, be prosecuted, sued for and recovered with full costs of suit, in the Exchequer Court of Canada or in any superior court or court of Vice-Admiralty, having jurisdiction in that Province in Canada where the cause of prosecution arises, or wherein the defendant is served with process; and if the amount of any such penalty or forfeiture does not exceed two hundred dollars, the same may, in the Provinces of Ontario, Quebec, New Brunswick, Nova Scotia, British Columbia, Manitoba and Prince Edward Island, respectively, also be prosecuted, sued for and recovered in any court having jurisdiction in the place where the cause of prosecution arises, or where the defendant is served with process. 47 V., c. 29, s. 1.

be recover-
able.

And if not
exceeding
\$200.

223. All penalties and forfeitures imposed by this Act or by any other Act relating to the Customs or to trade or navigation, shall, unless other provisions are made for the recovery thereof, be sued for, prosecuted and recovered with costs by Her Majesty's Attorney General of Canada, or in the name or names of the Commissioner of Customs, or any officer or officers of the Customs, or other person or persons thereunto authorized by the Governor in Council, either expressly or by general regulation or order, and by no other person. 46 V., c. 12, s. 189.

In whose name
prosecutions
may be
brought.

224. All penalties and forfeitures imposed by this Act or by any other law relating to the Customs or to trade or navigation, may, in the Province of Quebec, be sued for, prosecuted and recovered with full costs of suit by the same proceeding as any other moneys due to the Crown, and all suits or prosecutions for the recovery thereof shall, in that Province, be heard and determined in like manner as other suits or prosecutions in the same court for moneys due to the Crown, except that in the Circuit Court the same shall be heard and determined in a summary manner; but nothing in this section shall affect any provisions of this Act, except such only as relate to the form of proceeding and of trial in such suits or prosecutions as aforesaid. 46 V., c. 12, s. 190.

How such
suits or pro-
ceedings may
be brought in
the Province
of Quebec.

225. Every prosecution or suit in the Exchequer Court of Canada, or in any superior court or circuit court or court of competent jurisdiction for the recovery or enforcement of any penalty or forfeiture imposed by this Act or by any other law relating to the Customs or to trade or navigation may be commenced, prosecuted and proceeded with in accordance with any rules of practice, general or special, established by the court for Crown suits in revenue matters, or in accordance with the usual practice and procedure of the court in civil cases, in so far as such practice and procedure are applicable, and wherever the same are not applicable, then in accordance with the directions of the court or a judge. 46 V., c. 12, s. 191, *part.*

Procedure in
such suits or
prosecutions,
in the several
courts.

As to the venue.

226. The venue in any such prosecution or suit may be laid in any county in the Province notwithstanding that the cause of prosecution or suit did not arise in such county. 46 V., c. 12, s. 191, *part.*

Arrest of defendant about to leave the Province where the suit is brought.

227. Any judge of the court in which any prosecution or suit is brought for the recovery or enforcement of any penalty or forfeiture as aforesaid, may, upon being satisfied by affidavit that there is reason to believe that the defendant will leave the Province without satisfying such penalty or forfeiture, issue a warrant under his hand and seal for the arrest and detention of the defendant in the common gaol of the county, district or place until he has given security, before and to the satisfaction of such judge or some other judge of the same court, for the payment of such penalty with costs, in case judgment is given against him. 46 V., c. 12, s. 192.

What shall be sufficient averment in such cases.

228. In any declaration, information, statement of claim or proceeding in any such prosecution or suit, it shall be sufficient to state the penalty or forfeiture incurred, and the Act or section under which it is alleged to have been incurred, without further particulars; and the averment that the person seizing was and is an officer of the Customs shall be sufficient evidence of the fact alleged unless it is contradicted by some superior officer of the Customs. 46 V., c. 12, s. 193.

Those who sue for the Crown to recover full costs of suit.

229. In every prosecution, information, suit or proceeding brought under this Act for any penalty or to declare or enforce any forfeiture or upon any bond given under it, or in any matter relating to the Customs or to trade or navigation, Her Majesty, or those who sue for such penalty or forfeiture, or upon such bond, shall, if they recover the same, be entitled also to recover full costs of suit; and all such penalties and costs, if not paid, may be levied on the goods and chattels, lands and tenements of the defendant, in the same manner as sums recovered by judgment of the court in which the prosecution is brought may be levied by execution, or payment thereof may be enforced by *capias ad satisfaciendum* against the person of the defendant under the same conditions and in like manner. 46 V., c. 12, s. 194.

Penalties and costs, how levied.

Nolle prosequi by Attorney General.

230. If, in any case, the Attorney General of Canada is satisfied that the penalty or forfeiture was incurred without intended fraud, he may enter a *nolle prosequi* on such terms as he sees fit, which shall be binding on all parties; and the entry of such *nolle prosequi* shall be reported to the Minister of Customs with the reasons therefor. 46 V., c. 12, s. 195.

Averment as to place at which any act was done.

231. In any prosecution, suit or other proceeding for the recovery of any penalty or in respect of any forfeiture as aforesaid, or for an offence against this Act or any other law relating

to the Customs, or to trade or navigation, the averment that the cause of prosecution or suit arose, or that such offence was committed within the limits of any district, county, port or place, shall be sufficient evidence of the fact without proof of such limits, unless the contrary is proved. 46 V., c. 12, s. 196.

232. If, in any prosecution, information or suit respecting any seizure made under this Act or any law relating to the Customs, decision or judgment is given for the claimant, and if the judge or court before whom the cause has been tried or brought, certifies that there was probable cause for seizure, the claimant shall not be entitled to any costs of suit, nor shall the person who made such seizure be liable to any action, indictment, or other suit or prosecution on account of such seizure; and if any action, indictment, or other suit or prosecution is brought against any person on account of his making or being concerned in the making of such seizure, the plaintiff, if probable cause is certified as aforesaid, shall not be entitled to more than twenty cents damages or to any costs, nor shall the defendant in such prosecution in such case be fined more than ten cents. 46 V., c. 12, s. 216.

Costs and damages for seizure set aside, to be limited on certificate of probable cause.

233. If any prosecution or suit is brought for any penalty or forfeiture under this Act or any other law relating to the Customs or to trade or navigation, and any question arises whether the duties have been paid on any goods, or whether the same have been lawfully imported, or lawfully laden or exported, or whether any other thing has been done by which such penalty or forfeiture would be avoided,—the burden of proof shall lie on the owner or claimant of the goods, and not on the person bringing such prosecution or suit. 46 V., c. 12, s. 197.

Burden of proof that duties have been paid to be on the owner or claimant.

234. All vessels, vehicles, goods and other things seized as forfeited under this Act or any other law relating to Customs, or to trade or navigation, shall be placed in the custody of the nearest collector, and secured by him, or if seized by any officer in charge of a revenue vessel, shall be retained on board thereof until her arrival in port, and shall be deemed and taken to be condemned, without suit, information or proceedings of any kind, and may be sold, unless the person in whose possession or custody they were seized, or the owner thereof or some person on his behalf, within one month from the day of seizure gives notice in writing to the seizing officer or other chief officer of the Customs at the nearest port, that he claims or intends to claim the same; and the burden of proof that such notice was duly given in any case shall lie upon the person so claiming. 46 V., c. 12, s. 198.

Things seized as forfeited to be deemed condemned, if not claimed within a certain time.

Notice of claim.

Want of notice not to stay proceedings.

235. Proceedings for the condemnation of the things seized may be commenced and prosecuted to judgment, even if no such notice has been given. 46 V., c. 12, s. 199.

Notice of proceedings to be posted up, and where.

236. So soon as proceedings have been commenced in any court, for the condemnation of anything seized, notice thereof shall be posted up in the office of the clerk, registrar or prothonotary of the court, and also in the office of the collector at the port at which the thing has been seized as aforesaid; and if the thing seized is a vessel, such notice shall also be posted on a mast thereof, or on some other conspicuous place on board. 46 V., c. 12, s. 200.

Judgment by default for want of claim or bond.

237. If within one month after the last posting of the notice, under the next preceding section no claim to the thing seized is duly made, and security for costs is not given in accordance with the provisions of this Act and of the practice of the court, judgment by default for the condemnation of the thing seized may, with the leave of the court or a judge thereof, be entered. 46 V., c. 12, s. 203.

As to claims made after proceedings have been commenced.

238. Every person who desires to claim any thing seized after proceedings for condemnation thereof have been commenced shall file his claim in the office of the clerk, registrar or prothonotary of the court: and such claim shall state the name, residence and occupation or calling of the person making it, and shall be accompanied by an affidavit of the claimant or his agent having a knowledge of the facts, setting forth the nature of the claimant's title to the thing seized. 46 V., c. 12, s. 201.

Bond for payment of costs required.

239. Before any such claim can be filed the claimant shall give security to the satisfaction of the court or a judge thereof by bond in a penal sum of not less than two hundred dollars, or by a deposit of money not less than that sum, for the payment of the costs of the proceedings for condemnation. 46 V., c. 12, s. 202.

Limitation of time for bringing suits for penalties, &c.

240. All prosecutions or suits for the recovery or enforcement of any of the penalties or forfeitures imposed by this Act, or any other law relating to the Customs, may be commenced at any time within three years after the cause of prosecution or suit arose, but not afterwards; and the vessels, vehicles, goods or things forfeited shall be liable to condemnation during the same period. 46 V., c. 12, s. 207.

Appeal from convictions before justices of peace

241. An appeal shall lie from a conviction by any magistrate, judge, justice or justices of the peace under this Act, in the manner provided by law from convictions in cases of summary conviction, in that Province in which the conviction was had, on the appellant furnishing security by bond or recognizance with two sureties to the satisfaction of such

magistrate, judge, justice or justices of the peace, to abide the event of such appeal. 46 V., c. 12, s. 208.

242. An appeal shall also lie from the Exchequer Court of Canada, the superior courts and county courts respectively, in cases where the amount of the penalty or forfeiture is such that if a judgment for a like amount was given in any civil case, an appeal would lie; and such appeal shall be allowed and prosecuted on like conditions and subject to like provisions as other appeals from the same court, in matters of like amount; and an appeal shall lie from the Circuit Court to the Court of Queen's Bench in the Province of Quebec, to be allowed and prosecuted in like manner and on like conditions as appeals from the Superior Court in that Province. 46 V., c. 12, s. 209.

And from other courts.

243. If the appeal is brought by Her Majesty's Attorney General, or a collector or officer of the Customs, it shall not be necessary for him to give any security on such appeal. 46 V., c. 12, s. 210.

If brought by the Crown.

244. In any case in which proceedings have been instituted in any court against any vessel, vehicle, goods or thing, for the recovery or enforcement of any penalty or forfeiture under this Act or any law relating to the Customs, trade or navigation, the execution of any decision or judgment for restoring the thing to the claimant thereof shall not be suspended by reason of any appeal from such decision or judgment, if the claimant gives sufficient security, approved of by the court or a judge thereof, to render and deliver the thing in question or the full value thereof, to the appellant, in case the decision or judgment so appealed from is reversed. 46 V., c. 12, s. 211.

Restoration of goods, &c., not prevented by appeal if security is given.

POWERS OF THE GOVERNOR IN COUNCIL.

245. The Governor in Council may, from time to time, and in the manner hereinafter provided, in addition to the other purposes and matters in this Act mentioned, make regulations for or relating to the following purposes and matters:—

Governor in Council may make regulations for—

(a.) For the warehousing and bonding of such cattle and swine as may be slaughtered and cured in bond, and of such wheat, maize and other grain as may be ground and packed in bond, and of such sugar as may be refined in bond;

Slaughtering cattle, and grinding grain in bond.

(b.) For the branding and marking of all duty-paid goods and goods entered for exportation, and for regulating and declaring what allowances shall be made for tare on the gross weight of goods;

Marking duty paid goods; and as to tare.

(c.) For declaring what shall be coasting trade, or inland navigation, respectively, and how the same shall be regulated in any case or class of cases, and for relaxing or dispensing with any of the requirements of this Act, as to vessels en-

Coasting trade and inland navigation.

- gaged in such trade, on any conditions which he sees fit to impose ;
- Ports of entry (d.) For appointing places and ports of entry, and warehousing and bonding ports,—and respecting goods and vessels passing the canals,—and respecting the horses, vehicles and personal baggage of travellers coming into Canada or returning thereto, or passing through any portion thereof ;
- Passing through Canada. Regulating or restricting importation of spirits, &c. (e.) For regulating or restricting the importation of spirits, wine and malt liquors, or other goods which require to be weighed, gauged or tested for strength or quantity, and limiting or prescribing the kind and capacity of packages in which the same may be imported, and the conveyances by which, and the ports or places at which the same may be landed and entered ;
- Exempting produce of grain or timber grown in Canada, &c., from duty in certain cases (f.) For exempting from duty any flour or meal or other produce of any wheat or grain grown in and taken out of Canada into the United States to be ground, and brought back into Canada within two days after such wheat or grain has been so taken out to be ground, or any boards, planks or scantling the produce of any logs or timber grown in and taken out of Canada into the United States to be sawn, and brought back into Canada within seven days after such logs or timber were so taken out to be sawn ;
- Respecting claims to such exemption. (g.) For regulating the quantity to be so taken out or brought in at any one time by any person, and the mode in which the claim to exemption shall be established and proved ;
- Warehousing. (h.) For authorizing the appointment of warehouses, and regulating the security which shall be taken from warehouse keepers, the forms and conditions subject to which goods are to be warehoused, the mode of keeping goods in warehouse, and of removing such goods therefrom, and the amount of warehouse rent or license fees ;
- Forms, rents, &c. Extending time for clearing warehoused goods. (i.) For extending either by general regulation or by special order, the time for clearing warehoused goods, and for the transport of goods in bond from one port or place to another ;
- Transfers in bond. (j.) For regulating the form in which transfers of goods in warehouse or bond from one person to another shall be entered ;
- Exemption of goods from Newfoundland. (k.) For exempting goods from duty as being the growth, produce or manufacture of Newfoundland, if such exemption is provided for by any Act relating to Customs, and for regulating the mode of proving such exemption ;
- Transferring certain materials for Canadian manufactures to the free list, &c. (l.) For transferring to the list of goods which may be imported into Canada free of duty, any or all articles (whether natural products or products of manufactures) used as materials in Canadian manufactures ; and any such materials transferred to the free list by such Order in Council, shall be free of duty of Customs for the time therein appointed for that purpose ;
- Drawback on articles used (m.) For granting a drawback of the whole or part of the duty paid on articles which have been used in Canadian

manufactures, or for granting a certain specific sum in lieu of any such drawback ;

(n.) For prescribing the manner in which the proceeds of penalties and forfeitures shall be distributed ;

(o.) For authorizing the taking of such bonds and security as he deems advisable for the performance of any condition on which any remission or partial remission of duty, indulgence or permission is granted to any person, or any other condition made with such person, in any matter relating to the Customs or to trade or navigation ; and such bonds, and all bonds taken with the sanction of the Minister of Customs expressed either by general regulation or by special order, shall be valid in law, and upon breach of any of the conditions thereof, may be sued and proceeded upon in like manner as any other bond entered into under this Act or any other law relating to the Customs ;

(p.) For any other purpose for which by this Act, or any other law relating to the Customs or to trade or navigation, the Governor in Council is empowered to make orders or regulations :

And the Governor in Council may, if he deems it expedient, make general regulations in any matter in which he may make a special order ; and any such general regulation shall apply to each particular case within the extent and meaning thereof, as fully and effectually as if the same referred directly to each particular case within the intent and meaning thereof, and the officers, functionaries and persons had been specially named therein. 46 V., c. 12, s. 230.

246. The Governor in Council may, from time to time, and as occasion requires, make such regulations as to him seem meet, with respect to goods conveyed directly through the Canadian canals or otherwise by land or inland navigation, from one part of the frontier line between Canada and the United States to another, without any intention of unlading such goods in Canada, and with respect to travellers in like manner, passing through a portion of Canada, or coming into it with their carriages, horses or other cattle drawing the same, and personal baggage, with the intention of forthwith returning to the United States, or having gone to the United States from Canada, returning to it with such articles, and may direct under what circumstances duty shall or shall not be paid, and on what conditions it shall be remitted or returned ; and he may cause such bonds or other security to be given, or such precautions to be taken at the expense of the importer, whether by placing officers of the Customs on board any such vessel or carriage or otherwise, as to him seem meet ; and on the refusal of the importer to comply with the regulations so made, the duty on the goods so imported shall forthwith become payable ; and all and every animal, vehicle or goods of any kind, brought into Canada by any traveller, exempted

in manufac-
tures.

Distribution
of penalties.

Taking bond
for security of
performance
of conditions
of remission,
&c.

Such bonds to
be valid.

Other
matters.

General regu-
lations in
cases where
he may make
special.

Regulations
as to passing
of goods
through Can-
adian canals,
&c.

Forfeiture for
contraven-
tion.

from duty under such regulations or otherwise, shall, if sold or offered for sale in Canada, and if the duties thereon have not been previously paid, be held to have been illegally imported and shall be seized and forfeited, together with the harness or tackle employed therewith or in the conveyance thereof. 46 V., c. 12, s. 231.

Drawback on duty-paid goods exported.

247. The Governor in Council may, under regulations made for that purpose, allow, on the exportation of goods which have been imported into Canada, and on which a duty of Customs has been paid, a drawback equal to the duty so paid with such deduction therefrom as is provided in such regulations: and in cases mentioned in such regulations, and subject to such provisions as are therein made, such drawback or a specific sum in lieu thereof may be allowed on duty-paid goods manufactured or wrought in Canada into goods exported therefrom as aforesaid; and the period within which such drawback may be allowed, after the time the duty was paid shall be limited in such regulations. 46 V., c. 12, s. 242.

Powers of Governor in Council as to conditions on which any article may be imported.

248. The Governor in Council may interpret, limit or extend the meaning of the conditions upon which it is provided in any Act imposing duties of Customs, that any article may be imported free of duty for special purposes, or for particular objects or interests; and may make regulations either for declaring or defining what cases shall come within the conditions of such Act, and to what objects or interests of an analogous nature the same shall apply and extend, and may direct the payment or non-payment of duty in any such case, or the remission thereof by way of drawback if such duty has been paid. 46 V., c. 12, s. 78.

Governor in Council may make regulations for the appointment of sufferance wharves and warehouses.

249. The Governor in Council may make such regulations as are considered advisable, for the appointment of sufferance wharves and warehouses, at which goods arriving by vessels in transit to other ports or confined to certain days of departure, may be landed and afterward stored before entry—such vessels being duly reported to the Custom House, and the collector's warrant for the purpose being obtained—if such landing is effected between sunrise and sunset, on a day not being Sunday or a statutory holiday, and if the goods on being so landed, are immediately stored in some such approved sufferance warehouse; and such goods shall be thereafter dealt with by the proper officer of Customs as prescribed by law: but nothing in this section shall affect any contract, express or implied, between the master or owner of any such vessel and the owner, shipper or consignee of any such goods as aforesaid, or the rights or liability of any person under such contract:

Proviso.

Sufferance warehouses

2. The Governor in Council may make similar regulations for the appointment of sufferance warehouses, in which

goods arriving by railway may be stored before entry,—such goods having been duly reported to the collector or proper officer of Customs. 46 V., c. 12, s. 32. for goods by railway.

250. The Governor in Council may, from time to time, prohibit the exportation or the carrying coastwise or by inland navigation, of the following goods: arms, ammunition and gunpowder, military and naval stores, and any articles which the Governor in Council deems capable of being converted into or made useful in increasing the quantity of military or naval stores, provisions or any sort of victual which may be used as food by man; and if any goods so prohibited are exported, carried coastwise or by inland navigation, or waterborne or laden in any railway carriage or other vehicle, for the purpose of being so exported or carried, they shall be seized and forfeited. 46 V., c. 12, s. 233. Governor in Council may prohibit the exportation, &c., of certain goods.

251. Any oath or declaration which the Governor in Council deems necessary to protect the revenue against fraud may, in any regulation made by him under this Act, be prescribed, and any person or officer may be authorized to administer the same; and by any such regulation a declaration may be substituted for an oath in any case in which an oath is required by this Act. 46 V., c. 12, s. 232. Oath or declaration may be required by regulations.

252. The Governor in Council may prescribe the forms of oaths required under this Act; such forms may, from time to time, be repealed or amended, and the forms of oaths authorized by statute or by the Governor in Council at the time of the coming into force of this Act shall continue to be the authorized forms until altered or dispensed with by the Governor in Council. 46 V., c. 12, s. 91. Governor in Council may prescribe and alter forms of oaths.

253. All general regulations made by the Governor in Council under this Act, shall have effect from and after the day on which the same are published in the *Canada Gazette*, or from and after such later day as is appointed for the purpose in such regulations, and during such time as is therein expressed, or if no time is expressed for that purpose, then until the same are revoked or altered. 46 V., c. 12, s. 236, *part*. Publication of regulations. Revocation.

ANNUAL REPORT.

254. The Minister of Customs shall annually make to the Governor General, to be laid before Parliament within fifteen days after the meeting thereof, a report and statement of the transactions and affairs of the department during the year then next preceding. 31 V., c. 43, s. 5. Annual report by Minister.



CHAPTER 33.

An Act respecting the Duties of Customs.

A. D. 1886.

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

1. In this Act the expression “goods” has the meaning assigned to it in “*The Customs Act*,” and any power conferred upon the Governor in Council by the Act last cited to transfer dutiable goods to the list of goods free of duty is not hereby abrogated or impaired. 42 V., c. 15, s. 1, *part*.

Interpretation.

Power of Governor in Council not impaired.

2. In lieu and instead of all other duties of Customs upon goods imported into Canada, there shall be raised, levied, collected and paid upon the goods enumerated in Schedule A to this Act, or referred to as not enumerated therein but charged with duty, imported into Canada or taken out of warehouse for consumption therein, the several duties of Customs set forth and described in the said Schedule A and set opposite to each respectively, or charged on them as not enumerated, subject to the provisions hereinafter made. 42 V., c. 15, s. 1, *part*.

Duties in Schedule A imposed.

3. Fish and other products of the fisheries shall be chargeable with and there shall be collected thereon the rates of duty set forth and described in Schedule B to this Act and set opposite to each of them respectively: Provided, that the whole or part of the duties imposed by this section may be remitted as respects either the United States or the Island of Newfoundland, or both, upon proclamation of the Governor in Council, which may be issued whenever it appears to his satisfaction that the Governments of the United States and the Island of Newfoundland, or of either of them, have made changes in their tariffs of duties imposed upon articles imported from Canada, in reduction or repeal of the duties in force in the said countries respectively. 48-49 V., c. 61, s. 4, *part*.

Duties on fish.

Proviso: for remission of duties by proclamation in certain cases.

4. The goods enumerated in Schedule C may, subject to the provisions and conditions therein mentioned, be imported into Canada or taken out of warehouse for consumption therein, without payment of any duty of Customs thereon. 42 V., c. 15, s. 2.

Goods free of duty.

Prohibited goods

5. The goods enumerated in Schedule D shall not be imported into Canada, under the penalty therein mentioned, and if imported shall be forfeited and forthwith destroyed:

Importation of articles of prison manufacture prohibited.

2. Goods manufactured or produced, wholly or in part, by prison labor, or which have been made within or in connection with any prison, gaol or penitentiary, shall not be imported into Canada, under a penalty of two hundred dollars, and if imported such goods and the parcels or packages in which they are contained shall be forfeited.

Importation of substitutes for butter prohibited.

3. No oleomargarine, butterine or other similar substitute for butter shall be imported into Canada under a penalty of not more than four hundred and not less than two hundred dollars for each offence, and, if imported, the same and the packages within which it is contained shall be forfeited. 42 V., c. 15, s. 3;—48-49 V., c. 61, s. 13;—49 V., c. 37, s. 5, *part.*

Export duties

6. There shall be raised, levied, collected and paid, upon the goods enumerated in Schedule E to this Act, the export duties mentioned in the said Schedule E, and such duty shall be paid to the proper officer of Customs, at the intended port of exportation; the export of such goods without payment of the said duty is unlawful, and the collector or any officer of Customs shall prevent the exportation of such goods until such duties thereon are paid; and if any attempt is made to export such goods contrary to the provisions of this Act, they shall be liable to seizure and shall be forfeited and dealt with as other goods forfeited for breach of the Customs laws. 31 V., c. 44, s. 11.

Penalty for attempting to export without paying duty.

Export of game prohibited

7. The export of deer, wild turkeys, quail, partridge, prairie fowl and woodcock in the carcass or parts thereof, is hereby declared unlawful and prohibited; and any person exporting or attempting to export any such article shall, for each such offence, incur a penalty of one hundred dollars, and the article so attempted to be exported shall be forfeited, and may, on reasonable cause of suspicion of intention to export the same, be seized by any officer of the Customs, and, if such intention is proved, shall be dealt with as for breach of the Customs laws. 46 V., c. 13, s. 9;—48-49 V., c. 61, s. 12.

As to packages containing goods paying *ad valorem* duty.

8. The value of all bottles, flasks, jars, demijohns, carboys, casks, hogsheads, pipes, barrels, and all other vessels or packages, manufactured of tin, iron, lead, zinc, glass or any other material, and capable of holding liquids,—crates, barrels and other packages containing glass, china, crockery or earthenware,—and all packages in which goods are commonly placed for home consumption, including cases in which bottled spirits, wines or malt liquors are contained,—and every package, being the first receptacle or covering inclosing goods for purpose of sale, shall, in all cases not otherwise

provided for, in which they contain goods subject to an *ad valorem* duty or a specific and *ad valorem* duty, be taken and held to be a part of the fair market value of such goods for duty, and shall be charged with the same rate of *ad valorem* duty as is to be levied and collected on the goods they contain; and when they contain goods subject to specific duty only, such packages shall be charged with a duty of Customs of twenty per centum *ad valorem*, to be computed upon their original cost or value; and all or any of the above packages described as capable of holding liquids, when containing goods exempt from duty under this Act, shall be charged with a duty of twenty per centum *ad valorem*; but all packages not hereinbefore specified, and not herein specially charged with or declared liable to duty under regulations, and being the usual and ordinary packages in which goods are packed for exportation only, according to the general usage and custom of trade, shall be free of duty. 42 V., c. 15, s. 4; —44 V., c. 10, s. 1.

As to packages containing goods paying specific duty only, or free goods.

Other packages free.

9. Any or all of the following things, that is to say, animals of all kinds, green fruit, hay, straw, bran, seeds of all kinds, vegetables (including potatoes and other roots), plants, trees and shrubs, coal and coke, salt, hops, wheat, pease and beans, barley, rye, oats, Indian corn, buckwheat and all other grain, flour of wheat and flour of rye, Indian meal and oatmeal, and flour or meal of any other grain, butter, cheese, fish (salted or smoked), lard, tallow, meats (fresh, salted or smoked), and lumber may be imported into Canada free of duty, or at a less rate of duty than is provided by this Act, upon proclamation of the Governor in Council, which may be issued whenever it appears to his satisfaction that similar articles from Canada may be imported into the United States free of duty, or at a rate of duty not exceeding that payable on the same under such proclamation when imported into Canada. 42 V., c. 15, s. 6.

Certain articles to be free of duty in Canada, when free in the United States.

10. If, at any time, any greater duty of Customs is payable in the United States of America on tea or coffee imported from Canada than on tea or coffee imported from any other country, the Governor in Council may impose on tea or coffee imported into Canada from the United States an additional duty of Customs equal to the duty payable in the United States on tea or coffee imported from Canada: Provided, that tea or coffee imported into Canada from any country other than the United States, but passing in bond through the United States, shall be taken and rated as a direct importation from the country in which the tea or coffee was purchased. 42 V., c. 15, s. 7.

As to duty on tea and coffee in relation to the United States.

Proviso: importation in bond.

11. Whenever it appears to the satisfaction of the Governor in Council that the Governments of France and Spain, or either of them, have made changes in their tariff of duties imposed upon articles imported from Canada, in reduction or

Remission of duties on wines in certain cases.

repeal of the duties now in force in the said countries, he may, by proclamation, order the whole or part of the duty of thirty per centum *ad valorem* imposed by this Act upon wines imported into Canada to be remitted as respects importations from the said countries, or from that one of the said countries by the Government of which such change in its tariff of duties has been made as aforesaid. 42 V., c. 15, s. 12.

As to medicinal preparations.

12. All medicinal preparations whether chemical or otherwise, usually imported with the name of the manufacturer, shall have the true name of such manufacturer and the place where they are prepared permanently and legibly affixed to each parcel by stamp, label or otherwise; and all medicinal preparations imported without such names so affixed shall be forfeited. 46 V., c. 13, s. 6.

SCHEDULE A.

GOODS SUBJECT TO DUTIES.

1. Acid, Sulphuric, half a cent per pound.	½c. p. lb.
2. Acid, Acetic, twenty-five cents per Imperial gallon and twenty per cent. <i>ad valorem</i>	25c. p. I. g. and 20 p. ct.
3. Acid, Muriatic and Nitric, twenty per cent. <i>ad valorem</i>	20 p. ct.
4. Acid, Sulphuric and Nitric combined, and all mixed acids, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
5. But carboys and demijohns containing acids, vinegar or other liquids shall be subject to the same duty as if empty.	
6. Agates, Sapphires, Emeralds, Garnets and Opals, polished, but not set or otherwise manufactured, ten per cent. <i>ad valorem</i>	10 p. ct.

AGRICULTURAL IMPLEMENTS, VIZ.:—

7. Mowing machines, self-binding harvesters, harvesters without binders, binding attachments, reapers, sulky and walking ploughs and parts of the same, harrows, horse and hand hay rakes, garden rakes of any material, grain seed drills, spades and shovels, hoes, hay, straw, manure, spading and mining forks and all similar articles and parts thereof, thirty-five per cent. <i>ad valorem</i>	35 p. ct.
8 Scythes, two dollars and forty cents per dozen.....	\$2.40 p. dozen.

9. Ale, beer and porter, when imported in bottles (six quart or twelve pint bottles to be held to contain one Imperial gallon) eighteen cents per Imperial gallon	18c. p. I. g.
10. Ale, beer and porter, when imported in casks or otherwise than in bottles, ten cents per Imperial gallon	10c. p. I. g. 5c. per lb.
11. Almonds, shelled, five cents per pound..	
12. Almonds, not shelled, three cents per pound	3c. per lb.
13. Aniline dyes, not otherwise provided for, ten per cent. <i>ad valorem</i>	10 p. ct.
14. Animals, living, of all kinds, not elsewhere specified, twenty per cent. <i>ad valorem</i>	20 p. ct.
15. Artificial flowers and feathers, not elsewhere specified, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
16. Asbestos in any form other than crude, and all manufactures thereof, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
17. Axle grease and similar compounds, one cent per lb.....	1c. p. lb.
18. Rabbit metal, ten per cent. <i>ad valorem</i> ...	10 p. ct.
19. Bagatelle tables or boards, with cues and balls, thirty-five per cent. <i>ad valorem</i> ...	35 p. ct.
20. Bags, containing fine salt, from all countries, twenty-five per cent. <i>ad valorem</i> ..	25 p. ct.
21. Baking powder, six cents per pound,—the weight of the package to be included in the weight for duty.....	6c. per lb.
22. Barrels containing petroleum or its products, or any mixtures of which petroleum is a part, forty cents each.....	40c. each.
23. Belts and trusses of all kinds, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
24. Bells of any description, except for churches, thirty per cent. <i>ad valorem</i> ...	30 p. ct.
25. Billiard tables, without pockets, four feet six inches by nine feet or under, twenty-two dollars and fifty cents each.....	\$22.50
26. On those of over four feet six inches by nine feet, twenty-five dollars each.....	\$25
27. On billiard tables with pockets, five feet six inches by eleven feet or under, thirty-five dollars each.....	\$35
28. And on all over five feet six inches by eleven feet, forty dollars each.....	\$40
29. And in addition thereto fifteen per cent. <i>ad valorem</i> ; (each table to include twelve cues, and one set of four balls,	

with markers, cloths and cases, but no pool balls).....	and 15 p. ct.
30. Bird Cages of all kinds, thirty per cent. <i>ad valorem</i>	30 p. ct.
31. Blacking, shoe, and shoemakers' ink, harness and leather dressing, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
32. Blueing—Laundry blueing of all kinds, twenty-five per cent. <i>ad valorem</i>	25 p. ct.

BOOKS, &c. :—

33. Books, printed periodicals and pamphlets, not elsewhere specified, not being foreign reprints of British copyright works nor blank account books, nor copy books, nor books to be written or drawn upon, nor Bibles, prayer-books, psalm and hymn-books, fifteen per cent. <i>ad valorem</i>	15 p. ct.
34. British copyright works, reprints of, fifteen per cent. <i>ad valorem</i> , and in addition thereto twelve and a-half per cent. <i>ad valorem</i>	15 p. ct. and 12½ p. ct.
35. Bibles, prayer-books, psalm and hymn-books, five per cent. <i>ad valorem</i>	5 p. ct.
36. Blank books, viz. : Account books, copy books, or books to be drawn or written upon, thirty per cent. <i>ad valorem</i>	30 p. ct.
37. Advertising pictures or pictorial show cards or illustrated advertising periodicals and tailors' and mantle-makers' fashion plates, six cents per lb. and twenty per cent. <i>ad valorem</i> ...	6c. per lb. & 20 p. ct.
38. Printed, lithographed, or copper or steel plate bill-heads, cheques, envelopes, and miniature newspapers, receipts, drafts, cards, and other commercial blank forms, and other printed matter not elsewhere specified, thirty per cent. <i>ad valorem</i>	30 p. ct.
39. Advertising pamphlets, one dollar per hundred.....	\$1 p. 100.
40. Maps and charts, twenty per cent. <i>ad valorem</i>	20 p. ct.
41. Printed music, bound or in sheets, ten cents per pound.....	10c. p. lb.
42. Playing cards, six cents per pack.....	6c. p. pk.
43. Valentines, Christmas and New Years' chromo or embossed cards, and all others not being business or advertising cards, twenty-five per cent. <i>ad valorem</i>	25 p. ct.

44. Labels for fruit, vegetables, meat, fish, confectionery and other goods, also tickets, posters, advertising bills and folders, ten cents per pound, and twenty per cent. <i>ad valorem</i>	10c. p. lb. and 20 p. ct.
45. Bookbinders' tools and implements, including ruling machines and binders' cloth, ten per cent. <i>ad valorem</i>	10 p. ct.
46. Boot, shoe and stay laces of any material, thirty per cent. <i>ad valorem</i>	30 p. ct.
47. Boxes, cases and writing desks, fancy and ornamental, and fancy manufactures of bone, shell, horn and ivory, also dolls and toys of all kinds and materials, ornaments of alabaster, spar, terra cotta or composition, statuettes, beads and bead ornaments, thirty per cent. <i>ad valorem</i>	30 p. ct.
48. Brass, in bar and bolts, seamless drawn tubing and plain and fancy tubing, ten per cent. <i>ad valorem</i>	10 p. ct.
49. Brass in strips for printers' rules, not finished, fifteen per cent. <i>ad valorem</i> ...	15 p. ct.
50. Brass, manufactures of, not elsewhere specified, thirty per cent. <i>ad valorem</i> ...	30 p. ct.
51. Braces or suspenders, thirty per cent. <i>ad valorem</i>	30 p. ct.

BREADSTUFFS, VIZ. :—

52. Breadstuffs, grain and flour and meal of all kinds, when damaged by water <i>in transitu</i> , twenty per cent. <i>ad valorem</i> upon the appraised value,—such appraised value to be ascertained as provided by sections 8, 71, 72, 73, 74, 75 and 76 of " <i>The Customs Act</i> ".	20 p. ct.
53. Barley, fifteen cents per bushel.....	15c. p. bsh.
54. Buckwheat, ten cents per bushel.....	10c. p. bsh.
55. Indian corn, seven and a-half cents per bushel.....	7½c. p. bsh.
56. Oats, ten cents per bushel.....	10c. p. bsh.
57. Rice, one cent per pound.....	1c. p. lb.
58. Rice, uncleaned, unhulled or paddy, when imported direct from the country of growth, seventeen and a-half per cent. <i>ad valorem</i>	17½ p. ct.
59. Rye, ten cents per bushel	10c. p. bsh.
60. Wheat, fifteen cents per bushel	15c. p. bsh.
61. Pease, ten cents per bushel.....	10c. p. bsh.
62. Beans, fifteen cents per bushel.....	15c. p. bsh.

63. Buckwheat meal or flour, one-fourth of one cent per pound.....	¼c. p. lb.
64. Cornmeal, forty cents per barrel.....	40c. p. brl.
65. Oatmeal, one-half cent per pound.....	½c. p. lb.
66. Rye flour, fifty cents per barrel.....	50c. p. brl.
67. Wheat flour, fifty cents per barrel.....	50c. p. brl.
68. Rice and sago flour, two cents per pound.	2c. p. lb.
69. Brick for building, twenty per cent. <i>ad valorem</i>	20 p. ct.
70. Britannia metal, manufactures of, not plated, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
71. Butter, four cents per pound.....	4c. p. lb.
72. Buttons of all kinds, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
73. Button covers, crozier, ten per cent. <i>ad valorem</i>	10 p. ct.
74. Candles, tallow, two cents per pound.....	2c. p. lb.
75. Candles, paraffine wax, five cents per pound	5c. p. lb.
76. Candles, all other, including sperm, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
77. Cane or rattan, split or otherwise manufactured, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
78. Cans or packages made of tin or other material, containing fish of any kind admitted free of duty under any existing law or treaty, not exceeding one quart in contents, one cent and a-half on each can or package; and when exceeding one quart, an additional duty of one cent and a-half for each additional quart or fractional part thereof.	1½c. p. qt.
79. Canvas of hemp or flax, and sail twine, when to be used for boats' and ships' sails, five per cent. <i>ad valorem</i>	5 p. ct.
80. Caplins, unfinished Leghorn hats, twenty per cent. <i>ad valorem</i>	20 p. ct.
81. Carpeting, matting and mats of hemp, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
82. Cases for jewels and watches, and other like articles of any material, thirty per cent. <i>ad valorem</i>	30 p. ct.

CARRIAGES:—

83. Buggies of all kinds, farm wagons, farm, railway or freight carts, pleasure carts or gigs and similar vehicles, and all other carriages not otherwise enumerated, thirty-five per cent. <i>ad valorem</i> ...	35 p. ct.
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84. Railway cars, sleighs, cutters, wheelbarrows and hand carts, thirty per cent. <i>ad valorem</i>	30 p. ct.
85. Childrens' carriages of all kinds, thirty-five per cent. <i>ad valorem</i>	35 p. ct.
86. Celluloid, moulded into sizes for handles of knives and forks, not bored nor otherwise manufactured, ten per cent. <i>ad valorem</i>	10 p. ct.
87. Cement, raw, or in stone from the quarry, one dollar per ton of thirteen cubic feet (see stone).....	\$1 p. ton.
88. Cement, burnt and unground, seven and a-half cents per one hundred pounds..	7½c. p. 100 lbs.
89. Cement, hydraulic, or water lime, ground, including barrels, forty cents per barrel.....	40c. p. brl.
90. Cement, in bulk or in bags, nine cents per bushel.....	9c. p. bsh.
91. Cement, Portland or Roman, shall be classed with all other cement at specific rates as above provided.	
92. Cheese, three cents per pound.....	3c. p. lb.
93. Chicory, raw or green, three cents per pound.....	3c. p. lb.
94. Chicory, or other root or vegetable used as a substitute for coffee, kiln dried, roasted or ground, four cents per pound	4c. p. lb.
95. China and porcelain ware, thirty per cent. <i>ad valorem</i>	30 p. ct.
96. Cider, clarified or refined, ten cents per Imperial gallon.....	10c. p. I. g.
97. Cider not clarified or refined, five cents per Imperial gallon.....	5c. p. I. g.
98. Clocks, and parts thereof, except springs, thirty-five per cent. <i>ad valorem</i>	35 p. ct.
99. Clock springs, ten per cent. <i>ad valorem</i> ..	10 p. ct.
100. Clothing of any material, including horse clothing shaped, not otherwise provided for, thirty per cent. <i>ad valorem</i> ...	30 p. ct.
101. Coal, anthracite, fifty cents per ton of 2,000 pounds.....	50c. p. ton.
102. Coal, bituminous, sixty cents per ton of 2,000 pounds.....	60c. p. ton.
103. Coal dust, twenty per cent. <i>ad valorem</i> ..	20 p. ct.
104. Coal tar and coal pitch, ten per cent. <i>ad valorem</i>	10 p. ct.
105. Cocoa matting, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
106. Cocoa nuts, one dollar per hundred.....	\$1 p. 100.

107. Cocoa nuts, when imported from the place of growth by vessel direct to a Canadian port, fifty cents per hundred	50c. p. 100.
108. Coca nut, desiccated, sweetened or not, eight cents per pound	8c. p. lb.
109. Cocoa paste and chocolate, not sweetened, twenty per cent. <i>ad valorem</i>	20 p. ct.
110. Cocoa paste and other preparations of cocoa containing sugar, one cent. per pound and twenty-five per cent. <i>ad valorem</i>	1c. p. lb. and 25 p. ct.
111. Coffee, green, from the United States, ten per cent. <i>ad valorem</i>	10 p. ct.
112. Coffee, roasted or ground, from the United States, three cents per pound and ten per cent. <i>ad valorem</i>	3c. p. lb. and 10 p. ct.
113. Coffee, roasted or ground, and all imitations of and substitutes for, not elsewhere specified, three cents per pound.	3c. p. lb.
114. Coke, fifty cents per ton of 2,000 pounds	50c. per ton.
115. Colors, dry, viz.: blue-black, Chinese blue, Prussian blue and raw umber. In pulp, viz : carmine, cologne and rose lakes, scarlet and maroon, satin and fine-washed white, twenty per cent <i>ad valorem</i>	20 p. ct.
116. Combs, for dress and toilet, of all kinds, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
117. Copper, old and scrap, in pigs, bars, rods, bolts, ingots and sheathing not planished or coated, and copper seamless drawn tubing, ten per cent. <i>ad valorem</i>	10 p. ct.
118. Copper rivets and burrs, and all manufactures of copper not elsewhere specified, thirty per cent. <i>ad valorem</i>	30 p. ct.
119. Cordage of all kinds, one and a quarter cent per pound and ten per cent. <i>ad valorem</i>	1¼c. p. lb. and 10 p. ct.
120. Corks, and other manufactures of cork wood or cork bark, twenty per cent. <i>ad valorem</i>	20 p. ct.
COTTON, MANUFACTURES OF, VIZ. :—	
121. Bed comforters or cotton bed quilts, not including woven quilts or counterpanes, twenty-seven and a-half per cent. <i>ad valorem</i>	27½ p. ct.
122. Grey or unbleached and bleached cotton, sheetings, drills, ducks, cotton or canton flannels, not stained, painted or printed, one cent per square yard, and fifteen per cent. <i>ad valorem</i>	1c. p. s. yd. and 15 p. ct.

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| 123. All cotton denims, drillings, bedtickings, gingham, plaids, cotton or canton flannels, ducks and drills, dyed or colored, checked and striped shirtings, cottonades, Kentucky jeans, pantaloons, stuffs, and goods of like description, two cents per square yard, and fifteen per cent. <i>ad valorem</i> | 2c. p. s. yd.
and 15 p. ct. |
| 124. White cotton jeans and coutilles, twenty per cent. <i>ad valorem</i> | 20 p. ct. |
| 125. Cottons over thirty-six inches wide, when imported by manufacturers of window shades for use in their factories, exclusively for the manufacture of oiled window shades, fifteen per cent. <i>ad valorem</i> | 15 p. ct. |
| 126. Cotton, forty-two inches wide and over, when imported by manufacturers of enamelled cloth, for use in their factories, fifteen per cent. <i>ad valorem</i> | 15 p. ct. |
| 127. Cotton wadding, batting, batts and warps, carpet warps, knitting yarn, hosiery yarn and other cotton yarns under number forty, not bleached, dyed or colored, two cents per pound, and fifteen per cent. <i>ad valorem</i> | 2c. p. lb. and
15 p. ct. |
| 128. And if bleached, dyed or colored, three cents per pound, and fifteen per cent. <i>ad valorem</i> | 3c. p. lb. and
15 p. ct. |
| 129. Cotton warp, No. 60 and finer, fifteen per cent. <i>ad valorem</i> | 15 p. ct. |
| 130. Cotton warp, on beams, one cent per yard and fifteen per cent. <i>ad valorem</i> .. | 1c. p. yd. and
15 p. ct. |
| 131. Cotton seamless bags, two cents per lb. and fifteen per cent. <i>ad valorem</i> | 2c. p. lb. and
15 p. ct. |
| 132. Cotton shirts and drawers, woven or made on frames and all cotton hosiery and knitted cloth, thirty per cent. <i>ad valorem</i> | 30 p. ct. |
| 133. Cotton sewing thread, on spools, twenty per cent. <i>ad valorem</i> | 20 p. ct. |
| 134. Cotton sewing thread, in hanks, black and bleached, three and six cord, twelve and a-half per cent. <i>ad valorem</i> | 12½ p. ct. |
| 135. All clothing made of cotton or other material not otherwise provided for, including corsets, and similar articles made up by the seamstress or tailor, also tarpaulin, plain or coated with oil, paint, tar or other composition, and cotton bags made up by the use of the needle, not otherwise provided for, thirty per cent. <i>ad valorem</i> | 30 p. ct. |

136.	Lampwicks, thirty per cent. <i>ad valorem</i> ..	30 p. ct.
137.	Jeans and coutilles, when imported by corset makers, for use in their factories, twenty per cent. <i>ad valorem</i>	20 p. ct.
138.	Printed or dyed cotton fabrics, not elsewhere specified, twenty-seven and a-half per cent. <i>ad valorem</i> ..	27½ p. ct.
139.	All manufactures of cotton not elsewhere specified, twenty per cent. <i>ad valorem</i> .	20 p. ct.
140.	Crapes of all kinds, twenty per cent. <i>ad valorem</i>	20 p. ct.
141.	Damask of cotton, of linen, or of cotton and linen, bleached, unbleached or colored, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
142.	Drain-tiles, not glazed, twenty per cent. <i>ad valorem</i>	20 p. ct.
143.	Drain pipes and sewer pipes, glazed, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
144.	Earthenware and stoneware, viz. :— demijohns or jugs, churns and crocks, two cents per gallon of holding capacity.....	2c. p. gal.
145.	Earthenware and stoneware, brown or colored, and Rockingham ware, thirty per cent. <i>ad valorem</i>	30 p. ct.
146.	Earthenware, white, granite, or ironstone ware, and “C. C.” or cream-colored ware, thirty per cent. <i>ad valorem</i> ...	30 p. ct.
147.	Earthenware decorated, printed or sponged, and all earthenware not elsewhere specified, thirty per cent. <i>ad valorem</i>	30 p. ct.
148.	Emery wheels, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
149.	Essences, viz. : of apple, pear, pineapple, raspberry, strawberry and other fruits, and vanilla, one dollar and ninety cents per Imperial gallon, and twenty per cent. <i>ad valorem</i>	\$1.90 p. I. g. and 20 p. ct.
150.	Essential oils for manufacturing purposes, twenty per cent. <i>ad valorem</i>	20 p. ct.
151.	Excelsior for upholsterers' use, twenty per cent. <i>ad valorem</i>	20 p. ct.
152.	Extract of beef or fluid beef, not medicated, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
153.	Feathers, ostrich and vulture, undressed, twenty per cent. <i>ad valorem</i> ; and dressed, thirty per cent. <i>ad valorem</i> ...	20 p. ct. 30 p. ct.
154.	Fire-brick and tiles, for lining stoves and furnaces, twenty per cent. <i>ad valorem</i> ..	20 p. ct.

155. Fireworks, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
156. Fishing rods, thirty per cent. <i>ad valorem</i>	30 p. ct.
157. Fire-proof paint, dry, one quarter of a cent per pound.....	$\frac{1}{4}$ c. p. lb.
158. Flax fibre, scutched, one cent per pound, and hackled, two cents per pound.....	1c. p. lb. 2c. p. lb.
159. Flax, tow of, scutched or green, one-half cent per pound.....	$\frac{1}{2}$ c. p. lb.
160. Flax seed, ten cents per bushel.....	10c. p. bsh.
161. Flax stones, dressed, one dollar and fifty cents per ton.....	\$1.50 p. ton.

FRUIT (DRIED), VIZ. :—

162. Apples, two cents per lb	2c. p. lb.
163. Raisins, one cent per pound and ten per cent. <i>ad valorem</i>	1c. p. lb. and 10 p. ct.
164. Currants, dates, figs, prunes, and all other dried fruits not elsewhere specified, one cent per pound.....	1 c. p. lb.

FRUIT (GREEN), VIZ. :—

165. Apples, forty cents per barrel.....	40c. p. brl.
166. Blackberries, gooseberries, raspberries and strawberries, four cents per pound,—the weight of the package to be included in the weight for duty...	4c. p. lb.
167. Peaches. one cent per pound,—the weight of the package to be included in the weight for duty.....	1c. p. lb.
168. Cherries and currants, one cent per quart	1c. p. qt.
169. Cranberries, plums and quinces, thirty cents per bushel.....	30c. p. bsh.
170. Grapes, two cents per pound.....	2c. p. lb.
171. Oranges and lemons, twenty per cent. <i>ad valorem</i>	20 p. ct.
172. Fruits in air-tight cans or other packages, including the cans or other packages, weighing not over one pound, three cents per can or package, and three cents additional per can or package for each pound or fraction of a pound over one pound in weight—the rate to include the duty on the cans or other packages, and the weight on which duty shall be payable to include the weight of the cans or other packages..	3c. p. 1 lb. can. or pkge.
173. Fruits, preserved in brandy, or other spirits, one dollar and ninety cents per Imperial gallon.....	\$1.90 p. I. g.

FURS, VIZ. :—

174. Fur skins, wholly or partially dressed, fifteen per cent. <i>ad valorem</i>	15 p. ct.
175. Caps, hats, muffs, tippets, capes, coats, cloaks and other manufactures of fur, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
176. Furniture of wood, iron or any other material, house, cabinet or office, finished or in parts, including hair and spring and other mattresses, bolsters and pillows, caskets and coffins of any material, thirty-five per cent. <i>ad valorem</i>	35 p. ct.
177. Bedsteads and other iron furniture, thirty-five per cent. <i>ad valorem</i>	35 p. ct.
178. Show cases two dollars each, and thirty-five per cent. <i>ad valorem</i>	\$2 each and 35 p. ct.
179. Gas, coal oil or kerosene fixtures, or parts thereof, thirty per cent. <i>ad valorem</i>	30 p. ct.
180. German and nickel silver, manufactures of, not plated, twenty-five per cent. <i>ad valorem</i>	25 p. ct.

GLASS AND MANUFACTURES OF, VIZ. :—

181. Carboys and demijohns, bottles and decanters, flasks and phials of every description; telegraph and lightning-rod insulators; jars and glass balls, and cut, pressed or moulded table ware, thirty per cent. <i>ad valorem</i>	30 p. ct.
182. Lamp and gas-light shades, lamps and lamp chimneys, side lights and head lights, globes for lanterns, lamps and gas-lights, thirty per cent. <i>ad valorem</i>	30 p. ct.
183. Ornamented, figured and enamelled stained glass, stained, tinted, painted and vitrified glass, and stained glass windows, figured, enamelled and obscured white glass, thirty per cent. <i>ad valorem</i>	30 p. ct.
184. Silvered plate, thirty per cent. <i>ad valorem</i>	30 p. ct.
185. Common and colorless window glass, thirty per cent. <i>ad valorem</i>	30 p. ct.
186. Plate glass, not colored, in panes not over thirty square feet, six cents per square foot.....	6c. p. sq. ft.
187. Plate glass in panes over thirty and not over seventy square feet, eight cents per square foot.....	8c. p. sq. ft.

188.	Plate glass in panes over seventy square feet, nine cents per square foot	9c. p. sq. ft.
189.	Imitation porcelain shades, and colored glass not figured, painted, enamelled or engraved, twenty per cent. <i>ad valorem</i>	20 p. ct.
190.	All other glass and manufactures of glass not herein otherwise provided for, twenty per cent. <i>ad valorem</i>	20 p. ct.
191.	Gloves and mitts, of all kinds, thirty per cent. <i>ad valorem</i>	30 p. ct.
192.	Gold and silver leaf, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
GUNPOWDER AND OTHER EXPLOSIVES, VIZ.:—		
193.	Gun, rifle and pistol cartridges, and cartridge cases of all kinds and materials, thirty per cent. <i>ad valorem</i>	30 p. ct.
194.	Gun, rifle and sporting powder in kegs, half-kegs, or quarter-kegs and other similar packages, five cents per pound	5c. p. lb.
195.	Cannon and musket powder in kegs and barrels, four cents per pound.....	4c. p. lb.
196.	Canister powder, in pound and half-pound tins, fifteen cents per pound...	15c. p. lb.
197.	Blasting and mining powder, three cents per pound.....	3c. p. lb.
198.	Giant powder, dualin, dynamite and other explosives in which nitro-glycerine is a constituent part, five cents per pound, and twenty per cent. <i>ad valorem</i>	5c. p. lb. and 20 p. ct.
199.	Nitro-glycerine, ten cents per pound, and twenty per cent <i>ad valorem</i>	10c. p. lb. and 20 p. ct.
200.	Gutta-percha, manufactures of, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
201.	Hair-cloth, of all kinds, thirty per cent. <i>ad valorem</i>	30 p. ct.
202.	Hair, curled, twenty per cent. <i>ad valorem</i>	20 p. ct.
203.	Handkerchiefs, cotton or linen, plain or printed, in the piece or otherwise, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
204.	Harness and saddlery of every description, and parts of the same, thirty per cent. <i>ad valorem</i>	30 p. ct.
205.	Hats, caps and bonnets, not elsewhere specified, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
206.	Honey, bees', in the comb or otherwise, three cents per pound.....	3c. p. lb.
207.	Hops, six cents per pound.....	6c. p. lb.
208.	Imitation precious stones, not set, ten per cent. <i>ad valorem</i>	10 p. ct.

209. India-rubber, viz. : boots and shoes, and other manufactures of, not otherwise provided for, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
210. India-rubber clothing, or clothing made water-proof with India-rubber, thirty-five per cent. <i>ad valorem</i>	35 p. ct.
211. India rubber vulcanized handles, for knives and forks, ten per cent <i>ad valorem</i>	10 p. ct.
212. Ink for writing, twenty-five per cent. <i>ad valorem</i>	25 p. ct.

IRON AND MANUFACTURES OF, VIZ. :—

(*Wire and iron to be measured by Stubb's standard gauge.*)

213. Pig, two dollars per ton.....	\$2 p. ton.
214. In slabs, blooms, loops or billets, puddled or not, and muck and puddled bars or billets, ten per cent. <i>ad valorem</i>	10 p. ct.
215. In bars, rolled or hammered, including flats, rounds and squares, nail and spike rods, and all other iron not otherwise provided for, seventeen and a half per cent. <i>ad valorem</i>	17½ p. ct.
216. Rolled round wire rods, in coils, under half an inch in diameter, ten per cent. <i>ad valorem</i>	10 p. ct.
217. Iron rails or railway bars for railways or tramways, fifteen per cent. <i>ad valorem</i>	15 p. ct.
218. Railway fish plates, frogs, frog-points, chairs and finger-bars, seventeen and a-half per cent. <i>ad valorem</i>	17½ p. ct.
219. Band and hoop, sheets smoothed or polished, coated or galvanized and common or black, number seventeen gauge or thinner, boiler plate, and Canada plates, twelve and a half per cent. <i>ad valorem</i>	12½ p. ct.
220. Iron and steel wire, galvanized or not, fifteen gauge and coarser, not elsewhere specified, twenty per cent. <i>ad valorem</i>	20 p. ct.
221. Stoves and other castings and forgings not elsewhere specified, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
222. Gas, water and soil pipes of cast iron, thirty per cent. <i>ad valorem</i>	30 p. ct.
223. Car-wheels and axles, of iron or steel, twenty-five per cent. <i>ad valorem</i>	25 p. ct.

224. Rolled beams, channels and angle and T iron, steel or iron and steel, twelve and one-half per cent. <i>ad valorem</i>	12½ p. ct.
225. Iron bridges and structural iron work, malleable iron castings and iron safes, and doors for safes and vaults, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
226. Locomotive engines and stationary fire or other steam engines and boilers, and other machinery composed wholly or in part of iron, not elsewhere specified, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
227. Locomotive tires of steel or Bessemer steel, in the rough, ten per cent. <i>ad valorem</i>	10 p. ct.
228. Wrought-iron tubing, plain, not threaded, coupled or otherwise manufactured, over two inches in diameter, fifteen per cent.....	15 p. ct.
229. Wrought-iron tubing, plain, two inches in diameter, or under, coupled and threaded or not, thirty per cent. <i>ad valorem</i>	30 p. ct.
230. Lap-welded boiler iron tubing, not threaded, coupled or otherwise manufactured, one and a-half inches in diameter and over, fifteen per cent. <i>ad valorem</i>	15 p. ct.
231. Ornamental iron work and wire work, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
232. Barbed wire fencing of iron or steel, one and a-half cent per pound	1½c. p. lb.
233. Buckthorn, and strip fencing of iron or steel, one and one-eighth cent per pound	1½c. p. lb.
234. Skates and locks of all kinds, thirty per cent. <i>ad valorem</i>	30 p. ct.
235. Tinned, glazed or enamelled hollow-ware, of cast or wrought iron, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
236. Sheet iron hollow ware, and all manufactures of sheet iron, not elsewhere specified, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
237. Hardware, viz.: builders', cabinet makers,' upholsterers, 'saddlers' and undertakers,' including coffin trimmings of metal, thirty per cent. <i>ad valorem</i>	30 p. ct.
238. Carriage hardware, thirty-five per cent. <i>ad valorem</i>	35 p. ct.
239. House furnishing hardware, not otherwise provided for, thirty per cent. <i>ad valorem</i>	30 p. ct.

240	Stove bolts and nuts, and all bolts and rivets of one-quarter inch diameter and less, thirty-five per cent. <i>ad valorem</i>	35 p. ct.
241.	Bolts, nuts, washers and rivets, of iron or steel, not elsewhere specified, one cent per pound and fifteen per cent. <i>ad valorem</i>	1 per lb. and 15 p. ct.
242.	Cast iron forks, not handled, nor ground or otherwise further manufactured, ten per cent. <i>ad valorem</i>	10 p. ct.
243.	Pumps, iron, pitcher-spout, cistern, well and force pumps, thirty-five per cent. <i>ad valorem</i>	35 p. ct.
244.	Tacks, brads and sprigs, Hungarian and clout nails, thirty per cent. <i>ad valorem</i>	30 p. ct.
245.	Horse-shoes, and horse-shoe nails, thirty per cent. <i>ad valorem</i>	30 p. ct.
246	Iron wire nails, called "Pointes de Paris," thirty per cent. <i>ad valorem</i>	30 p. ct.
247.	Iron and steel screws, commonly called "wood screws," thirty-five per cent. <i>ad valorem</i>	35 p. ct.
248.	Scales, balances and weighing beams, thirty per cent. <i>ad valorem</i>	30 p. ct.
249.	Chains (iron or steel) over nine-sixteenths of an inch in diameter, five per cent. <i>ad valorem</i>	5 p. ct.
250.	Nail plate, iron or steel, sixteen gauge and thicker, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
251.	Nails and spikes, cut, half a-cent per pound and ten per cent. <i>ad valorem</i>	$\frac{1}{2}$ c. p. lb. and 10 p. ct.
252.	Nails and spikes, wrought and pressed, whether galvanized or not, three-fourths of a cent per pound and ten per cent. <i>ad valorem</i>	$\frac{3}{4}$ c. p. lb. and 10 p. ct.
253.	Composition nails and spikes and sheathing nails, twenty per cent. <i>ad valorem</i>	20 p. c.
254.	Portable machines, portable steam engines, threshers and separators, horse powers, portable saw mills and fanning mills and parts thereof, thirty-five per cent. <i>ad valorem</i>	35 p. ct.
255.	Sewing machines, whole or heads, or part of heads of sewing machines, two dollars each, and in addition thereto, twenty per cent. <i>ad valorem</i>	\$2 and 20 p. ct.
256.	All articles rated as iron or manufactures of iron, shall be chargeable with the same rate of duty if made of steel,	

	or of steel and iron combined, unless otherwise expressly provided.	
257.	Iron sand or globules; and dry putty for polishing granite, twenty per cent. <i>ad valorem</i>	20 p. ct.
258.	Jellies and jams, five cents per pound...	5c. p. lb.
259.	Jewellery and manufactures of gold and silver, twenty per cent. <i>ad valorem</i>	20 p. ct.
260.	Jute carpeting or matting and mats, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
261.	Jute, manufactures of, not elsewhere specified, twenty per cent. <i>ad valorem</i>	20 p. ct.
262.	Laces, braids, fringes, embroideries, cords, tassels and bracelets; also braids, chains or cords of hair, thirty per cent. <i>ad valorem</i>	30 p. ct.
263.	Lamp black and ivory black, ten per cent. <i>ad valorem</i>	10 p. ct.
264.	Lard, tried or rendered, two cents per pound	2c. p. lb
265.	Lard, untried, one and a-half cent per pound	1½c. p. lb.
266.	Lead, old, scrap and pig, forty cents per one hundred pounds.....	40c. p. 100 lbs.
267.	Lead, bars, blocks and sheets, sixty cents per hundred pounds.....	60c. p. 100 lbs.
268.	Lead, nitrate and acetate of, five per cent. <i>ad valorem</i>	5 p. ct.
269.	Lead pipe and lead shot, one and a-quarter cent per pound	1¼c. p. lb.
270.	Lead, and all manufactures of, lead not otherwise specified, thirty per cent. <i>ad valorem</i>	30 p. ct.
271.	Leather board, three cents per pound..	3c. p. lb.
272.	Boot and shoe counters made from leather board, half a-cent per pair.....	½c. p. pr.
273.	Leather, sole, tanned but rough or undressed, ten per cent. <i>ad valorem</i>	10 p. ct.
274.	Morocco skins, tanned, but rough or undressed, ten per cent. <i>ad valorem</i>	10 p. ct.
275.	Sole and belting leather, and all upper leather, including kid, lamb, sheep and calf, tanned or dressed, but not waxed or glazed, fifteen per cent. <i>ad valorem</i>	15 p. ct.
276.	Glove leathers, viz.:—buck, deer and antelope, tanned or dressed, colored or not colored, ten per cent. <i>ad valorem</i>	10 p. ct.
277.	Leather as above, dressed and waxed or glazed, twenty per cent. <i>ad valorem</i>	20 p. ct.

278.	Japanned, patent or enamelled leather, twenty per cent. <i>ad valorem</i>	20 p. ct.
279.	Cordova leather, tanned from horse hide, and manufactures of, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
280.	All other leather and skins, tanned, not otherwise specified, twenty per cent. <i>ad valorem</i>	20 p. ct.
281.	Boots and shoes and other manufactures of leather, not elsewhere specified, and leather belting, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
282.	Liquorice root, paste extract of, for manufacturing purposes, fifteen per cent. <i>ad valorem</i>	15 p. ct.
283.	Stick extract or confection, one cent per pound and twenty per cent. <i>ad valorem</i> .	1c. p. lb. and 20 p. ct.
284.	Lithographic stones, not engraved, twenty per cent. <i>ad valorem</i>	20 p. ct.
285.	Malt, fifteen cents per bushel, upon entry for warehouse, subject to excise regulations	15c. p. bsh.
286.	Malt, extract of, for medicinal purposes, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
287.	Machine card clothing, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
288.	Magic lanterns and optical instruments, including microscopes and telescopes, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
289.	Manilla hoods, twenty per cent. <i>ad valorem</i>	20 p. ct.
290.	Marble, in blocks from the quarry, in the rough, or sawn on two sides only and not specially shapen, containing less than fifteen cubic feet, ten per cent. <i>ad valorem</i>	10 p. ct.
291.	Marble slabs, sawn on not more than two sides, ten per cent. <i>ad valorem</i>	10 p. ct.
292.	Marble blocks and slabs, sawn on more than two sides, twenty per cent. <i>ad valorem</i>	20 p. ct.
293.	Finished marble, and all manufactures of marble not elsewhere specified, thirty per cent. <i>ad valorem</i>	30 p. ct.
294.	Meats, fresh or salted, on actual weight as received in Canada, except shoulders, sides, bacon and hams, one cent per pound.....	1c. p. lb.
295.	Shoulders, sides, bacon and hams, fresh, salted, dried or smoked, two cents per pound	2c. p. lb.

296. Poultry and game of all kinds, twenty per cent. <i>ad valorem</i>	20 p. ct.
297. All other dried or smoked meats, or meats preserved in any other way than salted or pickled, not otherwise specified, two cents per pound—if imported in cans, the rate to include the duty on the cans, and the weight on which duty shall be payable to include the weight of the cans.....	2c. p. lb.
298. Milk food, manufactured by Henri Nestle, Dr. Gibaut, and others, and all similar preparations, thirty per cent. <i>ad valorem</i>	30 p. ct.
299. Musical instruments of all kinds, not otherwise provided for, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
300. Mustard cake, twenty per cent. <i>ad valorem</i>	20 p. ct.
301. Mustard seed, unground, fifteen per cent. <i>ad valorem</i>	15 p. ct.
302. Mustard, ground, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
303. Nickel anodes, ten per cent. <i>ad valorem</i> ..	10 p. ct.
304. Nuts of all kinds, not elsewhere specified, three cents per pound.....	3c. p. lb.
305. Ochres, dry, ground or unground, washed or unwashed, not calcined, ten per cent. <i>ad valorem</i>	10 p. ct.
306. Oils, coal and kerosene, distilled, purified or refined; naphtha, benzole and petroleum; products of petroleum, coal, shale and lignite, not elsewhere specified, seven cents and a-fifth of a cent per Imperial gallon.....	7½c. p. I. g.
307. Carbolic or heavy oil, for any use, ten per cent. <i>ad valorem</i>	10 p. ct.
308. Cod liver oil, medicated, twenty per cent. <i>ad valorem</i>	20 p. ct.
309. Lard oil, twenty per cent. <i>ad valorem</i>	20 p. ct.
310. Linseed, or flaxseed oil, raw or boiled, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
311. Lubricating oils, composed wholly or in part of petroleum, and costing thirty cents per Imperial gallon or over, twenty-five per cent. <i>ad valorem</i> ..	25 p. ct.
312. The same costing less than thirty cents per Imperial gallon, seven and a-fifth cents per Imperial gallon.....	7½c. p. I. g.
313. All other lubricating oils, twenty-five per cent. <i>ad valorem</i>	25 p. ct.

314. Neatsfoot oil, twenty per cent. <i>ad valorem</i>	20 p. ct.
315. Olive or salad oil, twenty per cent. <i>ad valorem</i>	20 p. ct.
316. Sesame seed oil, twenty per cent. <i>ad valorem</i>	20 p. ct.
317. Oilcloth, floor, thirty per cent. <i>ad valorem</i>	30 p. ct.
318. Oilcloth in the piece, cut or shaped, oiled, enamelled, stamped, painted or printed, India rubbered, flocked or coated, not otherwise provided for, five cents per square yard and ten per cent. <i>ad valorem</i>	5c. p. sq. yd. and 10 p. ct.
319. Opium (drug), twenty per cent. <i>ad valorem</i>	20 p. ct.
320. Opium, prepared for smoking, five dollars per pound.....	\$5 p. lb.
321. Organs, cabinet, viz. :—on reed organs having not more than two sets of reeds, ten dollars each ; having over two and not over four sets of reeds, fifteen dollars each ; having over four and not over six sets of reeds, twenty dollars each ; having over six sets of reeds, thirty dollars each,—and in addition thereto, fifteen per centum <i>ad valorem</i> on the fair market value thereof.....	\$10 \$15 \$20 \$30 and 15 p. ct.
322. Organs, pipe organs, and sets or parts of sets of reeds for cabinet organs, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
323. Paintings, drawings, engravings and prints, twenty per cent. <i>ad valorem</i>	20 p. ct.
324. Paints and colors, ground in oil or any other liquid, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
325. Paints and colors, not elsewhere specified, twenty per cent. <i>ad valorem</i>	20 p. ct.
326. White and red lead, and orange mineral, dry, also white zinc, five per cent. <i>ad valorem</i>	5 p. ct.
327. White lead in pulp, not mixed with oil, five per cent. <i>ad valorem</i>	5 p. ct.
328. Paris green, dry, ten per cent. <i>ad valorem</i> .	10 p. ct.
329. Paper hangings or wall paper, in rolls, costing eight cents or under per roll of eight yards in length and eighteen inches wide, two cents per roll	2c. p. roll.
330. Paper-hangings or wall paper, not elsewhere specified, and glazed, plated, marbled, enamelled or embossed paper,	

	in rolls or sheets and card-board similarly finished, thirty per cent. <i>ad valorem</i>	30 p. ct.
331.	Paper, calendered, twenty-two and a half per cent. <i>ad valorem</i>	22½ p. ct.
332.	Paper, ruled, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
333.	Paper of all kinds, not elsewhere specified, twenty per cent. <i>ad valorem</i>	20 p. ct.
334.	Envelopes, and all manufactures of paper not otherwise specified, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
335.	Union collar cloth paper, in rolls or sheets, not glossed or finished, five per cent. <i>ad valorem</i>	5 p. ct.
336.	Union collar cloth paper, glossed or finished, in rolls or sheets, twenty per cent. <i>ad valorem</i>	20 p. ct.
337.	Mill-board, not straw-board, ten per cent. <i>ad valorem</i>	10 p. ct.
338.	Collars, cuffs and shirt fronts of paper, linen or cotton, thirty per cent. <i>ad valorem</i>	30 p. ct.
339.	Tissue paper, white and colored, when imported by manufacturers of artificial flowers, for use in their factories, ten per cent. <i>ad valorem</i>	10 p. ct.
340.	Paraffine wax or stearine, three cents per pound.....	3c. p. lb.
341.	Pencils, lead, in wood or otherwise, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
342.	Perfumery, including toilet preparations, viz. :—hair oils, tooth and other powders and washes, pomatums, pastes and all other perfumed preparations used for the hair, mouth or skin, thirty per cent. <i>ad valorem</i>	30 p. ct.
343.	Phosphor bronze, in blocks, bars, sheets and wire, ten per cent. <i>ad valorem</i>	10 p. ct.

PIANOFORTES, VIZ. :—

344.	All square pianofortes, whether round-cornered or not, not over seven octaves, twenty-five dollars each ; all other square pianofortes, thirty dollars each ; upright pianofortes, thirty dollars each ; concert, semi-concert or parlor grand pianofortes, fifty dollars each, —and in addition thereto fifteen per cent. <i>ad valorem</i>	\$25 \$30 \$30 \$50
		and 15 p. ct.
345.	Parts of pianofortes, twenty-five per cent. <i>ad valorem</i>	25 p. ct.

346. Pickles and sauces, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
347. Picture frames, as furniture, thirty-five per cent. <i>ad valorem</i>	35 p. ct.
348. Pins, manufactured from wire of any metal, thirty per cent. <i>ad valorem</i>	30 p. ct.
349. Plants, viz :—fruit, shade, lawn and ornamental trees, shrubs and plants, twenty per cent. <i>ad valorem</i>	20 p. ct.
350. Plaster of Paris, or gypsum, ground, not calcined, ten cents per hundred pounds	10c. p. 100 lbs.
351. Plaster of Paris, calcined or manufactured, fifteen cents per hundred pounds, or forty-five cents per barrel of not over three hundred pounds.....	15c. p. 100 lbs.
352. Plated-ware, electro-plated and gilt of all kinds, including cutlery, plated wholly or in part, thirty per cent. <i>ad valorem</i>	30 p. ct.
353. Plates engraved on wood, and on steel or other metal, twenty per cent. <i>ad valorem</i>	20 p. ct.
354. Plumbago, ten per cent. <i>ad valorem</i> ; and all manufactures of plumbago, not elsewhere specified, twenty per cent. <i>ad valorem</i>	10 p. ct.
355. Pomades, French, or flower odors preserved in fat or oil for the purpose of conserving the odors of flowers which do not bear the heat of distillation, when imported in tins of not less than ten pounds each, fifteen per cent. <i>ad valorem</i>	20 p. ct.
356. Printing presses of all kinds, ten per cent. <i>ad valorem</i>	15 p. ct.
357. Proprietary medicines; to wit:—All tinctures, pills, powders, troches or lozenges, syrups, cordials, bitters, anodynes, tonics, plasters, liniments, salves, ointments, pastes, drops, waters, essences, oils or medicinal preparations or compositions recommended to the public under any general name or title as specifics for any diseases or affections whatsoever affecting the human or animal bodies, not otherwise provided for; all liquids fifty per cent. <i>ad valorem</i> ; and all others twenty-five per cent. <i>ad valorem</i>	10 p. ct.
	5 p. ct.
	25 p. ct.

358. Prunella, and cotton and woollen netting, for boots, shoes and gloves, ten per cent. <i>ad valorem</i>	10 p. ct.
359. Putty, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
360. Quills, twenty per cent. <i>ad valorem</i>	20 p. ct.
361. Red prussiate of potash, ten per cent. <i>ad valorem</i>	10 p. ct.
362. Ribbons of all kinds and materials, thirty per cent. <i>ad valorem</i>	30 p. ct.
363. Rubber belting, hose, packing, mats and matting, five cents per pound and fifteen per cent. <i>ad valorem</i>	5c. p. lb. and 15 p. ct.
364. Sails for boats and ships, also tents and awnings, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
365. Salt, coarse (except as imported from the United Kingdom, or any British Possession or imported for the use of the Sea or Gulf Fisheries, which shall be free of duty), and all fine salt in bulk eight cents per hundred pounds.....	8c. p. 100 lbs.
366. Salt in bags, barrels, and other packages, twelve cents. per hundred pounds	12c. p. 100 lbs.
367. Saltpetre, twenty per cent. <i>ad valorem</i> ...	20 p. ct.
368. Sand-paper, glass, flint and emery-paper, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
369. Screws of iron, steel, brass, or other metal, not otherwise provided for, thirty per cent. <i>ad valorem</i>	30 p. ct.
370. Seeds, viz. :—flower, garden, field and other seeds, for agricultural purposes, when in bulk or in large parcels, fifteen per cent. <i>ad valorem</i> ; when put up in small papers or parcels, twenty-five per cent. <i>ad valorem</i>	15 p. ct. 25 p. ct.
371. Seed, mustard, unground, fifteen per cent. <i>ad valorem</i> ; ground, twenty-five per cent. <i>ad valorem</i> . (See Mustard)..	15 p. ct. 25 p. ct.
372. Shawls of all kinds and materials, except silk, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
373. Shingles, twenty per cent. <i>ad valorem</i> ...	20 p. ct.
374. Ships and other vessels, built in any foreign country, whether steam or sailing vessels, on application for Canadian register, on the fair market value of the hull, rigging, machinery, and all appurtenances :—on the hull, rigging and all appurtenances, except machinery, ten per cent. <i>ad valorem</i> ; on boilers, steam engines and other	10 p. ct.

	machinery, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
375.	Silk in the gum, or spun, not more advanced than singles, tram and thrown organzine, not colored, fifteen per cent. <i>ad valorem</i>	15 p. ct.
376.	Sewing silk and silk twist, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
377.	Silk velvets and all manufactures of silk, or of which silk is the component part of chief value, not elsewhere specified, except church vestments, thirty per cent. <i>ad valorem</i>	30 p. ct.
378.	Silk plush netting used for the manufacture of gloves, fifteen per cent. <i>ad valorem</i>	15 p. ct.
379.	Silver, rolled, and German and nickel silver in sheets, ten per cent. <i>ad valorem</i>	10 p. ct.
380.	Slates, roofing slate, black or blue, eighty cents per square; red, green, and other colors, one dollar per square	80c. p. sq. \$1 p. sq.
381.	Slates of all kinds, and manufactures of, not otherwise specified, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
382.	Slate mantles, thirty per cent. <i>ad valorem</i>	30 p. ct.
383.	Slates, school and writing, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
384.	Soap, common brown and yellow, not perfumed, one cent and a-half per pound.....	1½c. p. lb.
385.	Soap, castile and white, two cents per pound.....	2c. p. lb.
386.	Soap, perfumed or toilet, ten cents per pound, (the weight of the inside packages and wrappers to be included in the weight for duty), and ten per cent <i>ad valorem</i>	10c. p. lb. and 10 p. ct.
387.	Soap powders, three cents per pound ..	3c. p. lb.
388.	Spices, viz.:—ginger and spices of all kinds (except nutmegs and mace), unground, ten per cent. <i>ad valorem</i> ; ground, twenty-five per cent. <i>ad valorem</i>	10 p. ct. 25 p. ct.
389.	Nutmegs and mace, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
390.	Spirits and strong waters not having been sweetened or mixed with any article so that the degree of strength thereof cannot be ascertained by Sikes's hydrometer, for every Imperial gallon of the strength of proof by	

- such hydrometer, and so in proportion for any greater or less strength than the strength of proof, and for every greater or less quantity than a gallon, viz:—Geneva gin, rum, whiskey, alcohol or spirits of wine, and unenumerated unmixed and not sweetened spirits by whatever name called, one dollar and seventy-five cents per Imperial gallon
391. Brandy, two dollars per Imperial gallon \$1.75 p. I. g.
\$2.00 p. I. g.
392. Absinthe, two dollars per Imperial gallon..... \$2 p. I. g.
393. " Old Tom " gin, one dollar and seventy-five cents per Imperial gallon..... \$1.75 p. I. g.
394. Spirits, sweetened or mixed, so that the degree of strength cannot be ascertained as aforesaid, viz.: rum-shrub, cordials, schiedam schnapps, tafia, bitters, and unenumerated articles of like kind, one dollar and ninety cents per Imperial gallon..... \$1.90 p. I. g.
395. Spirits and strong waters, not elsewhere specified, one dollar and ninety cents per Imperial gallon \$1.90 p. I. g.
396. Spirits and strong waters, mixed with any ingredient or ingredients, and although thereby coming under the denomination of proprietary medicines, tinctures, essences, extracts, or any other denomination, including medicinal elixirs and fluid extracts, whether in bulk or bottle, not elsewhere specified, shall be, nevertheless, deemed spirits or strong waters, and subject to duty as such; two dollars per Imperial gallon, and in addition thereto, thirty per cent. *ad valorem*..... \$2.00 p. I. g.
and 30 p. ct.
397. Cologne water and perfumed spirits in bottles or flasks not weighing more than four ounces each, fifty per cent. *ad valorem*..... 50 p. ct.
398. Cologne water and perfumed spirits in bottles, flasks and other packages weighing more than four ounces each, two dollars per Imperial gallon, and forty per cent. *ad valorem*..... \$2.00 p. I. g.
and 40 p. ct.
399. Wines of all kinds, except sparkling wines, including ginger, orange, lemon, strawberry, raspberry, elder and currant wines, containing twenty-six per cent. or less of spirits of

- the strength of proof by Sikes's hydrometer, imported in wood or in bottles (six quart or twelve pint bottles to be held to contain an Imperial gallon), twenty-five cents per Imperial gallon, and for each degree of strength in excess of twenty-six per cent. of spirits as aforesaid, an additional duty of three cents until the strength reaches forty per cent. of proof spirits; and in addition thereto, thirty per cent. *ad valorem*.....
- 25c. p. I. g.,
and 3c. p. I.
g. for each
degree
from 26 up
to 40 and
30 p. ct.
400. Champagne and all other sparkling wines in bottles containing each not more than a quart and more than one pint, three dollars per dozen bottles; containing not more than a pint each, and more than one-half pint, one dollar and fifty cents per dozen bottles; containing one-half pint each or less, seventy-five cents per dozen bottles; bottles containing more than one quart each shall pay in addition to three dollars per dozen bottles at the rate of one dollar and fifty cents per Imperial gallon on the quantity in excess of one quart per bottle,—the quarts and pints in each case being old wine measure; in addition to the above specific duty there shall be an *ad valorem* duty of thirty per cent....
- \$3 p. doz.
\$1.50 p. doz.
75c. p. doz.
\$1.50 p. I. g.
for all over
one qt. p. bot.
and 30 p. ct.
401. But any liquors imported under the name of wine, and containing more than forty per cent. of spirits of the strength of proof by Sikes's hydrometer, shall be rated for duty as unenumerated spirits.
402. Starch, including farina, corn starch, or flour and all preparations having the qualities of starch, two cents per pound
- 2c. p. lb.

STEEL AND MANUFACTURES OF, VIZ. :—

403. Steel ingots, bars, sheets under three-sixteenths of an inch thick, whole or cut to shape, but not further manufactured, and rolled round wire rods in coils, not elsewhere specified, three dollars per ton of two thousand pounds, and ten per cent. *ad valorem*.
- \$3 per ton of
2,000 lbs. and
10 p. ct.

404. Steel rolled round wire rods under half an inch in diameter, when imported by wire manufacturers for use in their factories, five per cent. *ad valorem*..... 5 p. ct.
405. Steel Needles, viz. :—cylinder needles, hand frame needles and latch needles, thirty per cent. *ad valorem*..... 30 p. ct.
406. Carpenters', coopers', cabinet-makers' and all other mechanics' tools, edge tools of every description, axes and saws of all kinds, thirty per cent. *ad valorem* 30 p. ct.
407. Cutlery, not otherwise provided for, twenty-five per cent. *ad valorem*..... 25 p. ct.
408. Files and rasps, thirty-five per cent. *ad valorem*..... 35 p. ct.
409. Firearms, viz. : muskets, rifles, pistols and shot-guns ; and all manufactures of steel and of iron and steel, not elsewhere specified, twenty per cent. *ad valorem*..... 20 p. ct.
410. Knife blades or knife blanks, in the rough, unhandled, for use by electroplaters, ten per cent. *ad valorem*..... 10 p. ct.
411. Stereotypes and electrotypes of standard books, ten per cent. *ad valorem*..... 10 p. ct.
412. Stereotypes and electrotypes for commercial blanks and advertisements, twenty per cent. *ad valorem*..... 20 p. ct.
413. Stereotypes and electrotypes and bases for same made wholly or in part of type metal, not elsewhere specified, five cents per pound..... 5c. p. lb.
- STONE, VIZ. :—
414. Rough freestone, sandstone and all other building stone, except marble from the quarry, not hammered or chiselled, one dollar per ton of thirteen cubic feet..... \$1 p. ton.
415. Water limestone or cement stone, one dollar per ton (*See cement*)..... \$1.00 p. ton.
416. Grindstones, two dollars per ton \$2.00 p. ton.
417. Dressed freestone and all other building stone, except marble and all manufactures of stone or granite, twenty per cent. *ad valorem*..... 20 p. ct.
418. Straw board, in sheets or rolls, plain or tarred, forty cents per one hundred pounds..... 40c. p. 100 lbs.

SUGARS, SYRUPS AND MOLASSES :—

419. Sugar, melado, concentrated melado, concentrated cane-juice, concentrated molasses, concentrated beet root juice and concrete, when imported direct from the country of growth and production, for refining purposes only, not over number fourteen Dutch Standard in color, and not testing over seventy degrees by the polariscopic test, one cent per pound, and for every additional degree, shown by polariscopic test, three and a-third cents per one hundred pounds additional.....
420. Sugar not for refining purposes, not over number fourteen Dutch Standard in color, when imported direct from the country of growth and production, one cent per pound and thirty per cent. *ad valorem* on the value thereof, free on board at the last port of shipment
421. All sugars above number fourteen Dutch Standard in color, and refined sugar of all kinds, grades or standards, one and a-half cent per pound, and thirty-five per cent. *ad valorem* on the value thereof free on board at the last port of shipment..
422. On all sugars not imported direct without transshipment from the country of growth and production, there shall be levied and collected an additional duty of seven and a-half per cent. of the whole duty so otherwise payable thereon
423. Provided that when any cargo of sugar imported for refining purposes is found to grade, in part, above number fourteen Dutch Standard in color, such part to the extent of not exceeding fifteen per cent. of the whole of the cargo may be admitted to enter by polariscopic test.
424. Syrups, cane juice, refined syrup, sugar house syrup or sugar house molasses, syrup of sugar, syrup of molasses or sorghum, whether imported direct or not, one cent per pound and thirty per cent. *ad valorem*.....

1c. p. lb.
70 deg. test.
and 3½c.
p. 100 lbs.
for each deg.
above 70.

1c. p. lb. and
30 p. ct.

1½c. p. lb. and
35 p. ct.

7½ p. ct. of
duty
additional.

1c. p. lb. and
30 p. ct.

425. Molasses, other, when imported direct without transshipment and from the country of growth and production, fifteen per cent *ad valorem* 15 p. ct.
426. Molasses, when not so imported, twenty per cent *ad valorem*..... 20 p. ct.
427. The value upon which the *ad valorem* duty shall be levied and collected upon all the above-named syrups and molasses shall be the value thereof free on board at the last port of shipment.
428. Provided that molasses, when imported for or received into any refinery or sugar factory, or to be used for any other purpose than actual consumption, shall be subject to, and there shall be levied and collected thereon, an additional duty of five cents per Imperial gallon..... 5c. p. I. g.
429. Provided that the foregoing rates of duty on sugars, syrups and molasses shall apply only to importations arriving in Canada on and after the thirty-first day of March, one thousand eight hundred and eighty-six, and that, as to such articles warehoused prior to that date, the rates of duty in force immediately previous thereto shall apply.
430. Sugar candy, brown or white, and confectionery, one and a-quarter cent per pound and thirty-five per cent. *ad valorem* 1½c. p. lb. and 35 p. ct.
431. Glucose or grape sugar, to be classed and rated for duty as sugar according to grade by Dutch standard in color.
432. Glucose syrup, a specific duty of two cents per pound..... 2c. p. lb.
433. Tallow, one cent per pound..... 1c. p. lb.
434. Tea from the United States, ten per cent. *ad valorem*..... 10 p. ct.
435. Telephones, telegraph instruments, electric and galvanic batteries, and apparatus for electric lights, twenty-five per cent. *ad valorem*..... 25 p. ct.
436. Tin crystals, twenty per cent. *ad valorem*. 20 p. ct.
437. Tinware, stamped and japanned ware, and all manufactures of tin not elsewhere specified, twenty-five per cent. *ad valorem*..... 25 p. ct.

TOBACCO :—

438. Manufactured tobacco and snuff, thirty cents per pound, and in addition thereto twelve and a-half per cent. *ad valorem*..... 30c. p. lb. and 12½ p. ct.
439. Cigars and cigarettes, one dollar and twenty cents per pound and twenty per cent. *ad valorem*..... \$1.20 p. lb. and 20 p. ct.
440. Towels of every description, twenty-five per cent. *ad valorem*..... 25 p. ct.

TREES—FRUIT TREES, VIZ. :—

441. Apple, of all kinds, two cents each 2c. each.
442. Pear, of all kinds, four cents each 4c. each.
443. Plum, of all kinds, five cents each..... 5c. each.
444. Cherry, of all kinds, four cents each..... 4c. each.
445. Quince, of all kinds, two cents and a-half each 2½c. each.
446. Turpentine, spirits of, ten per cent. *ad valorem*..... 10 p. ct.
447. Trunks, satchels, valises, carpet bags, purses and pocket-books, thirty per cent. *ad valorem*..... 30 p. ct.
448. Twine, of all kinds, not otherwise specified, twenty-five per cent. *ad valorem*.... 25 p. ct.
449. Type for printing, twenty per cent. *ad valorem*..... 20 p. ct.
450. Type metal, ten per cent. *ad valorem*..... 10 p. ct.
451. Umbrellas, parasols and sunshades of all kinds and materials, thirty per cent. *ad valorem* 30 p. ct.
452. Umbrella and parasol steel, iron or brass ribs, runners, rings, caps, notches, tin caps and ferules, when imported by and for the use of manufacturers of umbrellas, twenty per cent. *ad valorem*..... 20 p. ct.
453. Varnish, lacquers, Japan and collodion, not elsewhere specified, twenty cents per Imperial gallon and twenty per cent. *ad valorem*..... 20c. p. I. g. and 20 p. ct.
454. Vaseline, and all similar preparations of petroleum for toilet, medicinal or other purposes, in bulk, four cents per pound; and in bottles or other packages, not over one pound in weight each, six cents per pound..... 4c. p. lb. 6c. p. lb.

VEGETABLES, VIZ. :—

455. Potatoes, ten cents per bushel..... 10c. p. bush.

456. Tomatoes, thirty cents per bushel.....	30c. p. bush.
457. Tomatoes and other vegetables, including corn, in cans or other packages, weighing not over one pound each, two cents per can or package, and two cents additional per can or package for each pound, or fraction of a pound over one pound in weight,—the rate to include the duty on the cans, or other packages, and the weight on which duty shall be payable to include the weight of the cans or packages.....	2c. p. 1 lb. can.
458. And all other vegetables, including sweet potatoes, twenty per cent. <i>ad valorem</i>	20 p. ct.
459. Velveteens and cotton velvets, twenty per cent. <i>ad valorem</i>	20 p. ct.
460. Vinegar, fifteen cents per Imperial gallon	15c. p. I. g.
461. Watches and watch-cases, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
462. Watch actions or movements, twenty per cent. <i>ad valorem</i>	20 p. ct.
463. Whips, of all kinds, thirty per cent. <i>ad valorem</i>	30 p. ct.
464. Winceys, checked, striped or fancy cotton over twenty-five inches wide, two cents per square yard and fifteen per cent. <i>ad valorem</i>	2c. p. sq. yd. and 15 p. ct.
465. Winceys of all kinds, not otherwise provided for, twenty-two and a-half per cent. <i>ad valorem</i>	22½ p. ct.
466. Wire-cloth, of brass and copper, twenty per cent. <i>ad valorem</i>	20 p. ct.
467. Wire covered with cotton, linen, silk or other material, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
468. Wood and manufactures of, and wooden ware, viz.:—pails, tubs, churns, brooms, brushes, and other manufactures of wood not elsewhere specified, twenty-five per cent. <i>ad valorem</i> ...	25 p. ct.
469. Hubs, spokes, felloes, and parts of wheels, rough hewn or sawn only, fifteen per cent. <i>ad valorem</i>	15 p. ct.
470. Lumber and timber, not elsewhere specified, twenty per cent. <i>ad valorem</i>	20 p. ct.
471. Mouldings of wood, plain, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
472. Mouldings of wood, gilded or otherwise further manufactured than plain, thirty per cent. <i>ad valorem</i>	30 p. ct.

WOOLS AND WOOLLENS, VIZ. :—

473. Manufactures composed wholly or in part of wool, worsted, the hair of the alpaca, goat or other like animals, viz :—blankets and flannels of every description ; cloths, doeskins, cassimeres, tweeds, coatings, overcoatings, felt cloth of every description, not elsewhere specified ; horse-collar cloth ; yarn, knitting yarn, fingering yarn, worsted yarn, knitted goods, viz. :— shirts and drawers, and hosiery, not elsewhere specified, seven and a-half cents per pound, and in addition thereto twenty per cent. *ad valorem*..... 7½c. p. lb. and 20 p. ct.
474. Clothing, ready-made and wearing apparel of every description, including socks and stockings, cloth caps and horse clothing, shaped, composed wholly or in part of wool, worsted, the hair of the alpaca, goat or other like animals, made up or manufactured wholly or in part by the tailor, seamstress or manufacturer, except knit goods, ten cents per pound, and in addition thereto twenty-five per cent. *ad valorem*..... 10c. p. lb. and 25 p. ct.
475. All fabrics composed wholly or in part of wool, worsted, the hair of the alpaca, goat or other like animals, not herein otherwise provided for, twenty-two and a-half per cent. *ad valorem*..... 22½ p. ct.
476. Carpets, viz. :— Brussels, tapestry, Dutch, Venetian, and damask, carpet mats and rugs of all kinds, and printed felts and druggets, and all other carpets and squares, not otherwise provided for, twenty-five per cent. *ad valorem*..... 25 p. ct.
477. Treble ingrain, three-ply and two-ply carpets, composed wholly of wool, ten cents per square yard ; and in addition thereto twenty per cent. *ad valorem*..... 10c. p. sq. yd. and 20 p. ct.
478. Two-ply and three-ply ingrain carpets, of which the warp is composed wholly of cotton, or other material than wool, worsted, the hair of the alpaca, goat, or other like animals,

	five cents per square yard, and in addition thereto, twenty per cent. <i>ad valorem</i>	5c. p. sq. yd. and 20 p. ct.
479.	Felt, pressed, of all kinds, not filled or covered by or with any woven fabric, seventeen and a-half per cent. <i>ad valorem</i>	17½ p. ct.
480.	Wool, class one, viz. :—Leicester, Cotswold, Lincolnshire, South Down combing wools, or wools known as lustre wools, and other like combing wools, such as are grown in Canada, three cents per pound.....	3c. p. lb.
481.	Yeast cakes and compressed yeast in packages of one pound and over, or in bulk, six cents per pound.....	6c. p. lb.
482.	Yeast cakes in packages of less than one pound, eight cents per pound.....	8c. p. lb.
483.	Zinc, chloride, salts and sulphate of—five per cent. <i>ad valorem</i>	5 p. ct.
484.	Zinc, seamless drawn tubing, ten per cent. <i>ad valorem</i>	10 p. ct.
485.	Zinc, manufactures of, not elsewhere specified, twenty-five per cent. <i>ad valorem</i>	25 p. ct.
486.	All goods not enumerated in this Act as charged with any duty of Customs, and not declared free of duty by this Act, shall be charged with a duty of twenty per cent. <i>ad valorem</i> , when imported into Canada, or taken out of warehouse for consumption therein. 42 V., c. 15, Schedule A ;—43 V., c. 18, s. 1 ;—44 V., c. 10, s. 2 ;—45 V., c. 6, ss. 1, 2, 3 and 4 ;—46 V., c. 13, ss. 2, 3, 5 and 6 ;—47 V., c. 30, s. 2 ;—48-49 V., c. 61, ss. 2, 3, 5, 6, 7, 8 and 9 ;—49 V., c. 37, ss. 1 and 3.	

SCHEDULE B.

DUTIES ON FISH AND PRODUCTS OF THE FISHERIES.

487.	Mackerel, one cent per pound.....	1c. p. lb.
488.	Herrings, pickled or salted, one-half cent per pound.....	½c. p. lb.
489.	Salmon, pickled, one cent per pound ..	1c. p. lb.
490.	All other fish, pickled, in barrels, one cent per pound	1c. p. lb.

491. Foreign-caught fish, imported otherwise than in barrels or half-barrels, whether fresh, dried, salted or pickled, not specially enumerated or provided for by this Act, fifty cents per hundred pounds..... 50c. p. 100 lbs.
492. Fish, smoked and boneless fish, one cent per pound..... 1c. p. lb.
493. Anchovies and sardines, packed in oil or otherwise, in tin boxes measuring not more than five inches long, four inches wide, and three and a-half inches deep, five cents per whole box; in half boxes, measuring not more than five inches long, four inches wide and one and five-eighths deep, two and a-half cents per half box; and in quarter boxes, measuring not more than four inches and three-quarters long, three and a-half inches wide and one and a-quarter deep, two cents each per quarter box..... 5c. p. box.
2½c. p. half box.
2c. p. quarter box.
494. When imported in any other form, thirty per cent. *ad valorem*..... 30 p. ct.
495. Fish, preserved in oil, except anchovies and sardines, thirty per cent. *ad valorem*..... 30 p. ct.
496. Salmon and all other fish prepared or preserved, including oysters, not specially enumerated or provided for in this Act, twenty-five per cent. *ad valorem*..... 25 p. ct.
497. Oysters, shelled, in bulk, ten cents per gallon..... 10c. p. gal.
498. Oysters, canned, in cans not over one pint, three cents per can, including the cans..... 3c. p. can.
499. Oysters in cans over one pint and not over one quart, five cents per can, including the cans 5c. p. can.
500. Oysters in cans exceeding one quart in capacity, an additional duty of five cents for each quart or fraction of a quart of capacity over a quart, including the cans 5c. p. qt.
501. Oysters in the shell, twenty-five per cent. *ad valorem*..... 25 p. ct.
502. Packages containing oysters or other fish, not otherwise provided for, twenty-five per cent *ad valorem*..... 25 p. ct.

503. Oil, spermaceti, whale and other fish oils, and all other articles the produce of the fisheries, not specially provided for, twenty per cent. *ad valorem*..... 20 p. ct.

48-49 V., c. 61, s. 4, *part.*

SCHEDULE C.

FREE GOODS.

504. Agaric ;
505. Agates, amethysts, aquamarines, blood stones, carbuncles, cat's eyes, cameos, corals, cornelians, crystal, crysolite, crosordolite, emeralds, garnets, intaglios, inlaid or incrustated stones, onyx, opals, pearls, rubies, sardonyx, sapphires, topaz and turquoises not polished nor otherwise manufactured ;
506. Alkanet root ;
507. Aloes ;
508. Aluminum ;
509. Alum ;
510. Ambergris ;
511. Ammonia, sulphate of ;
512. Anatomical preparations ;
513. Aniline dyes, in bulk or packages of not less than one pound weight ;
514. Aniline oil, crude ;
515. Aniline salts ;
516. Animals brought into Canada temporarily, and for a period not exceeding three months, for the purpose of exhibition or competition for prizes offered by any agricultural or other association ; (But a bond shall be first given in accordance with regulations prescribed by the Minister of Customs, with the condition that the full duty to which such animals would otherwise be liable shall be paid in case of their sale in Canada, or if not re-exported within the time specified in such bond.)
517. Animals for the improvement of stock, viz. :—horses, cattle, sheep and swine, under regulations made by the Treasury Board and approved by the Governor in Council ;
518. Animals of all kinds, when the natural product of the Colony of Newfoundland ;
519. Annato, liquid or solid ;
520. Annato, seed ;
521. Anchors ;
522. Antimony ;
523. Ashes, pot, pearl and soda ;
524. Asphaltum ;

525. Apparel, wearing and other personal and household effects, not merchandise, of British subjects dying abroad, but domiciled in Canada ;
526. Argol dust ;
527. Argols, crude ;
528. Arsenic ;
529. Arseniate of aniline ;
530. Articles for the use of the Governor General ;
531. Articles for the personal use of Consuls General who are natives or citizens of the country they represent and who are not engaged in any other business or profession ;
532. Articles imported by and for the use of the Dominion Government, or any of the departments thereof, or for the Senate or House of Commons ;
533. Army and Navy and Canadian Militia, for the use of, viz. :—
 Arms ;
 Clothing ;
 Musical instruments for bands ;
 Military stores and munitions of war ;
534. Bamboo reeds, not further manufactured than cut into suitable lengths for walking sticks or canes, or for sticks for umbrellas, parasols or sunshades ;
535. Bamboos, unmanufactured ;
536. Barrels of Canadian manufacture exported, filled with domestic petroleum and returned empty, under such regulations as the Minister of Customs prescribes ;
537. Barilla ;
538. Barytes, unmanufactured ;
539. Beans, vanilla and nux vomica ;
540. Bees ;
541. Belladonna leaves,
542. Bells for churches ;
543. Berries for dyeing or used for composing dyes ;
544. Bichromate of soda ;
545. Bismuth, metallic ;
546. Bolting cloths, not made up ;
547. Bones, crude, not manufactured, burned, calcined, ground or steamed ;
548. Bone-dust, and bone-ash for manufacture of phosphates and fertilizers ;
549. Books, bound, which have been printed more than seven years at the date of importation,—except foreign reprints of English copyrighted books, which shall remain subject to the copyright duty ;
550. Books printed by any Government, or by any scientific association or other society now existing, for the promotion of learning and letters, and issued in the course of their proceedings, and not for the purpose of sale or trade ;

- 551. Books, educational, imported by and for the use of schools for the deaf and dumb, exclusively ;
- 552. Boracic acid ;
- 553. Borax ;
- 554. Botany, specimens of ;
- 555. Brass, old, scrap and in sheets ;
- 556. Bristles ;
- 557. Britannia metal, in pigs and bars ;
- 558. Brimstone, crude, or in roll or flour ;
- 559. Brim moulds for gold beaters ;
- 560. Bromine ;
- 561. Broom corn ;
- 562. Buchu leaves ;
- 563. Buckram for the manufacture of hat and bonnet shapes ;
- 564. Bullion, gold and silver ;
- 565. Burgundy pitch ;
- 566. Burr stones, in block, rough or unmanufactured, and not bound up into millstones ;
- 567. Carriages of travellers and carriages laden with merchandise, and not to include circus troupes nor hawkers, under regulations prescribed by the Minister of Customs ;
- 568. Cabinets of coins, medals and other collections of antiquities ;
- 569. Casts, as models, for the use of schools of design ;
- 570. Cornelian, unmanufactured ;
- 571. Canvas for manufacture of floor oil cloth, not less than forty-five inches wide, and not pressed or calendered ;
- 572. Canvas, jute canvas, not less than fifty-eight inches wide, when imported by manufacturers of floor oil cloth for use in their factories ;
- 573. Caoutchouc, unmanufactured ;
- 574. Cat-gut strings or gut cord for musical instruments ;
- 575. Cat-gut or whip-gut, unmanufactured ;
- 576. Celluloid or xyolite, in sheets, lumps or blocks ;
- 577. Chalk and cliff stone, unmanufactured ;
- 578. Chamomile flowers ;
- 579. Cherry heat welding compound ;
- 580. China clay, natural or ground ;
- 581. Chloralum or chloride of aluminium ;
- 582. Chloride of lime ;
- 583. Chronometers and compasses for ships ;
- 584. Cinchona bark ;
- 585. Cinnabar ;
- 586. Citrons, and rinds of, in brine, for candying ;
- 587. Clays ;
- 588. Clothing, donations of, for charitable purposes ;
- 589. Cobalt, ore of ;
- 590. Cochineal ;
- 591. Cocoa, bean, shell and nibs ;
- 592. Coffee, green, except as provided by section ten of this Act ;

593. Coins, gold and silver, except United States silver coin ;
594. Communion plate, and plated ware for use in churches ;
595. Coir and coir yarn ;
596. Conium cicuta, or hemlock seed and leaf ;
597. Copper in sheets ;
598. Cotton waste and cotton wool ;
599. Cotton yarns finer than No. 40, unbleached, bleached or dyed, and not finer than No. 60, for the manufacture of Italian cloths and worsted fabrics ;
600. Cork wood, or cork bark, unmanufactured ;
601. Colors, metallic, viz. :—cobalt, zinc and tin ;
602. Cream of tartar, in crystals ;
603. Diamond drills, for prospecting for minerals ;
604. Diamonds, unset, including black diamonds for borers ;
605. Diamond dust or bort ;
606. Dragons' blood ;
607. Duck for belting and hose when imported by manufacturers of rubber goods for use in their factories ;
608. Dye, jet black ;
609. Dyeing or tanning articles, in a crude state, used in dyeing or tanning, not elsewhere specified ;
610. Eggs ;
611. Embossed books for the blind ;
612. Emery ;
613. Entomology, specimens of ;
614. Ergot ;
615. Esparto, or Spanish grass, and other grasses, and pulp of, for the manufacture of paper ;
616. Extract of logwood ;
617. Fancy grasses dried but not colored or otherwise manufactured ;
618. Felt, adhesive, for sheathing vessels ;
619. Fire clay ;
620. Fibre, Mexican ;
621. Fibre, vegetable, for manufacturing purposes ;
622. Fibrilla ;
623. Fillets of cotton and rubber, not exceeding seven inches wide, when imported by, and for the use of, manufacturers of card clothing ;
624. Fish-hooks, nets and seines, and lines and twines, for the use of the fisheries, but not to include sporting fishing-tackle or hooks with flies or trawling spoons ;
625. Fur skins of all kinds, not dressed in any manner ;
626. Flint, flints and ground flint stones ;
627. Folia digitalis ;
628. Foot grease, the refuse of the cotton seed after the oil is pressed out ;
629. Fossils ;
630. Fowls, pure bred, including pheasants and quails, for improvement of stock ;
631. Fuller's earth ;
632. Gas coke, when used in Canadian manufactures only ;

- 633. Gentian root ;
- 634. Ginseng root ;
- 635. Gold-beaters' moulds and gold-beaters' skins ;
- 636. Gravels ;
- 637. Grease, the refuse of animal fat, for the use of soap stock, not otherwise provided for ;
- 638. Guano and other animal and vegetable manures ;
- 639. Gums, amber, Arabic, Australian, British, copal, damar, mastic, sandarac, shellac and tragacanth ;
- 640. Gut, and worm gut, manufactured or unmanufactured, for whip and other cord ;
- 641. Gutta percha, crude ;
- 642. Gypsum, crude (sulphate of lime) ;
- 643. Hair, angola, buffalo and bison, camel, goat, hog, horse and human, cleaned or uncleaned, but not curled or otherwise manufactured ;
- 644. Hatters' furs, not on the skin ;
- 645. Hatters' plush of silk or cotton ;
- 646. Hemlock bark ;
- 647. Hemp, undressed ;
- 648. Hides, raw, whether dry, salted or pickled ;
- 649. Hoop iron, not exceeding three-eighths of an inch in width and being No. 25 gauge or thinner, used for the manufacture of tubular rivets ;
- 650. Horn strips, when to be used in making corsets ;
- 651. Horses, cattle, sheep and swine, for the improvement of stock, under regulations made by the Treasury Board and approved by the Governor in Council ;
- 652. Hoofs, horn and horn tips ;
- 653. Hyoscyamus, or henbane leaf ;
- 654. Ice ;
- 655. India rubber, unmanufactured ;
- 656. India hemp (crude drug) ;
- 657. Indigo,
- 658. Indigo auxiliary ;
- 659. Indigo, paste and extract of ;
- 660. Iodine, crude ;
- 661. Iris, orris root ;
- 662. Iron and steel, old and scrap,—but nothing shall be deemed scrap iron or steel except waste or refuse iron or steel that has been in actual use and fit only to be re-manufactured, and bloom ends and crop ends of steel rails for re-melting ;
- 663. Iron or steel beams, sheets, plates, angles and knees for iron or composite ships or vessels ;
- 664. Iron liquor, solution of acetate of iron for dyeing and calico printing ;
- 665. Istle or tampico fibre ;
- 666. Ivory and ivory nuts, unmanufactured ;
- 667. Ivory veneers, sawn only, not planed or polished ;
- 668. Iron masts for ships, or parts of ;
- 669. Jalap, root ;

- 670. Junk, old ;
- 671. Jute butts ;
- 672. Jute ;
- 673. Jute cloth, as taken from the loom, neither pressed, mangled, calendered, nor in any way finished, and not less than 40 inches wide, when imported by manufacturers of jute bags for use in their own factories ;
- 674. Jute yarn, plain, dyed or colored, when imported by manufacturers of carpets, rugs and mats, for use in their own factories ;
- 675. Kainite, or German potash salts for fertilizers ;
- 676. Kelp ;
- 677. Kryolite ;
- 678. Lac—dye, crude, seed, button, stick and shell ;
- 679. Lava, unmanufactured ;
- 680. Leeches ;
- 681. Liquorice root ;
- 682. Litharge ;
- 683. Litmus and all lichens, prepared and not prepared ;
- 684. Lemons, and rinds of, in brine, for candying ;
- 685. Logs, and round unmanufactured timber, not elsewhere provided for ;
- 686. Lumber and timber, plank and boards, sawn, of box-wood, cherry, walnut, chestnut, gumwood, mahogany, pitch pine, rosewood, sandalwood, Spanish cedar, oak, hickory and whitewood, not shaped, planed or otherwise manufactured, and sawdust of the same, and hickory lumber, sawn to shape for spokes of wheels but not further manufactured ;
- 687. Locomotives and railway passenger, baggage and freight cars, being the property of railway companies in the United States, running upon any line of road crossing the frontier, so long as Canadian locomotives and cars are admitted free under similar circumstances in the United States, under regulations prescribed by the Minister of Customs ;
- 688. Locust beans, for the manufacture of horse and cattle food ;
- 689. Madder and munjeet, or Indian madder, ground or prepared, and all extracts of ;
- 690. Manganese, oxide of ;
- 691. Manilla grass ;
- 692. Manuscripts ;
- 693. Marble in blocks from the quarry in the rough, or sawn on two sides only, and not specially shapen, containing fifteen cubic feet or over ;
- 694. Medals of gold, silver or copper ;
- 695. Meerschaum, crude or raw ;
- 696. Mineral waters, natural, not in bottle—under regulations made by the Minister of Customs ;

- 697. Mineralogy, specimens of ;
- 698. Models of inventions and other improvements in the arts ; but no article or articles shall be deemed a model or improvement which can be fitted for use ;
- 699. Moss, Iceland, and other mosses, crude ;
- 700. Moss, seaweed, and all other vegetable substances used for beds and mattresses, in their natural state, or only cleaned ;
- 701. Menageries—horses, cattle, carriages, and harness of, under regulations prescribed by the Minister of Customs ;
- 702. Musk, in pods or in grains ;
- 703. Nitrate of soda, or cubic nitre ;
- 704. Nut galls ;
- 705. Newspapers, and quarterly, monthly and semi-monthly magazines, and weekly literary papers, unbound ;
- 706. Nickel ;
- 707. Oak bark ;
- 708. Oakum ;
- 709. Oil cake, cotton seed cake and meal, palm nut cake and meal ;
- 710. Oil cake meal ;
- 711. Oils, cocoanut and palm, in their natural state ;
- 712. Oranges and rinds of, in brine, for candying ;
- 713. Ores of metals of all kinds ;
- 714. Ottar of roses ;
- 715. Osiers ;
- 716. Oxalic acid ;
- 717. Paintings, in oil or water colors, by artists of well-known merit, or copies of the old masters by such artists ;
- 718. Paintings in oil or water colors, the production of Canadian artists, under regulations to be made by the Minister of Customs ;
- 719. Palm leaf, unmanufactured ;
- 720. Pearl, mother of, not manufactured ;
- 721. Persis, or extract of archill and cudbear ;
- 722. Philosophical instruments and apparatus,—that is to say such as are not manufactured in the Dominion, when imported by and for use in universities, colleges, schools and scientific societies ;
- 723. Pictorial illustrations of insects, &c., when imported by and for the use of colleges and schools, scientific and literary societies ;
- 724. Phosphorus ;
- 725. Pelts ;
- 726. Pipe clay ;
- 727. Pitch (pine), in packages of not less than fifteen gallons each ;
- 728. Platinum wire ;
- 729. Plaits, straw, Tuscan and grass ;
- 730. Potash, German mineral ;
- 731. Potash, muriate and bichromate of, crude ;

- 732. Precipitate of copper, crude ;
- 733. Pumice and pumice stone, ground or unground ;
- 734. Quercitron, or extract of oak bark, for tanning ;
- 735. Quicksilver ;
- 736. Quinine, sulphate of, in powder ;
- 737. Rags, of cotton, linen, jute and hemp, paper waste or clippings and waste of any kind, fit only for manufacture of paper ;
- 738. Rattans and reeds, unmanufactured ;
- 739. Recovered rubber and rubber substitute ;
- 740. Red liquor, a crude acetate of aluminium prepared from pyroligneous acid, for dyeing and calico printing ;
- 741. Rennet, raw or prepared ;
- 742. Resin, in packages of not less than fifteen gallons each ;
- 743. Rhubarb root ;
- 744. Roots, medicinal, viz. :—aconite, calumba, ipecacuanha, sarsaparilla, squills, taraxacum, valerian ;
- 745. Rubber, hard crude, in sheets, plain or moulded ;
- 746. Salt cake, being a sulphate of soda, when imported by manufacturers of glass and soap for their own use in their works ;
- 747. Salt, imported from the United Kingdom or any British possession or imported for the use of the sea or gulf fisheries, not otherwise provided for ;
- 748. Saffron and safflower, and extract of ;
- 749. Saffron cake ;
- 750. Sal ammoniac ;
- 751. Sal soda ;
- 752. Sand ;
- 753. Sausage skins, or casings, not cleaned ;
- 754. Sea-weed, not elsewhere specified ;
- 755. Sea-grass ;
- 756. Seeds, anise, coriander, cardamom, fennel and fenu-greek ;
- 757. Senna, in leaves ;
- 758. Silex, or crystallized quartz ;
- 759. Silk, raw or as reeled from the cocoon, not being doubled, twisted or advanced in manufacture in any way, silk cocoons and silk waste ;
- 760. Silver and German silver, in sheets, for manufacturing purposes ;
- 761. Skins, undressed, dried, salted or pickled ;
- 762. Soda ash ;
- 763. Soda caustic ;
- 764. Soda, silicate of ;
- 765. Sodium, sulphide of ;
- 766. Settlers' effects, viz. :—Wearing apparel, household furniture, professional books, implements and tools of trade, occupation or employment, which the settler has had in actual use for at least six months before removal to Canada, musical instruments, domestic sewing machines, live stock, carts and other vehicles

- and agricultural implements in use by the settler for at least one year before his removal to Canada, not to include machinery, or articles imported for use in any manufacturing establishment, or for sale; provided, that any dutiable article entered as settlers' effects may not be so entered unless brought with the settler on his first arrival, and shall not be sold or otherwise disposed of without payment of duty, until after two years' actual use in Canada; provided also that under regulations made by the Minister of Customs, live stock, when imported into Manitoba or the North-West Territories by intending settlers, shall be free, until otherwise ordered by the Governor in Council;
767. Steel, imported for use in the manufacture of skates;
768. Steel, in sheets of not less than eleven nor over eighteen wire gauge, and costing not less than seventy-five dollars per ton of two thousand two hundred and forty pounds, when imported by manufacturers of shovels and spades for use exclusively in such manufacture in their own factories;
769. Steel of number twenty gauge and thinner, but not thinner than number thirty gauge, to be used in the manufacture of corset steels, clock springs and shoe shanks, when imported by the manufacturers of such articles for use in their factories;
770. Steel railway bars or rails, not including tram or street rails;
771. Steel for saws and straw-cutters, cut to shape, but not further manufactured;
772. Spelter, in blocks and pigs;
773. Spurs and stilts, used in the manufacture of earthenware;
774. Sulphate of iron (copperas);
775. Sulphur, in roll or flour;
776. Tails, undressed;
777. Tagging metal, plain, japanned or coated, in coils not over one and a-half inches in width, when imported by manufacturers of shoe and corset laces for use in their factories;
778. Tampico, white and black;
779. Tanners' bark;
780. Tar (pine), in packages of not less than fifteen gallons each;
781. Tea, except as provided by section ten of this Act;
782. Terra Japonica;
783. Teasels;
784. Tin, in blocks, pigs, bars and sheets, and plates and tin foil;
785. Tobacco, unmanufactured, for excise purposes, under conditions of "*The Act respecting the Inland Revenue*";
786. Tortoise and other shells, unmanufactured;
787. Travellers' baggage, under regulations prescribed by the Minister of Customs;

788. Trees, Forest, when imported into the Province of Manitoba, or the North-West Territories for planting ;
789. Tree-nails ;
790. Turmeric ;
791. Turpentine, raw or crude ;
792. Turtles ;
793. Ultra marine blue, in pulp ;
794. Vaccine and ivory vaccine points ;
795. Varnish, black and bright, for ships' use ;
796. Vitriol, blue ;
797. Veneers of wood and ivory, sawn only ;
798. Verdigris, or sub-acetate of copper, dry ;
799. Vegetable fibres, natural, not produced by any mechanical process ;
800. White shellac, for manufacturing purposes ;
801. Whiting or whitening ;
802. Whalebone, unmanufactured ;
803. Willow for basket makers ;
804. Wire of brass or copper, round or flat ;
805. Wire of iron or steel, galvanized or tinned, or not, 15 gauge or smaller ;
806. Wire of spring steel, coppered, for the manufacture of mattresses, number 9 gauge and smaller ;
807. Wire rigging for ships and vessels ;
808. Wood for fuel, when imported into Manitoba and the North-West Territories ;
809. Woods, not further manufactured than sawn or split, viz. :—
African teak, black heart ebony, lignum vitæ, red cedar and satin wood ;
810. Wool, unmanufactured, hair of the alpaca, goat and other like animals, not elsewhere specified ;
811. Yellow metal, in bolts, bars, and for sheathing ;
812. Zinc, in blocks, pigs and sheets. 42 V., c. 15, Schedules B and C ;—43 V., c. 18, s. 2 ;—44 V., c. 10, s. 3 ;—45 V., c. 6, s. 5 ;—46 V., c. 13, s. 1 ;—47 V., c. 30, s. 1 ;—48-49 V., c. 61, s. 1 ;—49 V., c. 37, s. 2.

SCHEDULE D.

The following articles are prohibited to be imported under a penalty of two hundred dollars, together with the forfeiture of the parcel or package of goods in which the same are found, viz. :—

813. Books, printed paper, drawings, paintings, prints, photographs or representations of any kind of a treasonable or seditious, or of an immoral or indecent character ;
814. Reprints of Canadian copyright works, and reprints of British copyright works which have been also copyrighted in Canada ;

815. Coin, base or counterfeit. 42 V., c. 15, Schedule D;—
44 V., c. 10, s. 4;—49 V., c. 37, s. 5, *part.*

SCHEDULE E.

EXPORT DUTIES.

816. Shingle bolts, one and a-half dollars
per cord of one hundred and twenty-
eight cubic feet..... \$1.50 p. 128
cub. feet.
817. Spruce logs, one dollar per thousand
feet, board measure \$1 per M.
818. Pine logs, two dollars per thousand
feet, board measure..... \$2 per M.
819. Provided that the powers vested in the Governor in
Council by section nine of this Act, shall extend and
apply in all respects to the above-named articles, and
that the Governor in Council may increase the export
duty on pine logs to three dollars per thousand feet,
board measure. 49 V., c. 37, s. 4.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most
Excellent Majesty.



CHAPTER 34.

An Act respecting the Inland Revenue.

A. D. 1886.

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

SHORT TITLE.

1. This Act may be cited as "*The Inland Revenue Act.*" Short title. 46 V., c. 15, s. 335.

DEPARTMENT OF INLAND REVENUE.

2. There shall be a department to be called the "Department of Inland Revenue," over which the Minister of Inland Revenue for the time being, appointed by the Governor General, by commission under the Great Seal, shall preside. 31 V., c. 49, s. 1.

Department constituted.

Minister.

3. There shall be a Commissioner of Inland Revenue, who shall be the Deputy of the Minister of Inland Revenue, and an Assistant Commissioner, who shall also be Inspector of Inland Revenue, both of whom shall hold office during pleasure. 31 V., c. 49, s. 2.

Commissioner and Assistant Commissioner

4. The Governor in Council may, from time to time, appoint officers and other persons to carry out this Act and all other Acts relative to the matters and things placed under the control and management of the Department of Inland Revenue, or any Order in Council or regulations made thereunder, and the Governor in Council may assign the names of office of such officers and persons and grant them such salaries or pay for their labor and responsibility as he deems reasonable and necessary, and may appoint the times and manner in which the same shall be paid; but no such officer or person shall receive a higher annual salary than is allowed in his case by "*The Civil Service Act.*" 31 V., c. 49, s. 4.

Governor may appoint officers, and fix their pay, &c.

Proviso.

5. The Department of Inland Revenue shall have the control and management—

(a.) Of the collection of all duties of excise;

(b.) Of the collection of stamp duties and the preparation and issue of stamps and stamped paper, except postage stamps;

Of what matters the department shall have the control and management.

- (c.) Of internal taxes ;
- (d.) Of standard weights and measures ;
- (e.) Of the administration of the laws affecting the culling and measurement of timber, masts, spars, deals and staves, and other articles of a like nature, and the collection of slidage and boomage dues ;
- (f.) Of the collection of bridge and ferry tolls and rents ;
- (g.) Of the collection of tolls on the public canals and of matters incident thereto, and of the officers and persons employed in that service :

Subject to special Acts.

Subject always to the provisions of this Act and of all other Acts relating to the said subjects and matters connected therewith. 31 V., c. 49, s. 3 ;—31 V., c. 43, s. 3.

Annual report by Minister.

6. The Minister of Inland Revenue shall annually make to the Governor General, to be laid before Parliament, within fifteen days after the meeting thereof, a report and statement of the transactions and affairs of the department during the year then next preceding. 31 V., c. 49, s. 6.

GENERAL PROVISIONS.

APPLICATION OF ACT.

Application of Act.

As to N.W.T. and Keewatin.

Proviso : as to unsettled tracts, &c.

7. This Act extends and applies to the whole of Canada, subject always to the provisions respecting intoxicants in the Acts respecting the North-West Territories and the District of Keewatin,—in which no license to manufacture any intoxicant shall issue, except under an Order in Council as provided in the said Acts : Provided always, that no license shall be issued under this Act, nor shall any business subject to excise be carried on in any unsurveyed or unsettled tract of country, nor shall any such license issue or such business be carried on in any district or place designated in an Order in Council to that effect. 46 V., c. 15, s. 334.

GENERAL INTERPRETATION.

Interpretation. "Stamp."

8. In this Act, unless the context otherwise requires:—
 (a.) The expression "stamp" means any distinctive mark, label or seal impressed upon or affixed to any goods, material, merchandise or apparatus, subject to the provisions of this Act, or of any other Act respecting excise, or of any Order in Council or departmental regulation made under such provisions,—or impressed upon or affixed to any package in which any such goods, material or merchandise are contained ; and such stamps respectively shall be made, impressed and affixed in such manner, and by means of such dies or other instruments as are, from time to time, ordered and regulated by the Minister of Inland Revenue ;

"Subject to excise."

(b.) The expression "subject to excise" means—"subject to the provisions of this Act, or of any other Act respecting

duties of excise or the inland revenue, or of any proclamation, order in council or departmental regulation published or made, or that is hereafter published or made, under such provisions ;” and every place or premises wherein licit or illicit, licensed or unlicensed mashing, fermentation, distillation, rectifying, brewing, malting, or manufacturing of tobacco, or manufacturing cigars, or manufacturing of any article in bond, or manufacturing of any article on which there is a duty of excise, or which is manufactured wholly or partly out of any articles on which there is a duty of excise or customs, and on which such duty has not been paid, is carried on or performed—and every worm, still, mash-tub, fermenting-tun or other tool, utensil, apparatus or thing, which is or might be used for such purposes lawfully, or unlawfully, shall be deemed to be “subject to excise ;”

(c.) The expression “Department of Inland Revenue” means the Minister of Inland Revenue or the Commissioner of Inland Revenue, or any person duly authorized to act in his stead ; “Department of Inland Revenue.”

(d.) The expression “superior officer of Inland Revenue” means and includes the Commissioner or Inspector of Inland Revenue, or any person doing duty as the deputy head of the department, and any inspecting officer of Inland Revenue or of excise ; “Superior officer of Inland Revenue.”

(e.) The expression “Collector of Inland Revenue” means “Collectors.” and includes every officer of Inland Revenue who is appointed to collect the duties hereby imposed in any defined district or revenue division ;

(f.) The expression “officer of excise” includes every officer who is employed or appointed to the survey of manufactures, operations, or premises subject to excise ; “Officer of excise.”

(g.) The expression “departmental regulations,” means and includes all regulations and rules promulgated by the Department of Inland Revenue, and duly authenticated by the deputy head of that department. 46 V., c. 15, ss. 1 and 61. “Departmental regulations.”

GENERAL PROVISIONS AS TO LICENSES.

9. No person who has not been licensed as herein provided, shall carry on the business or trade of a distiller, rectifier, compounder, or brewer or maltster, or of a manufacturer of tobacco or cigars, or bonded manufacturer ; or use any utensil, machinery or apparatus suitable for carrying on any such trade or business, or any business subject to excise ; or import, make, or begin to make any still, rectifier or other apparatus suitable for the manufacture of wash, beer or spirits, or for the rectification or compounding of spirits : Business subject to excise not to be carried on without license.

2. No person shall import, make or have in his possession, or keep any still, worm, mash-tub, fermenting-tun, distil- List and return of apparatus used

in such business to be furnished.

ling, rectifying or brewing apparatus, or any malt-kiln or malt-floor, or any apparatus for the manufacture or production of malt, or any tobacco press or mill for cutting or grinding tobacco, without having given, when such articles come into his possession, and on or before the tenth day of July in each subsequent year, a full and particular list, description and return thereof to the collector of Inland Revenue of the division in which such article or apparatus is located, of the same nature and in the same form as is hereby required in an application for a license to use similar apparatus or machinery. 46 V., c. 15, s. 2.

When licenses shall expire.

10. Every license shall terminate on the thirtieth day of June in every year, and the same amount shall be paid for every such license whether it has a full year or only a part of a year to run from the date when it is granted; except that in the case of an application for any such license by a person who has not theretofore obtained a license, and who is beginning business, such license, if applied for on or after the first day of January, may be issued to such applicant for the remainder or until the end of the fiscal year, upon payment of one-half only of the annual license duty or fee otherwise payable on such license. 46 V., c. 15, s. 3.

Application for license.

11. Every person requiring a license under this Act shall make application therefor in writing over his signature to the collector of Inland Revenue, or any other officer appointed by the Minister of Inland Revenue, within whose district or Inland Revenue division the business for which such license is required is to be carried on; and every such application shall be made in the form prescribed by the Department of Inland Revenue. 46 V., c. 15, s. 4.

What application must show.

12. Every application for a license shall state the exact locality, in the city, town, village, township or local municipality (as the case may be), where the premises are situated, in which the business for which the license is required is to be carried on, and shall also contain or have annexed thereto a full and particular description, in triplicate, in writing, with such models, diagrams or drawings as are needed for fully understanding the same, of all the machinery, buildings, premises and places where such business is to be carried on, or where any of the materials or commodities used or to be used therein, or any of the products thereof, are or are to be stored or kept, and of the power by which the machinery so used is to be worked; and the description shall also set forth, in detail, every building and every separate room, cellar, vault, shed or other compartment thereof, specifying what use is to be made of each, and stating the designation which is to be placed over the entrance to each, in accordance with the provisions of this Act:

2. No license shall authorize a person to keep or use a still, or make wort or wash, low wines or spirits, or brew malt liquor, or manufacture malt, or tobacco, or cigars, or manufacture in bond, in any other place than the house or premises mentioned in the application for such license :

License to apply to one place only.

3. In the case of a manufactory in which no material changes or alterations have been made since the original descriptions, models, diagrams or drawings were furnished, and when the manufacturer certifies in writing, upon application being made for each subsequent license, that the original papers filed with the department still correctly represent his manufactory premises, and that no changes or alterations have been made therein—such certificate bearing the indorsation of the collector of Inland Revenue or other proper officer—the Department of Inland Revenue may accept the application and authorize the issue of the license without new descriptions, models, diagrams and drawings each year. 46 V., c. 15, s. 5.

Renewal of license.

13. Every such application shall also state the names of the persons proposed by such applicant as his sureties (which sureties shall, in all cases, be residents of Canada), in accordance with the requirements of this Act; and it shall also contain a statement of the maximum quantity of each article which the utensils are capable of mashing, fermenting, distilling or otherwise producing within each month. 46 V., c. 15, s. 6.

Names of sureties to be stated in application.

14. Every application for a license for distilling, compounding, brewing, malting, or for manufacturing in bond, shall also contain a list and description of all utensils, stills, worms, boilers, mash-tubs, fermenting-tuns, coolers, underbacks, steep cisterns, closed spirit-receivers or other vessels or machinery which it is intended should be placed in the premises, or which are on the premises at the time of application, specifying distinctly and clearly—

What application for license must show as to apparatus.

(a.) The dimensions and capacity of every still, steep cistern, mash-tub, fermenting-tun, cooler, closed spirit-receiver, and of every other utensil, in inches and gallons, the purpose to which each is to be applied, and the locality or position in the building in which it is, or is to be placed or used; and—

Dimensions of stills, &c.

(b.) A description of every pipe, conduit, trough, hose, valve, pump, cock, and of every means of connection or communication between the several vessels or utensils used in or about the distillery or brewery, with a description and drawing or model showing the exact position of every cock, valve, connection and joint. 46 V., c. 15, s. 7.

Description of pipes, &c.

15. No license shall be granted for carrying on any business or trade under this Act, until after a survey has been

Premises to be surveyed by officer.

made by the collector of Inland Revenue or an officer instructed for the purpose by him, of the building or place wherein such business is to be carried on, nor until such collector or other officer has certified in writing that the application, descriptions, models, diagrams and drawings correctly represent the premises, and that all the provisions of this Act and any Order in Council or departmental regulation made in virtue thereof, have been complied with as respects such place:

No license if premises unsatisfactory.

2. No license shall be granted for carrying on any such business in a building or premises which, after careful survey, appear to the department to be so situated with reference to surrounding buildings or places of business, or to be so constructed or arranged, as to embarrass or endanger the full collection of the revenue:

No license when manufactory communicates with any shop.

3. Except as hereinafter specially provided, no license shall in any case be granted for carrying on any business in any building which forms part of or is appurtenant to, or which communicates in any way whatever, except by means of a public highway, with any shop or premises wherein any article to be manufactured under such license is sold by retail, or wherein there is kept any broken package of any such article:

Nor when Inspector reports against granting such license.

4. If any inspector of Inland Revenue reports to the Department of Inland Revenue, that it is not expedient that a license should be granted in respect of any building in connection with which the license is applied for, in view of its proximity to any such shop or premises as in the next preceding sub-section mentioned, the license may not be granted, notwithstanding that the provisions of the said sub-section would not operate to prevent the granting of such license. 46 V., c. 15, s. 8.

How long bonds shall remain in force

16. Every bond entered into under the provisions of this Act shall remain in force so long as any duty upon any articles or commodities subject to excise, or on any license, or any penalty to which the bond relates, remains unpaid by the person to whom such license was granted. 46 V., c. 15, s. 9.

New bond if new license.

17. Whenever any new license is granted to any person a new bond shall likewise be entered into with reference to such new license:

New bond if surety dies, &c.

2. A new bond shall also be given, whenever, during the period for which any license to which the bond first given relates is in force, either of the sureties dies, becomes insolvent or removes permanently out of Canada; and the license shall be void from the time the person to whom it was granted is required by the collector or superior officer of Inland Revenue to enter into a new bond until the time when such new bond is given—during which time the person neglecting to enter into such new bond shall be held to be without a license. 46 V., c. 15, ss. 10 and 11.

License void until new bond given.

18. Whenever the required amount of security, as computed under any provision of this Act, exceeds ten thousand dollars, the amount may be determined by the Governor in Council at such sum not less than ten thousand dollars as to him appears sufficient for the safety of the revenue. 46 V., c. 15, s. 12.

Security in certain cases determined by Governor in Council.

19. Notwithstanding any provision in this Act contained in respect of the number of sureties to any license or other bond entered into under the provisions hereof, the Department of Inland Revenue may, in lieu and instead of such several sureties, in any case, accept the security of any duly incorporated guarantee company doing business and having a domicile in Canada, and approved of by the Governor in Council. 46 V., c. 15, s. 13.

Guarantee companies may be sureties.

20. Every application for a license under this Act shall be forwarded by the collector of Inland Revenue to the district inspector of Inland Revenue, with such information as is required by any departmental regulation; and so soon as the said application is returned to the collector, indorsed with the approval of the district inspector, and in the case of a bonded manufacturing license by the Department of Inland Revenue also, and upon the due execution of the bond with sureties as herein required, the collector of Inland Revenue shall issue a license to carry on the business and to use the utensils, machinery and apparatus specified in the application, and in the place and premises therein specified, and in such place or premises only, and shall immediately report the issue of such license to the department. 46 V., c. 15, s. 14.

Applications for licenses, and proceedings thereon.

Issue of license.

21. Upon application being made, in the form prescribed by the Department of Inland Revenue, by the holder of any license under this Act, the license so held may be transferred from any premises to any other premises of similar capacity situated within the same Inland Revenue division, without payment of additional license fee, if all the requirements of this Act have been complied with by the holder of such license in reference to the premises to which it is proposed to transfer it, and if all obligations imposed by the license have been fulfilled; but whenever any such transfer is made, new bonds shall be taken, as is required upon the issue of a new license. 46 V., c. 15, s. 15.

Transfer of license to other premises.

Proviso.

Proviso.

22. Upon the expiration of every license issued under this Act, the granting of a new license in lieu thereof, except as hereinbefore provided as to diagrams, drawings, models or descriptions, shall be subject to the same restrictions and conditions as the granting of the original license. 46 V., c. 15, s. 16.

Renewal of license.

Proof of license. **23.** The burden of proof that any license required by this Act has issued, shall rest upon the person to whom such license is alleged to have been issued. 46 V., c. 15, s. 17.

License to be posted up. **24.** Every person licensed under this Act shall keep his license posted up in a conspicuous place in his manufactory. 46 V., c. 15, s. 18.

Payment of license fees. **25.** All license fees shall be due and payable at the time when the license is granted, and in no case shall the license be issued until all such fees are paid. 46 V., c. 15, s. 19.

Licenses to manufacture spirits to be issued only at certain places in B. C. and Man. **26.** Licenses to manufacture spirits or other articles subject to excise within the Provinces of Manitoba and British Columbia shall be issued only for the following places, namely:—Victoria and New Westminster, in British Columbia, and Winnipeg in Manitoba, and such other places as are, from time to time, named for the purpose by the Governor in Council. 37 V., c. 7, s. 3.

OBLIGATIONS GENERALLY OF PERSONS HOLDING LICENSES.

Notice to collector of intention to work. **27.** No distiller, maltster, brewer, tobacco manufacturer, cigar manufacturer or bonded manufacturer shall work his distillery, malt-house, brewery, tobacco manufactory, cigar manufactory or bonded manufactory at any time, unless he has given at least six days' previous notice in writing to the collector of Inland Revenue, of his intention to work the same at some time not less than six and not more than twenty days after the giving of such notice; but having commenced to work the same within such time, he may continue to work the same uninterruptedly without new notice—but after any interruption of work for more than one week a new notice shall be given:

Penalty for working without notice. 2. Every distiller, maltster, brewer, tobacco manufacturer, cigar manufacturer or bonded manufacturer who works his distillery, malt-house, brewery, tobacco manufactory, cigar manufactory or bonded manufactory at any time for which he has not given notice of his intention to work the same, shall incur the same penalty and forfeiture as if he had worked the same without a license. 46 V., c. 15, s. 20.

Assistance to inspecting officer. **28.** Every person licensed under this Act shall, at all times when required, supply any officer of Inland Revenue with all assistance, lights, ladders, tools, staging or other thing necessary for inspecting the premises, stock, tools or apparatus belonging to such licensed person, or for weighing, gauging or testing any article or commodity then on the premises for which the license is granted, and shall open all doors, and open for examination all boxes, packages, casks, barrels and other vessels, when required so to do by any officer of Inland Revenue. 46 V., c. 15, s. 21.

29. If any person holding a license under this Act, intends to make any alteration or addition to the premises, utensils, machinery or apparatus, described as herein provided, or to remove any portion of such utensils, machinery or apparatus, or to make any use of any compartment or room for a purpose different from that mentioned in the written description accompanying his application for license, notice in writing shall be served on the collector of Inland Revenue of the intention to make such alterations, additions, removals or changes, at least one week before they are commenced; and every such notice shall set forth fully and correctly the particulars of the proposed alterations, additions, removals or changes. 46 V., c. 15, s. 22.

Notice of any alterations or additions to apparatus, &c.

30. Any inspector of Inland Revenue may, for sufficient cause (of which sufficiency he shall be the sole judge), at any time after having given ten days' notice, require a new list and description, with such models, diagrams or drawings as are herein required in an application for a license, to be made out and furnished by any person holding a license under this Act; and every person who refuses to comply with such requisition, shall incur the same penalty as is prescribed by this Act for carrying on any business subject to excise without a license; and every such description shall be received as evidence in all courts. 46 V., c. 15, s. 23.

Inspector may require new list, &c., of apparatus.

31. Except for the necessary continuance of some process of manufacture previously commenced in the ordinary course of business, no person licensed under this Act shall transact any business, or perform any act, operation or process of manufacture during Sunday in the premises mentioned or referred to in the license held by him, which, under any regulation then in force, requires the supervision or attendance of an officer of Inland Revenue:

Restriction of time for business processes.

As to Sundays.

2. No act, operation or process of manufacture, for the supervision of which the presence of an officer of Inland Revenue is required, by any regulation then in force, shall be done or carried on in any licensed premises before the hour of six o'clock in the forenoon, nor after six o'clock in the afternoon, except when permitted by departmental regulations:

As to night work.

3. Whenever any business, act, operation or process of manufacture, for the supervision of which the presence of an officer of Inland Revenue is required by any regulation then in force, is carried on or done in any premises licensed under this Act, before eight o'clock in the forenoon, during the dinner hour, or after six o'clock in the afternoon, the person in whose premises the business, act, operation or process is carried on or done, shall pay to the collector of Inland Revenue, for the attendance of the officer or officers during the extra time they are so employed, such rate as

Extra time of officers to be paid for.

rate of pay.

is determined by departmental regulations in that behalf.
46 V., c. 15, s. 24.

Inscription over premises. **32.** There shall be conspicuously placed over the chief entrance to every place or premises subject to excise, or where any business subject to excise is carried on, the name of the person, or the name and style of the firm by whom such premises are occupied, or on whose behalf such business is carried on :

Size of letters. 2. The name so placed shall be written or printed in oil colors in Roman characters at least three inches in height :

Inscription over each separate apartment. 3. Every separate apartment, room, granary, kiln, vault, workshop or storeroom, in every place or premises subject to excise, or in which any business subject to excise is carried on, or in which any utensils, apparatus or machinery used in such business are situated, or in which any of the materials to be used therein, or the products of such manufactory are stored or kept, shall have placed over the principal entrance thereto, by the manufacturer, a sign in Roman characters, written or printed in oil colors, at least two inches in height, stating the designation thereof, and the purpose to which it is to be put, or for which it is to be used :

Notices, &c., how printed and affixed 4. Every notice or written or printed designation or name of any person or persons, place or thing hereby required, shall be printed, painted, put up or affixed under and according to the direction of an officer of Inland Revenue, and at the expense of the person on whose behalf it is done.
46 V., c. 15, s. 25.

BOOKS, ACCOUNTS AND PAPERS.

Stock books to be kept. **33.** Every distiller, compounder, maltster, brewer, tobacco manufacturer, cigar manufacturer, bonded manufacturer, or other trader, who is required to take out a license under this Act, or who carries on any business subject to excise, shall, in addition to the books, accounts and papers herein-after specially mentioned, keep such stock books and other books, in such form and manner as are prescribed and supplied by the Department of Inland Revenue,—which stock books shall, in all cases, be kept on and within the premises covered by the license issued to such manufacturer or other person,—and in which stock or other books there shall be clearly recorded, day by day, and on the same day on which the circumstance, thing or act to be recorded is done or occurs, in the prescribed columns—

What books must show. (a.) A full and particular account of all grain, malt, spirits, raw and manufactured tobacco, cigars and other stock, material or commodity brought into the distillery, malt-house, brewery, tobacco manufactory, cigar manufactory, bonded manufactory or other licensed premises, to which such stock books relate ; and—

Quantities brought in.

(b.) A full and particular account of all grain, spirits, malt, raw or manufactured tobacco, cigars or other stock, material or commodity, sold, removed or transferred from such distillery, malt-house, brewery, tobacco manufactory, cigar manufactory, bonded manufactory or other licensed premises; and—

Quantities sent out.

(c.) Such further particulars as are required by any departmental regulation in that behalf;

Further particulars.

Stating in every case the name of the person from whom the same was bought or obtained, or to whom it was sold or transferred, as the case may be, and also the mode of conveyance by which it was brought to the distillery, malt-house, brewery, tobacco manufactory, cigar manufactory, bonded manufactory or other licensed premises, or by which it was carried therefrom; and if any such grain, malt, spirits, manufactured or raw tobacco, cigars or other stock, material or commodity, have been conveyed by any vessel or railway to or from any port, wharf or station, situated within a distance of ten miles from the distillery, malt-house, brewery, tobacco manufactory, cigar manufactory, bonded manufactory or other licensed premises, then such vessel or railway shall be named as the conveyance by which such grain, spirits, malt, tobacco, cigars, stock, material or commodity were conveyed as aforesaid. 46 V., c. 15, s. 26.

Certain matters to be stated specially.

34. Every distiller, maltster, tobacco manufacturer, cigar manufacturer or bonded manufacturer, now or hereafter engaged in the manufacture of or dealing in articles subject to excise, shall make and deliver to the collector of Inland Revenue of the division in which his manufactory or premises is or are situated, an inventory in such form as is prescribed by the Department of Inland Revenue, and verified by oath, of the quantity of the different kinds of raw material, articles and goods in process of manufacture, and manufactured products, and all other materials held or owned by him on the first day of July of every year, or at the time of commencing and at the time of concluding business, if before or after the first day of July, or at any intermediate time, when required by the Department of Inland Revenue; and the stock-taking necessary to make up such inventory shall be done under the immediate supervision and to the satisfaction of the officer in charge of the respective manufactories or other premises or other duly authorized officer, and the inventory shall have indorsed thereon the certificate of the said officer as to its correctness. 46 V., c. 15, s. 27.

Yearly inventory of stock to be furnished.

Stock-taking.

35. Every person who is licensed to carry on any business subject to excise under this Act, shall, when required so to do, and as often as is required by any officer of Inland Revenue, and at any time within ordinary business hours, or

Inspection of books, &c.

when any operation is being carried on within the premises licensed, produce for the inspection of any such officer—

Officers may make memorandums therein.

(a.) All books, papers and accounts, kept in accordance with the requirements of this Act, or in accordance with the requirements of any Order in Council or any departmental regulation made under this or any other Act,—in which books or accounts such officer may enter any memorandum, statement or account of quantities; and in such case he shall attest the same by his initials;

Or take extracts.

(b.) All books, accounts, statements and returns whatsoever, and all partnership accounts used by any such person or by any co-partners in carrying on any such licensed business, whether such books, memorandums, papers or accounts are considered private or otherwise; and every such officer shall be permitted to take extracts therefrom or copies thereof:

Officer seizing may remove books, &c.

2. In case of seizure of any article or thing in any distillery, malt-house, brewery, tobacco manufactory, cigar manufactory, bonded manufactory or other premises subject to excise, for violation of this Act, the seizing officer or any superior officer of excise, may take possession of and remove all or any books, papers or accounts kept under the requirements of this Act, or under the requirements of any Order in Council or any departmental regulation made thereunder, and may retain the same until the seizure is declared valid by competent authority, or the article or thing seized or the proceeds thereof is, by such authority, directed to be restored. 46 V., c. 15, s. 28.

No erasure allowed in books.

36. No erasures shall be made in any stock or other books kept by any manufacturer or other person licensed in accordance with the provisions of this Act; nor shall any leaf or leaves, or part of a leaf or leaves, be removed therefrom; and an erasure shall be defined as any obliterating of any words or figures by any means whatever other than by ruling through the same, with ink, in such a manner as not to render the words or figures so ruled out incapable of being read. 46 V., c. 15, s. 29.

Erasure defined.

Quantities, how to be stated in books.

37. Except as herein otherwise provided, every quantity of grain recorded or stated in the stock-books herein mentioned, and in all returns, accounts, inventories and statements required to be kept or made by this Act, and the quantity of every other article or commodity, except fluids, used in or about the premises subject to excise, or entering into the manufacture of any article or commodity subject to excise, shall be stated in pounds avoirdupois:

Those of fluids to be stated in gallons.

2. All quantities of fluids, except when otherwise provided by this Act, shall be stated in the aforesaid books, returns, accounts, inventories and statements, in gallons; and the quantity of any fluid, in gallons, shall, for all the purposes of this Act, be determined by weighing or gauging,

in such manner as is, from time to time, prescribed by any departmental regulation in that behalf:

3. All beams, scales, weights and measures used in or about any distillery, malt-house, brewery, tobacco manufactory, cigar manufactory, bonded manufactory or other premises subject to excise, shall be inspected, tested and verified by an officer of Inland Revenue, or by an inspector of Weights and Measures, as often as any inspector of Inland Revenue or excise directs: Provided always, that scales used in a tobacco or cigar manufactory, when used exclusively for weighing tobacco during any intermediate process of manufacture, and not used for weighing raw material brought into the manufactory or taken for use therein, or in ascertaining the manufactured products of such manufactory, may be used without inspection. 46 V., c. 15. s. 30.

Inspection of weights and measures.

Proviso: as to scales for weighing tobacco.

GENERAL PROVISIONS AS TO PAYMENT OF DUTIES AND TIME AND FORM OF RETURNS.

38. All duties of excise imposed by this Act shall accrue and be levied on the quantities made or manufactured, ascertained in the manner by this Act provided or otherwise proved and shall be in addition to all sums charged as license duties, whether on utensils or otherwise:

On what quantities duties to be levied.

2. The said duties shall be duties within the meaning of "The Consolidated Revenue and Audit Act," and shall form part of the Consolidated Revenue Fund of Canada. 46 V., c. 15, s. 31, *part*.

To be duties within meaning of Audit Act.

39. All returns, unless when otherwise provided by this Act, shall be made distinct and separate for each month. 46 V., c. 15, s. 32.

Monthly returns.

40. Every return as to quantities required to be made by this Act, shall be made to the collector of Inland Revenue or other officer authorized by the Department of Inland Revenue to receive the same, on the first day of each month for the month next preceding such day. 46 V., c. 15, s. 33;— 49 V., c. 39, s. 2.

Time for making returns.

41. Every such statement shall be made for and relate to the month next preceding the day on which it is made. 46 V., c. 15, s. 34.

Statement for each month.

42. Every account or return rendered as herein provided shall be made and signed by the person carrying on the business to which it relates, or his agent, and shall also be signed by the foreman, clerk, chief workman or other person employed in or about the premises where the business is carried on; and the collector or any superior officer of Inland Revenue may, at any time after the making of such account or return, require any other person employed about

How to be attested.

Further attestation.

such premises, who, in his opinion is best acquainted with the quantity of material used and of goods produced, subject to excise, to testify upon oath before him as to the correctness of such account or return. 46 V., c. 15, s. 35.

Form of
attestation.

43. Every such account or statement shall be attested by the persons signing the same under oath, in the form following :—

“I, _____, do solemnly swear that the several “accounts included in this return are true according to their “purport: So help me God.” 46 V., c. 15, s. 36.

Before whom
to be attested.

Officers may
examine cer-
tain persons
on oath.

44. Every such oath shall be made before some collector or other duly authorized officer of Inland Revenue; and the collector or officer before whom it is made, or any superior officer of Inland Revenue may, when the account or statement is made, or at any time thereafter, put to the person or persons making it such questions as are necessary to the elucidation and full understanding of the account, and for ascertaining whether such person has had the means of knowing the same to be correct; and the collector or officer aforesaid may also, when the account or statement is made, or at any time thereafter, examine under oath any person or persons employed, or who have, at any time, been employed in or about the distillery, brewery, malt-house, tobacco manufactory, cigar manufactory or bonded manufactory, or other premises subject to excise, to which such account relates, or any person doing business therewith or selling material thereto or buying goods therefrom, and also any common carrier, agent, clerk or other person who has been concerned in the removal of any such goods or material to or from any distillery, malt-house, brewery, tobacco manufactory, cigar manufactory, or bonded manufactory or other premises subject to excise, or in taking or keeping an account of such removals, as to the truth of all such statements, and may reject all such written statements as are shown by such evidence to be incorrect or unreliable; and such rejection shall render the person making the return liable to the same penalty as he would be liable to if no return whatever had been made:

Proviso: oath
before justice
of the peace.

2. Whenever the Governor in Council deems it expedient so to do, he may authorize the taking of such oath or evidence before a justice of the peace. 46 V., c. 15, s. 37.

Mode of giv-
ing notices,
delivering
returns, &c.

45. All notices, lists, descriptions, returns, inventories, statements, accounts and reports required by this Act to be given or made to any person or officer, shall be held to be validly so given or made, if they are received by such person or officer, as the case may be, or if they are left at the usual place of residence of such officer or person, within the period or delay fixed herein in that behalf, without any reference to the mode by which such notice, list, description, account,

statement, inventory or return was conveyed to such person or officer ; and the burden of proof that all such notices, lists, descriptions, returns, inventories, accounts, statements and reports have been given or made, as herein required, shall lie upon the person whose duty it is to give or make them. 46 V., c. 15, s. 38.

46. The several duties imposed by this Act shall be due and payable on the sixth day of each month, for the quantities of each article or commodity produced or manufactured during the preceding month, unless another time of payment is herein expressly fixed. 46 V., c. 15, s. 39.

When duties shall be payable.

47. No goods subject to a duty of excise under this Act, shall be removed from any distillery, malt-house, brewery, tobacco manufactory, cigar manufactory, bonded manufactory or other premises subject to excise, licensed as herein provided, or from any warehouse in which they have been bonded or stored, until the duty on such goods has been paid or secured by bond in the manner by law required ; and any goods removed from such distillery, malt-house, brewery, tobacco manufactory, cigar manufactory, bonded manufactory or other premises subject to excise, or from a warehouse, before the duty thereon has been so paid or secured, shall be seized and detained by any officer of excise having a knowledge of the fact, and shall be and remain forfeited to the Crown. 46 V., c. 15, s. 40.

Removal of excisable goods.

Forfeiture for illegal removal.

48. Except under departmental authority, in each case specially obtained, no goods subject to a duty of excise under this Act, shall be removed from any distillery, malt-house, brewery, tobacco manufactory, cigar manufactory, bonded manufactory, or from a bonding warehouse or other premises licensed as herein provided, between the hours of six o'clock in the afternoon and seven o'clock on the following forenoon ; and any goods removed in violation of this section shall be forfeited to the Crown, and shall be seized by any officer of Inland Revenue having knowledge of the fact, and dealt with accordingly. 46 V., c. 15, s. 41.

Hours of removal.

Forfeiture for contravention.

49. The amount of duty shall be calculated on the measurements, weights, accounts, statements and returns, taken, kept or made, as herein provided, subject to correction and approval by the collector of Inland Revenue or other officer duly authorized thereto ; and when two or more methods for determining quantities or the amount of duty to be paid are provided for, that method which yields the largest quantity or the greatest amount of duty shall be the standard ; but if the collector of Inland Revenue or any superior officer of Inland Revenue has any reason to doubt the correctness of any statement, account or return, he shall compute the weights, measurements or quantities himself,

Calculation of duty and correction of such calculation.

Basis of calculation.

and levy the duty accordingly; and such computation may be based on any reliable evidence respecting the quantity of material brought into the distillery, malt-house, brewery, tobacco manufactory, cigar manufactory, bonded manufactory or other premises subject to excise, or as to the quantity of the manufactured article removed therefrom, or as to the quantity or strength of any articles used in any of the processes of manufacture; and if the result is disputed, the burden of proof of the error or wrong shall rest with the person who is liable for the payment of the duty. 46 V., c. 15, s. 42.

Proof of error.

SPECIAL PROVISIONS AS TO BONDING OR WAREHOUSING.

Warehousing of goods.

50. Spirits, malt, tobacco, cigars and other articles subject to duty under this Act may, subject to the following provisions and to such regulations as the Governor in Council makes, be deposited in any suitable excise bonding warehouse licensed for the purpose, without payment of the duty hereby imposed. 46 V., c. 15, s. 43.

Security to be given before bonding warehouse is licensed.

51. Before any license is granted to any person for a bonding warehouse, for goods subject to excise duties, such person shall give good and sufficient security by bond for an amount equal to the sum to which it is estimated the duty on the average quantity of goods in the warehouse will amount; and such bond shall be conditioned for the payment of all such duties and all penalties to which the owners of any goods warehoused therein, or the owner of any such warehouse, may become liable under this Act:

New bond in certain cases.

2. Whenever the duties on the goods warehoused in such warehouse exceed the amount for which the bond is taken, a new bond may be taken for a sum sufficient to cover the increased amount of duty. 46 V., c. 15, s. 44.

Warehouse to be provided by owner or bailee of goods and approved.

52. The warehouse shall be provided by the owner or bailee of the goods, and shall be licensed in conformity with such departmental regulations as are, from time to time, made in that behalf, and upon being surveyed and approved as to security by the inspecting officer, shall be secured under the joint locks of the Department of Inland Revenue and the owner or bailee of the goods warehoused, so as to be accessible only in the presence of an officer of Inland Revenue and of the owner or bailee of the goods in bond, or his agent. 46 V., c. 15, s. 45.

Goods at owner's risk.

53. All goods warehoused shall be at the risk of the owner, and, unless destroyed by fire, the duty shall be payable thereon as if they were entered for consumption. 46 V., c. 15, s. 46.

Term of warehousing limited.

54. Except as herein otherwise provided, no goods shall remain warehoused for a longer period than two years, and

at the end of that time the full amount of duty remaining unpaid shall be collected :

2. If the quantity of goods bonded in any warehouse, at any time or by any means, falls short or is deficient of the actual quantity which ought to be or remain warehoused, after deducting the quantities entered ex-warehouse, the owner thereof shall be liable for the full duties on the balance of goods with which the warehouse stands debited ; and the goods remaining shall be subject to the duties on the quantity deficient, and shall be sold for payment thereof, by order of the department, and the surplus, if any, shall be payable to the person who warehoused such goods, or his assigns, after deducting all penalties and expenses incurred : except that when the Department of Inland Revenue is satisfied that no goods have been illegally removed from the warehouse, such goods as are actually in the warehouse at the time stock is taken, or at the expiration of two years, may be re-warehoused on payment of the full amount of duty on the ascertained deficiency. 46 V., c. 15, s. 47.

Goods in warehouse subject to duties when there is a deficiency.

Exception.

55. At the time of entering the goods for warehouse, the amount of duty shall be computed and ascertained and stated in the entry. 46 V., c. 15, s. 48.

When duty shall be computed.

56. Goods warehoused under this Act may be transferred in bond, and may be exported, or removed from one warehouse to another, without payment of duty, under such restrictions and regulations as the Governor in Council deems necessary. 46 V., c. 15, s. 49.

Transfer of goods in bond.

57. When goods are entered for warehouse, the entry shall state the exact quantity of goods in each package or parcel, and the duty to which they are liable ; and each package shall be described in the entry paper, and shall also be designated by a distinguishing number. 46 V., c. 15, s. 50.

Quantity, value, &c., to be described in entry.

58. Each package, when originally warehoused by the manufacturer, shall be marked with the date when warehoused, and with the quantity which the package contains, and except in the case of cigars, shall be consecutively numbered and marked with the entry number. 48-49 V., c. 62, s. 2, *part.*

Packages warehoused to be marked.

59. Goods warehoused shall be so stowed or arranged that the casks, boxes or packages contained or described in one entry are placed together in separate lots ; and in no case, except in the case of cigars, shall the casks, boxes or packages contained or described in one entry, be intermixed with those contained or described in another. 48-49 V., c. 62, s. 2, *part.*

Stowage of packages warehoused.

To be re-marked and restowed in certain cases.

Provision in case of failure to do so.

Removal for consumption.

Entries to be refused for non-compliance with regulations.

Forms of entries.

Fee for bonding warehouse license.

Governor in Council may establish Inland Revenue bonding warehouse.

60. Whenever the marks or numbers on any goods in warehouse have been omitted, or have been defaced or otherwise become illegible, or whenever such goods are not stowed or arranged in compliance with the requirements of this Act, the owner of such goods shall, on being required so to do, immediately re-mark or arrange or stow them, as the case may be, to the satisfaction of the collector of Inland Revenue, or of any officer inspecting the division; and if the owner of such goods fails to re-mark, arrange or stow them in the manner herein required, for the space of one week after having been required so to do, all such goods shall be forthwith entered for duty ex-warehouse, and the duty thereon collected in accordance with the original warehouse entry; and any failure so to enter for duty ex-warehouse, and to pay the duty thereon, when a demand to that effect has been made by the collector of Inland Revenue, shall be construed as evidence of a deficiency in the said warehouse, and shall be dealt with accordingly. 46 V., c. 15, s. 53.

61. No goods shall be removed from warehouse for consumption unless upon the payment of the full amount of duty accruing thereon. 46 V., c. 15, s. 54.

62. Except as herein otherwise provided the collector or other officer of Inland Revenue or Customs in whose charge goods warehoused under this or any other Act relating to warehousing are placed, shall refuse all entries ex-warehouse until the owner of such goods or his agent has complied with all conditions in respect thereto, required by this or any other Act, or by any regulations made by virtue of this or any other Act. 46 V., c. 15, s. 55.

63. All entry papers, either for warehouse, ex-warehouse for removal, or other purposes, shall be made in such forms, and shall be attested by such affidavits, affirmations or declarations as the Department of Inland Revenue orders. 46 V., c. 15, s. 56.

64. The person in whose favor a license is granted for an excise bonding warehouse, not included in the description of the premises in respect of which a license has been issued to him under this Act, shall pay for one such warehouse the sum of twenty dollars, and for each additional warehouse the sum of ten dollars. 46 V., c. 15, s. 57.

65. The Governor in Council may order that an Inland Revenue bonding warehouse shall be established at any place or places specified in such order; and such order shall prescribe the storage dues, and the license fee to be paid by persons using such Inland Revenue bonding warehouse, but such license fee shall not exceed ten dollars

per annum: Provided always, that all goods stored and kept in any Inland Revenue bonding warehouse, established under the provisions of this section, shall be so stored and kept at the risk, in every respect, of the owner thereof, and in case of damage or loss by fire or otherwise, the owner shall not have any claim for indemnity. 46 V., c. 15, s. 58.

Proviso:
goods to be at
owner's risk.

OFFICERS OF EXCISE, THEIR POWERS AND DUTIES.

66. The Commissioner of Inland Revenue or other person acting as deputy head of the department, and every inspecting officer of Inland Revenue, shall have and may exercise in each and every revenue division all the powers and rights conferred by this Act on the collector or any other officer of Inland Revenue. 46 V., c. 15, s. 59.

Powers of In-
land Revenue
officers.

67. Inspectors of Inland Revenue, and all persons appointed under this Act, or employed for the purposes of this Act, or upon whom any duty is imposed by this Act, shall be known as officers of Inland Revenue. 46 V., c. 15, s. 60.

Who shall be
deemed such
officers.

68. Every superior and inspecting officer, and every collector of Inland Revenue, and such other officers as are, from time to time, designated by the Governor in Council, are hereby empowered and authorized to administer all oaths and receive all declarations required or authorized by this Act. 46 V., c. 15, s. 63.

Power to ad-
minister
oaths.

69. Every officer of Inland Revenue may—

(a.) With any assistants acting under him and by his directions, at all times, as well by night as by day, enter into and remain in, as long as he deems necessary, any building or place belonging to or used by any person or persons for the purpose of carrying on any trade or business subject to excise, or in which are any machinery, utensils or apparatus subject to excise, or which may be used in the manufacture of goods subject to excise;

Powers of
officers.
Entry into
buildings, &c.

(b.) With any assistants acting under him and by his instructions, at any time between six o'clock in the forenoon and ten o'clock in the afternoon, enter the premises of any dealer wherein any goods subject to excise are stored, kept or sold;

Into premises
of dealer in
goods subject
to excise.

(c.) With any assistants acting under him and by his directions, inspect any such building or place, and take such account as he deems necessary of every part thereof, and of all works, vessels, utensils, goods and materials, machinery and apparatus, belonging or in any wise appertaining to such business;

Inspection of
buildings and
apparatus.

(d.) Break up or cause to be broken up or removed any floor, wall, partition, ceiling, roof, door or other part of such

Breaking
partitions, &c

building, place or premises, or any ground surrounding them, for the purpose of ascertaining whether there is any pipe, worm, still, conduit, tool, vessel, utensil, machinery or apparatus or any stock, goods, commodity or article subject to excise, concealed or kept out of view ;

Examination
of still, &c.

(e.) Examine the worm of any still or other apparatus used by any distiller or bonded manufacturer, by causing the water to be drawn off from the worm-tub or refrigerator containing such worm, at any time when, in the opinion of such officer, the doing so will not be prejudicial to the working of such still or other apparatus, or when he deems it necessary so to do for the prevention or detection of fraud ;

Gauging,
closing and
sealing ves-
sels, &c.

(f.) Gauge, measure, weigh, prove, mark, label, stamp, lock, seal or otherwise designate or secure any fermenting-tun, mash-tub, cistern, kiln, worm, still, spirit-receiver, pipe, cock, vessel or apparatus, furnace door, machinery or utensil, or any goods, article or commodity subject to excise, and close, seal and secure all or any such worms, stills, fermenting-tuns, mash-tubs, furnace doors, kilns and utensils during the period when the distillery, malt-house, brewery, tobacco manufactory, cigar manufactory, or bonded manufactory is not at work ;

Taking sam-
ples of goods
at wholesale
price.

(g.) Take, at any time that he is instructed by the collector or superior officer of Inland Revenue so to do, a sample or samples of any goods unmanufactured, or in process of manufacture, or manufactured, in the stock or possession of any person carrying on business subject to excise, paying for the same, if demanded, at the current wholesale price of such articles ; except that samples of raw leaf tobacco, stems, scraps, cuttings or other unmanufactured products of raw leaf tobacco, when taken for the purpose of ascertaining the moisture therein, shall be furnished by the manufacturer or other person free of cost. 46 V., c. 15, s. 64.

Exception.

Power to
make forcible
entry.

70. If any officer of Inland Revenue, with any assistants acting under him and by his directions, after having demanded admittance into any distillery, malt-house, brewery, tobacco manufactory, cigar manufactory, bonded manufactory, or other premises subject to excise, or into the premises of a distiller, maltster, brewer, tobacco manufacturer, cigar manufacturer or bonded manufacturer, or into any place or premises subject to excise, and having declared his name and business at the gate or entrance door, or at any window or door of any such distillery, malt-house, brewery, manufactory or place, or at the door, window or gate of any building or place forming part thereof, is not immediately admitted into such distillery, malt-house, brewery, manufactory or other premises, such officer and any person acting in his aid, may at all times, as well by night as by day (but if by night, then in the presence of a constable or other peace officer), break through any of the doors, windows or walls of such distillery, malt-house, brewery,

By day or
with peace
officer at
night.

tobacco manufactory, cigar manufactory, bonded manufactory or other premises necessary to be broken open or through to enable him and them to enter the said distillery, malt-house, brewery, manufactory or other premises aforesaid. 46 V., c. 15, s. 65.

71. The collector or other officer of Inland Revenue, or any person or persons acting under him or by his directions respectively, having first obtained a search warrant for that purpose from some justice of the peace, who may grant the same on affidavit (made before him and to his satisfaction, and stating reasonable grounds for the issuing thereof), may, at any hour between sunrise and sunset, enter into and search any house, building or place mentioned in such search warrant, as being one in which it has been made to appear by affidavit that there is reasonable cause to suppose that an unlicensed still, worm, mash-tub, cooler, fermenting-tun, malt-floor or kiln, press, cutting-knife, mill or other vessel or implement is unlawfully in use or possession, or that the provisions of this Act are otherwise violated. 46 V., c. 15, s. 66.

Power to search under warrant.

72. The Minister of Inland Revenue may lawfully suspend or revoke the license of a distiller, maltster, brewer, tobacco manufacturer, cigar manufacturer, bonded manufacturer, or other person carrying on business subject to excise, who delays, obstructs or prevents, or whose agent or servants delay, obstruct or prevent any officer or his assistant in or from entering into a distillery, malt-house, brewery, tobacco manufactory, cigar manufactory or bonded manufactory, or any house, outhouse, store or other place whatsoever of such distiller, maltster, brewer, tobacco manufacturer, cigar manufacturer, bonded manufacturer, or other person carrying on business subject to excise, or in or from otherwise performing his duty in the enforcement of any Act relating to the Inland Revenue. 46 V., c. 15, s. 67.

Licenses may be suspended or revoked for obstructing officer.

73. If any person does or permits to be done, anything in or about any premises subject to excise, which, in the opinion of any officer of Inland Revenue, is intended, or likely to mislead such officer in the discharge of his duty, or to prevent him from ascertaining the true quantity of the products of the business therein carried on and subject to excise, such person or any other person who is supposed to have any knowledge of the facts, may be examined on oath by any collector or other superior officer of Inland Revenue. 46 V., c. 15, s. 68.

Collector or officer may examine on oath in certain cases.

74. Any judge of the Exchequer Court of Canada, or any judge of any of the superior courts in any of the Provinces of Canada, having jurisdiction in the Province or place where the application is made, shall grant a writ of assistance

Writs of assistance in the several Provinces.

upon application made to him for that purpose by Her Majesty's Attorney General of Canada, or by a collector of Inland Revenue, or any superior officer of Inland Revenue, and such writ shall remain in force so long as any person named therein remains an officer of the Inland Revenue, whether in the same capacity or not :

In N. W. Territories and Keewatin.

2. For the purposes of this section, any judge of the Court of Queen's Bench, in the Province of Manitoba, shall have jurisdiction over the North-West Territories and the district of Keewatin, and shall grant a writ of assistance for use therein, in like manner and with like effect as he might grant such writ for use in the Province of Manitoba. 46 V., c. 15, s. 69, *part*.

Powers of officers under writs.

75. Under authority of such writ of assistance, any officer of Inland Revenue, or any person employed for that purpose with the concurrence of the Governor in Council, expressed either by special order or appointment, or by general regulation, may enter in the night time, if accompanied by a peace officer, and in the day time without being so accompanied, any building or other place within the jurisdiction of the court or judge granting such writ, and may search for and seize and secure any goods or things liable to forfeiture under this Act, and in case of necessity, may break open any entrance or other doors, walls, floors, windows or gates and any chests or other packages for that purpose :

Entry, search and seizure.

Arresting offender.

2. Any officer of Inland Revenue, having a writ of assistance, may arrest and detain any person whom he detects in the commission of any offence declared by this Act to be a felony or a misdemeanor :

Trial of offender.

3. Every person so arrested shall, as soon as possible thereafter, be brought before any court of record having jurisdiction in the premises, or before a judge or junior judge of a county court, or before a police or stipendiary magistrate or two justices of the peace :

Justices of the peace.

4. If such prosecution is brought before a judge or a junior judge of a county court, or before a police or stipendiary magistrate, or before any two other justices of the peace, no other justice shall sit or take part therein. 46 V., c. 15, s. 69, *part*.

Others to assist officers.

76. All justices of the peace, mayors, bailiffs, constables and all persons serving under Her Majesty by commission, warrant or otherwise, and all other persons whosoever, shall aid and assist, and they are hereby respectively required to aid and assist every officer of Inland Revenue in the due execution of any act or thing authorized, required or enjoined by this or any other Act. 46 V., c. 15, s. 70.

PROTECTION OF OFFICERS.

Notice to officer sued

77. No writ shall be sued out against, nor any process served upon any officer of Inland Revenue for anything done

in the exercise of his duty as such officer, until one calendar month after notice in writing has been delivered to him, or left at his usual place of abode by the attorney, solicitor or agent of the person who intends to sue out such writ or process,—in which notice shall be clearly and explicitly contained the cause of action, the name and place of abode of the person who intends to bring such action, and the name and place of abode of the attorney, solicitor or agent; and no evidence of any cause of action shall be produced except of such as shall be contained in such notice; and no verdict or judgment shall be given for the plaintiff, unless he proves on the trial that such notice was given; and in default of such proof, the defendant shall receive in such action a verdict or judgment and costs. 46 V., c. 15, s. 71.

for any official act.

Proof required for verdict or judgment.

78. Every such action shall be brought within three calendar months after the cause thereof, and shall be laid and tried in the place or district where the acts were committed; and the defendant may plead the general issue, and give the special matter in evidence; and if the plaintiff is non-suited, or discontinues the action, or if, upon a demurrer or otherwise, judgment is given against the plaintiff, the defendant shall recover costs, and have such remedy for the same as any defendant has in other cases where costs are given. 46 V., c. 15, s. 72.

Limitation of time for action.

Non-suit or discontinuance.

79. Any such officer or person against whom any action is brought on account of any such seizure or entry, or of anything done under the authority of this Act, may, within one calendar month after such notice, tender amends to the person complaining or his agent, and plead such tender in bar or answer to any action, together with other pleas or defences; and if the court or jury (as the case may be) find the amends sufficient, they shall give a judgment or verdict for the defendant; and in such case, or in case the plaintiff is non-suited or discontinues his action, or judgment is given for the defendant upon demurrer or otherwise—then such defendant shall be entitled to the like costs as he would have been entitled to in case he had pleaded the general issue only: Provided always, that such defendant may, by leave of the court where such action is brought, at any time before issue is joined, pay money into court as in other actions. 46 V., c. 15, s. 73.

Amends may be tendered after notice; effect of such tender.

No costs if tender sufficient.

Payment of money into court.

80. If, in any such action, the court or judge before whom such action is tried certifies that the defendant or defendants in such action acted upon probable cause, the plaintiff in such action shall not be entitled to more than twenty cents damages, or to any costs of suit. 46 V., c. 15, s. 74.

Nominal damages only if probable cause shown.

Costs and damages limited if probable cause shown.

Limitation of damages, &c., in such case.

81. If any information or suit is brought to trial or determined on account of any seizure or entry made under this Act, and a verdict is found or decision or judgment is given for the claimant, and if the court or judge, before whom the cause has been tried, certifies that there was probable cause for such seizure or entry, the claimant shall not be entitled to any costs of suit, nor shall the person who made such seizure or entry be liable to any action, indictment, or other suit or prosecution on account of such seizure or entry; and if any action, indictment, or other suit or prosecution is brought to trial against any person on account of such seizure or entry, wherein a verdict or judgment is given against the defendant, the plaintiff, if probable cause is certified as aforesaid, besides the thing seized, if a seizure, or the value thereof, shall not be entitled to more than twenty cents damages or to any costs of suit, nor shall the defendant in such prosecution in such case be fined more than ten cents. 46 V., c. 15, s. 75.

PENALTIES.

Penalty for not posting up license.

82. Every manufacturer who neglects or refuses to keep his license posted up in a conspicuous place in his manufactory, shall incur a penalty of fifty dollars for the first offence, and of one hundred dollars for each subsequent offence. 46 V., c. 15, s. 76.

Goods and apparatus forfeited when no license has been taken out.

83. All grain, malt, raw tobacco, and all other materials in stock, and—

(2.) All engines, machinery, utensils, worms, stills, mash-tubs, fermenting-tuns, tobacco-presses or knives, and—

(3.) All tools or materials suitable for the making of stills, worms, rectifying or similar apparatus, and—

(4.) All spirits, malt, beer, tobacco, cigars and other manufactured articles,—

If found in certain places.

Which are at any time found in any distillery, malt-house, brewery, tobacco manufactory, cigar manufactory, bonded manufactory, or other premises or place where anything is being done or any working carried on which is subject to excise, and for which a license is required under this Act, but in respect of which no such license has been taken out; and—

Horses, vehicles, &c.

(5.) All horses, vehicles and other appliances which have been or are being used for the purpose of removing any spirits, malt, beer, tobacco, cigars, materials or apparatus used or to be used in the production of any article subject to excise, in violation of this Act,—

Seizure and forfeiture.

Shall be liable to be seized by any officer of Inland Revenue having a knowledge thereof, and to be forfeited to the Crown, and may either be destroyed when and where found, or removed to some place for safe keeping in the discretion of the seizing officer. 46 V., c. 15, s. 77.

84. Every steam-engine, boiler, mill, still, worm, rectifying apparatus, fermenting-tun, mash-tub, cistern, couch-frame, machine, vessel, tub, cask, pipe or cock, with the contents thereof, and all stores or stocks of grain, spirits, malt, beer, tobacco, cigars, drugs or other materials or commodities which are in any premises or place subject to excise, when any fraud against the revenue is committed in any such place or premises, or when the owner of any such place, premises, apparatus, goods or commodities, his agent or any person employed by him, or any person having lawful possession or control of such premises, apparatus, goods or commodities, is discovered in the act of committing, or is convicted of committing any act in or about such place or premises which is declared by this Act to be a misdemeanor or felony, shall be forfeited to the Crown, and be dealt with accordingly. 46 V., c. 15, s. 78.

Engines and apparatus forfeited when fraud has been committed.

85. Every article or thing subject to duty under this Act, and on which the duty hereby imposed has not been paid at the proper time for paying the same, shall be seized by any officer of Inland Revenue and shall be forfeited to the Crown and be dealt with accordingly. 46 V., c. 15, s. 79.

Forfeiture of goods for non-payment of duty.

86. Every person who puts into any packages, barrels or casks which have been stamped, marked or branded under this Act, any article or commodity subject to excise on which the duty imposed by this Act has not been paid or secured, or which has not been inspected as herein required, is guilty of a misdemeanor, and for a first offence shall incur a penalty not exceeding five hundred dollars, and not less than one hundred dollars, and for each subsequent offence a penalty of five hundred dollars; and shall, in addition to such penalties, be liable to imprisonment for a term not exceeding three months. 46 V., c. 15, s. 80.

Penalty for unlawfully using stamped packages.

87. Every vendor of the contents of any package, barrel or cask, labelled, branded, marked or sealed, as required by this Act, who, so soon as the contents thereof have been removed, fails to obliterate or effectually deface such label, mark, brand or seal, and every person in whose possession any such package, barrel or cask, the contents whereof have been removed and the label, mark, brand or seal on which has not been obliterated or defaced, is found, shall, for each such offence, incur a penalty not exceeding one hundred dollars, and the package, barrel or cask in respect of which the offence has been committed shall be forfeited to the Crown and shall be dealt with accordingly. 48-49 V., c. 62, s. 4.

Penalty for failing to obliterate brands, &c.

88. Every person who, except as permitted by this Act, brings or causes or permits to be brought into any place licensed under this Act, belonging to him, or into any place

Unlawfully keeping stamped packages.

in which any business subject to excise is carried on under his supervision or control, or in whose licensed premises there is, at any time, found any box, jar, barrel, bag or other package, such as is used for containing any of the articles subject to excise which are made in such licensed premises, and having attached to it any stamp, mark or brand, or a part of any stamp, mark or brand affixed thereto, under any provision of this Act, as evidence that the duty to which the contents of such box, jar, barrel, bag or other package is liable, has been paid or secured, or that the inspection to which such article is liable has been made,—

Penalty and forfeiture.

Shall, for a first offence, incur a penalty not exceeding five hundred dollars, and not less than one hundred dollars, and for each subsequent offence a penalty of five hundred dollars; and all articles subject to excise on the premises at the time of the commission of such subsequent offence, shall be forfeited to the Crown, and shall be seized by any officer of Inland Revenue and dealt with accordingly. 46 V., c. 15, s. 82.

Penalty for not making proper returns of premises, apparatus, &c.

89. Every person carrying on any business subject to excise, or having in his possession or on his premises, any machinery, tools, utensils, apparatus or appliances, suitable for carrying on any business subject to excise, who—

(a.) Neglects, refuses or omits to make a true and correct return and entry at the time and in the manner required by this Act, or at any time when specially required so to do under the provisions hereof, of all workshops, apartments, utensils, tools, apparatus, machinery or appliances possessed, occupied or used by or for him, or existing in or introduced into or intended to be used in the premises wherein such business is or might be carried on, or—

Using apparatus not reported.

(b.) Makes use of any still, worm, fermenting-tun, mash-tub, cistern, malt-kiln, malt-floor, tobacco-press, cutting-machine, vessel, utensil, closed spirit-receiver, fixed or movable pipe, cock, pump or other appliance or apparatus, or permits any such to be used in his distillery, malt-house, brewery, tobacco manufactory, cigar manufactory or bonded manufactory, or other premises subject to excise, which, or any of which, have not been known or reported to the proper officer previous to being so used, or for the use of which no license has been taken out, as herein required, or—

Making changes without notice.

(c.) Makes any changes therein, or additions thereto, without duly notifying the collector of Inland Revenue, or—

Using secret communications.

(d.) Makes, causes to be made, or permits to exist, any secret, covert or unusual connection or communication between the several parts or compartments of the premises in which such business is carried on, other than are shown on the return or plan made thereof, or—

Or pipes, &c., not reported.

(e.) Allows any pipes, pumps, cocks, conduits, troughs or other means for conducting fluids or other matter from one

part of such premises to another, or from one vessel to another, other than such as are clearly indicated and made known on the returns, models, diagrams or entries made of such premises or vessels, or other than have been made known to the collector of Inland Revenue, or other than are permitted to be used by this Act, or—

(*f.*) Permits any apparatus, utensils, vessels, pipes, store-rooms or compartments of such premises to be used or occupied otherwise than for the purpose for which they have been entered or returned, or— Using apparatus for purpose not reported.

(*g.*) Neglects or refuses to designate in the manner required by this Act, the contents or capacity of, and the purpose to which each vessel, utensil, apparatus, pipe, conduit, store-room, workshop or compartment of such premises, is respectively applied, or— Not designating contents of vessels, &c

(*h.*) Refuses to admit the collector or other officer of Inland Revenue or his assistants to the premises or manufactory where any business subject to excise is carried on, at any hour of the day or night when such business is being carried on, or when any act or thing connected with the carrying on of such business is being performed therein, or— Refusing to admit officer

(*i.*) Refuses to admit any officer of Inland Revenue to inspect any place or premises where any grain, stock, commodity, material, utensil or apparatus suitable for carrying on any business subject to excise is placed or deposited, or— Or to allow inspection of stock, &c.

(*j.*) Does or causes or permits to be done, anything in or about the premises where such business is carried on, intended or likely to mislead any officer of Inland Revenue in the discharge of his duty, or to prevent him from ascertaining the true quantity of the products of the business therein carried on and subject to excise,— Deceiving officers.

Shall, for a first offence, incur a penalty not exceeding five hundred dollars, and not less than one hundred dollars, and for each subsequent offence a penalty of five hundred dollars, and— Penalty.

A further penalty of one hundred dollars for each and every day upon which such offence has been committed. Further penalty.
46 V., c. 15, s. 83.

90. Every still, worm, rectifying apparatus, fermenting-tun, mash-tub, machinery, tobacco-press, cutting-machine, vessel, utensil, pipe, cock, pump, trough, conduit, cistern, couch-frame or apparatus, with all and every matter or thing which they contain, and the contents of every store-room, workshop, malt-house, kiln or apartment in respect of which any penalty is incurred under this Act, or which has not been entered, described or returned as herein required, shall be forfeited to the Crown, and shall be seized by any officer of Inland Revenue and dealt with accordingly. Apparatus, &c., forfeited when penalty is incurred.
46 V., c. 15, s. 84.

Refusing to assist officers.

91. Every person who refuses or neglects to aid any officer of Inland Revenue in the execution of any act or duty required by this Act, is guilty of a misdemeanor, and liable to a fine not exceeding one hundred dollars, and not less than fifty dollars, and to imprisonment for a term not exceeding six months and not less than three months. 46 V., c. 15, s. 85.

Penalty for—

92. Every person carrying on any business subject to excise, who—

Neglecting to keep stock books, &c.

(a.) Fails, or neglects, or allows any person acting for him or in his employ to fail or neglect—

(1.) To keep stock books and all such other books as are required by this Act, or by any regulation made under the provisions of this Act, or by any regulation approved by the Governor in Council, or by any departmental regulation in that behalf, to be kept, or—

Not making true entries.

(2.) To make true and correct entries therein of all particulars required by this Act, or by the said regulations, to be entered in such books, or—

Falsifying entries.

(b.) In any way alters or falsifies any such entries, or makes, or causes, or allows to be made any untrue entry or entries in the said books, or—

Removing leaves of books.

(c.) Removes, or causes or permits the removal from the said books of any leaf or leaves or part of a leaf or leaves, or—

Defacing entries.

(d.) Defaces or erases, or causes or permits to be defaced or erased, any entry made therein, or—

Refusing to make returns.

(e.) Neglects or refuses to prepare and deliver the inventory or make any return or statement, or to give any information, or to render any accounts required by this Act, or—

Falsifying returns or inventories.

(f.) Falsifies any such return, inventory, statement or account, or knowingly gives false information, or—

Refusing to produce books, &c.

(g.) Neglects or refuses to produce any book, account, statement or return by this Act required to be kept, or any private books or accounts which are demanded for the inspection of any duly authorized officer of Inland Revenue, when required so to do during ordinary business hours,—

Amount of penalty.

Shall, for a first offence, incur a penalty not exceeding three hundred dollars and not less than fifty dollars, and for each subsequent offence a penalty of five hundred dollars, together with a further penalty equal to double the amount of license fees, duty or other impost payable under this Act on any spirits, malt, beer, manufactured tobacco, cigars, stock, goods manufactured in bond, or materials for manufacturing them:

Forfeiture of goods.

2. Every article or commodity, in respect of which any fraudulent, false, incorrect, or imperfect information, entry, return, inventory, account or statement has been made or given, or in respect of which any entry, return, account,

inventory, statement or information has been in whole or in part neglected or refused to be made or given, or in respect of which any entry, return, inventory, account or statement has been in whole or in part erased, defaced, removed or destroyed,—

And all spirits, raw and manufactured tobacco, cigars, goods or materials, grain, beer, malt, hops, drugs, stock, machinery, utensils, tools, apparatus, articles or commodities, in respect of which any such fraudulent, false or imperfect entry, return, inventory, account or information has been made or given, or in respect of which any information, return, entry, inventory or account has been in whole or in part neglected, or omitted, or refused to be made or given, or in respect of which any entry, return, inventory, account or statement has been in whole or in part erased, defaced, removed or destroyed—or which are found in the distillery, malt-house, brewery, tobacco manufactory, cigar manufactory, bonded manufactory or other premises subject to excise, at the time when such false, fraudulent or imperfect information, entry, return, inventory, account or statement is discovered to have been made or given—or at the time when it is discovered that the giving of any information or the making of any return, inventory, entry, statement or account has been in whole or in part neglected—or at the time when it is discovered that any return, inventory, account or statement has been in whole or in part erased, defaced, removed or destroyed,—

And of stock and apparatus, &c.

Shall be forfeited to the Crown, and shall be seized by any officer of Inland Revenue and dealt with accordingly. 46 V., c. 15, s. 86.

Seizure and forfeiture.

93. Every person who uses, or causes or permits the using, except as by this Act otherwise provided, of any beams, scales, weights or measures in or about any distillery, malt-house, tobacco manufactory, cigar manufactory, brewery, bonded manufactory or other premises subject to excise—other than such as have been tested and inspected as by this Act provided and approved by the proper officer of Inland Revenue—shall, for every such offence, incur a penalty of one hundred dollars, and a further penalty of fifty dollars for each subsequent day upon which such use is continued; and such beams, scales, weights and measures shall be forfeited to the Crown, and shall be seized by any officer of Inland Revenue and dealt with accordingly. 46 V., c. 15, s. 87.

Penalty for using weights and measures not duly inspected and approved.

94. Every person who opens or breaks any lock or seal, or other contrivance attached to any apparatus, vessel, pipe, trough, safe, closed spirit-receiver, meter, pump, cock, room, warehouse or other apartment used for the security of the revenue under this Act, or who unlawfully abstracts any spirits, malt, beer, tobacco or cigars, goods manufactured in

Breaking the Crown's lock or seal, abstracting goods, counterfeiting

labels, &c., to be felony. bond, or materials for the manufacture thereof, from any place where they or any of them are retained under the supervision of any officer of Inland Revenue, or who counterfeits any label, stamp or seal provided for under this Act, or who in any way perforates any vessel or closed spirit-receiver used for containing any spirits on which the duties have not been paid, without the knowledge and consent of the collector of Inland Revenue, is guilty of felony. 46 V., c. 15, s. 88.

Penalty for unlawfully removing bonded goods. **95.** If any goods subject to excise are removed or in any way abstracted from any bonding warehouse authorized under this or any other Act, without due entries having been made and the duties paid as required by law, whether such removal or abstraction is effected with or without the knowledge or consent of the person holding the license for such warehouse or of the owner of the goods abstracted, the person to whom the license for the warehouse was granted, and the owner of the goods shall, in addition to the duties of excise to which the goods abstracted were liable, incur a penalty equal in amount to the said duties; and all goods, articles or things remaining in the warehouse, when it is ascertained that any goods have been unlawfully abstracted, shall be liable for the duties to which the abstracted goods were subject and for the penalty hereby imposed, and may be forthwith sold by order of the collector or other officer whose duty it then is to collect such duties of excise; and the proceeds of such sale shall be applied—

Lien for duty on remaining goods and sale thereof.

Application of proceeds. (a.) To the liquidation of the duties of excise to which the goods then in warehouse are subject;

(b.) To the payment of the duties of excise to which the abstracted goods are subject;

(c.) To the payment of the penalty hereby imposed:

Proviso: remission to innocent owners.

Provided always, that if the persons who become liable to the penalty hereby imposed can show to the satisfaction of the Minister of Inland Revenue, that they were in no wise privy to the unlawful abstraction of such goods, or that the goods were stolen by some person or persons unknown to them, and that they had used all possible means for the detection and arrest of the criminal, the Governor in Council may remit such penalty upon payment of the duties to which such goods would otherwise have been liable. 46 V., c. 15, s. 89.

Penalty for— **96.** Every person carrying on any business subject to excise who refuses or neglects—

Not rendering accounts. (a.) To render such accounts, inventories, statements and returns as are by this Act required, and at the time by this Act prescribed, or—

Not paying duties. (b.) To pay over at the proper time the duties and license fees imposed by this Act, or—

(c.) To pay over any penalty incurred or deliver any article forfeited under this Act, for more than one month after such penalty has been incurred or such forfeiture has taken place,—

And penalties or forfeitures.

Shall, by every such refusal or neglect, forfeit his license ; and the collector of Inland Revenue shall thereupon cause a notice of such forfeiture to be forthwith inserted in the *Canada Gazette*, and from and after the insertion thereof, the license shall be null and void ; and no new license shall be granted to such person, and no license shall be granted to any other person for carrying on any business in the premises occupied by him at the time of his failure to render true accounts, inventories, statements and returns, and to pay duties or penalties, until he has complied with the provisions of this Act—nor until after such penalty or forfeiture has been satisfied. 46 V., c. 15, s. 90.

License to be forfeited, and consequences thereof.

97. Every person licensed under this Act who commences any operation, or uses any apparatus for which a notice is required to be given, before the time mentioned in such notice as that of such commencement or use, shall, for every such offence, incur a penalty of one hundred dollars. 46 V., c. 15, s. 91.

Penalty for unlawfully using apparatus.

98. Every person who obstructs, impedes or interferes with any officer of Inland Revenue, or any person assisting such officer in the discharge of his duty, is guilty of a misdemeanor, and liable to imprisonment for any term not exceeding two years and not less than six months. 46 V., c. 15, s. 92.

Obstructing officers.

99. Every person who, under any pretence, either by actual assault, force or violence, or by threats of such assault, force or violence, in any way resists, oppresses, molests or obstructs any officer of Inland Revenue, or any person acting in his aid or assistance, in the discharge of his or their duty under the authority of this Act, or who wilfully or maliciously shoots at, maims or wounds any officer of Inland Revenue, or any person acting in his aid or assistance, while employed for the prevention of illicit distillation, brewing, malting or manufacturing, and in execution of his or their duty, or the protection or care of any article or place seized for any violation, or supposed violation of this Act—is guilty of felony, and liable to imprisonment for any term not exceeding five years and not less than six months, unless any greater penalty is otherwise provided by law. 46 V., c. 15, s. 93.

Assaulting or threatening officers.

To be felony ; and how punishable.

100. Every person who, whether pretending to be the owner or not, either secretly or openly, and whether with or without force or violence, takes or carries away any goods, vessel, carriage or other thing which has been seized or

Taking away goods seized or detained.

detained on suspicion, as forfeited under this Act, before the same has been declared by competent authority to have been seized without due cause, and without the permission of the officer or person who seized the same, or of some competent authority, shall be deemed to have stolen such goods, vessel, carriage or other thing, being the property of Her Majesty, and is guilty of felony, and liable to three years' imprisonment. 46 V., c. 15, s. 94.

Refusing to
give evidence.

101. Every person who refuses or neglects to appear before any court, judge or any justice of the peace to give evidence, when summoned, concerning any alleged offence against the provisions of this Act, or who refuses or neglects to give evidence when required, before any officer herein authorized to examine such person, shall, for such refusal or neglect, incur a penalty of one hundred dollars. 46 V., c. 15, s. 95.

Penalty for
contravention
of Act gener-
ally.

102. Every person who violates any of the provisions of this Act, or who neglects any duty imposed on him by this Act,—for which violation or neglect no penalty is herein specially provided, shall incur a penalty of two hundred dollars. 46 V., c. 15, s. 96.

Imprisonment
in lieu of or in
addition to
fine.

103. Whenever any person is convicted of any offence against this Act, for which a money penalty only is hereby provided, the court may, if it thinks fit, in addition to or in lieu of any of the punishments by this Act authorized, sentence the offender to be imprisoned for any term not exceeding two years. 46 V., c. 15, s. 97.

RECOVERY OF DUTIES AND PENALTIES.

Recovery of
duties.

104. All duties of excise or license duties or fees payable under this Act shall be recoverable at any time after the same ought to have been accounted for and paid, whether an account of quantity of spirits, malt, beer, tobacco, cigars, drugs, or other goods or commodities, has or has not been rendered as by this Act required, or whether a true return of the utensils, tools and apparatus on which such duties or license fees are payable has or has not been made as by this Act required; and all such duties and license fees shall be recoverable with full costs of suit as a debt due to Her Majesty, in any court of competent jurisdiction. 46 V., c. 15, s. 98.

Seizure of
perishable
articles.

Power to sell
and deal with
proceeds.

105. In case of the seizure of any article, the Department of Inland Revenue may authorize the collector of Inland Revenue for the division in which the seizure has been made, or any superior officer of Inland Revenue, to sell the same within such delay as to prevent its becoming deteriorated in value, or a part of the value consumed by reason of

the expense of keeping or the decay or waste of the same, as if it had been condemned—and to keep in his hands the proceeds of such sale until the same has been condemned, or deemed to be condemned, or ordered to be restored to any claimant; in which last mentioned case, the court before which the claim is heard shall order the collector to pay over to the claimant the proceeds of such sale in lieu of awarding restitution :

2. Provided always, that the Department of Inland Revenue may authorize the collector of Inland Revenue or superior officer of Inland Revenue aforesaid to deliver up to any claimant any such article so seized as aforesaid, upon such claimant depositing in the hands of the collector or superior officer of Inland Revenue such sum of money as will represent the full value thereof, or giving security to the satisfaction of such collector or superior officer of Inland Revenue that the value of such seizure and all costs shall be paid to the use of Her Majesty, if such article is condemned :

May be delivered to claimant giving security.

3. Any article or commodity seized as forfeited under this Act or any Act relating to Inland Revenue, may, at the option of the seizing officer, be kept or stored in the building or place where it was seized, until it is condemned or ordered to be restored to any claimant; and so long as such article or commodity is under seizure, the place or building in which it is so kept or stored shall be held to be in the sole custody of the officer of excise, or other person appointed for that purpose by the seizing officer or by any superior officer of Inland Revenue, or such article or commodity may, by direction of such seizing officer or superior officer of Inland Revenue, be removed to be kept in any other place. 46 V., c. 15, s. 100.

Storage of goods seized, &c.

106. The burden of proof that the duties of excise have been paid and all the other requirements of this Act complied with as regards any article of any kind subject to duty under this Act, shall lie upon the person in whose possession the goods or articles liable to duty may, at any time, have been before such duties were proved to have been paid, or whose duty it was to pay such duties and to comply with such requirements. 46 V., c. 15, s. 101.

Burden of proof of payment of duties on whom to lie.

107. If any stock, steam-engine, boiler, still, fermenting-tun, machinery, apparatus, vessel or utensil, or other article or commodity is forfeited under the provisions of this Act, for any violation thereof, it may be seized by the collector or other officer of Inland Revenue or by any other person acting by the authority of such officer, at any time after the commission of the offence for which it is forfeited, and may be marked, detained, removed, sold or otherwise secured until condemned or released by competent authority, and shall not, while under seizure, be used by the offender; and

Seizure of forfeited goods, &c.

if condemned, it shall be removed, sold or otherwise dealt with as the Minister of Inland Revenue directs. 46 V., c. 15, s. 102.

Schedule of
property
seized.

Copy of
schedule.

108. The collector or any other officer of Inland Revenue, or any person aiding or assisting him in seizing property as forfeited under this Act, shall mark and number each separate piece, and make a schedule of all the property seized, with the estimated value thereof—which schedule or list shall be dated and signed by the collector or other officer; and a true copy thereof shall be given to the person from whom the seizure was made, or forwarded to his last known post office address by registered letter; and another copy, together with the collector's or other officer's report relating to such seizure, shall be transmitted without delay to the Department of Inland Revenue. 46 V., c. 15, s. 103.

To be seized
in Her Majes-
ty's name.

109. All property seized under any provision of this Act, shall be seized, marked and secured in the name of Her Majesty the Queen; and the power of seizing, marking and securing the same shall be exercised by direction and under the authority of the collector of Inland Revenue or other officer, where and when necessary in order to carry out the provisions of this Act:

Stock in trade
and apparatus
specially
liable for
duties.

2. The grain, malt, beer, tobacco, cigars, or other materials or stock in trade, from which any goods subject to excise are or could be wholly or in part made, stills, mash-tubs, vats, fermenting-tuns, engines, water-wheels, tables, presses and other machinery, implements, articles and utensils, used or capable of being used for making, manufacturing or producing any such goods or preparing any materials therefor, or by means of which any trade, business or employment subject to excise is or has been or might be carried on, and whether so fixed as to form part of the real or immovable property or not—which are on the premises mentioned in the license or in the custody or possession of the person carrying on such trade or business, or in the custody or possession of any factor, agent or other person in trust for or for the use of such person, at the time when any duties become due or any penalty is incurred under this Act—shall (without prejudice to the liability of any other property of the debtor or his sureties, and by special and preferential privilege and lien in favor of the Crown, to whomsoever the same might otherwise belong, or into or in whose hands or possession soever the same have passed or are found and notwithstanding any title or claim to the same or privilege or lien thereon in favor of any person whomsoever) be liable for such duties and for any penalty or forfeiture incurred by the distiller, brewer, maltster, tobacco manufacturer, cigar manufacturer or bonded manufacturer, or other person carrying on business subject to excise, on whose premises or in custody or possession of whom or of

whose factor, or agent, or trustee as aforesaid they are, and may be seized and sold in satisfaction of such duty, penalty or forfeiture, under any warrant of distress or writ of execution, or other process for the recovery thereof, and may be removed by the purchaser :

3. Such goods, materials, machinery and apparatus shall be liable to forfeiture to the Crown, under the provisions of this Act, for any violation thereof; and if so forfeited, they may be seized by the collector of Inland Revenue or other officer of Inland Revenue, or any person acting by his authority, at any time after the commission of the offence for which they are forfeited, and may be marked, detained or secured until condemned or released by competent authority, and shall not, while under seizure, be used by the offender; and if condemned, they shall be removed or sold or otherwise dealt with as the Minister of Inland Revenue directs. 46 V., c. 15, s. 104.

Preferential
lien of the
Crown.

Provision if
same are for-
feited.

110. So soon as an information has been filed in any court for the condemnation of any goods or thing seized under this Act, notice thereof shall be posted up in the office of the registrar, clerk or prothonotary of the court, and also in the office of the collector of Inland Revenue or chief officer of Inland Revenue, in the Inland Revenue division wherein the goods or thing have been seized as aforesaid :

2. If the owner or person claiming the goods or thing presents a claim to the same and gives security and complies with all the requirements of this Act in that behalf, the said court, at its sitting next after the said notice has been so posted during one month, may hear and determine any claim which has been validly made and filed in the meantime, and release or condemn such goods or thing, as the case requires; otherwise the same shall, after the expiration of such month, be deemed to be condemned as aforesaid, and may be sold without any formal condemnation thereof :

3. No claim on the behalf of any person who has given notice of his intention to claim before the posting of such notice as aforesaid shall be admitted, unless validly made within one week after the posting thereof; nor shall any claim be admitted unless notice thereof has been given in writing to the collector of Inland Revenue or superior officer of Inland Revenue within one month from such seizure. 46 V., c. 15, s. 105.

Notice of
seizure.

Claims to
property
seized.

Notice of
claim.

111. All vehicles, goods and other things seized as forfeited under this Act or any other Act relating to excise, or to trade or navigation, shall be deemed and taken to be condemned, and may be dealt with accordingly, unless the person from whom they were seized, or the owner thereof, within one month from the day of seizure, gives notice in writing to the

seizing officer, the collector of Inland Revenue in the Inland Revenue division in which such goods were seized, or superior officer of Inland Revenue, that he claims or intends to claim the same :

Release of
goods on
security.

2. The collector of Inland Revenue at the place where the seized articles are secured, or any superior officer of Inland Revenue, may order the delivery thereof to the owner, on receiving security by bond with two sufficient sureties, to be first approved by such collector or superior officer of Inland Revenue, for double the value in case of condemnation—which bond shall be taken to Her Majesty's use in the name of the collector or the superior officer of Inland Revenue, and shall be delivered to and kept by such collector or superior officer of Inland Revenue; and if such seized articles are condemned, the value thereof shall be forthwith paid to the collector and the bond cancelled; otherwise the penalty of such bond shall be enforced and recovered. 46 V., c. 15, s. 106.

Payment of
penalty not to
discharge any
duty.

112. The payment of any penalty or forfeiture incurred under this Act shall not discharge the person paying the same from the obligation to pay all duties due by such person, and the same shall be paid and may be recovered as if such penalty had not been paid or incurred. 46 V., c. 15, s. 107.

Recovery of
penalties and
in what
courts.

113. Every penalty or forfeiture incurred for any offence against the provisions of this Act or any other law relating to excise, may be sued for and recovered or may be enforced before any court of Vice-Admiralty, or any court of record having jurisdiction in the premises, or, if the amount or value of such penalty or forfeiture does not exceed five hundred dollars, the same, whether the offence in respect of which it has been incurred is declared by this Act to be a misdemeanor or not, may be sued for and recovered or may be enforced before a judge of a county court, or before a police or stipendiary magistrate, or any two justices of the peace having jurisdiction in the place where the cause of prosecution arises, or wherein the defendant is served with process, under the "*Act respecting summary proceedings before justices of the peace*," by whom the complaint against the offenders shall be dealt with, on the oath of one credible witness; and any such penalty may, if not forthwith paid, be levied by distress and sale of the goods and chattels of the offender, under the warrant of the court, judge, magistrate or justices having cognizance of the case; or the said court, judge, magistrate or justices may, in its or their discretion, commit the offender to the common gaol for the period of six months, unless the penalty and costs, including those of conveying the offender to such gaol and stated in the warrant of committal, are sooner paid :

May be levied
by distress
and sale.

Imprisonment
in default.

2. Any term of imprisonment imposed for any offence against the provisions of this Act, whether in conjunction with a pecuniary penalty or not, may be adjudged and ordered by any court of Vice-Admiralty, or any court of record having jurisdiction in the premises, or if such term of imprisonment does not exceed twelve months, exclusive of any term of imprisonment which may be adjudged or ordered for non-payment of any pecuniary penalty, the same, whether the offence in respect of which the liability to imprisonment has been incurred is declared by this Act to be a misdemeanor or not, may be adjudged and ordered on the oath of one credible witness, by a judge of a county court, or by a police or stipendiary magistrate, or any two justices of the peace having jurisdiction in the place where the cause of prosecution arises, or wherein the defendant is served with process, under the "*Act respecting summary proceedings before justices of the peace*."

By what courts imprisonment may be adjudged.

3. If any prosecution in respect of an offence against any provision of this Act is brought before a judge of a county court, or before a police or stipendiary magistrate, or before any two other justices of the peace, no other justice of the peace shall sit or take part therein. 48-49 V., c. 62, ss. 5, 6 and 7.

Who only may try offence.

114. All forfeitures and penalties under this Act, after deducting the expenses of prosecution, shall, unless it is otherwise expressly provided, belong to Her Majesty for the public uses of Canada; but the net proceeds of such penalty or forfeiture, or any portion thereof, may be divided between and paid to any officer of Inland Revenue holding a rank not higher than that of a special class exciseman, by whom the seizure was made, or the information given on which the prosecution was founded, and to any person having given information or otherwise aided in effecting the condemnation of the goods or thing seized, or the recovery of the penalty, in such proportions as the Governor in Council, in any case or class of cases, directs and appoints; but nothing herein contained shall be construed to limit or affect any power vested in the Governor in Council, with regard to the remission of penalties or forfeitures by this Act or any other law. 46 V., c. 15, s. 109.

Disposal of penalties and forfeitures.

115. Every officer of the Customs or of Inland Revenue, or other person employed in the collection of the revenue, shall be a competent witness in any prosecution or suit under this Act, although he has or believes himself to have some expectation of advantage to himself from the successful termination of such prosecution or suit. 46 V., c. 15, s. 110.

Officers to be competent witnesses.

116. All sums of money paid or recovered for any penalty or forfeiture under this Act, or any part thereof,

Appropriation of moneys,

&c., recovered for Crown. belonging to Her Majesty, shall be paid to the Minister of Finance and Receiver General, and shall form part of the Consolidated Revenue Fund of Canada. 46 V., c. 15, s. 111.

Voluntary forfeiture of goods or payment of penalty.

117. If any article or thing is voluntarily given up or abandoned by the owner to any collector of Inland Revenue or superior officer of Inland Revenue, as forfeited under this Act, or if any sum of money is voluntarily paid to any such collector or officer as the amount of a penalty incurred under this Act, such article or thing may be dealt with as if lawfully condemned, and such sum of money as if lawfully recovered. 46 V., c. 15, s. 112.

Seizures made under error.

118. If in any case it appears to the Department of Inland Revenue that a seizure has been made through an error in judgment by an officer of Inland Revenue, and that the retention of such seized property would result unfairly in pecuniary loss to the person from whom such property was seized, such seizure may be released by the Minister of Inland Revenue, or in his absence, by the Commissioner of Inland Revenue, without reference of the matter to the Governor in Council. 46 V., c. 15, s. 113.

REGULATIONS.

Regulations for warehousing.

119. The Governor in Council may make such regulations for the warehousing and for the ex-warehousing, either for consumption, for removal, for exportation, or otherwise, of goods subject to a duty of excise, and for giving effect to any of the provisions of this Act, and declaring the true intent thereof in any case of doubt, as to him seems meet. 46 V., c. 15, s. 114.

Legal effect of regulations.

120. All regulations made under this Act, whether made by the Governor in Council or departmental, shall have the force of law, and any violation of any such regulation shall subject the holder of a license under this Act, or any other person in the said regulations mentioned, to such penalty or forfeiture as is, by the said regulations, imposed for such violation; and the same shall be enforced in like manner as other penalties and forfeitures imposed by this Act. 46 V., c. 15, s. 115.

DISTILLERIES.

INTERPRETATION.

Interpretation.

121. In the following provisions respecting distilleries, unless the context otherwise requires:—

(a) The expression "still" means and includes any distilling apparatus whatever for the distilling or making of spirits;

(b.) The expression "closed spirit-receiver" means the vessel or vessels into which the spirit is conveyed as hereinafter provided, from the tail of the first worm in which it is condensed for measurement, and in which the quantity and strength upon which the duty is payable is ascertained and determined by the officers of excise;

(c.) The expression "rectifier" means and includes any pipe, vessel or still into which the spirit is conveyed after leaving the spirit-receiver, for the purpose of rectification by re-distillation, filtration, or by any other process;

(d.) The expression "proof spirits" or "spirits of the strength of proof," means any spirit having the strength of proof by Sikes' hydrometer;

(e.) The expression "a distillery" means and includes any place or premises—

Where any process of fermentation for the production of wash is carried on; or—

Where any wash is kept or produced for the purpose of distillation; or—

Where any mash-tub, fermenting-tun, worm or still for the distillation of spirits is set up or used; or—

Where any process of distillation whatever of spirits is carried on; or—

Where any process of rectification of spirits, either by re-distillation, filtration, or other process is carried on; or—

Where any spirits are manufactured or produced from any substance whatever, by any process whatever; or—

Where any still, rectifier or other apparatus, suitable for the manufacture of wash, beer or spirits, is in whole or in part manufactured, made or kept;

And every office, workshop, warehouse, granary, fermenting-room, mash-house, still-room, rectifying-house, vault, cellar, shed, yard or other place owned or occupied by or on behalf of, or for the use of any distiller, or wherein any part of his business as such is transacted, or where any grain, matter, material or apparatus suitable for or adapted to the production of spirits, or which is or is to be used in the production or rectification of spirits is kept or stored, or where any of the products of the distillery are kept or stored, or where any process of manufacture is carried on, shall be held to be included in and to form part of the distillery to which they are attached or are appurtenant;

(f.) The expression "distiller" means and includes any person who conducts, works, occupies or carries on any distillery, or who rectifies any spirits by any process whatsoever, either by himself or his agent;—and every person making or keeping beer or wash prepared, or in preparation, or fit for distilling, or low wines or faints, or having in his possession or use a still or rectifying apparatus, shall be

deemed to be a distiller, and liable to the several duties, obligations, penalties and forfeitures imposed by law on distillers; or—

Who has in his possession, complete or partially completed, or who imports, makes or manufactures, in whole or in part, any still, worm, rectifying or other apparatus suitable for the manufacture of wash, beer or spirits;

“Chemical still.”

(g) The expression “chemical still” means any distilling apparatus which has a capacity of less than fifty gallons, and which is kept and used by a manufacturing chemist or druggist for the sole purpose of distilling water or reclaiming alcohol previously used in the preparation or manufacture of chemical, medicinal or pharmaceutical preparations for the preparation or manufacture of such chemical, medicinal or pharmaceutical preparations, or which is used for scientific purposes (in every one of which cases the Department of Inland Revenue shall be sole judge), and which is not used for the manufacture or distillation of spirits for sale: Provided that the Governor in Council may make such regulations as to him seem necessary, for permitting the increase of the capacity of chemical stills, but such capacity shall in no case exceed one hundred gallons:

“Working of a distillery.”

(h.) Any use made of any still, worm, mash-tub or fermenting-tun, rectifying or other apparatus suitable for the manufacture of wash, beer or spirits, or for the distillation or rectification of any spirits, or for fermenting any beer or wash, or the making or commencing to make, or the importation of any such still, worm, rectifying or other apparatus shall be deemed to be a working of a distillery and acting as a distiller within the meaning of this Act. 46 V., c. 15, s. 116.

LICENSES.

Distillery licenses.

122. In addition to the general provisions of this Act respecting licenses, the provisions in the next following section contained apply to distilleries. 46 V., c. 15, s. 117.

Conditions of license and security to be given by distiller.

123. A license to carry on the business or trade of a distiller may be granted to any person who has complied with the other requirements of this Act, provided that the granting of such license has been approved by the district inspector, and that the person has, jointly with not less than two and not more than six good and sufficient sureties, entered into a bond to Her Majesty, Her heirs and successors, in a sum equal to the amount at which the collector or some superior officer of Inland Revenue estimates the duties to accrue on the products of the distillery for which it is granted (worked to its full capacity), during one month of the time for which the license is to remain in force, and to such further amount as the collector of Inland Revenue deems sufficient to cover the duty on goods remaining in warehouse, from time

Bond.

to time, during the currency of the license about to issue,—which latter amount shall be determined by such means as the Department of Inland Revenue prescribes—the person obtaining the license being bound in the full amount of such estimates, and the sureties each severally for such amount as that the sums for which they are respectively bound shall together be equal to the amount of such estimates; and such bond shall be entered into before the collector of Inland Revenue, his deputy or other officer authorized thereto by the Department of Inland Revenue, who shall cause such sureties to justify as to their sufficiency, each for the sum for which he is bound, by affidavit to be made before such collector, deputy or other officer, and indorsed upon the bond; and such bond shall be conditioned for the rendering of all accounts, inventories, statements and returns prescribed by law, and the payment of all duties and penalties which the person to whom the license is to be granted becomes liable to render or pay under this Act, and that such person will faithfully comply with all the requirements of this Act, according to their true intent and meaning, as well with regard to such accounts, inventories, statements, returns, duties and penalties, as to all other matters and things whatsoever:

Conditions
bond.

2. A license to carry on the trade or business of a rectifier may be granted to any person who has complied with the provisions of this Act, if the granting of such license has been approved by the district inspector, and the person has jointly and severally, with two good and sufficient sureties, entered into a bond to Her Majesty, Her heirs and successors, in the sum of four thousand dollars; and such bond shall be entered into before the collector of Inland Revenue, his deputy or other officer authorized thereto by the Department of Inland Revenue, who shall cause such sureties to justify as to their sufficiency before him by affidavit indorsed upon such bond; and such bond shall be conditioned for the rendering of all accounts and the payment of all duties and penalties which the person to whom the license is to be granted becomes liable to render or pay under the provisions of this Act, and that such person will faithfully comply with the requirements thereof, according to their true intent and meaning, as well with regard to such accounts, duties and penalties as to all other matters and things whatsoever:

Conditions of
license for
rectifier.

Bond.

Conditions of
bond.

3. A license to import or make (apart from the manufacture of beer, wash or spirits, and from the rectification of spirits), stills, worms, rectifying or other apparatus suitable for the manufacture of wash, beer or spirits, or for the rectification of spirits, may be granted to any person who has complied with the provisions of this Act,—provided that the granting of such license has been approved by the district inspector, and that the person has, jointly and severally, with two good and sufficient sureties, entered into a bond

License for
importer or
maker of
apparatus.

Bond.

- to Her Majesty, Her heirs and successors, in the sum of one thousand dollars ; and such bond shall be entered into before the collector of Inland Revenue, his deputy or other officer authorized thereto by the Department of Inland Revenue, who shall cause such sureties to justify as to their sufficiency before him, by affidavit indorsed upon such bond ;
- Conditions of bond.** and such bond shall be conditioned for the rendering of all accounts, and the payment of all duties and penalties which the person to whom the license is to be granted becomes liable to render or pay under the provisions of this Act, and that such person will faithfully comply with the requirements thereof, according to their true intent and meaning, as well with regard to such accounts, duties and penalties as to all other matters and things whatsoever :
- Application for license for chemical still.** 4. An application for a license to have in possession and use the chemical still or stills mentioned in such application, shall contain a full and exact description of such still or stills, and of the capacity of each, and also of the purposes to which they are to be applied, and of the place wherein they are to be used :
- Conditions of license for a chemical still.** 5. A license to possess and use a chemical still or stills within the limits of a city, town or village, or within one mile thereof, may be granted to any manufacturing chemist or druggist who has complied with the provisions of this Act,— provided that the granting of such license has been approved by the district inspector and authorized by the Department of Inland Revenue, and that all the apparatus connected therewith are so made and arranged, and the whole so situated, as regards the nature of the building in which it is placed and the location of such building (as to all which the department shall be the sole judge), that such still or stills and apparatus may be kept under such supervision by an excise officer as will prevent their fraudulent use, and that the person shall, before such license is issued, jointly and severally, with two good and sufficient sureties, enter into a bond to Her Majesty, Her heirs and successors, in such sum as in each case or class of cases is decided by the Governor in Council ; and such bond shall be entered into before the collector of Inland Revenue, his deputy or other officer authorized thereto by the Department of Inland Revenue, who shall cause such sureties to justify as to their sufficiency before him by affidavit indorsed upon such bond ;
- Bond.** and such bond shall be conditioned for the rendering of all accounts, and the payment of all duties and penalties which the person to whom the license is granted becomes liable to render or pay under the provisions of this Act, and that such person will comply with the requirements thereof, as well with regard to such accounts, duties and penalties, as to all other matters and things whatsoever. 46 V., c. 15, s. 118.
- Conditions of bond.**

DUTIES PAYABLE ON LICENSES.

124. The person in whose favor a license is granted for distilling and rectifying, or for either, by any process, shall, upon receiving such license, pay to the collector of Inland Revenue the sum of two hundred and fifty dollars. 46 V., c. 15, s. 119.

License fee
for distilling.

125. The person in whose favor a license is granted to have and use the chemical still or stills mentioned in his application for a license, shall, upon receiving such license, pay to the collector of Inland Revenue the sum of twenty-five dollars : Provided, that a chemist or druggist using a chemical still of a capacity not exceeding three gallons, may, upon registering the said still at the office of the collector of Inland Revenue of the division in which it is situated, be permitted to use the same without payment of license fee or the giving of bonds ; but the possession of any such still without registration shall be deemed a having in possession of a still contrary to the provisions of this Act. 46 V., c. 15, s. 120.

License fee
for chemical
still.

Proviso.

126. Every person who, not being licensed as a distiller, applies for a license to import or manufacture stills, worms, rectifying or other apparatus suitable for the manufacture of wash, beer or spirits, shall, when applying for such license, pay to the collector of Inland Revenue the sum of twenty dollars. 46 V., c. 15, s. 121.

License fee
for importer
or manufactur-
er of ap-
paratus.

IMPORTATION AND MANUFACTURE OF APPARATUS.

127. Every person who is about to import or make any still, worm, rectifying or other apparatus suitable for the manufacture of wash, beer or spirits, or for the rectification of spirits, shall, before the importation or making thereof is commenced, report in writing his intention in relation thereto, to the nearest officer of Inland Revenue, stating the number of stills, worms, rectifying or other apparatus, or part thereof, suitable for the manufacture of wash, beer or spirits, or for the rectification of spirits, to be imported or about to be manufactured, showing, with reference to each,—

Intention to
import or
make appar-
atus to be
reported.

- (a.) The capacity of each apparatus or part thereof ;
- (b.) The name and residence of the person for whom such apparatus or part thereof is to be imported or made ;
- (c.) The time at which every such apparatus or part thereof is to be imported or made ;
- (d.) The date at which such apparatus or part thereof is to be removed from the place where the same is to be manufactured ;
- (e.) The material of which such apparatus is or is to be made. 46 V., c. 15, s. 122.

Details of
report.

BOOKS, ACCOUNTS AND PAPERS.

Books and accounts to be kept by distiller.

128. In addition to the general provisions of this Act respecting books, accounts and papers, the provisions in the next following section contained apply to distilleries. 46 V., c. 15, s. 123.

What distiller's books must show.

129. Every person licensed as a distiller shall keep a book or books, in a form to be furnished, from time to time, by the Department of Inland Revenue, which books shall be open at all reasonable hours to the inspection of the collector of Inland Revenue or other officer, and wherein such distiller shall enter, day by day, and upon the same day on which the circumstance, thing or act to be recorded is done or occurs:—

(a.) The quantity of grain and other raw material brought into or removed from his distillery premises;

(b.) The date and hour upon which the operations to be carried on in his distillery, and of which notice is required by any departmental regulation, are to be commenced;

(c.) The quantities of grain or other vegetable production, or other substance, put by him into the mash-tub, or otherwise used by him for the purpose of producing beer or wash, or consumed by him in any way for the purpose of producing spirits;

(d.) The quantity of beer or wash fermented or made by him or in his distillery;

(e.) The quantity of spirits distilled, manufactured or made by him or removed or brought into his distillery premises;

(f.) The hours during which his stills are worked on each day;

(g.) The quantity of spirits entered for warehouse and ex-warehouse. 46 V., c. 15, s. 124.

DUTIES OF EXCISE.

Duties of excise on spirits.

130. There shall be imposed, levied and collected on all spirits distilled, the following duties of excise, which shall be paid to the collector of Inland Revenue, as herein provided, that is to say:—

Made from raw grain.

(a.) When the material used in the manufacture thereof consists of not less than ninety per cent. by weight, of raw or unmalted grain—on every gallon of the strength of proof by Sikes' hydrometer, and so in proportion for any greater or less strength than the strength of proof, and for any less quantity than a gallon, one dollar and thirty cents;

Made from malted barley.

(b.) When manufactured exclusively from malted barley, taken to the distillery in bond and on which no duty of customs or excise has been paid—on every gallon of the strength of proof by Sikes' hydrometer, and so in proportion

for any greater or less strength, and for any less quantity than a gallon, one dollar and thirty two cents ;

(c.) When manufactured exclusively from molasses, syrup, ^{Made from molasses, &c.} sugar or other saccharine matter, taken to the distillery in bond and on which no duty of customs has been paid—on every gallon of the strength of proof by Sikes' hydrometer, and so in proportion for any greater or less strength, and for any less quantity than a gallon, one dollar and thirty-three cents. 46 V., c. 15, s. 125 ;—48-49 V., c. 61, s. 10, *part*.

131. The duty upon spirits shall be charged and com- ^{Computation of duty.} puted as follows :—

(a.) Upon the grain used for its production at the rate of one gallon of proof spirits for every twenty and four-tenths pounds ;

(b.) Upon the quantity of beer or wash, fermented or made in the distillery, at the rate of one gallon of proof spirits for every fourteen gallons of beer or wash ;

(c.) Upon the quantity of beer or wash fermented or made, in proportion to its alcoholic value ;

(d.) Upon the quantity of spirits which passes from the tail of the first worm in which it is condensed into the closed spirit-receivers, subject to the following abatements,—

(1.) An abatement not exceeding three per cent. for such ^{Abatement for refuse.} quantity of fusil oil or other refuse as is separated therefrom by a second process of distillation,—the quantity so allowed in abatement being determined and destroyed in the presence of an officer of excise or otherwise accounted for in accordance with such regulations as are approved by the Governor in Council ;

(2.) In the case of spirits which are not removed from ^{And for shrinkage by evaporation.} the distiller's premises within twelve months of the date of their manufacture, an abatement for shrinkage by evaporation while maturing, which shall not exceed six per cent. for the first year, four per cent. for the second year, three per cent. for the third year, and two per cent. for each succeeding year up to seven years in all, after which no further abatement for shrinkage shall be allowed ; but no such ^{Proviso.} abatement shall be allowed unless the distiller has complied with all regulations made by the Governor in Council in relation to such abatement, nor unless the spirits have been kept in wood or in ventilated tanks approved by the Governor in Council, during the whole period for which the abatement is claimed ; and every such abatement shall be made ^{Limitation.} in respect of each specific package or tank, and shall in no case exceed the actual deficiency found to exist in the package or tank ;

(e.) Upon the quantity of spirits sold or removed from any distillery by the distiller, or by his agent or for his account ;

Method giving most duty to be used.

And that method of computation which yields the greatest amount of revenue, shall, in all cases, be the one upon which the distiller shall pay the duty :

Proviso: when damaged grain is used.

2. When any distiller is about to use damaged grain or mill offal, and gives the collector of Inland Revenue one week's notice of his intention so to do, such officer as is instructed for that purpose by the collector shall specially inspect the beer or wash made from such damaged grain or mill offal, and test its alcoholic value and the quantity of such material which it contains ; and if he reports that the yield of such damaged grain or mill offal is less than one gallon of proof spirits to twenty and four-tenths pounds, the Minister of Inland Revenue may authorize the assessment of the duty on the highest quantity ascertained by any of the other methods, without reference to the quantity of damaged grain or mill offal used by the distiller. 46 V., c. 15, s. 126 ;—49 V., c. 39, s. 3.

Directions for computation.

132. For the purpose of computing the duty by the methods prescribed in the next preceding section, —

Quantity of grain.

(a.) The quantity of grain shall be the quantity actually weighed into the mash-tubs and recorded in the books kept under the requirements of this Act ; except that whenever there appears to be cause to doubt the correctness of the quantity so entered on the said books, an inquiry may be made by any inspecting officer of Inland Revenue, who may swear and examine witnesses under oath, and inquire as to the quantity of grain taken to the distillery in which such books are kept, and as to the quantity of grain removed therefrom, and generally into the matters referred to, and shall determine, as nearly as may be, the actual quantity of grain consumed in the distillery ; and the duty may be assessed and levied on the quantity of grain so determined, in the proportion of one gallon of proof spirits to every twenty and four-tenths pounds of grain :

Quantity of beer or wash.

(b.) The quantity of beer or wash fermented or made in the distillery shall be determined by the distiller, or as often as is directed by any departmental regulation in that behalf, by an officer of Inland Revenue, who shall gauge the quantity in the fermenting-tuns at the time when the fermentation has been completed, or when the beer is in a fit state for distillation ; and the quantities so determined shall be recorded by the distiller in a register of fermentation, under such regulations as the Department of Inland Revenue orders,—except that whenever there appears to be cause to doubt the correctness of the quantity entered in the said register of fermentation, an inquiry may be made by any inspecting officer of Inland Revenue in the manner above provided, as to the capacity of the fermenting-tuns used in the distillery, the frequency with which they have been used, and the quantity of beer or wash, from time to time, fermented therein ; and the duty may be assessed and col-

lected in the proportion of one gallon of proof spirits for every fourteen gallons of beer or wash determined by such inspecting officer, after such inquiry, to have been fermented in the distillery :

(c.) The alcoholic value of any beer or wash made in any distillery may be determined by any inspecting officer of Inland Revenue or by any collector or other officer of Inland Revenue authorized thereto,—who, as often as he deems necessary, but not more frequently than once in each day, may take out of any beer or wash then in the distillery a quantity not exceeding twenty-eight gallons, as a sample, which he may distil or cause to be distilled, for the purpose of any computation under this Act, and he may calculate the value or strength of the beer or wash used in that distillery according to the result ascertained from the sample so taken ; or—

He may, at any time, test the strength of any beer or wash then in the distillery by its attenuation or by running a portion thereof, not exceeding the contents of any one fermenting-tun, through the stills, in the ordinary course of working such distillery, and may require the ordinary operatives of such distillery to do the work, or may introduce other operatives into the distillery for that purpose ; and for the purpose of any such computation as aforesaid, he may calculate the alcoholic value or strength of the beer or wash used in that distillery according to the result ascertained from the portion of such beer or wash so distilled ; and the alcoholic value of the beer or wash, as determined by either of the above methods, may be applied to or used in the computation and charge of duty on the beer or wash made in that distillery :

(d.) The quantity of spirits which passes from the tail of the first worm into the closed spirit-receivers shall be ascertained and determined by gauging the quantity and testing the strength thereof in such manner, at such periods and by such means as, from time to time, is directed by any departmental regulation in that behalf :

(e.) The quantity of spirits sold or removed from any distillery by the distiller shall be the quantity recorded in the distillery stock books kept under the provisions of this Act ; but whenever any inspector of Inland Revenue has cause to doubt the correctness of the quantity so recorded, he may inquire, or cause an inquiry to be made in the manner above provided, as to the quantity of spirits sold by the distiller or by his agent, or for his account, and as to the quantity removed from the distillery by any agency or vehicle whatsoever, and also as to the quantity of duty-paid spirits brought into the distillery ; and for the purpose of such inquiry, all shipping notes or bills of lading signed by the distiller or by his agent shall be taken as evidence of the sale or removal by him from his distillery of the quantity therein specified, and the evidence on oath of any rail-

<p>Packages.</p> <p>Quantity liable for duty.</p> <p>Period to which inquiries of officer may extend.</p> <p>Additional duty when payable.</p> <p>Burden of proof of error; where to lie.</p>	<p>way clerk, station-master or agent, or of any warehouseman or common carrier or shipping agent, as to the truth of the accounts kept by him of shipments or removals of spirits by any distiller, shall be sufficient evidence of the truth of such accounts; and the evidence on oath of any person who has purchased any spirits from a distiller or from his agent, shall be taken as evidence that the spirits so bought were manufactured at the distillery of the distiller selling the same, unless the contrary is shown; and all packages of spirits not otherwise described in the accounts or shipping notes or bills of lading relating thereto, or proved to contain some greater or less quantity, shall be reckoned as puncheons containing each one hundred and fifty gallons of proof spirits; and the difference between the quantity shown by such inquiry to have been sold by the distiller or removed from his distillery, and the quantity of duty paid spirits brought into the distillery, shall be held to be the quantity liable to duty under this Act :</p> <p>2. The inquiries of any inspecting officer or collector of Inland Revenue as herein provided, may be made for any period not more than one year before the time when the inquiry is commenced; and if it is found that during the said period the returns have been made for, and the duty charged on a less quantity of spirits than is ascertained and determined by the result of such inquiry, the additional duty then determined shall become due and payable within five days after the distiller has been notified of the result of such inquiry; and the payment of such additional duty shall be enforced in the same manner, and under the same conditions and penalties, as the payment of the duty mentioned in the monthly returns in respect of other matters subject to excise as provided by section forty-six of this Act :</p> <p>3. If the determination of the officer under any provision of this Act is disputed, the burden of proof of the error or wrong shall rest with the person alleging it. 46 V., c. 15, s. 127;—49 V., c. 39, s. 4.</p>
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PROVISIONS AS TO SUPERVISION.

<p>Capacity of vessels to be ascertained.</p> <p>List of vessels.</p>	<p>133. On or before the tenth day of July in each fiscal year, the capacity of all spirit-receivers, fermenting-tuns, mash-tubs, coolers and other vessels used in or about distilleries, shall be accurately ascertained by gauging or by actual measurement by standard measures of capacity, as the officer of excise determines or directs; and—</p> <p>2. A correct list thereof shall be made out by the distiller, in triplicate, setting forth the number, use, dimensions and capacity of every such vessel; and the said list shall be attested by the signature of the distiller, and shall be subject to the verification and approval of the officer of excise under whose supervision the gauging or measurement was made;</p>
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and every such list when signed by him in testimony of such approval, shall be received as evidence in all courts :

3. Every such list may, at any time, be revised by any superior officer of Inland Revenue, and if any errors are found therein, he shall cause the necessary corrections to be made in such list by the distiller : Correction of list.

4. One counterpart of such list shall be kept on record at the distillery,—another at the Department of Inland Revenue ; and the third shall be retained by the collector of Inland Revenue within whose district or division the distillery is situated. 46 V., c. 15, s. 128. Copies to be kept.

134. The spirit-receiver, doubler, low wines-receiver, faints receiver, the safe or apparatus inclosing the tail of the worm or still, and— Apparatus to be constructed according to regulations.

Every pump used for removing any spirit, wash or other matter to or from any vessel, or from one vessel to another, and every lock, pipe, valve, duct, conduit, cock or connection used for securing, leading to or from, or between, or for giving access to any of the vessels herein mentioned or referred to, and—

Every valve, pipe, cock, gauge, pump, lock or other apparatus, utensil, appliance or arrangement for securing, gauging, ascertaining, testing or proving the quantity or strength of any spirit, wash or worts manufactured or distilled, or for preventing the undue abstraction of any such spirits, wash or worts,—

Shall be constructed, arranged and applied at the cost of the distiller, in accordance with such plans, designs, drawings and regulations, and of such materials as are, from time to time, approved by the Department of Inland Revenue :

2. Every mash-tub, fermenting-tun, closed spirit-receiver, cooler, tank, vat or other utensil or vessel, for using which a license is required, or which is used for containing any commodity subject to excise, shall have written, stamped or printed on it in white Roman characters, at least two inches in height, on a black ground, the serial number, the name or designation of the vessel or utensil and the contents thereof in gallons and in cubic inches : Capacity of vessels to be marked thereon.

3. Every pipe, trough or conduit used for the conveyance of spirits, shall be painted or colored a light blue : Colors of pipes and conduits.

4. Every pipe, trough or conduit used for the conveyance of water, shall be painted or colored white : and—

5. Every pipe, trough or conduit used for the conveyance of beer or wash shall be painted or colored red. 46 V., c. 15, s. 129.

135. On every cask or barrel used in a distillery, or for keeping or delivering out any spirits, there shall, at all times, be legibly cut, branded or painted in oil colors, on one head the name of the distiller, and on the other head such marks, Casks, how marked.

numbers and other information as are required by any departmental regulation in that behalf. 46 V., c. 15, s. 130.

Tail of worm to be inclosed in safe.

136. The tail of every worm in every distillery shall be inclosed in a locked or sealed "safe," or other suitable apparatus, in which the strength of the spirits and low wines flowing from the worm may be approximately ascertained by the inspection of the hydrometer or other suitable instruments contained therein :

Safes to be approved.

2. Every such safe shall be constructed in such manner and secured by such means and by such mechanism as are approved by the Department of Inland Revenue :

Pipes to convey spirits.

3. From the said closed safe or apparatus all low wines, faints and spirits, from time to time running from the end of the worm, shall be conveyed to the doubler or closed spirit-receiver, as the case may be, through suitable pipes of such metal as are required by departmental regulations, visible throughout the whole of their length, with stop cocks and other appliances so arranged that the liquid may be conveyed either to the doubler or to the receiver ; but so that no portion of the liquid can be abstracted or diverted from the closed spirit-receiver or doubler without the knowledge and consent of the proper officer. 46 V., c. 15, s. 131.

Certain distilleries to have two receivers.

137. In distilleries where the weekly production of spirits is not over six thousand gallons, two closed spirit-receivers shall be provided, each of which shall have sufficient capacity to contain at least one week's production of spirits :

In large distilleries.

2. In distilleries where the weekly production of spirits exceeds six thousand gallons, there shall also be two closed spirit-receivers, each of which shall have sufficient capacity to contain at least one day's production :

Officer to ascertain quantities produced.

3. The quantities of spirits produced shall be gauged and ascertained by the officer of excise in charge of the distillery, at such intervals as are directed by his superior officer. 46 V., c. 15, s. 132.

Spirit not to be removed from receiver until gauged, &c.

138. The spirit which passes from the tail of the worm to the closed spirit-receiver shall not be removed from the closed spirit-receiver until the quantity and strength thereof have been ascertained by the collector of Inland Revenue or other officer, and then only with the consent and in the presence of the said collector or other proper officer. 46 V., c. 15, s. 133.

Receiver to be a closed vessel and locked.

139. The closed spirit-receiver shall be a closed vessel, and all pipes, cocks or valves communicating therewith, as well as all means of access thereto, shall be securely locked or sealed, and the key or keys shall remain in the sole possession of the collector of Inland Revenue or other proper officer. 46 V., c. 15, s. 134.

140. No vessel shall be used as a closed spirit-receiver, high wine-tub, low wine-tub or doubler, in which there has been bored or made any perforation or aperture other than those necessary for its lawful use; and if, at any time, it is discovered that any perforation, aperture or hole has been made in such closed spirit-receiver, high wine-tub, low wine-tub or doubler, or that any such exists therein, although it has been stopped or plugged, the existence of such perforation, aperture or hole, plugged or unplugged, shall be evidence that it has been unlawfully made and used. 46 V., c. 15, s. 135.

No perforation allowed in receiver.

141. The internal diameter of every closed spirit-receiver shall be so proportioned to the productive capacity of the distillery wherein it is placed, that the product of one day's work will measure, in the closed spirit-receiver, at least twenty-four inches in depth:

Proportions of receiver.

2. Around, above and below every closed spirit-receiver and every apparatus used for gauging or testing the strength of spirits, and every safe or apparatus used for inclosing or guarding the tail of the worm, and around and above every fermenting-tun, still charger, beer pump or spirit pump, there shall be sufficient space to admit of a full and careful examination of every such vessel or apparatus, with the contents thereof, and there shall be sufficient light for the purpose of such inspection:

Space for examination around apparatus.

3. The beer reservoir in every distillery shall be so placed that it and every pipe, trough, hose or conduit leading into or from it may be fully seen and examined; and no pipes, troughs, conduits or hose for the passage of any water, spirits, wash or other fluid, shall be placed near to any such beer reservoir, or so that any fluid whatever can be run into it, except with the knowledge of the officer in charge:

Beer reservoir.

4. Any failure to comply with the requirements or provisions of this section, after one month's notice has been given of such default, shall be sufficient cause for cancelling any license granted to the distiller so in default; and no further license shall be granted to any person for distilling within the premises wherein such default has occurred, until all the requirements of this and the preceding sections have been fully complied with. 46 V., c. 15, s. 136.

Penalty for non-compliance.

142. In every distillery which is not working, all the worms, still-heads, closed spirit-receivers and doublers, with all pipes and cocks leading to or connecting with the same, shall be closed and locked or sealed in such manner as the collector of Inland Revenue or the inspecting officer requires or directs; and the absence from any closed spirit-receiver, still-head, worm, doubler or cock, of the locks or seals herein required, shall subject the distiller in whose distillery the default has occurred, to the same penalties as he would be liable to for working without a license: Pro-

Certain apparatus in distillery not working to be locked up.

Provision for repairs.

vided always, that whenever it becomes necessary to execute any repairs to any of the apparatus herein mentioned, the locks and seals may be removed by a proper officer of Inland Revenue, to such extent as is actually necessary for the performance of such repairs, and during the period they are actually in progress. 46 V., c. 15, s. 137.

Safes, meters, &c., by whom supplied.

143. All safes, meters, locks or seals which are required to be used under this Act or under any departmental regulation or Order in Council made under this Act, may be supplied by the Department of Inland Revenue, under such departmental regulations as are adopted in that behalf; but the cost thereof shall be borne and discharged by the distiller for whose premises or utensils they are provided. 46 V., c. 15, s. 138.

Certain apparatus to be locked or sealed.

144. In distilleries where a doubler is used or where a portion of the products of the still, commonly called low wines or faints, are passed over for redistillation, the vessels and pipes used in that process shall be locked or sealed and shall receive the low wines from the safe or apparatus which incloses the tail of the worm, through suitable metal pipes, cocks or valves properly secured by locks or seals, so as to prevent the running or removal of any liquid therefrom, except with the knowledge and concurrence of the proper officer. 46 V., c. 15, s. 139.

RETURNS.

Payment of duties, and returns by distillers.

145. In addition to the general provisions of this Act respecting payment of duties and time and form of returns, the provisions in the next following section contained apply to distilleries. 46 V., c. 15, s. 140.

What distiller's accounts must show.

146. Every person carrying on business as a distiller shall render to the collector of Inland Revenue, or other officer whose duty it is to receive the same, a just and true account in writing, extracted from the books kept as by this Act provided, which account shall exhibit—

(a.) The quantity of spirits produced according to each gauge and test taken during the preceding month, with the strength thereof,—and in a separate column, the equivalent quantity of spirits of the strength of proof;

(b.) The quantity of grain, malt, spirits, beer or wash, or other commodity brought into the distillery during the preceding month;

(c.) The quantity of each kind of grain or other commodity or substance used in the distillery, in the manufacturing of spirits during the preceding month;

(d.) The quantity of grain, malt or other commodity removed from the distillery, or disposed of otherwise than for distillation during the preceding month;

(e.) The quantity of spirits sold or removed from the distillery during the preceding month;

(f.) The number and denomination of packages, and the aggregate quantity in each lot of spirits received into the distillery during the preceding month, other than that manufactured therein;

(g.) The quantity of beer or wash made and set to ferment on each day of the preceding month;

(h.) The quantity of beer or wash fermented and distilled on each day of the preceding month;

(i.) The quantity of spirits entered for warehouse, and—

(j.) Entered ex-warehouse for consumption during the preceding month :

2. Every such statement shall be made for and relate to the month next preceding the day on which it is made. To be made for each month.
46 V., c. 15, s. 141 ;—49 V., c. 39, s. 5.

BONDING OR WAREHOUSING.

147. In addition to the general provisions in this Act contained respecting bonding or warehousing, the provisions contained in the five sections next following apply to distilleries. Special provisions as to bonding or warehousing.
46 V., c. 15, s. 142.

148. All spirits produced in a distillery shall be warehoused in accordance with departmental regulations made in that behalf. All spirits to be warehoused.

2. No less quantity than one hundred gallons of proof spirits shall be entered for warehouse by one entry; and— Least quantity to be entered.

3. Except for exportation no less quantity than fifty gallons of proof spirits shall be ex-warehoused by one entry: Or ex-warehoused.

4. After the first day of July, in the year one thousand eight hundred and eighty-seven, no spirits subject to excise shall be entered for consumption which have not been manufactured for at least twelve months; and after the first day of July, one thousand eight hundred and ninety, no such spirits shall be entered for consumption which When spirits may be entered for consumption.

have not been manufactured for at least two years: Provided always, that spirits may be entered and removed for consumption at any date after manufacture for chemical or manufacturing purposes only, when such entry and removal are made and effected in accordance with regulations Proviso: if for chemical or manufacturing purposes.

in that behalf made by the Governor in Council; and provided also, that in the case of new distilleries established by any person who was not, on the twentieth day of July, one thousand eight hundred and eighty-five, the holder of a license as a distiller, the distiller licensed in respect thereof, may enter and remove for consumption, for any purpose, one-third part of the yearly product of such distillery at any time after manufacture during the two years next following the issuing of the license relating to such distillery; and that during the three years next following And as to distilleries hereafter established.

the expiry of the said two years, such licensee may enter and remove for consumption for any purpose, one-third part of the yearly product of such distillery,—which third part has been manufactured for at least twelve months. 46 V., c. 15, s. 143 ;—48-49 V., c. 62, s. 9 ;—49 V., c. 39, s. 6.

Molasses may be manufactured into spirit in bond.

149. Molasses imported into Canada may be removed in bond without the payment of duties of customs thereon, into a licensed distillery, and there used in the manufacture of spirits, subject to regulations made by the Governor in Council under this or any Act respecting the Inland Revenue ; and when the collector of Inland Revenue or other proper officer of excise certifies that the molasses has been so used, the bonds given in that behalf shall be cancelled ; and the Governor in Council may, by regulation, fix the quantity or the mode of determining the quantity of spirits which shall be held to be equivalent to any assigned weight of molasses. 46 V., c. 15, s. 144.

Stowage of casks.

150. All casks of spirits shall be arranged and stowed in the warehouse so that access may be easily had to each cask, and so that the marks and numbers thereon may be conveniently read or ascertained. 46 V., c. 15, s. 145.

No refund of duties except under regulation.

151. The duty paid on spirits taken out of warehouse for consumption or which have gone directly into consumption, shall not be refunded by way of drawback or otherwise upon the exportation of such spirits out of Canada, unless when specially permitted by some regulation made by the Governor in Council in that behalf. 46 V., c. 15, s. 146.

Bottling spirits in bond.

152. The Governor in Council may make such regulations as to him seem necessary for allowing the bottling of spirits in bond, at the distillery where the spirits were manufactured, and for its removal therefrom after being so bottled. 46 V., c. 15, s. 147.

DRAWBACK ON EXPORTATION.

Drawback on spirits exported made from foreign grain.

153. Every licensed distiller who imports and receives into his distillery, or uses in the manufacture of spirits therein, any foreign grain on which a duty of customs has been paid, and exports spirits thereafter made in such distillery, shall, on due proof of such use and export, be entitled to a drawback equal to the customs duty paid on the grain used in the production of the spirit exported ; and the amount of such drawback shall be determined in such manner as is directed by any departmental regulation in that behalf. 46 V., c. 15, s. 148.

Drawback on spirits exported made from malt.

154. Every distiller who exports any spirits in the production whereof any malt is used upon which any duty of

customs or excise has been paid, shall, upon the production of due proof of such use and payment of duty, be entitled to a drawback equal to the duty paid on the malt used in the production of the spirits so exported, and the amount of such drawback shall be determined in such manner as is directed by any departmental regulation in that behalf. 46 V., c. 15, s. 149.

PERMITS.

155. No spirits shall be removed from any distillery, nor from any warehouse in which they have been bonded or stored, until a permit for such removal has been granted in such form and by such authority as the Governor in Council, from time to time, directs and determines; and any spirits removed from such distillery or warehouse before such permit has been granted shall be forfeited to the Crown, and shall be seized and detained by any officer of Inland Revenue and dealt with accordingly. 46 V., c. 15, s. 150.

Removal of spirits from distillery.

Forfeiture for illegal removal.

156. Any officer of Inland Revenue or Customs, or any constable or peace officer, having general authority therefor from any superior officer of Inland Revenue, may stop and detain any person or vehicle carrying packages of any kind supposed by him to contain spirits, and may examine such packages, and require the production of a permit authorizing the removal thereof; and if such permit is produced, the officer shall indorse the time and place of examination thereon; but if no such permit is produced, then such packages, if found to contain spirits, and if the quantity thereof is greater than five gallons, and such officer has cause to believe that they have been unlawfully removed, may, with their contents, be detained until evidence to his satisfaction is adduced that such spirits were being lawfully removed, and that the duty thereon had been paid; and if such evidence is not adduced within thirty days, the spirits so detained shall be forfeited to the Crown, and be dealt with accordingly. 46 V., c. 15, s. 151.

Officer may examine packages being removed.

Forfeiture if no permit.

157. No spirits shall be removed from a distillery at any time in casks or packages containing less than twenty-five standard gallons each, except under special authority granted by the department; and any spirits removed in violation of this section shall be forfeited to the Crown, and shall be seized by any officer of Inland Revenue, and dealt with accordingly. 46 V., c. 15, s. 152.

Least quantity to be removed in one cask or package on pain of forfeiture.

PENALTIES.

158. In addition to the general provisions in this Act contained respecting penalties, the provisions contained in the three sections next following apply to distilleries. 46 V., c. 15, s. 153.

Special penalties applicable to distilleries.

Penalty for exercising any business of distilling without license.

159. Every person who, without having a license under this Act, then in force—

(a.) Distills or rectifies any spirits, or makes or ferments any beer, or—

(b.) Assists in distilling or rectifying any spirits, or in making or fermenting any beer or wash in any unlicensed place, or—

(c.) Imports, makes, commences to make, sells, offers for sale or delivers any still, worm, rectifying or other apparatus suitable for the manufacture of wash, beer or spirits, or for the rectification of spirits, or any part of such apparatus, or—

(d.) Completely or partially sets up or assists in setting up, prepares or partially prepares for working, any such still, worm, rectifying or other apparatus, or—

(e.) Has in his possession any such still, worm, rectifying or other apparatus, or any part or parts thereof, in any place or premises owned by him or under his control, without having given notice thereof, as required by this Act, except in cases of registration provided for by section one hundred and twenty-five of this Act, or—

(f.) Conceals, or keeps, or allows to be concealed or kept in or about any place or premises owned or controlled by him, any such still, worm, rectifying or other apparatus, or part thereof, or—

(g.) Conceals by removing, or removes, or assists in concealing by removing or otherwise, any such still, worm, rectifying or other apparatus or part thereof,—

Misdemeanor and how punishable.

Is guilty of a misdemeanor, and on conviction thereof shall, for a first offence, be liable to a penalty not exceeding five hundred dollars, and not less than one hundred dollars, and to imprisonment with or without hard labor, for a term not exceeding six months and not less than one month; and for every subsequent offence, to a penalty of five hundred dollars, and to imprisonment, with hard labor, for a term not exceeding twelve months and not less than six months; and—

Apparatus to be seized.

All such stills, worms, fermenting-tuns, rectifying or other apparatus suitable for the manufacture of wash, beer or spirits, or for the rectification of spirits, or parts thereof, and all beer, wash or spirits that are found in the possession of any unlicensed person, or in any unlicensed place, shall be forfeited to the Crown, and shall be seized by any officer of Inland Revenue, and may either be destroyed when and where found or removed to some place of safe keeping, in the discretion of the seizing officer. 46 V., c. 15, s. 154.

Additional penalty.

160. Every person who becomes liable to the penalty provided for in the next preceding section, shall, in addition thereto, forfeit and pay, for the use of Her Majesty, double the amount of excise duty and license duty which should have been paid by him under this Act. 46 V., c. 15, s. 155.

161. If, in any distillery, there is, at any time, found a closed spirit-receiver, high wine-tub, low wine-tub, doubler or other vessel that may be used for containing any of the products resulting from distillation before the quantity of such products is determined and an account taken thereof, in which there is, at any time, found any perforation, hole or aperture, other than such as is necessary for the lawful use of such closed spirit-receiver or other vessel, or in violation of this Act, the distiller in whose distillery the closed spirit-receiver or other vessel so perforated is found, although such holes or apertures or perforations have been plugged or stopped, shall incur a penalty of five hundred dollars; and the closed spirit-receiver or other vessel, with its contents, together with all the stock of spirits or grain in the distillery at the time when such unlawful perforation is discovered, shall be forfeited to the Crown and dealt with accordingly. 46 V., c. 15, s. 156.

Penalty for having unlawful perforations in certain vessels.

Forfeiture.

UNLAWFUL SALE OR PURCHASE OF SPIRITS.

162. Every person who sells or offers for sale, or who purchases any spirits, knowing the same to have been unlawfully manufactured, shall, for a first offence, incur a penalty of fifty dollars, and for each subsequent offence, a penalty of one hundred dollars; and all spirits so unlawfully manufactured, wheresoever they are found, and all horses, vehicles and other appliances which have been or are being used for the purpose of removing the same, shall be forfeited to the Crown, and shall be dealt with accordingly. 48-49 V., c. 62, s. 3, *part.*

Penalty for sale of spirits unlawfully manufactured.

COMPOUNDERS.

INTERPRETATION.

163. In the following sections of this Act respecting compounders, unless the context otherwise requires:—

(a.) The expression “compounded spirits” means and includes all articles containing Canadian or other spirits, which are enumerated in the following schedule, the duty thereon having been paid—or which are added to such schedule by any order of the Governor in Council:—

Interpretation.

“Compound-
ed spirits.”

Schedule.

Imitations of British or foreign wines, brandy, rum, gin, Old Tom, Geneva schnapps, British or foreign whiskey and bitter liquors and cordials when containing alcohol;

(b.) The expression “compounder” means and includes every person who, by himself or his agent, compounds or mixes for sale by wholesale any of the articles enumerated in the foregoing schedule, the duty thereon having been paid—or which are added to such schedule by order of the Governor in Council. 46 V., c. 15, s. 157, *and schedule.*

“Compound-
der.”

Special provisions as to compounders.

164. In addition to the general provisions in this Act contained respecting licenses, obligations of persons holding licenses, payment of duties, and time and form of returns, penalties and bonding or warehousing, the provisions in the seven sections next following apply to compounders. 46 V., c. 15, s. 158.

LICENSES.

Conditions of license as a compounder; security and bond.

165. A license to carry on the business of and to act as a compounder and to sell by wholesale the articles compounded under such license, may be granted to any person who has complied with the provisions of this Act, if the granting of the license has been approved by the district inspector, and the person has, jointly and severally with two good and sufficient sureties, entered into a bond to Her Majesty, Her heirs and successors, in the sum of one thousand dollars; and such bond shall be entered into before the collector of Inland Revenue, his deputy or other officer authorized thereto by the Department of Inland Revenue, who shall cause such sureties to justify as to their sufficiency before him by affidavit indorsed upon such bond; and such bond shall be conditioned for the rendering of all accounts and the payment of all duties and penalties which the person to whom the license is granted becomes liable to render or pay under the provisions of this Act, and that such person will faithfully comply with the requirements thereof according to their true intent and meaning, as well with regard to such accounts and penalties as to all other matters and things whatsoever. 46 V., c. 15, s. 159.

Conditions of bond.

Fee for license as a compounder.

166. The person in whose name a license is granted to act as a compounder, shall, upon receiving such license, pay to the collector of Inland Revenue the sum of fifty dollars. 46 V., c. 15, s. 160.

BOOKS AND RETURNS.

Returns to be made by compounder.

167. Every compounder shall make such entries and returns, and keep such books and accounts, as are, from time to time, determined by departmental regulations. 46 V., c. 15, s. 161.

PENALTIES.

Penalty for acting without license.

168. Every person who, without having a license under this Act, then in force, carries on business as a compounder, shall, for the first offence, incur a penalty of fifty dollars, and for each subsequent offence, a penalty of two hundred dollars, and all goods compounded, or in course of being compounded, which are found on his premises, shall be forfeited to the Crown, and shall be dealt with accordingly:

2. Every person who exposes, or offers for sale, or who removes from his place of manufacture, any compounded article which is not designated by some label or brand, in accordance with the provisions in the next following section contained, shall incur a penalty of fifty dollars; and every such compounded article so exposed or offered for sale or removed, without being so designated, shall be forfeited to the Crown and shall be dealt with accordingly. 48-49 V., c. 62, s. 10.

And for removing article not designated by proper label, &c.

GENERAL PROVISIONS.

169. Every article made by a compounder shall be designated by some label or brand which shall show the name of the compounder and the place at which such article was made; and the Governor in Council may, when it is deemed expedient so to do, order that such brands or labels shall be in the form of a stamp issued by the Department of Inland Revenue. 46 V., c. 15, s. 164.

Articles must be designated by a label.

170. All the articles made by a compounder shall be subject to the same restrictions and provisions as to their removal from the premises in which they are made, and as to their removal from place to place, as Canadian or other spirits are liable to. 46 V., c. 15, s. 163.

Removal of articles made by compounder.

171. The Governor in Council may add to the schedule set forth in section one hundred and sixty-three of this Act, or may remove from the said schedule, any article or ingredient the addition or removal of which he deems necessary in the public interest; and every such order shall be published in the *Canada Gazette*, and shall take effect at the expiration of thirty days from the date of such publication. 46 V., c. 15, s. 165.

Governor in Council may add to or take away article in schedule.

BREWERIES.

INTERPRETATION.

172. In the following sections of this Act respecting breweries, unless the context otherwise requires:—

Interpretation:

(a) The expression "beer" means and includes beer, ale, "Beer," porter, lager beer and all other fermented liquor made in whole or in part from malt, grain or any saccharine matter;

(b.) The expression "brewery" means and includes any place or premises where any beer or malt liquor, or beverage in imitation of malt liquor, is manufactured; and all offices, granaries, mash-rooms, cooling-rooms, vaults, yards, cellars and store-rooms connected therewith or in which any material to be used in the manufacture of beer or malt liquor is kept or stored, or where any process of manufacture is carried on, or where any apparatus connected with such manufacture is kept or used, or where any of the products of brewing or fermentation are stored or kept, shall be held

"Brewery."

to be included in and to form part of the brewery to which they are attached or are appurtenant ;

“Brewer.”

(c.) The expression “ brewer ” means and includes any person who occupies, carries on, works or conducts any brewery, either by himself or his agent. 46 V., c. 15, s. 166.

LICENSES.

Special provisions as to brewery licenses.

173. In addition to the general provisions of this Act respecting licenses, the provisions in the three sections next following apply to breweries. 46 V., c. 15, s. 167.

Conditions of license as a brewer ; security.

174. A license to carry on the trade or business of a brewer may be granted to any person who has complied with the provisions of this Act, if the granting of such license has been approved by the district inspector, and the person has, jointly and severally with two good and sufficient sureties, entered into a bond to Her Majesty, Her heirs and successors, in the sum of one thousand dollars ; and such bond shall be entered into before the collector of Inland Revenue, his deputy or other officer authorized thereto by the Department of Inland Revenue, who shall cause such sureties to justify as to their sufficiency before him by affidavit indorsed upon such bond ; and such bond shall be conditioned for the rendering of all accounts and the payment of all duties and penalties to which the person to whom the license is granted may become liable under the provisions of this Act, and that such person will faithfully comply with the requirements thereof according to their true intent and meaning, as well with regard to such accounts, duties and penalties as to all other matters and things whatsoever. 46 V., c. 15, s. 168.

Bond.

Conditions of bond.

Beer brewed for private use.

175. Utensils used by any person solely for the purpose of brewing beer for the use of himself and his family, and not for sale, are exempt from the provisions of this Act ; and beer so brewed shall not be liable to any duty under this Act, nor shall any license be required by any person so brewing for his own private use. 46 V., c. 15, s. 169.

Duty on license for brewing.

176. The person in whose favor a license for brewing is granted, shall, upon receiving such license, pay to the collector of Inland Revenue the sum of fifty dollars. 46 V., c. 15, s. 170.

DUTIES OF EXCISE.

Duties of excise imposed.

177. There shall be imposed, levied and collected on fermented beverages made in imitation of malt liquor, and wholly or in part from any other substance than malt, the following duties of excise, which shall be paid to the collector of Inland Revenue as herein provided, that is to say :—

On every gallon of any fermented beverage made in imitation of beer or malt liquor, and brewed in whole or in part from any other substance than malt, four cents: On imitations of beer, &c.

Provided, that any brewer using sugar, syrup or other saccharine matter in the manufacture of beer, and having previously given ten days' notice, in writing, to the collector of Inland Revenue of his intention to use such sugar, syrup or other saccharine matter, and paying the before-mentioned duty on the beer made therewith, may receive a drawback equal to the duty of excise paid by him on the malt used with such sugar, syrup or other saccharine matter in making such beer, under such restrictions and regulations as the Department of Inland Revenue prescribes. 46 V., c. 15, s. 171. Proviso: drawback on sugar, &c., used.

DRAWBACK ON EXPORTATION.

178. Every licensed brewer who exports any beer or malt liquor of his own manufacture, shall be entitled to receive a drawback thereon equivalent to the duty herein imposed on the malt contained in the beer so exported; and the amount of such drawback shall be in proportion to the strength of the beer, which shall be tested and the drawback computed in such manner and by such means as are, from time to time, directed by departmental regulations in that behalf: Drawback on beer exported.

2. No such drawback shall be allowed or paid unless the brewer claiming it has given at least two days' notice of his intention to export the beer on which it is claimed, and made such declaration as to the strength thereof as is required by departmental regulations in that behalf, nor unless the beer has been duly inspected and tested and certified by a proper officer of Inland Revenue. 46 V., c. 15, s. 172. Notice of intention to export required.

RETURNS.

179. In addition to the general provisions of this Act, respecting payment of duties and time and form of returns, the provisions contained in the two sections next following apply to breweries. 46 V., c. 15, s. 173. Special provisions as to returns.

180. Every person who carries on business as a brewer shall render to the collector of Inland Revenue or other officer whose duty it is to receive the same, a just and true account in writing, extracted from the books kept as by this Act provided, which account shall exhibit,— What brewers' returns must show.

(a.) The quantity of malt and of each description of vegetable or saccharine matter brought into, removed from or used in the brewery;

(b.) The quantity of beer or other fermented liquor made in the brewery;

(c.) The serial numbers of the brewings made and the products of each of the said brewings. 46 V., c. 15, s. 174.

Returns to be for each month. **181.** Every such statement shall be made for and relate to the month next preceding the day on which it is made. 46 V., c. 15, s. 175.

PENALTIES.

Penalties on brewers: **182.** In addition to the general provisions of this Act respecting penalties, the provisions contained in the four sections next following apply to breweries. 46 V., c. 15, s. 176.

For brewing without license. **183.** Every person who, without having a license under this Act then in force, brews any beer or other fermented liquor, except for the use of himself or his family, is guilty of a misdemeanor, and shall, for the first offence, incur a penalty of fifty dollars, and for each subsequent offence, a penalty of two hundred dollars. 48-49 V., c. 62, s. 11.

Additional penalty. **184.** Every person who becomes liable to the penalty provided for in the next preceding section, shall, in addition thereto, forfeit and pay for the use of Her Majesty, double the amount of excise duty and license duty which should have been paid by him under this Act. 46 V., c. 15, s. 178.

For having apparatus without making return thereof. **185.** Every person who has in his possession any brewing apparatus, without having made a full and particular list, description and return thereof, as by this Act required, shall incur, for a first offence, a penalty not exceeding one hundred dollars and not less than fifty dollars, and for each subsequent offence, a penalty of one hundred dollars; and all such apparatus shall be forfeited to Her Majesty, and shall be seized by any officer of Inland Revenue and dealt with accordingly. 46 V., c. 15, s. 179.

For adding material without making return. **186.** Every brewer who adds to the malt brought into his brewery, any meal, raw grain or other material, or puts into his mash-tub or mixes with his worts any syrup, sugar or other saccharine matter, without making a true return thereof to the proper officer, or without entering the same in the books or accounts kept or required to be kept by him in pursuance of any regulations made under this Act, shall, for a first offence, incur a penalty of one hundred dollars, and for each subsequent offence, a penalty not exceeding three hundred dollars and not less than two hundred dollars:

Seizure on second offence. 2. For any such subsequent offence all the malt, beer and utensils in his brewery when the offence is discovered, shall be forfeited to the Crown and seized by any officer of Inland Revenue, and shall be dealt with accordingly. 46 V., c. 15, s. 180.

MALTING AND MALT-HOUSES.

INTERPRETATION.

187. In the following sections of this Act respecting malting and malt-houses, unless the context otherwise requires,— Interpretation:

(a.) The expression "malt" means and includes all preparations of grain or leguminous seeds that have been steeped in water, allowed to germinate, and the germination checked by drying, or which are to be used for the production of beer, or that may be malted for the purpose of distillation; "Malt."

(b.) The expression "malt-house" means and includes any place or premises where any malt is manufactured, made or produced; and all offices, granaries, malt-houses, kilns, yards, malt warehouses and store-rooms connected therewith, or in which any grain, leguminous seeds or material to be used in the manufacture of malt are kept or stored, or where any process of such manufacture is carried on, or where any apparatus or utensils connected with or used in such manufacture are kept or used, or where any of the products of malting are stored or kept, shall be held to be included in and to form part of the malt-house to which they are attached or are appurtenant; "Malt-house."

(c.) The expression "maltster" means and includes any person who occupies, carries on, works or conducts any malt-house either by himself or his agent; "Maltster."

(d.) The expression "cistern" means and includes any vessel, vat or other apparatus or utensil wherein any grain or leguminous seeds are steeped or wetted during any of the processes of converting the same into malt; "Cistern."

(e.) The expression "couch-frame" means and includes any place or compartment into which the grain or leguminous seeds are conveyed after being removed from the cistern; "Couch-frame."

(f.) The expression "malt-floor" means and includes all floors in the malt-house whereon the grain or leguminous seeds are placed during the next process after removal from the couch-frame; "Malt-floor."

(g.) The expression "kiln" means and includes all heated floors or apparatus wherein or whereon grain or leguminous seeds are dried or roasted in the next process after removal from the malt-floor; "Kiln."

(h.) Any use made of any cistern, couch-frame, malt-floor or kiln for the steeping, germinating or drying of any grain or leguminous seeds, is a working of a malt-house, and acting as a maltster within the meaning of this Act. Working of a malt-house. 46 V., c. 15, s. 181.

LICENSES.

188. In addition to the general provisions of this Act respecting licenses, the provisions contained in the three Licenses for malting.

sections next following apply to malting and malt-houses. 46 V., c. 15, s. 182.

Application
for license.

189. Every application for a license to carry on business as a maltster shall, in addition to the matters required to be therein set forth by the general provisions respecting licenses, contain a description of all cisterns, couch-frames, malt-floors, kilns, malt warehouses or other places, utensils, apparatus or things whereon or wherein malt is to be made, manufactured or stored—in every case stating the dimensions, cubical contents or area, as the case may be, of the cisterns, couch-frames, malt-floors, kilns or storehouses. 46 V., c. 15, s. 183.

Conditions of
license ;
security.

190. A license to carry on the trade or business of a maltster may be granted to any person who has complied with the provisions of this Act, if the granting of such license has been approved by the district inspector, and the person has, jointly with not less than two or more than six good and sufficient sureties, entered into a bond to Her Majesty, Her heirs and successors, in a sum equal to the amount at which the collector of Inland Revenue estimates the duties to accrue on the goods to be manufactured by the person to whom the license is granted during one month of the time it is to remain in force, and to such further amount as the collector of Inland Revenue deems sufficient to cover the duty on goods remaining in warehouse, from time to time, during the currency of the license about to issue—such latter amount to be determined by such means as the Department of Inland Revenue prescribes,—the person obtaining the license being bound in the full amount of such estimates, and the sureties each severally for such amount as that the sums for which they are respectively bound shall together be equal to the amount of such estimates ; and such bond shall be entered into before the collector of Inland Revenue, his deputy or other officer authorized thereto by the Department of Inland Revenue, who shall cause such sureties to justify as to their sufficiency before him by affidavit indorsed upon such bond ; and such bond shall be conditioned for the rendering of all accounts, inventories, statements and returns prescribed by law, and the payment of all duties and penalties which the person to whom the license is to be granted becomes liable to render or pay under the provisions of this Act, and that such person will faithfully comply with the requirements thereof, according to their true intent and meaning, as well with regard to such accounts, inventories, statements, returns, duties and penalties, as to all other matters and things whatsoever. 46 V., c. 15, s. 184.

Bond.

Conditions of
bond.

191. The person in whose favor a license for malting is granted, shall, upon receiving such license, pay to the collector of Inland Revenue,—

(a.) For a first class license, which shall entitle him to work a malt-house having a capacity to produce two hundred thousand pounds and upwards of malt during one month's working, two hundred dollars;

(b.) For a second class license, which shall entitle him to work a malt-house having a capacity to produce one hundred and fifty thousand and not more than two hundred thousand pounds of malt during one month's working, one hundred and fifty dollars;

(c.) For a third class license, which shall entitle him to work a malt-house having a capacity to produce one hundred thousand and not more than one hundred and fifty thousand pounds of malt during one month's working, one hundred dollars;

(d.) For a fourth class license, which shall entitle him to work a malt-house having a capacity to produce not more than one hundred thousand pounds of malt during one month's working, fifty dollars,—

The capacity in each case to be as computed by the collector of Inland Revenue, upon a survey of the premises for which a license is required. 46 V., c. 15, s. 185.

DUTIES OF EXCISE.

192. There shall be imposed, levied and collected, the following duties of excise on all malt, which shall be paid to the collector of Inland Revenue, as by this Act provided, that is to say:—

(a.) On every pound of malt one cent,—

Except that malt made in a malt-house where malt is not made for any other purpose than for use in a distillery wherein no other material than malt is used for the production of spirits, may be removed from the malt-house to the distillery in bond, and the duty on such malt may be remitted upon proof satisfactory to the Department of Inland Revenue that such malt has been used solely for the production of spirits;

(b.) On every pound of malt imported into Canada and warehoused, when taken out of bond for consumption, an excise duty of one cent:

Malt so imported shall be warehoused in a suitable bonded warehouse provided at the cost of the importer and approved as such by a duly authorized revenue officer, and shall be bonded under the excise regulations then in force in respect of malt made in Canada, and shall be subject to the same restrictions,—and if not so warehoused immediately on importation, shall be forfeited to the Crown, and may be seized by any officer of the revenue and dealt with accordingly. 46 V., c. 15, s. 186.

BOOKS, ACCOUNTS AND PAPERS.

Special provisions as to accounts.

193. In addition to the general provisions of this Act respecting the obligations of persons holding licenses, the provisions in the next following section contained apply to malting and malt-houses. 46 V., c. 15, s. 187.

Books to be kept by maltster.

194. Every person licensed to carry on business as a maltster shall keep a book or books in a form to be furnished, from time to time, by the Department of Inland Revenue, which book or books shall be open at all reasonable hours to the collector or other officer of Inland Revenue, wherein such maltster shall enter, day by day, and on the same day on which the circumstance, thing or act to be recorded is done or occurs,—

(a.) The quantity of grain or leguminous seeds, and of malt, brought into or removed from his malt-house ;

(b) The quantity by gauge and by weight of dry grain or leguminous seeds placed to steep or wet in any cistern or cisterns ;

(c) The quantity by gauge and (in pounds) by weight, of malt taken from the kilns ; and also such other particulars relative to quantity in the various stages of its manufacture as are required by departmental regulations ;

(d.) The quantity of malt warehoused and ex-warehoused. 46 V., c. 15, s. 188.

DUTIES ON MALT.

Weighing of grain and seeds.

195. All grain or leguminous seeds brought into any malt-house shall be weighed and the quantity shall be stated in all books, returns and accounts kept and made under this Act, in pounds avoirdupois :

Malt measure established.

2. For comparing the several gauges of grain or leguminous seeds required by this Act, a "malt measure" is hereby established, which shall be a vessel, the capacity of which is one thousand cubic inches :

Grain in steep.

3. The quantity of grain or leguminous seeds placed in steep in any malt-house shall be stated in pounds and in malt measures :

Grain to be stated in malt measures.

4. All the quantities of grain or leguminous seeds in process of conversion into malt, as determined by gauging, shall, until the process of malting is completed, be stated in malt measures :

Quantity of malt removed from kiln.

5. The quantity of malt removed from any kiln and chargeable with duty, shall be the quantity determined by gauging and weighing, and shall be stated in all books and returns made under this Act in malt measures and pounds. 46 V., c. 15, s. 189.

Shape of cistern.

196. Every cistern shall be made with its interior truly cylindrical, or it shall be a rectangular vessel, having its bottom truly even and its sides perfectly straight and per-

pendicular (but the bottom may have such an incline as is necessary for drip), or it shall be of such other shape as is approved by the Governor in Council. 46 V., c. 15, s. 190.

197. Every maltster licensed under this Act shall provide a couch-frame; and such couch-frame shall be constructed with the sides and bottom straight and at right angles with each other, and of such strength that they will preserve their true form when the frame is filled with grain. 46 V., c. 15, s. 191.

Couch-frame to be provided: how constructed.

198. Above and around every such cistern and couch-frame, there shall be sufficient space for conveniently gauging their contents, and they shall be so placed that there shall be sufficient light for that purpose and for examining the contents. 46 V., c. 15, s. 192.

Space around cistern and couch-frame.

199. The maltster shall, in all cases, when required so to do by any officer of Inland Revenue, deposit the grain in process of manufacture into malt on the malt floor, of an equal depth over the whole surface covered, and shall make the outward edges thereof in straight lines convenient for gauging, as is required by the officer aforesaid. 46 V., c. 15, s. 193.

Grain how to be deposited on floor.

200. No grain or leguminous seeds shall be placed in any cistern to steep or wet, nor shall any malt be placed in any kiln to be dried, nor moved from any such kiln after the drying is completed, except between the hours of eight o'clock in the forenoon and five o'clock in the afternoon. 46 V., c. 15, s. 194.

Steeping or removing grain.

201. Whenever any maltster is about to place any grain or leguminous seeds in the cistern, to be steeped for the making of malt, he shall first give the proper officer, when the malt-house is within a city or town, twenty-four hours' notice—or if not within a city or town, forty-eight hours' notice—of his intention to steep grain or leguminous seeds as aforesaid, stating in every such notice the day and hour at which he will place the grain or leguminous seeds in the cistern, and describing the cistern, by number or otherwise, in which it is to be placed. 46 V., c. 15, s. 195.

Notice of intent to steep grain

202. Whenever any maltster is about to place any grain or leguminous seeds, then in process of manufacture into malt, on any kiln to be dried, or when he is about to move any dried malt from any such kiln, he shall notify the proper officer of his intention so to do, in the same manner as is provided in the next preceding section; and the notices required to be given by this and the next preceding section shall be in writing, and in such form as is, from time

Notice of intent to dry grain or move dried malt.

to time, required by departmental regulations. 46 V., c. 15, s. 196.

Notice of intent to add water.

203. Whenever any maltster requires to add water to any grain or leguminous seeds, after leaving the steep-tub, he shall record in the notice book supplied by the Department of Inland Revenue, his intention so to do, giving in each instance the number of the steep and at what stage it is to be watered. 46 V., c. 15, s. 197.

Computing malt duty.

204. The duty payable on malt shall be computed as follows :—

Gauging and weighing before wetting.

(a.) The grain or leguminous seeds when about to be placed in steep, and before being run into the cistern, shall be weighed and gauged by or in the presence of the proper officer of Inland Revenue; such gauging of the grain or leguminous seeds may, if desired, be done in the cistern and before the grain or leguminous seeds are wetted, but the quantity in pounds shall, in all cases, be ascertained by actual weighing: and the quantity so ascertained shall be immediately entered by the maltster, or his agent, in a book or books provided for that purpose, and such person shall also attest the correctness of the entry by his signature;

Gauging after wetting.

(b.) The maltster or his agent shall also gauge the grain or leguminous seeds while in the cistern, after they have been wetted, and again while in the couch-frame, and also at such other periods during the manufacture as is directed by departmental regulation; and the results of such gauging shall be entered in the book provided for that purpose by the maltster or his agent, and shall be used for computing the quantity of malt manufactured, as herein provided;

Gauging and weighing when dried.

(c.) The quantity of malt taken from the kiln after it has been dried, and the process of manufacture completed, shall be gauged and weighed by or in the presence of the proper officer of excise; and the quantity so ascertained shall be immediately entered in the book or books provided for that purpose, both in pounds and in malt measures, by the maltster or his agent, who shall attest every such entry by his signature;

Case of absence of officer provided for.

(d.) Provided that, at any time when the proper officer of Inland Revenue is not present at the time for which notice has been legally given for any of the above-mentioned operations, the maltster may proceed with the operation or operations, except the weighing of malt removed from the kiln, as if the officer was present, and shall enter the result of the gauging or weighing, or both, of such operation or operations, in the book or books provided for that purpose. 46 V., c. 15, s. 198.

Basis of calculation for comparing results of gauging.

205. In comparing the results of the gaugings, weighings and computations, the following proportions shall form the basis of calculation :—

(a.) One hundred malt measures by gauge of dry barley shall be held to be equivalent to one hundred and seven malt measures by gauge of dry malt:

(b.) Eighty-one and a-half malt measures by gauge of dry barley shall be held to be equivalent to one hundred malt measures (by gauge) of barley properly saturated with water for the purpose of malting; or to eighty-seven and one-fifth malt measures by gauge of dry malt:

(c.) One hundred pounds of barley or other grain weighed into the cistern shall, without any allowance for skimmings, be held to be equal to not less than seventy-five pounds of malt taken from the kiln, and so in proportion for every greater or less quantity:

(d.) The principal gauge and weight whereby the duty shall be computed, shall be that of the malt on its removal from the kiln; but whenever the quantity computed from any other gauging or weighing, or series of gaugings or weighings, is greater than the final gauge of the malt, then that computation which yields the largest quantity shall be the quantity for duty; and whenever the difference between the results of any two sets of gaugings or weighings, taken as aforesaid, exceeds seven per cent., the return of the quantity of grain placed in steep shall be deemed to have been a fraudulent return, and the maltster shall be liable to all the penalties for making fraudulent or false returns:

(e.) Malt shall be weighed when removed from the kiln, and no less quantity than the whole contents of one kiln shall be placed in the warehouse or taken for use ex-manufactory at any one time. 46 V., c. 15, s. 199.

206. If, at any time, any doubt or question arises as to the manner of determining the quantity of malt liable to duty under this Act, such doubt or question shall be decided and determined by the Minister of Inland Revenue, whose decision shall be final and conclusive. 46 V., c. 15, s. 200.

207. When a maltster licensed under this Act desires to follow a process of malting not therein provided for, and gives notice to that effect, such notice being accompanied by such plans and descriptions as the department deems necessary for fully understanding the proposed process, the Governor in Council may authorize such modes of determining the quantity of malt that shall be held to be produced from a stated quantity of grain or leguminous seeds, as—having reference to the proposed change in the process of manufacture—he deems necessary for insuring an equitable assessment of the duty. 46 V., c. 15, s. 201.

208. The duty imposed upon malt shall be finally computed and charged when it is removed from the kiln, and an account thereof shall then be entered in the stock books kept under this Act, which shall be balanced on the

first day of each month for the month next preceding that day, but the duty shall be collected whenever any malt is taken from the malt-warehouse for consumption; and the duty shall, in all cases, be collected on the full quantity of malt entered on the warehouse books as having been placed in such warehouse, notwithstanding any deficiency that may arise or be discovered during its delivery or removal therefrom. 46 V., c. 15, s. 202.

Special account of malt placed in warehouse and removed therefrom.

209. An account shall also be kept, in such other form as is required by departmental regulation, of all malt placed in the malt-warehouse and all malt removed therefrom; and the account shall be taken and recorded, at the time of placing such malt in the malt-warehouse and at the time of removing it therefrom, in a book or books to be kept for that purpose, in such form as is required by any departmental regulation made in that behalf. 46 V., c. 15, s. 203.

SUPERVISION.

Removal of dried malt to warehouse.

210. So soon as any malt is dried and ready for removal from the kiln, and the required notice of such removal duly given, the said malt shall be removed to the malt-warehouse and shall be there stored under the lock of the owner thereof and the lock of the department, until the duty thereon has been paid; except that any maltster may remove for use and enter for consumption ex-manufactory any portion of the products of his malt-house, not less than the contents of one kiln, which he does not intend to warehouse. 46 V., c. 15, s. 204.

Removal for use.

Storage of malt.

211. Every maltster shall, at his own charge, provide a suitable warehouse for the storage of malt on which the duty has not been paid, subject to the survey of the proper officer of Inland Revenue,—which warehouse shall be included in his licensed premises, and shall, in all cases, be contiguous thereto; and every entrance to such warehouse, as well as every window or other mode of access thereto, shall be secured to the satisfaction of such surveying officer, and also to the satisfaction of the inspecting officers. 46 V., c. 15, s. 205.

Securing of malt warehouses.

212. Every principal entrance to the malt-warehouse shall be secured by two locks, one of which shall be supplied by the Department of Inland Revenue, and the key thereof shall be kept by the officer of Inland Revenue; the other lock shall be provided and the key thereof kept by the owner, and all other entrances shall be secured on the inside: and every such malt-warehouse shall be fitted up with such convenient bins or other compartments for storing the malt as are required by the officer of Inland Revenue, so that it may, at any time, be gauged and the quantity therein ascertained. 46 V., c. 15, s. 206.

213. Whenever any maltster ceases from working his malt-house, the kiln and all means of access thereto shall be closed and secured by lock of the department to the satisfaction of the proper officer of Inland Revenue, and the keys of such locks shall remain in the possession of the collector of Inland Revenue; and the kiln shall remain so closed and secured until the maltster gives the required notice of his intention to resume working: Provided always, that the collector of Inland Revenue may, in his discretion, remove the locks while repairs are necessarily and actually in progress, or while the kiln is being used, under departmental regulation, for the purpose of drying damaged grain. 46 V., c. 15, s. 207.

The same as to malt-houses.

Proviso: as to repairs.

RETURNS.

214. In addition to the general provisions of this Act respecting payment of duties and time and form of returns, the provisions contained in the two sections next following apply to malting and malt-houses. 46 V., c. 15, s. 208.

Special provisions as to returns.

215. Every person who carries on business as a maltster shall render to the collector of Inland Revenue or other officer whose duty it is to receive the same, a just and true account in writing extracted from the books kept as by this Act provided, which account shall exhibit—

What maltsters' returns must show.

(a.) The quantity of grain, malt or leguminous seeds, in pounds, brought into the malt-house during the preceding month;

(b.) The quantity of grain or leguminous seeds, in malt measures and in pounds, placed in steep or wetted or used for malting on each day during the preceding month;

(c.) The quantity of malt, in malt measures and pounds, malted or made and removed from the kiln on each day during the preceding month;

(d.) The quantity of grain or leguminous seeds, in pounds, removed from the malt-house, or disposed of otherwise than for the production of malt, during the preceding month;

(e.) The quantity of malt, in pounds, removed from the malt-house;

(f.) The quantity of malt, in pounds, warehoused, ex-warehoused and entered for duty, ex-manufactory, during the preceding month. 46 V., c. 15, s. 209.

216. Every such statement shall be made for and relate to the month next preceding the day on which it is made. 46 V., c. 15, s. 210.

To be made for each month.

BONDING OR WAREHOUSING.

217. In addition to the general provisions of this Act respecting bonding or warehousing, the provisions contained in the two sections next following apply to malting and malt-houses. 46 V., c. 15, s. 211.

Special provisions as to bonding.

Least quantity to be entered. Or ex-warehouse.

218. No less quantity than two thousand pounds of malt shall be entered for warehouse under one entry; and—
2. Except for exportation, no less quantity than two thousand pounds of malt shall be ex-warehoused for duty by one entry. 46 V., c. 15, s. 212;—48-49 V., c. 62, s. 12.

No drawback in certain cases.

219. The duty paid on malt taken out of warehouse for consumption, or which has gone directly into consumption, shall not be refunded, by way of drawback or otherwise, upon the exportation of such malt out of Canada. 46 V., c. 15, s. 218.

PENALTIES.

Special provisions respecting penalties.

220. In addition to the general provisions of this Act respecting penalties, the provisions contained in the eight sections next following apply to malting and malt-houses. 46 V., c. 15, s. 214.

Penalty for malting without license.

221. Every person who, without having a license under this Act then in force, makes any malt or steeps any grain or leguminous seeds for the purpose of malting, is guilty of a misdemeanor, and shall, for the first offence, incur a penalty of one hundred dollars, and for each subsequent offence, a penalty of two hundred dollars. 48-49 V., c. 62, s. 13.

Additional penalty.

222. Every person who becomes liable to the penalty provided for in the next preceding section, shall, in addition thereto, forfeit and pay for the use of Her Majesty double the amount of excise duty and license duty which should have been paid by him under this Act. 46 V., c. 15, s. 216.

Penalty for having possession of apparatus without making return.

223. Every person who has in his possession any malt-floor, malt-kiln, or any malting implement, machinery or apparatus, without having made a full and particular list, description, and return thereof as by this Act required, shall incur, for a first offence, a penalty not exceeding one hundred dollars and not less than fifty dollars, and for each subsequent offence, a penalty of one hundred dollars; and all such implements, machinery or apparatus shall be forfeited to the Crown, and shall be seized by an officer of Inland Revenue and dealt with accordingly. 46 V., c. 15, s. 217.

Penalty for fraudulently putting grain in cistern.

224. If any maltster adds, or causes or permits to be added, any grain or leguminous seeds to the grain or leguminous seeds wet in any cistern, or placed in any cistern for the purpose of being wetted, after the officer of Inland Revenue has taken an account thereof, he shall, for a first offence, incur a penalty of two hundred dollars, and for each subsequent offence, a penalty of five hundred dollars; and all the grain and leguminous seeds so mixed or added, together

with all the grain and leguminous seeds and malt then in the malt-house, shall be forfeited to the Crown and dealt with accordingly. 46 V., c. 15, s. 218.

225. If any maltster removes, or causes or permits to be removed, any malt from his malt-house before an account has been taken of the same by the proper officer, and in the manner required by this Act, or if any person receives or has any malt so removed, knowing the same to have been so removed, the maltster and person so offending shall, for a first offence, incur a penalty of two hundred dollars, and for each subsequent offence, a penalty of five hundred dollars; and the malt so removed, together with all the grain, leguminous seeds and malt then in the malt-house from which the malt was so illegally removed, shall be forfeited to the Crown, and shall be seized by an officer of Inland Revenue and dealt with accordingly. 46 V., c. 15, s. 219.

Penalty for removing malt before account is taken.

226. Every maltster who adds water to any grain or leguminous seeds, after leaving the steep tub, without having first given the notice hereinbefore required, shall, for a first offence, incur a penalty of twenty dollars, and for each subsequent offence, a penalty of fifty dollars. 46 V., c. 15, s. 220.

Penalty for adding water without notice.

227. Every person who sells or offers for sale, or who purchases any malt, knowing the same to have been unlawfully manufactured, shall, for a first offence, incur a penalty of fifty dollars, and for each subsequent offence, a penalty of one hundred dollars; and all malt so unlawfully manufactured, wheresoever it is found, and all horses, vehicles and other appliances which have been or are being used for the purpose of removing the same, shall be forfeited to the Crown, and shall be dealt with accordingly. 48-49 V., c. 62, s. 3, *part.*

Penalty for selling malt unlawfully manufactured.

228. Every person who removes or delivers any malt, either in bond or duty paid, into the possession of any person other than a brewer or distiller licensed under this Act, except upon a written permit granted by the Collector of Inland Revenue for the division in which the malt-house from which such removal or delivery is to take place is situated, and every person who receives any malt removed or delivered in violation of the provisions of this section shall incur a penalty of one hundred dollars. 49 V., c. 39, s. 7.

Penalty for delivering, &c., malt without proper authority.

BONDED MANUFACTURERS.

INTERPRETATION.

229. In the following sections of this Act respecting bonded manufacturers, unless the context otherwise requires,—

Interpretation:

"Bonded manufacturer."

(a.) The expression "bonded manufacturer" means and includes any person who, by himself or his agent, carries on the manufacture of any article or compound wherein goods liable to duties of customs or excise are used, before the duties to which they are liable are paid ;

"Bonded manufactory."

(b.) The expression "bonded manufactory" means and includes any place or premises where any article or compound is manufactured or made, in the compounding or manufacturing whereof goods liable to duties of customs or excise are used before the duties to which they are liable are paid ; and every place where any such goods are warehoused, stored or kept, shall be held to form a part of the bonded manufactory to which it is attached or is appurtenant. 46 V., c. 15, s. 221.

LICENSES.

Special provisions respecting licenses.

230. In addition to the general provisions of this Act respecting licenses, the provisions contained in the two sections next following apply to bonded manufacturers. 46 V., c. 15, s. 222.

Manufacture in bond may be authorized.

231. The Governor in Council may, in his discretion, authorize the manufacture in bond of such dutiable goods as he, from time to time, sees fit to designate, in the manufacture or production whereof spirits or other articles subject to duties of customs or excise are used, by persons licensed to that effect, and subject to the provisions herein made and to the regulations made by the Governor in Council in that behalf. 46 V., c. 15, s. 223.

Conditions of license ; security.

232. Before any person shall be entitled to carry on any such manufacture in bond, he shall obtain a license so to carry on the manufacture of some certain kind or kinds of goods to be mentioned in the application for license, in some certain premises to be therein described: every such license shall be known as a bonded manufacturing license, and no such license shall be granted to any person until the granting thereof has been approved by the district inspector, and authorized by the Department of Inland Revenue, nor until he has, jointly and severally with not less than two nor more than six good and sufficient sureties, to the satisfaction of the collector or some superior officer of Inland Revenue, entered into a bond to Her Majesty, Her heirs and successors, in the sum of five thousand dollars, and in a further sum equal to the amount at which the said collector or superior officer of Inland Revenue estimates the maximum amount of duties on the goods to be manufactured by such person during any one month of the time it is to remain in force ; and such bond shall be entered into before the said collector or superior officer of Inland Revenue, who shall cause such sureties to

Bond.

justify as to their sufficiency before him, by affidavit indorsed upon such bond; and such bond shall be conditioned for the rendering of all accounts, inventories, statements and returns prescribed by law, and the payment of all duties and penalties which the person to whom the license is granted becomes liable to render or pay under the provisions of this Act, and that such person will faithfully comply with the requirements thereof, according to their true intent and meaning, as well with regard to such accounts, inventories, statements, returns, duties and penalties, as to all other matters and things whatsoever :

Conditions of bond.

2. Every application to manufacture in bond shall contain a description of all the articles to be used in the manufactory and of the articles to be produced therein, stating the quantity of each of the said articles, respectively, to be used in the production of a stated quantity of the manufactured article to be produced therefrom; and whenever the proportions stated, as herein required, are such as to make an evasion of duty or loss of revenue on any of the said articles possible (of which the Department of Inland Revenue shall judge), the license asked for shall be refused :

What application for license must contain.

3. The person in whose favor a license for manufacturing in bond, for consumption in Canada only, is granted, shall, upon receiving such license, pay to the collector of Inland Revenue the sum of fifty dollars :

License fees; on goods for consumption.

4. The person in whose favor a license is granted to manufacture in bond for exportation, shall, upon receiving such license, pay to the collector of Inland Revenue the sum of three hundred dollars. 46 V., c. 15, s. 224, *part*, and s. 225.

On goods for exportation.

SUPPLY OF CERTAIN ARTICLES.

233. When wood naphtha, wood alcohol, or any similar or equivalent article is to be used in a bonded manufactory, it shall be supplied to the manufacturer by the Department of Inland Revenue, or by such agency and on such conditions as are determined by departmental regulations in that behalf. 46 V., c. 15, s. 224, *part*.

Certain articles to be supplied by Department.

DUTIES OF EXCISE.

234. There shall be imposed, levied and collected on goods manufactured in bond within Canada, the following duties of excise, which shall be paid to the collector of Inland Revenue, as by this Act provided, that is to say :—

Duties of excise.

All goods manufactured in bond shall, if taken out of bond for consumption in Canada, be subject to duties of excise equal to the duties of customs to which they would be subject if imported from the United Kingdom and entered for consumption in Canada; and whenever any article not the produce of Canada, upon which the duty of excise would be levied if produced in Canada, is taken into a bonded manu-

On goods manufactured in bond.

Articles not produced in Canada.

factory, the difference between the duty of excise to which it would be so liable, and the customs duty which would be levied on such article, if so imported and entered for consumption, shall be paid as a duty of excise when it is taken into the bonded manufactory; but in the case of spirits to be used for any chemical or manufacturing purpose only, the foregoing provisions of this section may be varied, in whole or in part, by the Governor in Council, provided that no increase of duties shall accrue therefrom:

Foregoing provisions may be varied as to spirits.

Proviso: exception as to certain articles.

Provided always, that the undermentioned articles, when manufactured in bond, shall, when entered for consumption in Canada, be subject to the following duties of excise, and to no other, that is to say—

Vinegar.

Vinegar containing six per cent. of acetic acid, the strength to be determined by such tests as are established by Order in Council,—and so in proportion for any greater or less strength—on every gallon or less quantity than a gallon, four cents;

Methylated spirits, &c.

Methylated spirits, being composed of alcohol mixed with wood naphtha in such proportions and subject to such regulations as are, from time to time, made by the Department of Inland Revenue, and spirits used in any bonded manufactory in the production of ether and of such other chemical compositions as are determined by the Governor in Council—for every gallon of the strength of proof, by Sikes' hydrometer,—and so in proportion for any greater or less strength, and for any less quantity than a gallon—fifteen cents;—49 V., c. 39, s. 8.

RETURNS.

Special provisions as to returns.

235. In addition to the general provisions of this Act respecting payment of duties and time and form of returns, the provisions contained in the two sections next following apply to bonded manufacturers. 46 V., c. 15, s. 227.

What accounts rendered to collector must show.

236. Every person carrying on business as a bonded manufacturer, shall render to the collector of Inland Revenue or other officer whose duty it is to receive the same, a just and true account, in writing, extracted from the books kept as by this Act provided, which account shall exhibit—

(a.) The quantity of each description of article or commodity brought into the manufactory, to which the account relates, during the preceding month;

(b.) The quantity of each description of article or commodity used in the production of the manufactured articles made in the manufactory during the preceding month;

(c.) The quantity of each description of article or commodity removed from the manufactory, or disposed of otherwise than for the production of the articles therein manufactured or made, during the preceding month;

(d.) The quantity of each description of manufactured article or commodity made or produced on each day during

the preceding month, except so far as it may be dispensed with by departmental regulations ;

(e.) The quantity of manufactured product removed from the manufactory ;

(f.) The quantity entered for warehouse ; and—

(g.) The quantity ex-warehoused and the quantity entered for duty, ex-manufactory. 46 V., c. 15, s. 228.

237. Every such statement shall be made for and relate to the month next preceding the day on which it is made. 46 V., c. 15, s. 229. To be made for each month.

DRAWBACK AND IMPORTATION OF MATERIAL IN BOND.

238. Every person who manufactures any goods in bond under a license granted under this Act, and who exports any of the goods so manufactured by him, in the production whereof any article has been used upon which duties of customs or excise have been paid by him, shall, upon the production of due proof of such use and payment of duty, be entitled to receive a drawback equal to the duties paid on the articles used in the production of the goods exported ; and the amount of such drawback shall be determined in such manner, and the proof of the payment of the duty and export of the goods for which the drawback is claimed shall be of such nature, as are directed or required by any departmental regulation in that behalf. 46 V., c. 15, s. 230. Drawback on goods exported

239. Every person licensed to manufacture in bond may receive into the place for which his license is granted, as into a bonded warehouse, and, except as is herein otherwise provided, without payment of the duty thereon, all such spirits and other articles as are commonly used in the manufacture of the goods for which the license is granted, on a permit for that purpose granted by the collector of Inland Revenue, in such form, and on such bond being entered into, and on such conditions as are prescribed in any Order in Council or departmental regulation in that behalf ; but no less quantity of such spirits or other articles shall be so received at any one time than might be taken out of bond for consumption. 46 V., c. 15, s. 231. Dutiable articles used in process of manufacture may be taken into factory.

SUPERVISION.

240. Except in the case of methylated spirits, goods manufactured in bond shall remain in the place for which the license was granted, in like manner and subject to the like restrictions and to the supervision of the officers of Inland Revenue, as by law provided with respect to other goods manufactured in Canada and subject to excise—and the duty thereon shall be paid in like manner within six days of the close of every month, unless such goods are then Payment of duties on goods manufactured, &c.

exported or warehoused, as they may be, in the manner provided with respect to other goods subject to excise. 46 V., c. 15, s. 232.

Quarterly
account of
stock.

241. On the first day of each of the months of October, January, April and July, the inspector of Inland Revenue shall cause to be taken an accurate account of the quantity of each of the articles entered for use in the bonded manufactories under his survey, then in stock, as well as the quantity in process of manufacture; and whenever it appears to his satisfaction—

(a.) That the articles made in any bonded manufactory have been made in conformity with the law;

(b.) That the conditions of the license have been complied with as to the proportion of each article used and produced; and—

(c.) That the quantities of the several articles then on hand, together with the quantities lawfully taken for use in the manufacturing of the articles for which the license is granted, truly represent the whole quantity of the articles entered into the manufactory, as shown by the returns made and accounts kept in accordance with the law and the regulations made in that behalf—

Certificate of
collector, if
satisfied.

The collector shall certify the quantity of each article so taken for use, and the account, with the manufacturer's bond, shall be credited with the quantities so certified; but—

Duty to be
paid on short
stock.

2. When the quantity of any article found in stock is less than that which, with the quantity lawfully taken for use and accounted for, would be equivalent to the whole quantity of such article taken into the manufactory, the bonded manufacturer shall forthwith pay the amount of duty for which the quantity so deficient would have been liable if entered for consumption from a regular bonding warehouse, and the duty so collected shall be held to be a duty of excise, and shall be collected and accounted for as such. 46 V., c. 15, s. 233.

BONDING OR WAREHOUSING.

Special pro-
visions as to
bonding or
warehousing.

242. In addition to the general provisions of this Act respecting bonding or warehousing, the provisions in the next following section contained apply to bonded manufacturers. 46 V., c. 15, s. 234.

Least
quantity to
be ex-ware-
housed by
one entry.

243. No less quantity of goods manufactured in bond shall be ex-warehoused by one entry than would be liable to a duty of twenty dollars. 46 V., c. 15, s. 235.

UNLAWFUL REMOVAL OF SPIRITS.

Penalty for
delivering,
&c., certain

244. Every person who removes any methylated spirits or any spirits to be used for any chemical or manufacturing

purpose from any bonded manufactory and delivers the same to any person who has not obtained a permit to sell or use the same from the Department of Inland Revenue, and every person who receives any such spirits removed and delivered in violation of the provisions of this section shall incur a penalty of one hundred dollars for the first offence and of five hundred dollars for each subsequent offence. 49 V., c. 39, s. 9, *part.*

spirits
without
proper
authority.

REGULATIONS BY ORDER IN COUNCIL.

245. The Governor in Council may, from time to time, make regulations respecting the sale of methylated spirits and of spirits to be used for any chemical or manufacturing purpose only. 49 V., c. 39, s. 9, *part.*

Regulations
as to removal
of certain
spirits.

246. The Governor in Council may, from time to time, make such regulations as to him seem necessary for carrying into effect and enforcing the provisions of this Act respecting the manufacture of goods in bond, or the warehousing of such goods when manufactured, and for declaring the true intent and meaning of such provisions in any case of doubt, and for declaring how far any of the provisions of this Act shall be modified in their application to the manufacture of goods in bond and matters thereunto relating, or for substituting other provisions of the like nature in the place of any of them which cannot, in his opinion, conveniently be so applied; and may, by such regulations, require any bond or any oath or affirmation which he deems requisite for the purposes aforesaid, and may, for breach of such regulations, impose any penalty not exceeding five hundred dollars in any case, or the forfeiture of the goods or articles or things in respect of which they have been violated. 46 V., c. 15, s. 236.

Governor
may make
regulations
for giving
effect to
foregoing
provisions.

May require
oath, and im-
pose penalties.

TOBACCO AND CIGARS AND TOBACCO AND CIGAR MANUFACTURERS.

INTERPRETATION.

247. In the following sections of this Act, unless the context otherwise requires:—

Interpreta-
tion:

(a.) The expression "raw leaf tobacco" means unmanufactured tobacco, or the leaves and stems of the plant before they have passed through any process of manufacture;

"Raw leaf
tobacco."

(b.) The expression "manufactured tobacco" means and includes every article made from raw leaf tobacco by any process of manufacture whatever, except cigars;

"Manufac-
tured
tobacco."

(c.) The expression "standard leaf tobacco" of all kinds, means that which consists of ten per cent. of water and ninety per cent. of solid matter; and the weight of all raw leaf tobacco, scraps, cuttings, stems and other unmanufactured tobacco, shall be computed and charged in all inventories,

"Standard
leaf
tobacco."

statements, accounts and returns, with reference to such standard, in such manner as is provided by departmental regulation ;

“ Tobacco
manufac-
tory.”

(d.) The expression “ tobacco manufactory ” means and includes any place or premises where raw leaf tobacco is worked up into what is designated by this Act as manufactured tobacco ; and every workshop, office, store-room, warehouse, shed, yard or other place where any of the raw material is or is to be stored, or where any process connected with the manufacture or preparation of manufactured tobacco is, or is intended to be carried on, or where any of the products of the manufacture are, or are intended to be stored, shall be held to be included in and to form part of the tobacco manufactory to which they are attached or are appurtenant ;

“ Tobacco
manufac-
turer.”

(e.) The expression “ tobacco manufacturer ” means and includes every person who manufactures tobacco for himself, or who employs others to manufacture tobacco, other than cigars, whether such manufacture is by cutting, casing, packing, pressing, grinding, rolling, drying, crushing or stemming of any raw leaf tobacco, or otherwise preparing raw leaf or manufactured or partially manufactured tobacco, or the putting up for use or consumption of scraps, waste, clippings, stems or deposits of tobacco resulting from any process of handling tobacco, or by the working or preparation of raw leaf tobacco, tobacco stems, scraps, clippings or waste, by sifting, twisting, screening or any other process ;

“ Cancellation
stamp or die.”

(f.) The expression “ cancellation stamp or die ” means and includes any distinctive stamp or punch used to impress or print upon, or burn into, or indent any tobacco or cigar stamp subject to the provisions of this Act, or of any Order in Council or departmental regulation made under such provisions ; and such stamps or dies shall be of such form, material and design, and shall be used in such manner as is, from time to time, ordered and regulated by the Department of Inland Revenue ;

“ Caution
label.”

(g.) The expression “ caution label ” means and includes the notice required by the provisions of this Act to be attached to all packages containing tobacco or cigars ;

“ Cigarette.”

(h.) The expression “ cigarette ” means any description of cigarette made of cut tobacco, and weighing not more than four pounds and a-quarter of a pound per thousand, and wrapped with paper or one single thickness of leaf tobacco, or of a description identical with a sealed sample, approved by departmental regulations in that behalf and deposited in the office of the collector of Inland Revenue for the division in which such cigarettes are manufactured, or where any such cigarettes are imported ;

“ Cigar.”

(i.) The expression “ cigar ” means and includes every description of cigar and cheroot ;

“ Cigar manu-
factory.”

(j.) The expression “ cigar manufactory ” means and includes any place or premises where raw leaf tobacco is

worked up into what is described and designated as a cigar under this Act; and every workshop, office, store-room, shed, yard or other place where any of the raw material is or is to be stored, or where any process connected with the manufacture or preparation of cigars is, or is intended to be carried on, or where any of the products of the manufacture are, or are intended to be stored, shall be held to be included in and to form part of the cigar manufactory to which they are attached or are appurtenant;

(k.) The expression "cigar manufacturer" means and includes any person, who by himself or his agent, carries on the manufacture of cigars as defined by this Act; and the casing, packing, cutting, pressing, grinding, rolling, drying, crushing or stemming of any raw leaf tobacco or otherwise preparing raw leaf tobacco for manufacture into cigars, shall be a working of a cigar manufactory, and an acting as a cigar manufacturer within the meaning of this Act;

(l.) The expression "tobacco stamp" means any distinctive stamp affixed to any package of manufactured tobacco, as required by any of the provisions of this Act, or of any Order in Council or departmental regulation made under such provisions; and such stamps shall be made and affixed in such manner and by such means as are, from time to time, ordered and regulated by the Department of Inland Revenue;

(m.) The expression "cigar stamp" means any distinctive stamp affixed to any package of cigars, as required by any of the provisions of this Act, or of any Order in Council or departmental regulation made under such provisions; and such stamps shall be made and affixed in such manner and by such means as are, from time to time, ordered and regulated by the Department of Inland Revenue;

(n.) The expression "cigar sample box" means any box containing not more than twenty-five cigars, and each bearing the special sample stamp provided by the Department of Inland Revenue, and which box the manufacturer of cigars is permitted to have, in his factory premises, open for the purpose of exhibiting the cigars contained therein to his customers;

(o.) The expression "common Canada twist," otherwise called "*tabac blanc en torquette*," means the unstemmed, unflavored and unpressed leaf of tobacco grown in Canada, twisted and made into coils by the cultivator thereof or by a manufacturer of tobacco duly licensed under this Act to manufacture Canadian leaf tobacco only. 46 V., c. 15, s. 237.

LICENSES.

248. In addition to the general provisions of this Act respecting licenses, the provisions contained in the seven sections next following apply to tobacco and cigars and tobacco and cigar manufacturers. 46 V., c. 15, s. 238.

Application for license to set forth certain matters.

249. Every application for a license for the manufacturing of tobacco or cigars shall, in addition to the matters required to be therein set forth by the general provisions of this Act respecting licenses, contain a list and description of all tools and machinery used or proposed to be used in the business for which the license is sought, especially of all presses, cutting machinery and mills—stating the part of the building in which they are to be used; and shall further state whether any foreign or imported raw leaf tobacco is to be used in or brought into the factory for which the license is required. 46 V., c. 15, s. 239.

Additional as to cigar manufacturer's application.

250. Every application for a license as a cigar manufacturer shall also state the number of persons employed, or to be employed, in making cigars, in accordance with the requirements of this Act. 46 V., c. 15, s. 240.

Conditions of license.

Security.

251. A license to carry on the trade or business of a tobacco or cigar manufacturer may be granted to any person who has complied with the provisions of this Act, if the granting of such license has been approved of by the district inspector, and the person has, jointly with not less than two nor more than six good and sufficient sureties, entered into a bond to Her Majesty, Her heirs and successors, in a sum equal to the amount at which the collector of Inland Revenue estimates the duties to accrue on the goods to be manufactured by the person to whom the license is to be granted, during one month of the time it is to remain in force, and to such further amount as the collector of Inland Revenue deems sufficient to cover the duty on goods remaining in warehouse, from time to time, during the currency of the license about to issue; and such latter amount shall be determined by such means as the Department of Inland Revenue prescribes; the person obtaining the license being bound in the full amount of such estimates, and the sureties each severally for such amount as that the sums for which they are respectively bound shall, together, be equal to the amount of such estimates; and such bond shall be entered into before the said collector of Inland Revenue, his deputy or other officer authorized thereto by the department, who shall cause such sureties to justify as to their sufficiency before him, by affidavit indorsed upon such bond; and such bond shall be conditioned that he shall render correctly all the returns, inventories, statements and accounts prescribed by law, that he shall pay all duties and penalties which he becomes liable to pay under the provisions of this Act, and that he shall comply with all the requirements of the law relating to the manufacture and warehousing of tobacco or cigars, according to their true intent and meaning, as well with regard to such returns, inventories, statements, accounts,

Bond.

Conditions of bond.

duties and penalties, as to all other matters and things whatsoever. 46 V., c. 15, s. 241.

252. No manufacturer of tobacco shall, in such licensed premises, carry on the business of a cigar manufacturer, nor shall a cigar manufacturer carry on, in such licensed premises, the business of a manufacturer of tobacco, nor shall either carry on in his licensed premises any other business deemed by the Department of Inland Revenue to be incompatible with the business engaged in by him, and for which he has obtained a license from the Department of Inland Revenue. 46 V., c. 15, s. 242.

Tobacco manufacturer not to make cigars and vice versa.

253. No license shall be granted to any person as a tobacco or cigar manufacturer for carrying on business in any building or premises, unless the same is within one and one-half mile of a place where an officer of Inland Revenue is stationed at the time the application is made, or within one and one-half mile of the limits of any city or incorporated town: Provided always, that the provisions of this section shall not operate to prevent the granting of new licenses, from time to time, to persons holding licenses under any Act relating to Inland Revenue on the twenty-fifth day of May, one thousand eight hundred and eighty-three. 46 V., c. 15, s. 243.

Licensed premises must be near Inland Revenue station.

Proviso: as to renewal of licenses.

254. The person in whose favor a license for manufacturing tobacco or cigars in whole or in part from foreign leaf tobacco is granted, shall, upon receiving such license, pay to the collector of Inland Revenue the sum of seventy-five dollars:

License fee; foreign leaf.

2. The person in whose favor a license for manufacturing tobacco or cigars exclusively from tobacco grown in Canada is granted, shall, upon receiving such license, pay to the collector of Inland Revenue the sum of fifty dollars. 46 V., c. 15, s. 244.

And Canadian leaf.

255. Every collector of Inland Revenue shall cause the several manufactories of tobacco and cigars in his division to be numbered in accordance with a register kept in the Department of Inland Revenue,—which registered number shall be issued from the Department of Inland Revenue, and shall not thereafter be changed; and the registered number for tobacco manufactories shall be separate and distinct from those issued to cigar manufactories. 46 V., c. 15, s. 245.

Manufactories to be numbered and registered.

SPECIAL OBLIGATIONS OF PERSONS LICENSED AS MANUFACTURERS OF TOBACCO AND CIGARS.

256. Every manufacturer of tobacco or cigars shall, at the time when he applies for a license, mention and describe in the papers accompanying his application, some one

Application for license to specify one entrance into

manufactory
for raw leaf
tobacco.

certain entrance to his manufactory as that at which raw leaf tobacco will be brought in, and shall place over the entrance so mentioned a sign, in Roman characters, written or painted in oil colors, at least three inches in height, containing these words: "Raw Leaf Tobacco Entrance;" and no manufacturer of tobacco or cigars shall receive raw leaf tobacco into his manufactory through any other entrance or opening than the one so mentioned, designated and set apart for that purpose. 46 V., c. 15, s. 246.

Notice to be
posted in all
apartments.

257. Every manufacturer of tobacco or cigars shall post up in a conspicuous place in each room or compartment in his manufactory (and to the satisfaction of the collector or other superior officer of Inland Revenue), a printed notice, the letters of which shall be at least one-quarter of an inch in height, to the following effect: "The Inland Revenue Act provides that raw leaf tobacco may only be brought into a tobacco or cigar manufactory through the one entrance, designated by the sign containing the words 'Raw Leaf Tobacco Entrance,' and that any manufacturer who brings raw leaf tobacco into his manufactory by any other than the above mentioned entrance, or who brings foreign leaf tobacco into a manufactory licensed to use Canadian leaf tobacco only, or who brings any Canadian or other raw leaf tobacco into a manufactory without reporting the same or entering the quantity so brought in, in his stock book, shall incur a penalty of from two hundred to one thousand dollars; and further, that all goods subject to excise, on the premises at the time the offence is committed, shall be forfeited." 46 V., c. 15, s. 247.

Form of
notice.

DUTIES OF EXCISE.

Duties of
excise.

258. There shall be imposed, levied and collected on tobacco and cigars manufactured in Canada, the following duties of excise, which shall be paid to the collector of Inland Revenue as by this Act provided, that is to say:—

On manufac-
tured
tobacco.

On all chewing and smoking tobacco, cigarettes, fine-cut, cavendish, plug or twist, cut or granulated, of every description; on tobacco twisted by hand or reduced into a condition to be consumed, or in any manner other than the ordinary mode of drying and curing, prepared for sale or consumption, even if prepared without the use of any machine or instrument and without being pressed or sweetened, and on all fine-cut shorts and refuse scraps, cuttings and sweepings of tobacco; and—

On snuff

On all snuff, manufactured of tobacco, or any substitute for tobacco, ground, dry, scented or otherwise, of all descriptions, when prepared for use and containing not more than forty per cent. of moisture—

The product
in whole or in
part of foreign
leaf.

Made in whole or in part from foreign or imported raw leaf tobacco, or the product in any form, in whole or in part, of foreign raw leaf tobacco;

On every pound, actual weight, twenty cents—except that cigarettes or cut tobacco, when put up in packages weighing one-twentieth of a pound or less, each, shall pay a duty of thirty-five cents per pound ; and—

Snuff flour, when sold or removed for use or consumption, shall pay the same duty as snuff, and shall be put up in packages and stamped in the same manner as is herein prescribed for snuff completely manufactured,—except that snuff flour not prepared for use, but which needs to be subjected to further processes by sifting, pickling, scenting or otherwise, before it is in a condition fit for use or consumption, may be sold by one tobacco manufacturer directly to another tobacco manufacturer, and without the payment of the duty, under such regulations as are provided in that behalf by the Department of Inland Revenue ;

On damp or moist snuff, when containing over forty per cent. of moisture, and when put up in packages of five pounds each, and over, fourteen cents per pound, actual weight :

On damp or moist snuff, when containing over forty per cent. of moisture, and when put up in packages of less than five pounds each, twenty cents per pound, actual weight ;

And all snuff, whether the product of foreign or domestic leaf tobacco, shall be subject to the same rates of duty as above provided ;

On cigars of all descriptions, made in whole or in part from foreign or imported leaf tobacco, or any substitute therefor, six dollars per thousand ;

On cigars of all descriptions, made solely from tobacco grown in Canada, and made in a manufactory where no foreign or imported leaf is used or kept, three dollars per thousand ;

On manufactured tobacco of all kinds (including common Canada twist) when made solely from tobacco grown in Canada, and on the farm or premises where grown, by the cultivator thereof, or in a manufactory where no imported or foreign leaf is used or kept, on every pound, actual weight, five cents. 46 V., c. 15, s. 248 ;—48-49 V., c. 61, s. 10, *part*, and c. 62, s. 14.

259. A drawback at the rate of two per cent. on the value of the stamps used shall be allowed to manufacturers of foreign leaf tobacco licensed under this Act, in respect of all cut tobacco and cigarettes manufactured by them when entered for duty ex-manufactory and put up in packages weighing one pound and less,—which drawback shall be paid monthly by the Department of Inland Revenue under regulations established by the Governor in Council in that behalf ; but such drawback shall not be allowed or paid on any tobacco that has been placed in warehouse. 46 V., c. 15, s. 249.

COLLECTION OF DUTIES ON TOBACCO AND CIGARS.

- 260.** All manufactured tobacco and cigars, whether imported or manufactured in Canada, shall be put up and prepared by the manufacturer or importer before they are offered for sale, or for removal for sale or for consumption, in packages of the following description, and in no other manner, and shall be stamped by the manufacturer or importer in such manner as is required by any departmental regulation, and to the satisfaction of the collector or other proper officer:—
- Packing and stamping of tobacco.** (a.) All cavendish, plug and twist tobacco, in rectangular wooden boxes, except as hereinafter provided, containing from ten to twenty-five pounds inclusive, from thirty-five to forty pounds inclusive, from sixty to eighty pounds inclusive, or from one hundred to one hundred and ten pounds inclusive :
- Cavendish, plug and twist.**
- Fine cut, &c.** (b.) All fine-cut chewing tobacco and all other kinds of tobacco not otherwise provided for, in packages containing one-twentieth, one-sixteenth, one-tenth, one-eighth, one-fifth, one-fourth, or one-half of one pound or one pound—except that fine-cut chewing tobacco, when of a quality and description identical with a sealed sample approved by departmental regulations in that behalf, and deposited in the office of the collector of Inland Revenue for the division in which the tobacco is manufactured or where any such tobacco is imported, may, at the option of the manufacturer or importer, be put up in wooden packages containing five or ten pounds each ;
- Out and granulated tobacco, &c.** (c.) All cut and granulated tobacco other than fine-cut chewing, all shorts, the refuse of fine-cut chewing tobacco, which has passed through a riddle of thirty-six meshes to the square inch, and all refuse scraps, cuttings and sweepings of tobacco, in packages containing one-twentieth, one-sixteenth, one-tenth, one-eighth, one-fifth, one-fourth, or one-half of one pound or one pound each ;
- Snuff.** (d.) All snuff, in packages containing one-sixteenth, one-eighth, one-fourth or one-half of one pound or one pound each, or in wooden packages, containing five or ten pounds each—except that snuff, when containing more than forty per cent. of moisture, may, in addition to the above, be put up in packages containing twenty pounds each, actual weight ;
- Exception.**
- Cigarettes.** (e.) All cigarettes, in packages containing one-fortieth, one-twentieth, one-sixteenth, one-tenth, one-eighth, one-fifth, one-fourth, or one-half pound each ;
- To be put up in unused packages.** (f.) All manufactured tobacco of every description, except snuff, whether plug, cut, cigarettes or other, shall be put up in packages not before used for that purpose ;
- Quantities less than one pound.** (g.) When any package of tobacco contains less than a pound, it shall be such quantity as is covered by some denomination of stamp then authorized and in use ;

(h.) All cigars shall be packed in wooden boxes (except as Cigars. hereinafter provided) not before used for that purpose, containing respectively ten, twenty-five, fifty, one hundred or two hundred cigars each; but Manilla cigars and cheroots, Exception. but not imitations thereof, may, when imported from abroad, be contained, in addition to the above-named quantities, in boxes of five hundred each :

2. Every wooden, metal or other package containing Packages to be marked. tobacco weighing one pound or over, shall have printed or marked thereon the registered number of the manufactory, the number of the Inland Revenue division in which the manufactory is situated, and the gross weight, the tare and the net weight of the tobacco in each package :

Provided, that fine-cut shorts (the refuse of fine-cut chewing tobacco), refuse scraps, cuttings, stems and sweepings of tobacco, may be sold in bulk as material, and without the payment of duty, by one manufacturer directly to another manufacturer, or for exportation, under such restrictions, rules and regulations as the Department of Inland Revenue prescribes; and provided further, that wood, metal, paper or other material may be used separately or in combination for packing tobacco or cigars, under such regulations as the Department of Inland Revenue prescribes. 46 V., c. 15, s. 250;—48-49 V., c. 62, s. 15. Proviso: exception as to fine cut, shorts, &c.

261. All boxes containing cigars shall have stamped, burned or impressed into them or indented in a legible and durable manner, the registered number of the manufactory where made, the number of the Inland Revenue division in which the manufactory is situated, and the number of cigars contained in each box; and such stamping, indenting, burning or impressing shall be done in such manner as is determined by the Department of Inland Revenue. 46 V., c. 15, s. 251. Boxes of cigars to be stamped with registered number of manufactory, &c.

262. All manufactured tobacco and cigars imported from foreign countries shall have the stamps affixed and cancelled by the owner or importer thereof while they are in the custody of the proper custom house officers, and such tobacco or cigars shall not pass out of the custody of the said officers until the stamps have been so affixed and cancelled: such tobacco or cigars shall be put up in packages, as prescribed by law for like articles manufactured in Canada, before the stamps are affixed: and the owner or importer thereof shall be subject to all the penal provisions prescribed in respect of manufacturers of tobacco or cigars manufactured in Canada: Provided, that imported tobacco or cigars intended for removal in bond to another port or place within Canada, may be removed to such other port under such regulations as are established by the Governor in Council: Imported manufactured tobacco and cigars to be stamped.

2. All imported manufactured tobacco and cigars, which, when imported, are not packed in packages of the respective And put up in prescribed packages. Proviso: removal in bond. If not in prescribed

packages to be bonded.

kinds required by the provisions of this Act, shall be bonded in a customs warehouse approved of by the collector of customs at the port of entry: the bond shall be for a sum equal to double the amount of customs duty to which the tobacco or cigars are liable, and the conditions shall be that the customs duty shall be paid, that such tobacco or cigars shall, within such limited time and in accordance with such conditions as are fixed by regulation of the Governor in Council, be packed by the importer in packages of the respective kinds required by the provisions of this Act, and duly stamped, or be exported or destroyed. 46 V., c. 15, s. 252.

Removal of stamps when a package is emptied.

263. Whenever any stamped box, bag, vessel, wrapper or envelope of any kind, containing tobacco or cigars, is emptied, the stamp or stamps thereon shall be destroyed by the person in whose hands the same is:

Empty stamped packages not to be retained.

2. No licensed tobacco or cigar manufacturer, dealer or other person, shall retain in his possession any stamped package used for putting up or packing tobacco or cigars, upon which there remains any inland revenue or customs stamp or any part of such stamp, after the contents thereof have been removed:

Empty or partly filled stamped packages not to remain in manufactory.

3. No empty or partly filled package of a description such as is used for packing tobacco or cigars, and having attached to it any stamp or part of a stamp, whether such stamp has been defaced or not and—except under specific provisions established by Order in Council—no package, the stamp on which has been cut or broken, shall be brought into or remain in any tobacco or cigar manufactory: Provided, that packages containing samples of cigars, each containing not more than twenty-five cigars, may be and remain open in the cigar manufactory where the same were manufactured, for the purpose of exhibition to the customers of the manufacturer: but all such packages containing samples of cigars shall be regularly and duly stamped with a duty paid stamp and bear all the marks, the caution label and any other information required by the Department of Inland Revenue; and the said packages containing samples of cigars if found in the possession of any other person than the licensed manufacturer, and elsewhere than on the factory premises where made, or than in the possession of his duly authorized travelling agent, shall be forfeited, and shall be seized by any officer of excise or customs and dealt with accordingly. 46 V., c. 15, s. 253;—48-49 V., c. 62, s. 16.

As to sample boxes.

Empty stamped packages to be destroyed.

264. Every such empty box or other package upon which there remains any tobacco or cigar stamp, in violation of this Act, shall be destroyed by an officer of customs or excise, who shall report the whole circumstances connected with the discovery and destruction of the same to the collec-

tor of Inland Revenue within whose division such empty stamped box or package was found. 46 V., c. 15, s. 254.

265. Every such empty box or package, on which there remains any tobacco or cigar stamp or part thereof, shall be subject to the provisions of this Act, whether such stamp was affixed to the box or package before or after the coming into force of this Act. 46 V., c. 15, s. 255.

Act to apply to stamps heretofore affixed.

266. All cavendish, plug and twist tobacco shall be considered as completely manufactured as soon as it has been put up in packages and moved from the sweat room :

2. All cut and granulated smoking, fine-cut chewing tobacco, snuff, cigarettes and all other descriptions of tobacco and cigars, shall be considered as completely manufactured as soon as they have been put up in packages. 46 V., c. 15, s. 256.

What shall be completion of manufacture of plug and twist. Cut tobacco, &c.

267. All tobacco and cigars, the manufacture of which has been completed during any month, shall be returned as produced, and at the end of each month shall either be entered for duty ex-manufactory, or be warehoused. 46 V., c. 15, s. 257.

Monthly returns of completed manufacture.

268. The deficiency between the raw leaf tobacco and other materials taken for use and the manufactured tobacco and other products resulting therefrom during the period between any two stock-takings, in any tobacco manufactory, shall not at any time exceed six per cent. 46 V., c. 15, s. 258.

Deficiency between raw material and products of manufactory.

269. There shall be produced from each and every twenty-five pounds of unstemmed raw leaf, scraps, cuttings or other material taken for use in a cigar manufactory, at least one thousand cigars; but if at any time the Department of Inland Revenue determines that the standard herein established exceeds or falls short of what is hereafter ascertained to be the true standard, the Governor in Council may amend or alter such standard by regulation, to the extent of three pounds. 46 V., c. 15, s. 259.

Minimum product from raw material in cigars.

270. Tobacco and cigars may be re-worked under such rules and regulations and subject to such charges as the Department of Inland Revenue prescribes. 48-49 V., c. 62, s. 17.

Re-working tobacco and cigars.

271. All raw leaf tobacco, stems, cuttings, liquorice, sugar, gum or other raw material shall, when brought into, used in, or removed from a tobacco or cigar manufactory, be dealt with in such manner and under such regulations as the Department of Inland Revenue prescribes. 46 V., c. 15, s. 261.

Disposal of raw material.

No foreign leaf under a license for Canada leaf.

272. No foreign leaf tobacco shall be brought into any tobacco or cigar manufactory licensed to use Canadian leaf tobacco only. 46 V., c. 15, s. 262.

Duty to be paid on short production.

273. Whenever it is ascertained by stock-taking that the standard of production established by or under this Act has not been reached by any manufacturer of tobacco or cigars, the commissioner of Inland Revenue may make an assessment and order the collection from such manufacturer of the duty at the highest rate chargeable on the manufactured tobacco or cigars so deficient. 46 V., c. 15, s. 263.

Manufactured tobacco to be in stamped packages.

274. No manufactured tobacco or cigars shall be sold or offered for sale, unless put up in packages and branded and stamped as prescribed in this Act,—and then under such conditions as are prescribed by the Governor in Council. 46 V., c. 15, s. 264, *part.*

Packages to be labelled and numbered by manufacturer.

275. Every manufacturer of tobacco shall, in addition to complying with all other requirements of this Act relating to tobacco, print on each package, or securely affix by pasting on each package containing tobacco manufactured by or for him, when containing more than one pound, a label, on which shall be printed the number of his manufactory, the number of the Inland Revenue division in which his manufactory is situated, and these words: "NOTICE:—The manufacturer of this tobacco has complied with all the requirements of the law. Every person is directed to open this package in such a manner as to break the stamp, and is cautioned not to use this package for tobacco again, or the stamp thereon, or to remove the contents of this package without destroying the said stamp, under the penalties provided by law in such cases." 48-49 V., c. 62, s. 18, *part.*

Form of label.

Label to be affixed by importer on packages of tobacco.

276. Every importer of tobacco shall, in addition to complying with all other requirements of this Act relating to imported tobacco, print on each package, or securely affix by pasting on each package containing tobacco imported by or for him, when containing more than one pound, a label, on which shall be printed the name of the port where, and the number of the entry under which such tobacco is ex-warehoused for duty, and these words: "NOTICE:—The importer of this tobacco has complied with all the requirements of the law. Every person is directed to open this package in such a manner as to break the stamp, and is cautioned not to use either this package for tobacco again, or the stamp thereon, or to remove the contents of this package without destroying the said stamp, under the penalties provided by law in such cases." 48-49 V., c. 62, s. 18, *part.*

Form of label.

Label to be affixed to packages of

277. Every manufacturer of cigars shall securely affix, by pasting on each package containing cigars manufactured

by or for him, a label, on which shall be printed the number of his manufactory, and the number of the Inland Revenue division in which his manufactory is situated, and these words: "NOTICE:—The manufacturer of the cigars herein contained has complied with all the requirements of the law. Every person is directed to open this package in such a manner as to break the stamp, and is cautioned not to use either this package for cigars again, or the stamp thereon, or to remove the contents of this package without destroying the said stamp, under the penalties provided by law in such cases." 46 V., c. 15, s. 267.

cigars by
manufacturer.

Form of label.

278. Every importer of cigars shall securely affix, by pasting on each package containing cigars imported by or for him, a label, on which shall be printed the name of the port at which, and the number of the entry under which such cigars are ex-warehoused for duty, and these words: "NOTICE:—The importer of the cigars herein contained has complied with all the requirements of the law. Every person is directed to open this package in such a manner as to break the stamp, and is cautioned not to use either this package for cigars again, or the stamp thereon, or to remove the contents of this package without destroying the stamp, under the penalties provided by law in such cases." 46 V., c. 15, s. 268.

Label to be
affixed to
packages of
cigars by im-
porter.

Form of label.

279. Such label or caution notice shall be of such dimensions and shall be placed upon the package containing tobacco or cigars in such manner as are prescribed by the Department of Inland Revenue:

Dimensions of
labels.

2. The said Department may, by departmental regulation, vary the form, wording or use of the caution notice in the four sections next preceding provided for. 46 V., c. 15, s. 269;—48-49 V., c. 62, s. 19.

Form of
notice may be
varied

280. The commissioner of Inland Revenue shall cause to be prepared suitable and special stamps for the duty on manufactured tobacco and cigars, which shall indicate, in the case of tobacco, the weight of the article on which payment is to be made, and in the case of cigars, the number, and shall be affixed and cancelled in the manner prescribed by the commissioner of Inland Revenue; and tobacco stamps when used on any wooden package, or on a metal package,—which shall be made in such manner and in combination with wood or such other material as the Department of Inland Revenue prescribes,—shall be cancelled by sinking a portion of the stamp into the wood or other material of which the package is composed with a steel die:

Stamps for
duty.

Cancelling
tobacco
stamps.

2. Such stamps shall be furnished to the collectors requiring them, and each collector shall keep at all times a supply equal to the probable demand for three months, and shall issue

Stamps to be
furnished to
collectors.

Collectors to keep an account of stamps issued.

the same only to the tobacco or cigar manufacturers in his division who have given bonds and paid their license fee as required by law, and to merchants and others who have given bonds and taken out a license for an excise bonding warehouse, under such regulations as are prescribed by the Department of Inland Revenue; and every collector shall keep an account of the number, amount and denominate values of stamps issued by him to each manufacturer or other person aforesaid :

Stamps for forfeited tobacco.

3. Such stamps as are required to stamp tobacco or cigars sold under distraint by any collector of Inland Revenue, or for stamping any tobacco or cigars which have been abandoned, condemned or forfeited, and sold by order of the court or of any Government officer for the benefit of the Dominion of Canada, may, under such rules and regulations as the Department of Inland Revenue prescribes, be used by the collector making such sale, or furnished by a collector to a sheriff or to any other Government officer making such sale for the benefit of Canada :

Disposal of forfeited tobacco when not worth the duty.

4. If it appears that any abandoned, condemned or forfeited tobacco or cigars, when offered for sale will not bring a price equal to the duty due and payable thereon, such tobacco or cigars shall not be sold for consumption in Canada: and upon application made to the commissioner of Inland Revenue, he may order the destruction of such tobacco or cigars by the officer in whose custody and control the same are at the time, and in such manner and under such regulations as the Department of Inland Revenue prescribes. 46 V., c. 15, s. 270;—48-49 V., c. 62, s. 20.

Cancellation of tobacco and cigar stamps: how and when to be effected.

281. The cancellation of tobacco and cigar stamps shall be by means of such dies or device as the Department of Inland Revenue prescribes, and shall be performed by the person entering the goods for consumption before the packages leave his premises. 46 V., c. 15, s. 271.

Instruments for attaching and cancelling stamps.

282. The Department of Inland Revenue may prescribe such instruments or other means for attaching, protecting and cancelling tobacco and cigar stamps, as are approved by the Governor in Council; and such instruments or other appliances shall be furnished by the Department of Inland Revenue to the person using the stamps to be affixed or cancelled therewith, under such regulations as the Department of Inland Revenue prescribes. 46 V., c. 15, s. 272.

Department to regulate the form of stamps, marks and brands.

And the mode of attaching and cancelling them.

283. The Department of Inland Revenue may establish, and, from time to time, alter or change the form, style, character, material and device of any stamp, mark, label or brand used on packages of tobacco and cigars, under any provisions of the law relating to the Inland Revenue; and such stamps shall be attached, protected, removed, cancelled, obliterated and destroyed in such manner and by such in-

struments or other means as are prescribed by departmental regulation. 46 V., c. 15, s. 273.

284. All stems, sweepings, or other waste or refuse tobacco found in a tobacco or cigar manufactory and which are not worked up and charged at some manufactory with duty, shall be destroyed under such regulations as are prescribed in accordance with the provisions of this Act, or entered for exportation. 46 V., c. 15, s. 275. Tobacco stems and sweepings.

285. Every manufacturer of tobacco or cigars shall provide, for the use of the collector of Inland Revenue, all necessary means, tools and apparatus for weighing and stamping the products of his manufactory and the raw leaf or other material used therein (except dies or stamps), and also a convenient place wherein such process of weighing and stamping may be performed. 46 V., c. 15, s. 276. Appliances for weighing, stamping and testing.

REGULATIONS BY THE GOVERNOR IN COUNCIL.

286. The Governor in Council may, subject to the provisions of this Act, make such regulations as to him seem necessary, as regards tobacco and cigars manufactured in Canada, and tobacco imported in a raw or manufactured state, as follows:— Regulations by Governor in Council.

- (a.) For warehousing raw leaf tobacco; Warehousing
- (b.) For destroying such as is not entered for exportation or manufacture; Destroying.
- (c.) For removing raw leaf tobacco from one warehouse to another; Removing.
- (d.) For causing accounts to be kept by tobacco and cigar manufacturers of all raw leaf tobacco received by them and subsequently disposed of by them by removal, sale or otherwise; Accounts.
- (e.) For determining the manner in which the computation of the weights of tobacco with reference to the standard herein established shall be made; Computation of weights.
- (f.) For the inspection of tobacco and cigars and the collection of the duty thereon, as is deemed most effective for the prevention of frauds in the payment of such duty; Inspection, collection of duty.
- (g.) For the manufacture and sale of common Canada twist tobacco, made from raw leaf tobacco grown in Canada, —such tobacco being made into Canada twist by the cultivator only on whose farm or premises it is grown, or in a manufactory licensed to use Canadian raw leaf tobacco only, and the duty of five cents per pound paid, as herein required; and generally— Manufacture of Canadian tobacco.
- (h.) For giving effect to the provisions of this Act. 46 V., c. 15, s. 278. Carrying out Act.

BOOKS, ACCOUNTS AND PAPERS.

287. In addition to the general provisions of this Act respecting books, accounts and papers, the provisions con- Special provisions as to

books and accounts. tained in the three sections next following apply to tobacco and cigars and to tobacco and cigar manufacturers. 46 V., c. 15, s. 279.

Books to be kept by tobacco or cigar manufacturer; what to show.

288. Every person licensed as a tobacco or cigar manufacturer shall keep a book or books in a form furnished by the Department of Inland Revenue, which book or books shall be open at all reasonable hours to the inspection of the collector of Inland Revenue or other officer; and therein such tobacco or cigar manufacturer shall enter, day by day, and upon the same day on which the circumstance, thing or act to be recorded is done or occurs, as follows:—

Quantities and numbers of certain articles.

(a.) The quantity of raw leaf tobacco, scraps, cuttings, stems and other raw materials, and of manufactured tobacco and cigars, brought into or removed from his tobacco or cigar manufactory;

(b.) The quantity of raw leaf tobacco, stems, scraps, cuttings or other material taken for use in his manufactory;

(c.) The quantity of manufactured tobacco, cigars and other articles produced therein;

(d.) The quantity of stems, scraps, cuttings or other materials destroyed;

(e.) The quantity of tobacco and cigars entered for warehouse and ex-warehouse;

(f.) The number, denomination and value of tobacco or cigar stamps used;

(g.) The number and capacity of cigar boxes brought into and used, or otherwise disposed of, in the cigar manufactory. 46 V., c. 15, s. 280.

Books to be kept by bonding warehouseman, and what to show.

289. Every person who has a licensed bonding warehouse in which raw leaf tobacco is stored or kept, shall keep a book or books, in a form prescribed by the Department of Inland Revenue, which book or books shall be open at all reasonable hours to the inspection of the collector of Inland Revenue or other officer; and therein such person shall enter, day by day, and upon the same day on which the circumstance, thing or act to be recorded is done or occurs, as follows:—

Quantities brought in.

(a.) The quantity of raw leaf tobacco, scraps, cuttings or stems brought into his warehouse, giving the name and residence of the person from whom purchased or received; and—

Removed.

(b.) The quantity of raw leaf tobacco, scraps, cuttings or stems removed from his warehouse, giving the name and residence of the person to whom sold or conveyed. 46 V., c. 15, s. 281.

Quantities to be stated in pounds avoirdupois, except as to cigars.

290. With the exception of cigars, the quantities of which shall be stated by number, all quantities recorded in the books hereinbefore mentioned of a tobacco or cigar manufacturer, or of a person having a license to use an excise

bonding warehouse in which raw leaf tobacco is stored or kept, and in all returns, inventories, descriptions and statements required to be kept or made by this Act or any other Act, as well with regard to fluids as to solids, used in or about the premises subject to excise, or entering into the manufacture of any article or commodity produced in such tobacco or cigar manufactory, shall be stated in pounds avoirdupois and decimal parts thereof. 46 V., c. 15, s. 282.

RETURNS.

291. In addition to the general provisions of this Act respecting payment of duties and time and form of returns, the provisions contained in the two sections next following apply to tobacco and cigars and tobacco and cigar manufacturers. 46 V., c. 15, s. 283.

Special provisions as to returns.

292. Every person carrying on business as a tobacco or cigar manufacturer shall render to the collector of Inland Revenue, or other officer whose duty it is to receive the same, a just and true account, in writing, extracted from the books kept as by this Act provided, which account shall exhibit—

Accounts to be rendered to collector and what they must show.

(a.) The quantity of raw leaf tobacco and of all other materials used in the manufacture of tobacco or cigars, brought into the manufactory during the preceding month;

Quantities of certain articles.

(b.) The quantity of raw leaf tobacco and other materials removed from the manufactory or disposed of, otherwise than for the production of manufactured tobacco or cigars, during the preceding month;

(c.) The quantity of raw leaf tobacco and the quantity of all other materials used in the manufacture of tobacco or cigars, during the preceding month, in the manufactory to which such return relates;

(d.) The quantity of each description of tobacco or cigars, at each rate of duty, manufactured in, brought into or removed from such manufactory during the preceding month, showing the number of packages, the description and the aggregate quantity at each rate of duty;

(e.) The quantity of unmanufactured and manufactured tobacco and other materials or manufactured cigars on hand;

(f.) The quantity of manufactured tobacco and cigars warehoused and ex-warehoused during the preceding month;

(g.) The quantity of manufactured tobacco and cigars entered for duty ex-manufactory during the preceding month; and—

(h.) The number and capacity of cigar boxes brought into the cigar manufactory, and the number and capacity of cigar boxes used therein, during the preceding month. 46 V., c. 15, s. 284.

To be made for each month.

293. Every such statement shall be made for, and relate to, the month next preceding the day on which it is made. 46 V., c. 15, s. 285.

BONDING OR WAREHOUSING.

Special provisions as to bonding and warehousing.

294. In addition to the general provisions of this Act respecting bonding or warehousing, the provisions contained in the seven sections next following apply to tobacco and cigars and tobacco and cigar manufacturers. 46 V., c. 15, s. 286.

Least quantity of tobacco and cigars to be entered—

295. No less quantity than one hundred pounds of raw leaf tobacco, two hundred pounds of cavendish or other tobacco, or eight thousand cigars, shall be entered for warehouse by one entry :

Or ex-warehoused.

2. Except for exportation, no less quantity than one hundred pounds of raw leaf tobacco, or of cavendish or manufactured tobacco, or four thousand cigars, shall be ex-warehoused by one entry :

Exception as to samples.

3. The restrictions in this section contained as to the quantity of raw leaf tobacco that may be warehoused or ex-warehoused at one time, shall not apply to samples of foreign leaf tobacco made up in accordance with the departmental regulations made in that behalf. 46 V., c. 15, s. 287; —49 V., c. 39, s. 10.

Limitation of size of package as to removal in bond.

296. No tobacco of any description put up in packages containing one pound or under, nor tobacco in any sized packages whatever containing less than ten pounds, if the product of raw leaf tobacco of Canadian growth, shall be removed in bond from one warehouse to another warehouse, whether within the same or any other Inland Revenue division. 49 V., c. 39, s. 11.

Stowage of packages in warehouse.

297. All boxes, caddies or packages of tobacco and cigars, shall be arranged and stowed in warehouse so that access may be easily had to each package, and so that the marks required to be placed thereon by the provisions of this Act may be easily read. 46 V., c. 15, s. 289.

No refund of duty on goods ex-warehoused for consumption.

298. The duty paid on tobacco and cigars taken out of warehouse for consumption, or which have gone directly into consumption, shall not be refunded by way of drawback or otherwise, upon the exportation of such tobacco or cigars out of Canada. 46 V., c. 15, s. 290.

Removal in bond of tobacco and cigars manufactured for exportation.

299. Manufactured tobacco and cigars intended for immediate exportation may, after being properly inspected, marked, labelled or branded, be removed from the manufactory in bond, without having affixed thereto the stamps indicating the payment of the duty thereon :

2. The removal of such tobacco and cigars from the manufactory shall be made under such regulations, and after making such entries, and executing and filing with the collector of the division from which the removal is made, such bonds, and giving such other additional security as is prescribed by the Department of Inland Revenue and approved by the Governor in Council :

To be under regulations, &c.

3. There shall be affixed to each package of tobacco or cigars intended for immediate export, before it is removed from the manufactory, a label or brand of such design as the Department of Inland Revenue prescribes, indicative of such intention :

Labels or brands on each package.

4. Each package shall be examined carefully by the officer in charge, and shall be marked, labelled or branded in such manner and under such regulations as the Department of Inland Revenue prescribes. 46 V., c. 15, s. 291.

Packages to be examined and marked.

300. The bond taken for raw leaf tobacco warehoused as herein required, shall be for a sum equal to thirty cents per pound on the tobacco to which it relates, and shall be conditioned as follows:—

Conditions of bond for raw leaf tobacco.

(a.) For the delivery of the raw leaf tobacco to which it relates to some one or more tobacco or cigar manufacturers duly licensed as such under any Act relating to the Inland Revenue ; or—

(b.) For the delivery of such tobacco into a bonding warehouse, licensed under this Act ; or—

(c.) For its exportation or destruction, as herein required, within two years of the date of such warehousing :

And the evidence of its delivery to a licensed bonding warehouse or to a licensed tobacco or cigar manufacturer shall be the certificate of a collector of Inland Revenue, or other proper officer, that the tobacco has been delivered into some certain licensed tobacco or cigar manufactory or manufactories, or into some licensed bonding warehouse therein named, and that an account thereof has been entered in the manufacturer's books or in the warehouseman's books, as required by law. 46 V., c. 15, s. 292.

Evidence of compliance with bond.

301. Raw leaf tobacco warehoused as herein provided may remain in warehouse for a period of two years, at the expiration of which period, or sooner, it shall be removed to and be entered in some licensed tobacco or cigar manufactory or manufactories, or to some other warehouse as herein provided, or entered for exportation, or re-warehoused in the same warehouse for a further term, the full amount of duty being first paid, at the rate charged on manufactured tobacco, on any deficiency that is ascertained by stock-taking at the expiration of two years, or when the new bond is taken ; or at the expiration of such period it shall be destroyed, under such regulations as are made in that behalf by competent authority. 46 V., c. 15, s. 293.

How long allowed to remain in bond.

SPECIAL PROVISIONS AS TO CANADIAN LEAF TOBACCO.

Application
by cultivator
for license to
make Canada
twist for sale.

302. Every cultivator of tobacco desiring to manufacture the leaf tobacco grown by him into common Canada twist for sale, shall make application to the collector of Inland Revenue for the division in which his farm is situated for a license therefor; and every cultivator of tobacco who manufactures any tobacco for sale without having obtained such a license, shall be liable to the same fines, penalties and forfeitures as if he had worked a tobacco manufactory without a license. 46 V., c. 15, s. 294.

License fee.

303. The cultivator in whose favor a license is granted for manufacturing common Canada twist, shall, upon receiving such license, pay to the collector of Inland Revenue the sum of two dollars:

Tobacco
grown for
private use.

2. Provided always, that any person who grows tobacco on his own land or property, and manufactures the same solely for the use of himself and such members of his family as are resident with him on the farm or premises on which the tobacco was grown, and not for sale, shall not require a license for so doing; nor shall the tobacco so manufactured be subject to excise duty: but the quantity so manufactured in any one year shall not exceed thirty pounds for each adult male member of the family resident on the farm or premises as aforesaid. 46 V., c. 15, s. 295.

Canada twist
to be put up
in rolls and
stamped.

304. Common Canada twist shall, before it is offered for sale, be put up in rolls or coils weighing one-fourth, or one-half of a pound or one pound each, and every such roll or coil shall be secured, and the stamp attached thereto in such manner as the Department of Inland Revenue determines:

Stamps to be
affixed before
removal.

2. All tobacco so manufactured shall be stamped as herein required before it is removed from the farm or premises on which the tobacco from which it was made was grown, or from the factory wherein it was manufactured:

Forfeiture of
unstamped
packages.

3. Any package of tobacco exposed or offered for sale or found in the market without being sealed, stamped, labelled or marked as herein required, shall be deemed to be tobacco unlawfully in the market. 46 V., c. 15, s. 296.

Sale of sur-
plus tobacco
by cultivator
for private
use.

305. The cultivator, having taken out a license as herein provided, may manufacture into common Canada twist the surplus tobacco grown by him over what is required for the use of his own family, and may sell the tobacco so manufactured, after paying to the nearest officer of Inland Revenue the duty of five cents per pound, and after causing such tobacco to be put up in packages in accordance with this Act, and causing each package to be duly stamped in such manner as is required by any departmental regulation in that behalf. 46 V., c. 15, s. 297.

306. When any raw leaf tobacco of Canadian growth has been taken into a licensed warehouse in which there is any foreign leaf tobacco, or which is used for the storage of foreign leaf tobacco, or into any manufactory which has been licensed to use foreign leaf tobacco, or into which any foreign leaf tobacco has been taken, either for use or storage, such Canadian leaf tobacco shall thereafter be deemed to be foreign leaf tobacco, and shall be dealt with accordingly. 46 V., c. 15, s. 298.

Canadian leaf to be deemed foreign leaf in certain cases.

SPECIAL PROVISIONS AS TO FOREIGN RAW LEAF TOBACCO.

307. Raw leaf tobacco shall not be imported into Canada except at the undermentioned ports, that is to say:—Prescott, Kingston, Toronto, Hamilton, Clifton, Sarnia, Windsor, London, St. Catharines, Paris, Brockville, Brantford, Port Hope, Belleville, Guelph, Chatham, Stratford, Barrie, Simcoe, Woodstock, Ingersoll, St. Thomas, Preston, Berlin, Cobourg, Owen Sound and Peterborough, in the Province of Ontario; Quebec, Montreal, St. Hyacinthe, Sherbrooke and St. John's, in the Province of Quebec; Halifax and Pictou, in the Province of Nova Scotia; St. John, Miramichi, Moncton and St. Andrew's, in the Province of New Brunswick; Victoria, in the Province of British Columbia; Charlottetown, in the Province of Prince Edward Island; Winnipeg, in the Province of Manitoba; and at such other ports of entry as the Governor in Council authorizes. 46 V., c. 15, s. 299.

Raw leaf to be imported at certain ports only.

308. All raw leaf tobacco imported shall be bonded at one or other of the above named ports of entry, in a customs warehouse, which shall be subject to the approval of the collector of Customs at the port of entry. 46 V., c. 15, s. 300.

All such tobacco to be bonded.

309. All imported raw leaf tobacco shall be weighed by the proper officer of customs at the port where it enters Canada; and, when removed to his licensed premises, the importer or owner thereof shall provide all necessary appliances for weighing the packages and their contents, and all labor necessary for moving, piling or handling such packages. 46 V., c. 15, s. 301.

All raw leaf to be weighed at port of entry.

310. All imported raw leaf tobacco shall be in packages which can be conveniently stamped; and except as herein otherwise provided, no such tobacco shall be removed from any warehouse wherein it has been bonded, except in such original stamped packages. 46 V., c. 15, s. 302.

How only to be packed and removed.

311. Imported raw leaf tobacco shall only be removed in bond and delivered to the undermentioned persons and to no others, that is to say:—

Removal in bond limited.

(a.) To manufacturers of tobacco and cigars, duly licensed under this Act ; or—

(b.) To persons who have taken out a license for an excise or customs bonding warehouse. 46 V., c. 15, s. 303.

Removal in bond to a manufactory.

312. All imported raw leaf tobacco which is removed from the custody of the customs authorities and to a tobacco or cigar manufactory, or to a licensed bonding warehouse, when it passes into the possession and control of the Inland Revenue Department, may be so removed in bond, such bond being taken by the collector of customs and accompanied by proper entry papers. The bond given by the importer or owner of raw leaf tobacco removed as above, shall be for an amount equal to thirty cents per pound on the raw leaf tobacco to which it relates, and shall be conditioned for the delivery of the raw leaf tobacco to the tobacco or cigar manufacturer or licensed bonding warehouse mentioned therein :

Amount of bond.

Cancelling of bond.

2. The bond hereinbefore referred to shall be cancelled by the certificate on the customs removal entry, by the collector or other proper officer of Inland Revenue, that the tobacco to which it relates has been received at the tobacco or cigar manufactory or licensed bonding warehouse mentioned therein, and an account thereof made in the manufacturer's or licensed warehouseman's books :

Quantity, how ascertained.

3. The quantity certified to by the collector of Inland Revenue shall be that ascertained by actual weighing by the officer in charge of the tobacco or cigar manufactory or on the premises of a licensed warehouseman. 46 V., c. 15, s. 304.

Weight, how stated.

313. The weight of all quantities of imported raw leaf tobacco after passing out of the control of the customs shall be stated in standard pounds. 46 V., c. 15, s. 305.

Warehousing of raw tobacco.

314. All raw leaf tobacco received into a licensed bonding warehouse shall be bonded—the necessary entries therefor being made with and delivered to the proper officer. 46 V., c. 15, s. 306.

All removals to be under bond.

315. All removals of raw leaf tobacco from a licensed bonding warehouse shall be in bond, and the necessary removal or other entries passed for the quantity so removed on each occasion. 46 V., c. 15, s. 307.

PENALTIES.

Special provisions as to penalties.

316. In addition to the general provisions of this Act respecting penalties, the provisions contained in the following sections of this Act apply to tobacco and cigars and tobacco and cigar manufacturers. 46 V., c. 15, s. 308.

317. Every person who, without having a license under this Act then in force,—

(a.) Manufactures any tobacco or cigars, except as by this Act permitted, or—

(b.) Manufactures for sale, or for consumption, except by himself or the members of his family resident with him on the farm or premises whereon it is grown, any tobacco grown by himself for his private use, or—

(c.) Claiming to have grown any tobacco and manufactured it solely for his own use, sells or barter away any tobacco so manufactured, or—

(d.) Having purchased any raw leaf tobacco grown in Canada from the cultivator thereof, in any way unlawfully manufactures such tobacco and sells it, or offers it for sale in a manufactured state,—

Is guilty of a misdemeanor, and shall, for the first offence, incur a penalty not exceeding one hundred dollars, and not less than twenty-five dollars, and for each subsequent offence, a penalty of five hundred dollars, and all goods subject to excise found on the premises wherein any such offence is committed, shall be forfeited to the Crown, and shall be seized by any officer of Inland Revenue and dealt with accordingly. 46 V., c. 15, s. 309;—48-49 V., c. 62, s. 23.

318. Every person who becomes liable to the penalty provided for in the next preceding section, shall, in addition thereto, forfeit for the use of Her Majesty double the amount of excise duty and license duty which should have been paid by him under this Act. 46 V., c. 15, s. 310.

319. Every person who opens any package containing tobacco or cigars in any other manner than as herein prescribed, that is to say, so as to break the stamp thereon in so doing, or in whose possession there is, at any time, found any package of tobacco or cigars opened otherwise than in accordance with the provisions of this Act, shall, for a first offence, incur a penalty of twenty-five dollars, and for each subsequent offence a penalty of one hundred dollars: and—

2. All packages of tobacco or cigars which are at any time found that have been opened otherwise than as herein directed, shall be forfeited to the Crown, and shall be seized by any officer of excise or customs and dealt with accordingly. 46 V., c. 15, s. 311.

320. Every manufacturer of tobacco or cigars, and every other person who, except as permitted by this Act, packs, puts up or has in his possession tobacco or cigars in packages which have been before used for that purpose, shall, for the first offence, incur a penalty of ten dollars for each box or package so unlawfully used, and for each subsequent offence, a penalty of fifty dollars for each box or package so used. 48-49 V., c. 62, s. 24.

For selling
loose or un-
packed
foreign leaf.

321. Every person who sells, or offers for sale, or has in his possession, except in a licensed tobacco or cigar manufactory, any loose or unpacked foreign raw leaf tobacco, shall incur, for a first offence, a penalty not exceeding two hundred dollars and not less than fifty dollars, and for each subsequent offence, a penalty of two hundred dollars; and all raw tobacco so offered or exposed for sale, or so unlawfully had in possession, loose or unpacked, shall be forfeited to the Crown, and shall be seized by any officer of Inland Revenue and dealt with accordingly. 46 V., c. 15, s. 313.

Tobacco to be
imported only
at ports
authorized.

322. All imported raw leaf tobacco brought into Canada at any port or place other than at the ports of entry herein named, or which are hereafter authorized by the Governor in Council, shall be forfeited to the Crown, and shall be seized by any officer of customs or excise and dealt with accordingly. 46 V., c. 15, s. 314.

Imported leaf
not bonded or
in stamped
packages to
be seized.

323. All imported raw leaf tobacco not bonded and not in stamped packages as herein required, and in the possession of any person except a licensed tobacco or cigar manufacturer or in a licensed bonding warehouse, shall be forfeited to the Crown, and shall be seized by any officer of customs or excise and dealt with accordingly. 46 V., c. 15, s. 315.

Penalty for
not destroying
stamps, selling
empty
stamped pack-
ages, &c.

324. Every person who neglects or refuses to destroy the stamp or stamps on any box, bag, vessel, wrapper or envelope of any kind which has contained tobacco or cigars, and every person who sells or gives away, or who buys or accepts from another any such empty stamped box, vessel, bag, wrapper or envelope of any kind, or the stamp or stamps taken from any such empty box, bag, vessel, wrapper or envelope of any kind, shall, for each such offence, incur a penalty not exceeding one hundred dollars. 48-49 V., c. 62, s. 25.

Using emptied
packages,
counterfeit
stamps, &c.,
or having the
same in
possession.

325. Every manufacturer or other person who puts tobacco or cigars into any such box, bag, vessel, wrapper or envelope, the same having been either emptied or partially emptied,—or who has in his possession, or who sells or offers for sale any box or other package of tobacco or cigars, having affixed thereto any fraudulent, spurious, imitation or counterfeit stamp, or any stamp that has been previously used, or sells from any such fraudulently stamped box or package, or has in his possession any box or package as aforesaid, knowing the same to be fraudulently stamped,—and every tobacco or cigar manufacturer who brings or allows to be brought into his manufactory any such emptied or partly emptied stamped box or package, such as is used for packing tobacco or cigars, and having attached to it any stamp or part of a stamp, whether such stamp has been defaced or

not, or in whose possession the same is found,—and every tobacco or cigar manufacturer upon whose factory premises there is, at any time, found any package or packages of tobacco or cigars, the stamps or labels upon which have been unlawfully cut or broken, whether such package or packages are filled or partly filled—is guilty of a misdemeanor. Misdemeanor. and for a first offence shall incur a penalty not exceeding five hundred dollars and not less than one hundred dollars, and for each subsequent offence, a penalty of five hundred dollars, and in addition to such penalties, shall be liable to imprisonment for a term not exceeding three months; and all articles subject to excise on the premises at the time such packages are discovered, shall be forfeited to the Crown, and shall be seized by any officer of Inland Revenue and dealt with accordingly. 46 V., c. 15, s. 317. Forfeiture of stock on premises.

326. Every person who affixes to any package containing tobacco or cigars, any false, forged, fraudulent, spurious or counterfeit stamp, or a stamp which has been before used, is guilty of felony, and shall be liable to a penalty not exceeding five hundred dollars and not less than one hundred dollars, and to imprisonment for any term not exceeding five years and not less than six months. 46 V., c. 15, s. 319. Affixing forged stamps to be felony.

327. Every person who removes from any manufactory, or from any place where tobacco or cigars are made, any manufactured tobacco or cigars without the same being put up in proper packages, or without being stamped and the stamps being properly cancelled as required by law or regulations established thereunder,—or who uses, sells or offers for sale, or has in possession, except in the manufactory, or while in transit under bond from any manufactory, store or warehouse, to a vessel or railway car for exportation to a foreign country, or for removal in bond from the manufactory or licensed bonding warehouse to another manufactory or licensed bonding warehouse, any manufactured tobacco or cigars without the proper stamps for the amount of duty thereon being affixed and cancelled, shall, for each such offence, be liable to a penalty not exceeding five hundred dollars and not less than one hundred dollars, and to imprisonment for a term not exceeding two years and not less than three months; and all tobacco or cigars so offered or exposed for sale, or so unlawfully had in possession or without being stamped and the stamps being properly cancelled or the package branded, as herein required, shall be forfeited to the Crown, and shall be seized by any officer of Inland Revenue and dealt with accordingly. 46 V., c. 15, s. 320. Penalty for unlawful removal, sale, &c., of tobacco or cigars. Forfeiture of articles.

328. The absence of the proper duty paid stamp on any package of tobacco or cigars sold, or offered for sale, or kept Absence of stamp to be

notice of non-payment of duty.

for sale, or found in possession of any person other than a licensed manufacturer and in his manufactory, or a licensed bonding warehouseman and in his licensed bonding warehouse, shall be notice to all persons that the duty has not been paid thereon, and shall be *primâ facie* evidence of the non-payment thereof; and such tobacco or cigars shall be forfeited to the Crown, and shall be seized by any officer of Inland Revenue or Customs and dealt with accordingly: Provided always, that tobacco and cigars removed in bond, and having only the removal permit stamp thereon, or removed for exportation and having only the exportation stamp or brand thereon, shall not be liable to the forfeiture by this section provided, when regularly and legally in transit. 46 V., c. 15, s. 321.

Receiving goods from manufacturer not duly licensed.

329. Every person who knowingly purchases or receives for sale any manufactured tobacco or cigars from any manufacturer not duly licensed under this Act, shall, for each offence, incur a penalty of two hundred dollars, and shall, in addition thereto, forfeit all the articles so purchased or received for sale, or the full value thereof. 46 V., c. 15, s. 322.

Receiving goods not packed and stamped according to law.

330. Every person who purchases or receives for sale any manufactured tobacco or cigars which have not been packed and branded or stamped according to law, shall incur a penalty of two hundred dollars for each offence, and shall, in addition, forfeit all the articles so purchased or received for sale, or the full value thereof. 46 V., c. 15, s. 323.

Penalty on manufacturer not affixing notice in each room.

331. Every manufacturer of tobacco or cigars who neglects or refuses to post up in a conspicuous place, in each room or compartment in his manufactory, the notice required by section two hundred and fifty-seven of this Act, shall incur a penalty of fifty dollars for the first offence, and of one hundred dollars for each subsequent offence. 46 V., c. 15, s. 324.

Not affixing caution label to packages.

332. Every manufacturer or importer of tobacco or cigars who neglects to print on or affix to any package containing tobacco or cigars made or imported by or for him, or sold or offered for sale by or for him, the notice or caution label required to be affixed to packages of tobacco or cigars by the provisions of this Act, and every person who removes any such label, so affixed, from any such package, shall incur a penalty of fifty dollars for each package in respect of which such offence is committed. 46 V., c. 15, s. 325.

Bringing raw tobacco into factory unlawfully.

333. Every manufacturer of tobacco or cigars who causes or permits to be brought into, or into whose manufactory there is brought any raw leaf tobacco through any other

entrance than the one mentioned in the papers accompanying his application for a license and designated by the sign "Raw Leaf Tobacco Entrance," or—

(2.) Who, having obtained a license to manufacture exclusively from raw leaf tobacco grown in Canada, uses in or brings into, or permits to be used in or brought into his manufactory any foreign raw leaf tobacco, or—

Bringing in foreign leaf unlawfully.

(3.) Who omits to enter or who allows any person in his employ to omit to enter in the inventories, statements, books or returns kept or made in pursuance of this Act, or of any regulations made thereunder, a true account of all tobacco of Canadian or foreign growth brought into his manufactory,—

Omitting entries.

Shall, for each such offence, incur a penalty not exceeding one thousand dollars and not less than two hundred dollars; and all goods subject to excise found on the premises where in any such offence is committed, shall be forfeited to the Crown and dealt with accordingly. 46 V., c. 15, s. 326.

Penalty and forfeiture of goods.

334. Except as herein specially provided, every person who sells or offers for sale, or, not being a licensed tobacco or cigar manufacturer, has in his possession any kind of manufactured tobacco or cigars not put up in packages and stamped in accordance with the provisions of this Act, shall incur a penalty not exceeding five hundred dollars and not less than fifty dollars; and any tobacco or cigars so found which are not put up in packages and stamped as herein provided, shall be forfeited to the Crown, and shall be seized by any officer of Inland Revenue and dealt with accordingly. 46 V., c. 15, s. 327.

Penalty for unlawfully having or selling manufactured tobacco or cigars.

335. Every person who sells or offers for sale any imported tobacco or cigars, or tobacco or cigars purporting or claimed to have been imported, not put up in packages and stamped as provided by this Act, shall incur a penalty not exceeding five hundred dollars and not less than fifty dollars: but the provisions of this section shall not interfere in any way with tobacco or cigars imported and lawfully packed and stamped in compliance with the regulations in force prior to the first day of July, one thousand eight hundred and eighty-three. 46 V., c. 15, s. 328.

The same as to imported tobacco or cigars.

Proviso.

336. Every person who sells or offers for sale, or delivers or offers to deliver any cigars in any other form than in new boxes, as by this Act provided, or who packs in any box any cigars in excess of the number required by law to be put in each box respectively, or who falsely brands any box, or affixes a stamp on any box denoting a less amount of duty than that required by law, shall incur a penalty, for each offence, not exceeding five hundred dollars and not less than fifty dollars. 46 V., c. 15, s. 329.

Selling cigars unlawfully packed or fraudulently branding, &c.

Forfeiture of
cigars improp-
erly packed
or branded,
&c.

Penalty.

Unlawfully
having sample
box of cigars

337. Whenever any cigars are removed from any manufactory or place where cigars are made, without being packed in boxes as required by the provisions of this Act,—or without the proper stamps thereon, denoting the duty,—or without the proper bonded removal permit stamp,—or without the stamping, indenting, burning or impressing into each box, in a legible and durable manner, of the number of the cigars contained therein, the number of the manufactory and the number of the Inland Revenue division in which the manufactory is situated,—or without the properly affixing thereon and the cancelling of the stamp denoting the duty on the same—or whenever any cigars are offered for sale, not properly boxed and stamped,—such cigars shall be forfeited to the Crown; and every person who commits any offence against the provisions of this section shall, for each such offence, be liable to a penalty not exceeding five hundred dollars and not less than one hundred dollars, and to imprisonment for a term not exceeding two years and not less than three months. 48-49 V., c. 62, s. 26.

338. Every person who unlawfully has in his possession any sample box of cigars, shall, for the first offence, incur a penalty of fifty dollars, and for each subsequent offence, a penalty of five hundred dollars. 46 V., c. 15, s. 331.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 35.

An Act respecting the Postal Service.

A. D., 1896.

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

SHORT TITLE.

1. This Act may be cited as "*The Post Office Act.*" 38 V., Short title. c. 7, s. 1, *part.*

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—
- (a.) The expression "letter" includes packets of letters; Interpretation: "Letter."
- (b.) The expression "postage" means the duty or sum chargeable for the conveyance of post letters, packets and other things by post; "Postage."
- (c.) The expression "foreign country" means any country not included in the dominions of Her Majesty; "Foreign country."
- (d.) The expression "foreign postage" means the postage on the conveyance of letters, packets or other things, within any foreign country or payable to any foreign Government; "Foreign postage."
- (e.) The expression "Canada postage" means the postage on the conveyance of letters, packets, and other things, by post within Canada or by Canada mail packet; "Canada postage."
- (f.) The expression "mail" includes every conveyance by which post letters are carried, whether it is by land or by water; "Mail."
- (g.) The expression "British packet postage" means the postage due on the conveyance of letters by British packet boats, between the United Kingdom and British North America;—and the expression "British postage" includes all postage which is not foreign, colonial or Canadian; "British packet postage."
- (h.) The expression "employed in the Canada Post Office" applies to any person employed in any business of the Post Office of Canada; "Employed in the Canada post office."
- (i.) The expression "post letter" means any letter transmitted or deposited in any post office to be transmitted by the post or delivered through the post, or deposited in any letter box put up anywhere under the authority of the Postmaster General to be transmitted or delivered through the post;—and a letter shall be deemed a post letter from the time of its being so deposited or delivered at a post office, to the time of its

being delivered to the person to whom it is addressed ; and a delivery to any person authorized to receive letters for the post shall be deemed a delivery at the post office ; and a delivery of any letter or other mailable matter at the house or office of the person to whom the letter is addressed, or to him, or to his servant or agent, or other person considered to be authorized to receive the letter or other mailable matter, according to the usual manner of delivering that person's letters, shall be a delivery to the person addressed ;

" Mailable matter."

(j.) The expression " mailable matter " includes any letter, packet, parcel, newspaper, book or other thing which by this Act, or by any regulation made in pursuance of it, may be sent by post ;

" Post letter bag."

(k.) The expression " post letter bag " includes a mail bag or box, or packet or parcel, or other envelope or covering in which mailable matter is conveyed, whether it does or does not actually contain mailable matter ;

" Post office."

(l.) The expression " post office " means any building, room, street letter box, receiving box or other receptacle or place where post letters or other mailable matter are received or delivered, sorted, made up or despatched ;

" Valuable security."

(m.) The expression " valuable security " includes the whole or any part of any tally, order or other security or document whatsoever entitling or evidencing the title of any person to any share or interest in any public stock or fund, whether of Canada, or of the United Kingdom, or of any British colony or possession, or of any foreign country, or in any fund or stock of any body corporate, company or society in Canada or elsewhere, or to any deposit in any savings' bank, or the whole or any part of any debenture, deed, bond, post office money order, bank note, bill, note, cheque, warrant or order or other security for the payment of money, or for the delivery or transfer of any goods, chattels or valuable thing, whether in Canada or elsewhere ;

" Between."

(n.) The expression " between, " when used with reference to the transmission of letters or other things, applies equally to such transmission from either place to the other. 38 V., c. 7, s. 1, *part.*

Application of revenue management Acts to postal matters.

3. Every Act of the Parliament of Canada respecting the collection and management of the revenue, the auditing of the public accounts and the liabilities of public accountants, shall apply to the post office service, and to the officers and persons employed in respect of the same, or in collecting or accounting for postage duties and dues, except in so far as any provision of such Act is not susceptible of such application or is inconsistent with any provision of this Act. 38 V., c. 7, s. 6.

ORGANIZATION AND GENERAL PROVISIONS.

Post office department.

4. There shall be at the Seat of Government of Canada a Post Office Department for the superintendence and man-

agement, under the direction of the Postmaster General, of the postal service of Canada. 38 V., c. 7, s. 7.

5. The Postmaster General shall be appointed by the Governor General, by commission under the Great Seal of Canada, and shall hold office during pleasure. 38 V., c. 7, s. 8.

6. The Governor in Council may appoint an officer who shall be called the "Deputy Postmaster General," and such other officers and servants as are necessary for the proper conduct of the business of the department, all of whom shall hold office during pleasure. 31 V., c. 7, s. 15.

7. Every officer, clerk or servant employed in or by the Post Office Department, shall be remunerated by a stated salary or pay, to be fixed by the Postmaster General, subject to the provisions of "*The Civil Service Act.*" 31 V., c. 7, s. 16.

8. No allowance or compensation shall be made to any clerk or other officer in the Post Office Department by reason of the discharge of duties of any other clerk or officer in the same department; and no allowance or compensation shall be made for any extra service whatsoever which any such clerk or officer is required to perform: subject, nevertheless, to the provisions of "*The Civil Service Act.*" 31 V., c. 7, s. 17.

9. The Postmaster General may, subject to the provisions of this Act—

- (a.) Establish and close post offices and post routes;
- (b.) Appoint officers and servants, and remove or suspend any postmaster or other officer or servant of the post office;
- (c.) Enter into and enforce all contracts relating to the conveyance of the mails, or other business of the post office;
- (d.) Make regulations declaring what shall and what shall not be deemed to be mailable matter for the purposes of this Act, and for restricting within reasonable limits the weight and dimensions of letters and packets and other matters sent by post, and for prohibiting and preventing the sending of explosive, dangerous, contraband or improper articles, obscene or immoral publications, or obscene or immoral post-cards; and for marking on the covering of letters, circulars or other mail matter suspected to concern illegal lotteries, so-called gift concerts, or other illegal enterprises of like character, offering prizes, or concerning schemes devised or intended to deceive or defraud the public, for the purpose of obtaining money under false pretences, whether such letters, circulars or other mail matter are addressed to or received by mail from places within or without Canada, a warning that they are suspected to be of a fraudulent character;

Rates on
mailable mat-
ter not other-
wise provided
for.

Postage and
registration
stamps, wrap-
pers, &c.

Arrange-
ments with
postal au-
thorities out
of Canada.

Refunding
postage on H.
M. military or
naval service.

Post office
money orders.

Departmen-
tal rules and
orders.

Registration
of letters.

(e.) Establish the rates of postage on all mailable matter, not being letters, newspapers or other things hereinafter specially provided for, and prescribe the terms and conditions on which all mailable matter other than letters shall, in each case or class of cases, be permitted to pass by post, and authorize the opening thereof, for the purpose of ascertaining whether such conditions have been complied with ;

(f.) Cause to be prepared and distributed postage and registration stamps necessary for the prepayment of postages and registration charges, under this Act ; also stamped envelopes for the like purpose and post cards and stamped post bands or wrappers for newspapers or other mailable articles not being post letters ;

(g.) Make and give effect to any arrangements which are necessary to be made with the Government or with the postal authorities of the United Kingdom, or of any British Possession, or of any foreign country, with regard to the collecting and accounting for postage, the transmission of mails, and other matters connected with posts and postal business, and the remuneration or indemnity to be paid or received under any such arrangement ;

(h.) Make arrangements for refunding such postage as is, from time to time, paid by Her Majesty's military or naval authorities on official correspondence passing between the several stations of Her Majesty's military and naval forces in Canada ;

(i.) Make orders and regulations concerning the money order system and the issuing and paying of post office money orders in Canada, and when he deems it expedient arrange for the exchange of such money orders with the United Kingdom or any British Possession or foreign country on such terms and conditions as he agrees upon, and as are set forth in the regulations relating to the same ; and all orders and regulations so made by him shall be binding and conclusive upon the persons in favor of whom such money orders are issued, and the payees thereof and all persons interested through or claiming under them, and upon all other persons whomsoever ;

(j.) Make and alter rules and orders for the conduct of and management of the business and affairs of the department, and for the guidance and government of the postmasters and other officers and servants of the post office in the performance of their duties ;

(k.) Prescribe and enforce such regulations as to letters directed to be registered, as to him seem necessary, in respect to the registration of letters and other matter passing by mail, as well between places in Canada as between Canada and the United Kingdom, or any British Possession, or any foreign country, and to the charge to be made for the same : and also in respect to the registration by the officers of the post office of letters unquestionably containing money or other valuable enclosure when posted without

registration by the senders of the same, and the imposing a rate of two cents registration charge upon such letters;

(l.) Decide all questions which arise as to what shall be deemed to be a letter or letter packet, newspaper, periodical or other article ofailable matter, admitted to pass by post under this Act, and as to the rate of postage to which it is consequently liable; Questions as to periodicals, &c.

(m.) Sue for and recover all sums of money due for postage or for penalties under this Act, or due by any postmaster or his sureties; Suits for postage, &c.

(n.) Establish and provide street letter boxes or pillar boxes or boxes of any other description, for the receipt of letters and such otherailable matter as he deems expedient, in the streets of any city or town in Canada, or at any railway station or other public place where he considers such letter box necessary; Street letter boxes, &c.

(o.) Grant licenses, revocable at pleasure, to agents other than postmasters, for the sale to the public of postage stamps and stamped envelopes, and allow to such agents a commission not exceeding five per cent. on the amount of their sales; Sale of stamps, &c.

(p.) Impose, with the approval of the Governor in Council, pecuniary penalties not exceeding two hundred dollars for any one offence on persons offending against any such regulation as aforesaid, whether they are or are not officers of the post office; Penalties for contravention of regulations.

(q.) Make such regulations as he deems necessary for the due and effective working of the post office and postal business and arrangements, and for carrying this Act fully into effect; General purposes.

2. Every such regulation shall have force and effect as if it formed part of the provisions of this Act. 38 V., c. 7, s. 10;— 41 V., c. 2, s. 1. Effect of regulations.

10. Every regulation made by the Postmaster General under this Act, other than those made solely for the guidance and government of the officers or other persons employed in the postal service, which may be communicated by departmental order or otherwise, as the Postmaster General sees fit, shall have effect from and after the day on which the same is published in the *Canada Gazette*, or from and after such later day as is appointed for the purpose in such regulation, and during such time as is therein expressed, or if no time is expressed for that purpose, then until the same is revoked or altered. 38 V., c. 7, s. 11. Publication, commencement and duration of regulations made by the Postmaster General.

11. Every bond or security required or authorized by any such regulation or by any order of the Postmaster General, in any matter relative to the post office, or to the observance of any provision of this Act or any regulation or order made under it, shall be valid in law, and may be enforced accord- Bonds, &c., to be valid.

ing to its tenor on breach of the condition thereof. 38 V., c. 7, s. 12.

POST OFFICE INSPECTORS.

Chief inspectors.

12. The Governor in Council may, from time to time, appoint one or more person or persons to be Chief Inspector or Chief Inspectors of the Post Office Department of Canada, with authority over all or over as many post office inspectors and assistant post office inspectors and their respective districts as the Governor in Council designates, and with such other duties connected with the post offices of Canada as are, from time to time, assigned to him or them by the Postmaster General; and with power in any part of Canada to inquire into and investigate complaints or suspected cases of misconduct or mismanagement on the part of any person employed in the Canada Post Office or performing duties in or in connection with any post office in Canada, and also into any complaints of the miscarriage or loss of letters or other mailable matter, or the contents thereof, and with power to suspend from his duties, during the pleasure of the Postmaster General, any person employed in any post office, pending the investigation of any complaint or suspected case of misconduct or mismanagement, and generally with similar powers to those possessed by post office inspectors or assistant post office inspectors appointed under this Act. 42 V., c. 20, s. 1.

Their powers.
Investigation of complaints of misconduct, loss of letters, &c.

Post office inspectors and assistants.

13. The Governor in Council may, from time to time, appoint fit and proper persons to be post office inspectors and assistant post office inspectors, and to be stationed at such places and to exercise their powers and perform their duties and functions within such limits respectively as he, from time to time, prescribes. 38 V., c. 7, s. 14, *part.*

Their duties specially.

14. Every post office inspector and assistant post office inspector shall, under such instructions as are, from time to time, given by the Postmaster General, superintend the performance of the mail service, taking care that, as far as the state of the roads and other circumstances permit, the stipulations of all contracts for the conveyance of the mail are strictly complied with by the contractors; instruct new postmasters in their duties; keep the postmasters to their duty in rendering their accounts and paying over their balances; inspect every post office, from time to time, to see that it is properly kept, and that the postmasters and their assistants perfectly understand their instructions and perform their duty well in every particular; inquire into complaints or suspected cases of misconduct or mismanagement in respect of such duty, and also into complaints of the miscarriage or loss of letters or other mail matter; and generally do all and whatsoever he is, from time to time,

Generally.

instructed or required by the Postmaster General to do for the service of the Post Office Department. 38 V., c. 7, s. 14, *part.*

15. Any chief inspector may, for the purpose of any inquiry or investigation, apply in term or in vacation, to any judge of the Exchequer Court of Canada, or of any superior court in any of the Provinces of Canada, or to any judge or stipendiary magistrate in and for the Territories, for an order that a subpoena shall issue from such court or magistrate, commanding any person therein named to appear before such chief inspector at the time and place mentioned in such subpoena, and then and there to testify to all matters within his knowledge relative to such inquiry or investigation, and (if so required) to bring with him and produce any document, paper or thing which he has in his possession relative to such inquiry or investigation; and such subpoena shall issue accordingly upon the order of any such judge or stipendiary magistrate; and any such witness may be summoned from any part of Canada, whether within or without the ordinary jurisdiction of the court, judge or magistrate issuing the subpoena; and every post office inspector shall, for the purpose of any inquiry or investigation which it is his duty to make, have like powers as those conferred by this section upon a chief inspector. 42 V., c. 20, s. 2, *part.*

Power of chief inspector to apply for order to compel persons to come before him.

Issue and effect of order.

Inspector to have like power.

16. Reasonable travelling expenses shall be paid or tendered to any witness so subpoenaed at the time of such service; and if any person so duly summoned neglects or refuses to appear at the time and place specified in the subpoena served upon him, or refuses to give evidence or to produce the papers demanded of him, the court, or the judge or magistrate who ordered the issue of the subpoena, or any other judge of the same court, may cause the said person to be taken into custody, and to be imprisoned in the common gaol of the locality as for contempt of court for a period not exceeding fourteen days. 42 V., c. 20, s. 2, *part.*

Penalty for refusing to appear, or to give evidence, &c.

17. Every chief inspector and every post office inspector may examine any person on oath or affirmation on any matter pertinent to any such inquiry or investigation; and such oath or affirmation may be administered by him to any person whom he desires to examine. 42 V., c. 20, s. 2, *part.*

Power to examine on oath.

18. Every chief inspector, post office inspector or assistant post office inspector, may require any postmaster or assistant in any post office, mail contractor or other person in the employment or service of, or undertaking to perform any duty or work for the Post Office Department, to make and sign before him an oath or declaration in the following form, or to a like effect, that is to say:—

Chief inspector, &c., may administer oath or declaration of office to contractors or employees.

Form of oath
or declara-
tion.

"I (*insert the name of the person and the capacity in which he is employed in or by the Post Office Department*), do solemnly and sincerely promise and swear (*or declare, if the person is one entitled to declare instead of taking an oath in civil cases*) that I will faithfully perform all the duties required of me by my employment in the service of the Post Office, and will abstain from everything forbidden by the laws for the establishment and government of the Post Office Department of Canada: So help me God."

This oath (*or declaration*) was sworn }
(*or made*) and subscribed before me the } Signature of per-
day of } son.

18 .

Signature.

(Post Office Inspector, *or as the case may be.*)

42 V., c. 20, s. 3.

RESTITUTION OF STOLEN PROPERTY.

Delivery of
money or pro-
perty lost or
stolen from
mails when
recovered.

19. The Postmaster General may pay over or deliver to such person or persons as he considers to be the rightful owner or owners thereof, upon satisfactory evidence of claim, any sum of money or other property stolen or lost from the mails, which is, by the Postmaster General, recovered from the thief or thieves, or otherwise comes into his possession. 38 V., c. 7, s. 18.

RATES OF POSTAGE.

Rates of
postage on
letters.

Prepayment
obligatory.

Exceptions.

20. On all letters transmitted by post for any distance within Canada, except in cases herein otherwise specially provided for, there shall be charged and paid one uniform rate of three cents per half ounce weight, any fraction of a half ounce being chargeable as a half ounce; and such postage rate of three cents shall be prepaid by postage stamp or stamps at the time of posting the letter, otherwise such letter shall not be forwarded by post,—but letters addressed to any place in Canada and on which one full rate of three cents has been so prepaid, shall be forwarded to their destination charged with double the amount of the postage thereon not so prepaid, which amount shall be collected on delivery. 38 V., c. 7, s. 19.

On local or
drop letters.

21. On letters not transmitted through the mails, but posted and delivered at the same post office, commonly known as local or drop letters, the rate shall be one cent per half ounce weight, which shall, in all cases, be prepaid by postage stamps affixed to such letters. 38 V., c. 7, s. 20.

On letters to
or from
seamen or
soldiers in
H. M. service.

22. Whenever any seaman in Her Majesty's navy, or sergeant, corporal, drummer, trumpeter, fifer or private soldier in Her Majesty's service, is entitled to receive or send letters

on the payment of a certain sum and no more, in place of all British postage thereon, the payment of such sum shall likewise free such letters from all Canada postage thereon. 38 V., c. 7, s. 21, *part*.

23. Whenever a letter addressed to a commissioned officer of the army or navy, or of any of the departments belonging thereto respectively, at a place where he has been employed on actual service, would be free from British postage on the transmission thereof from such place to any place to which he has removed in the execution of his duty, before the delivery of such letter or packet, the same shall, in like manner, be free from Canada postage; and the Postmaster General may make such regulations, declaratory and otherwise, as are necessary for giving effect to this section. 38 V., c. 7, s. 21, *part*.

Or to commissioned officers in army or navy, &c.

24. Newspapers and periodicals weighing less than one ounce each may be posted singly at a postage rate of half a cent each, which shall, in all cases, be prepaid by postage stamp affixed to each. 38 V., c. 7, s. 23.

On newspapers, &c., posted singly.

25. The rate of postage on newspapers and periodical publications printed and published in Canada, and issued not less frequently than once a month from a known office of publication or news agency, and addressed and posted by and from the same to regular subscribers or news agents, shall be one cent for each pound weight, or any fraction of a pound weight, which shall be prepaid by postage stamps or otherwise as the Postmaster General, from time to time, directs; and such newspapers and periodicals shall be put up into packages and delivered into the post office, and the postage rate thereon prepaid by the sender thereof, under such regulations as the Postmaster General, from time to time, directs. 38 V., c. 7, s. 22.

Rates of postage on newspapers and periodicals direct from office of publication.

How to be put up.

26. Newspapers and periodicals printed and published in Canada, mailed by the publisher in the post office at the place where they are published and addressed to regular subscribers or news dealers in Canada, resident elsewhere than in the place of publication, shall be transmitted by mail to their respective addresses free of postage if:—

Certain newspapers and periodicals to go free in Canada by mail.

(a.) Such newspaper or periodical is known and recognized as a newspaper or periodical in the generally received sense of the word, and published regularly at intervals of not more than one month;

Intervals of publication.

(b.) The full title, place and date of publication, and the distinguishing number of the issue are printed at the top of the first page, and also on any paper purporting to be a supplement to it and sent with it;

Title, date and place of publication.

(c.) It is addressed to a *bonâ fide* subscriber, or to a known news dealer in Canada; and,—

To whom to be addressed.

Delivery to post office.

(d.) It is delivered into the post office, under such regulations as the Postmaster General, from time to time, makes for that purpose :

Powers of P. M. General for preventing evasion of the said conditions.

And the Postmaster General may decide whether any publication, for which free transmission is claimed, is or is not a newspaper or periodical within the meaning and intent of this section, and whether the requirements thereof have or have not been complied with in respect of it, and, from time to time, may make any regulations he deems necessary to give full effect to the provisions of this section, or to prevent fraudulent evasions thereof. 45 V., c. 9, s. 1.

Rate of postage on books, pamphlets, &c.

27. On all newspapers and periodicals posted in Canada, except in the cases hereinbefore expressly provided for, and on books, pamphlets, occasional publications, printed circulars, prices current, hand-bills, book and newspaper manuscripts, printers' proof sheets, whether corrected or not, maps, prints, drawings, engravings, lithographs, photographs when not on glass or in cases containing glass, sheet music, whether printed or written, documents wholly or partly printed or written—such as deeds, insurance policies, militia and school returns, or other documents of like nature—packages of seeds, cuttings, bulbs, roots, scions or grafts, patterns or samples of goods or merchandise, the rate of postage shall be one cent for each four ounces or fraction of four ounces ; and the postage rate shall be prepaid by postage stamp or stamped post bands or wrappers, whenever any such articles as are mentioned in this section are posted in Canada. 38 V., c. 7, s. 24, *part*.

Prepayment.

No letters to be enclosed.

28. No letter or other communication intended to serve the purpose of a letter shall be sent or enclosed in any package or thing mentioned in the next preceding section or in any newspaper or periodical ; and the newspaper, periodical, package or thing shall be sent in covers open at the ends or sides, or otherwise so put up as to admit of inspection by the officers of the post office to insure compliance with this provision. 38 V., c. 7, s. 24, *part*.

How to be put up.

Postage on mailable matter between Canada and any other country.

29. Notwithstanding any thing herein contained, all letters, newspapers and other mailable matter passing by mail between any place in Canada and the United Kingdom, any British possession, or any foreign country, shall be liable to such charges and rates of postage on being posted in Canada, or on delivery therein, and be subject to such regulations and conditions as are agreed upon, under any arrangement made by the Postmaster General for the transmission, despatch, receipt and delivery of the same, and contained in any regulation made by the Postmaster General in pursuance of such arrangement. 38 V., c. 7, s. 25.

PAYMENT OF POSTAGE.

30. British, foreign or colonial postage as well as the Canada postage on any letter or other mailable matter shall, if not prepaid, in all cases in which prepayment has not been made obligatory, be payable to the Postmaster General by the person to whom the same is addressed, or who may lawfully receive such letter or other thing,—which may be detained until the postage is paid: and any refusal or neglect to pay such postage shall be held to be a refusal to receive such letter or thing, which shall be detained and dealt with accordingly; but if the same is delivered, the postage on it shall be charged against and paid by the postmaster delivering it, saving his right to recover it from the person by whom it was due, as money paid for such person:

From whom and how postage on unpaid letters may be recovered.

2. If any letter or other mailable matter is refused, or if the person to whom it is addressed cannot be found, any postage due thereon shall be recoverable by the Postmaster General from the sender of such letter or packet:

Letters refused.

3. The postage marked on any letter or other mailable matter shall be held to be the true postage due thereon; and the person signing or addressing it shall be held to be the sender, until the contrary is shown:

Amount of postage.

4. All postage shall be recoverable with costs, by action in any court of competent jurisdiction, or in any way in which customs duties are recoverable. 38 V., c. 7, s. 26.

How recovered.

31. Whenever letters or other mailable matter are posted for places without the limits of Canada, to which stamps for prepayment are affixed of less value than the true rate of postage to which such letters are liable,—or when stamps for prepayment are affixed to letters addressed to any place as aforesaid for which prepayment cannot be taken in Canada,—the Postmaster General may forward such letters, charged with postage, as if no stamp had been thereto affixed; and when any letter or other mailable matter is posted in Canada without prepayment, or insufficiently prepaid, in any case in which prepayment is by this Act made obligatory, the Postmaster General may detain the same and cause it to be returned, when practicable, to the sender. 38 V., c. 7, s. 27.

Cases in which stamped letters for places out of Canada may be forwarded as unpaid letters.

Disposal of letters not prepaid.

32. No postmaster or letter carrier shall, as respects any letter or other mailable matter delivered by him on which any postage is payable, be bound to give change, but the exact amount of the postage so payable shall be tendered or paid to him in current coin; and in like manner the exact value in current coin of any postage stamps, registration stamps, stamped envelopes, post cards, or post bands or wrappers, when purchased from any postmaster, shall be tendered or paid to him at the time of purchase thereof. 38 V., c. 7, s. 28.

No change need be given by postmaster or letter carrier.

SHIP LETTERS.

Conveyance of letters by sea to or from Canada in vessels other than post office packets.

33. The Postmaster General may make such reasonable compensation as he sees fit to masters of vessels, not being post office packets, for each letter conveyed by such vessels between places beyond sea and Canada: and the Governor in Council may direct that, at any port or class of ports, such vessels shall not be permitted by the officers of customs to enter or break bulk until all letters on board the same have been delivered at the post office, nor until the master has made declaration, in such form as is prescribed, that he has delivered all such letters accordingly. 38 V., c. 7, s. 29.

EXCLUSIVE PRIVILEGE OF THE POSTMASTER GENERAL,—
AND EXCEPTIONS FROM IT.

No one but the Postmaster General to collect, convey and deliver letters in Canada.

34. Subject always to the provisions and regulations aforesaid, and the exceptions hereinafter made, the Postmaster General shall have the sole and exclusive privilege of conveying, receiving, collecting, sending and delivering letters within Canada: and, except in the cases hereinafter mentioned, any person who collects, sends, conveys or delivers or undertakes to convey or deliver any letter within Canada, or who receives or has in his possession any letter for the purpose of conveying or delivering it, otherwise than in conformity with this Act, shall, for each and every letter so unlawfully conveyed or undertaken to be conveyed, received, delivered or found in his possession, incur a penalty not exceeding twenty dollars:

Exceptions.

2. Such exclusive privilege, prohibition and penalty shall not apply to—

Letters by private friends.

(a.) Letters sent by a private friend in his way, journey or travel, provided such letters are delivered by such friend to the person to whom they are addressed;

Messenger.

(b.) Letters sent by a messenger on purpose, concerning the private affairs of the sender or receiver;

Commissions, writs, &c.

(c.) Commissions or returns thereof, and affidavits or writs, process or proceedings or returns thereof, issuing out of a court of justice;

Private vessel.

(d.) Letters addressed to a place out of Canada and sent by sea and by a private vessel;

Posted on arrival.

(e.) Letters lawfully brought into Canada, and immediately posted at the nearest post office;

Letters with goods, &c.

(f.) Letters of merchants, owners of vessels of merchandise, or of the cargo or loading therein, sent by such vessel of merchandise, or by any person employed by such owners for the carriage of such letters according to their respective addresses,—and delivered to the persons to whom they are respectively addressed, without pay, hire, reward, advantage or profit for so doing;

The same.

(g.) Letters concerning goods or merchandise sent by common known carriers to be delivered with the goods to

which such letters relate, without hire or reward, profit or advantage for receiving or delivering them :

3. Nothing herein contained shall authorize any person to collect any such excepted letters for the purpose of sending or conveying them as aforesaid,—or shall oblige any person to send any newspaper, pamphlet or printed book by post. 38 V., c. 7, s. 30. Proviso.

35. Any person may, and every officer or person employed in the post office or in the collection of the revenue of Canada shall, seize any letters conveyed, received, collected, sent or delivered in violation of this Act, and take them to the nearest post office, and give such information to the postmaster as he is able to give and as is necessary for the effectual prosecution of the offender ; and the letters shall also be chargeable with letter postage. 38 V., c. 7, s. 31. In case of contravention letters may be seized and charged with postage.

BRANCH OFFICES AND DELIVERY IN CITIES.

36. The Postmaster General may, when in his judgment the public interest or convenience requires it, establish one or more branch post offices to facilitate the operation of the post office in any city or place which in his opinion requires any such additional accommodation for the convenience of the inhabitants ; and he may prescribe the rules and regulations for the branch post offices established by virtue of this Act ; and no additional postage shall be charged for the receipt or delivery of any letter or packet at such branch post office. 38 V., c. 7, s. 32. Establishment and regulation of branch post offices in cities.

37. The Postmaster General may, whenever the same is proper for the accommodation of the public in any city or town, employ letter carriers for the delivery of letters received at the post office in such city or town and for the receipt of letters at such places in such city or town as the Postmaster General directs, and for the deposit of the same in the post office ; but letters shall not be so delivered whenever the person to whom they are addressed has requested the postmaster, in writing, to retain them in the post office. 38 V., c. 7, s. 33, *part*. Employment of letter carriers in cities and rate of city postage.

38. The person to whom any letter is delivered by a carrier from the post office shall pay for the delivery a sum not exceeding two cents for each letter, and for the delivery of each newspaper and pamphlet one cent,—all of which receipts, by the carriers in any city or town, shall be accounted for to the Postmaster General. 38 V., c. 7, s. 33, *part*. The rates.

39. Each of such carriers shall give a bond, with sureties approved by the Postmaster General, for the safe custody and delivery of all letters, and for the due account and payment of all moneys received by him. 38 V., c. 7, s. 33, *part*. Carriers to give security.

Provision for delivery of letters in cities free.

40. The Postmaster General may, with the consent of the Governor in Council, establish in any city, when he deems it expedient, a system of free delivery by letter carrier of letters brought by mail, and he may direct that, from the time that such system is so established, no charge shall be made for the delivery of such letters by letter carriers in such city; and such system of free delivery, when established in any city, shall be subject to such regulations as the Postmaster General, from time to time, sees fit to make. 38 V., c. 7, s. 34.

PARCEL POST.

Parcel post.

Rate to be fixed by Postmaster General.

41. The Postmaster General may establish and maintain a parcel post; and closed parcels, other than letters and not containing letters, may be sent by such parcel post; and when so sent shall be liable to such charges for conveyance and to such regulations as the Postmaster General, from time to time, sees fit to make. 38 V., c. 7, s. 35.

FRANKING AND FREE MAIL MATTER.

Certain letters and other mailable matter to be free of postage.

42. All letters and other mailable matter addressed to or sent by the Governor General—or sent to or by any department of the Government at the seat of Government,—shall be free of Canada postage under such regulations as are, from time to time, made in that respect by the Governor in Council:

Senate and House of Commons.

2. Letters and other mailable matter addressed to or sent by the Speaker or Clerk of the Senate or of the House of Commons at the seat of Government shall be free of Canada postage, and letters and other mailable matter addressed to or by any member of either House at the seat of Government, during any session of Parliament, or to any of the members at the seat of Government as aforesaid, during the ten days next before the meeting of Parliament, shall be free of Canada postage:

Books from parliamentary library.

3. All books belonging to the library of Parliament may be sent from the same to any member of either House or from any such member addressed to the librarian, during the recess of Parliament, and free of Canada postage in either case:

Limitation.

4. The privilege of free transmission as above given in this section shall apply only to mail matter passing between the seat of Government and places in Canada:

Parliamentary papers.

5. Members of either the Senate or the House of Commons may, during the recess of Parliament, send by mail, free of Canada postage, all papers printed by order of either House; and members of the Legislature of any one of the Provinces of Canada may, in like manner, send by mail, free of Canada postage, all papers printed by order of such Legislature:

Post office letters, &c.

6. The Postmaster General may prescribe the conditions and circumstances under which letters, accounts and papers,

relating solely to the business of the post office, and addressed to or sent by some officer thereof, shall be free from Canada postage :

7. Petitions and addresses to the Provincial Legislatures of any of the Provinces of Canada, or to any branch thereof, and also votes and proceedings and other papers printed by order of any such Legislatures or any branch thereof, may be sent free of Canada postage under such regulations as the Postmaster General prescribes. 38 V., c. 7, s. 36.

Petitions to local legislatures.

PROPERTY IN POST LETTERS, AND OTHER MAILABLE MATTER.

43. From the time any letter, packet, chattel, money or thing is deposited in the post office for the purpose of being sent by post, it shall cease to be the property of the sender, and shall be the property of the person to whom it is addressed or the legal representatives of such person : and the Postmaster General shall not be liable to any person for the loss of any letter, packet or other thing sent by post :

Property in mailable matter.

2. No letter, packet or other mailable matter shall, whilst in the post office or in the custody of any person employed in the Canada Post Office, be liable to demand, seizure or detention, under legal process against the sender thereof, or against the person or legal representatives of the person to whom it is addressed. 38 V., c. 7, s. 37.

Mailable matter not liable to seizure.

DEAD LETTERS.

44. Letters or other articles which, from any cause, remain undelivered in any post office, or which, having been posted, cannot be forwarded by post, shall, under such regulations as the Postmaster General makes, be transmitted by postmasters to the Post Office Department as dead letters, there to be opened and returned to the writers or senders on payment of any postage due thereon with three cents additional on each dead letter to defray the cost of returning the same, less, in the case of insufficiently prepaid letters or other mailable matter posted in Canada, such amount of postage as has been prepaid on the same ; or such dead letters may, in any case or class of cases, be otherwise disposed of as the Postmaster General directs :

Dead letters, how dealt with.

2. If any such dead letter, of which the writer or sender cannot be ascertained or found, contains money, the Postmaster General may appropriate it as postal revenue, keeping an account thereof ; and the amount shall be paid by the Postmaster General to the rightful claimant as soon as he is found. 38 V., c. 7, s. 38.

If containing money.

LETTERS CONTAINING CONTRABAND GOODS.

45. The Postmaster General, or any postmaster by him to that effect duly authorized, may detain any post letter or other article of mail matter suspected to contain any con-

Detention, &c., of letters suspected to contain con-

traband or dutiable goods.

traband goods, wares or merchandise, or any goods, wares or merchandise on the importation of which into Canada any duties of customs are by law payable, and suspected to have been enclosed therein and sent by post to evade payment of such duties, and forward the same to the nearest collector of Customs, who, in the presence of the person to whom the same is addressed, or in his absence, in case of non-attendance after due notice in writing from such collector requiring his attendance, left at or forwarded by the post according to the address on the letter or other article of mail matter, may open and examine the same :

If any such goods are found.

2. If, on any such examination, any contraband goods wares or merchandise, or any goods, wares or merchandise on the importation of which into Canada any duties of customs are payable are discovered, such collector may detain the letter or other article of mail matter and its contents for the purpose of prosecution ; and if no contraband goods, wares or merchandise, or any goods, wares or merchandise on the importation of which into Canada any duties of customs are by law payable, are discovered in such letter or other article of mail matter, it shall, if the person to whom it is addressed is present, be handed over to him on his paying the postage, if any, charged thereon, or if he is not present, it shall be returned to the post office and be forwarded to the place of its address. 38 V., c. 7, s. 39.

And if not.

TOLLS AND FERRIES.

Tolls and ferries, mails when exempt

46. No mail stage, or other winter or summer vehicle carrying a mail, shall be exempted from tolls or dues on any road or bridge in Canada, unless, in the Act or charter authorizing such road or bridge, it is specially so provided :

Obligations of ferryman.

2. Every ferryman shall, upon request and without delay, convey over his ferry any courier or other person travelling with the mail, and the carriage and horse or horses employed in carrying the same ; and the sum to be paid for such service shall be fixed by contract ; or if any ferryman demands more than the post office authorities or the contractor for carrying the mail are willing to pay, the amount to be paid shall be fixed by arbitrators,—each party naming an arbitrator, and the two arbitrators naming a third ; and the decision of any two of such arbitrators shall be binding :

Mail not to be delayed.

3. No toll-gate keeper or ferryman shall detain or delay a mail on pretence of demanding toll or ferriage, but the same, if due and not paid, shall be recoverable in the usual course of law from the person liable. 38 V., c. 7, s. 40.

UNITED STATES MAILS PASSING THROUGH CANADA.

Carriage of U.S. mails through Canada.

47. The Postmaster General may, from time to time, with the approval of the Governor in Council, make any arrangement which he deems just and expedient for allowing the mails of the United States to be carried or transported through

any portion of Canada, from any one point in the territory of the said United States to any other point in the same territory, upon obtaining the like privilege for the transportation of the mails of Canada through the United States when required; and whenever the Postmaster General shall have undertaken or agreed to provide for the carriage or transportation of the mails of the United States through any portion of Canada, such mails, when so carried or transported or required by the Postmaster General to be so carried or transported over any Canadian railway, shall, for all the purposes of the sixty-fourth section of this Act, be deemed to be Her Majesty's mails. 38 V., c. 7, s. 41;—41 V., c. 2, s. 2.

Mails of U. S sent through Canada on Canadian railways to be deemed Her Majesty's mails.

48. Every United States mail so carried or transported as last aforesaid shall, while in Canada, be deemed and taken to be a mail of Her Majesty, so far as to make any violation thereof, any depredation thereon, or any act or offence in respect thereto or to any part thereof, which would be punishable under the existing laws of Canada if the same was a Canada mail or part of a Canada mail, an offence of the same degree and magnitude and punishable in the same manner and to the same extent as if the same was a Canada mail or part of a Canada mail; and in any indictment for such act or offence, such mail or part of a mail may be alleged to be, and on the trial of such indictment shall be held to be a Canada mail or part of a Canada mail; and in any indictment for stealing, embezzling, secreting or destroying any post letter, post letter-bag, packet, chattel, money or valuable security sent by post through and by any of the said United States mails as aforesaid, in the indictment preferred against the offender, the property of such post letter, post letter-bag, packet, chattel, money or valuable security sent by post as herein mentioned, may be laid in the Postmaster General,—and it shall not be necessary to allege in the indictment, or to prove upon the trial or otherwise, that the post letter, post letter-bag, packet, chattel or valuable security was of value. 38 V., c. 7, s. 42.

Such mails to be deemed, while in Canada, Her Majesty's Canada mails, as regards the punishment of offences.

Property in such mails.

POSTMASTERS.

49. The Governor in Council may appoint all postmasters having permanent salaries in cities and towns; and all other postmasters may be appointed by the Postmaster General:

Appointment of postmasters.

2. The Postmaster General shall, upon the appointment of any postmaster, require and take of such postmaster a bond, with good and approved sureties, in such penalty as he deems sufficient, conditioned for the faithful discharge of all the duties of such postmaster required by law, or which are required by any instruction or regulation or general rule for the government of the post office:

Postmaster to give bonds.

Sureties may be changed and new bonds executed.

3. When any surety of a postmaster notifies to the Postmaster General his desire to be released from his suretyship, or when the Postmaster General deems it necessary, he may require such postmaster to execute a new bond, with sureties,—which bond, when accepted by the Postmaster General, shall be as valid as the bond given upon the original appointment of the postmaster; and the sureties in the prior bond shall be released from responsibility for all acts or defaults of the postmaster done or committed subsequent to the acceptance of the new bond,—and the date of the acceptance shall be duly indorsed on such prior bond :

Application of payments made after new bonds.

4. Payments made by such postmaster subsequent to the acceptance of a new bond, shall be applied first to the discharge of any balance due by him at the time of such acceptance, unless the Postmaster General otherwise directs :

Limitation of suits against sureties.

5. No suit shall be instituted against any surety of a postmaster after the lapse of two years from the death, resignation or removal from office of such postmaster, or from the date of the acceptance of a new bond from such postmaster. 38 V., c. 7, ss. 9, 10, *part*, and s. 43.

Accountability of postmasters to be enforced by Postmaster General.

50. The Postmaster General may appoint the periods at which each postmaster or person authorized to receive postage, or any class or number of postmasters or persons respectively, shall render his or their accounts, and the form and manner in which such accounts shall be kept and rendered : and if any postmaster or any such person neglects or refuses to render his accounts, and to pay over to the Postmaster General the balance due by him at the end of any such period, the Postmaster General may cause a suit to be commenced against the person so neglecting or refusing. 38 V., c. 7, s. 44.

Penalty for delay in the rendering of accounts.

51. If any postmaster neglects to render his accounts for one month after the time or in the form and manner prescribed by the Postmaster General's instructions and regulations, he shall forfeit double the value of the postages which have arisen at the same office in any equal portion of time previous or subsequent thereto, which shall be recoverable by the Postmaster General in an action of debt on the bond against the postmaster and his sureties, and for which the sureties shall be liable. 38 V., c. 7, s. 45.

Postmasters to have only the amount of their authorized salaries and allowances.

52. No postmaster shall, under any pretence whatsoever, have or receive or retain for himself any greater or other allowance or emolument of any kind, in respect of his office, than the amount of his salary and allowances as fixed and authorized by law or by the Postmaster General. 38 V., c. 7, s. 46.

53. Postmasters whose salaries are not fixed by law may be paid by a percentage on the amount collected by them, or by such salary and allowances as the Postmaster General, having due regard to the duties and responsibilities assigned in respect to each post office, by regulation determines in each case. 38 V., c. 7, s. 47.

Postmaster General may fix such salary on percentage in certain cases.

MAIL CONTRACTS AND CONTRACTORS.

54. The Postmaster General, before entering into any contract for carrying the mail involving an annual cost of more than two hundred dollars, shall give at least six weeks' previous notice by advertisement in such newspaper or newspapers as he selects in each case, and by public notices put up in the principal post offices concerned in such contract,—that such contract is intended to be made, and of the day on which tenders for the same will be, by him, received:

Mail contracts for more than \$200 per annum to be awarded only after advertising for tenders.

2. The contracts, in all cases in which there is more than one tender, shall be awarded to the lowest tenderer who offers sufficient security for the faithful performance of the contract, unless the Postmaster General is satisfied that it is for the interest of the public not to accept the lowest tender:

Contract to be awarded to the lowest bidder giving good security unless for cause.

3. The Postmaster General shall not be bound to consider the tender of any person who has wilfully or negligently failed to execute or perform a prior contract; but in all cases where he does not give the contract to the lowest tenderer, he shall report his reasons therefor to the Governor General for the information of Parliament. 38 V., c. 7, s. 48.

If otherwise, reasons to be reported to the Governor.

55. When, in the opinion of the Postmaster General, the lowest tender received after public advertisement for the performance of a mail contract is excessive, he shall not be compelled to accept the said tender, but may, in his discretion, either re-advertise the said contract for further competition, or offer to the persons from whom tenders have been received, each in his turn, beginning with the lowest, such sum as he deems a reasonable and sufficient price for the said contract, and may enter into a contract with such of the said persons as will accept such offer. 38 V., c. 7, s. 49.

Lowest offer not to be accepted if deemed excessive.

Proceedings in such case.

56. The Postmaster General may, in his discretion, authorize and allow a postmaster to undertake and perform a contract for the transportation of a mail, subject to the regulations applying to all mail contracts, when, in his opinion, the interests of the public service will be thereby promoted. 38 V., c. 7, s. 50.

Postmaster may be allowed to be a contractor.

57. Every tender for carrying the mail shall be accompanied by an undertaking, signed by one or more responsible persons, to the effect that he or they undertake that the tenderer will, if his tender is accepted, enter into an obligation,

Every tender to be accompanied by a written guarantee to give good security.

within such time as is prescribed by the Postmaster General, with good and sufficient sureties, to perform the service proposed :

Penalty for failure to give security after acceptance of tender.

How recoverable.

Contracts for less than \$300 per annum to be let as the Postmaster General sees fit.

Proviso.

Contracts not to be made with persons who have combined to keep back tenders.

As to contracts with railway or steamboat companies.

Abstracts of tenders to be recorded.

2. If, after the acceptance of a tender and notification thereof to the tenderer, he fails to enter into an obligation within the time prescribed by the Postmaster General, with good and sufficient sureties for the performance of the service, the Postmaster General shall proceed to contract with some other person for the performance of the said service, and may forthwith cause the difference between the amount contained in the tender and the amount for which he has contracted for the performance of the said service, for the whole period thereof, to be charged up against the said tenderer and his surety or sureties; and the same may be immediately recovered in an action of debt, in the name of the Postmaster General, against the tenderer and his sureties, or any of them, and when recovered shall form part of the postal revenue. 38 V., c. 7, s. 51.

58. The Postmaster General may, in his discretion, submit contracts for mail transportation, involving an annual expense of less than two hundred dollars, to public competition in the manner and form prescribed for contracts of a greater annual charge,—or he may direct an agent to receive tenders for and execute such contracts on his behalf,—or he may, in special cases, conclude such contracts by private agreement when he conceives the public interest will be promoted by such a course; but he shall not pay under any such contract made by private agreement, a higher rate of annual payment for the services to be performed than is ordinarily paid for services of a like nature under contracts made after public advertisement. 38 V., c. 7, s. 52.

59. No contract for carrying the mail shall knowingly be made by the Postmaster General with any person who has entered into any combination, or proposed to enter into any combination, to prevent the making of any tender for a mail contract by any other person, or who has made any agreement, or has given or performed or promised to give or perform any consideration whatever, or to do or not to do anything whatever, in order to induce any other person not to tender for a mail contract. 38 V., c. 7, s. 53.

60. The Postmaster General may, with or without previous advertisement, contract with any railway or steamboat company for conveying the mail; but no contract involving the payment of a larger sum than one thousand dollars shall be entered into without the approval of the Governor in Council. 38 V., c. 7, s. 54.

61. The Postmaster General shall keep recorded, in a well bound book, a true and faithful abstract of tenders made to

him for carrying the mail, embracing as well those which are rejected as those which are accepted ; the said abstract shall contain a description of each contract advertised for public competition, the dates of the tenders made, the dates at which they were received by the Postmaster General, the names of the persons tendering, the terms on which they propose to carry the mail, the sum for which it is offered to contract, and the length of time the agreement will continue ; and the Postmaster General shall also put on file and preserve the originals of the propositions of which abstracts are here directed to be made :

Originals to be preserved.

2. No contract shall be entered into for a longer term than four years ; but the Postmaster General may, in special cases, when in his opinion the service has been satisfactorily performed under an expiring contract, and on conditions advantageous to the public interest, renew the same with the same contractor for a further term not exceeding four years. 38 V., c. 7, s. 55.

No contract to be for more than four years.

62. The Postmaster General may make temporary contracts for such services until a regular letting in the form prescribed can take place. 38 V., c. 7, s. 56.

Temporary contracts.

63. No additional compensation shall be made to any mail contractor so as to make the compensation for additional regular service exceed the exact proportion which the original compensation bears to the original service stipulated to be performed : and no extra allowance shall be made by the Postmaster General to any contractor for an increase of expedition in the transportation of the mail, unless the employment of additional stock or carriers by the contractor is thereby rendered necessary ; and in such case, the additional compensation shall never bear a greater proportion to the additional stock or carriers rendered necessary than the sum stipulated in the original contract bears to the stock and carriers necessarily employed in its execution. 38 V., c. 7, s. 57.

Additional compensation limited.

And so of extra allowance.

64. Her Majesty's mail and persons travelling therewith on postal service, shall, at all times when thereunto required by the Postmaster General, be carried on any railway in Canada, and with the whole resources of the railway company if required, on such terms and conditions and under such regulations as are made by the Governor in Council. 38 V., c. 7, s. 58.

Her Majesty's mail to be carried in railway on terms and conditions to be fixed by the Governor in Council.

POST OFFICE SAVINGS BANKS.

65. The Postmaster General may, with the consent of the Governor in Council, establish a system of Post Office Savings Banks in connection with a central savings bank, established as a branch of the Post Office Department at the seat of Government. 38 V., c. 7, s. 59.

Postmaster General may establish post office savings banks.

Postmasters to receive and repay deposits.

66. The Postmaster General may, with the consent of the Governor in Council, authorize and direct such postmasters as he thinks fit, to receive deposits for remittance to the central office, and to repay the same, under such regulations as he, with the sanction of the Governor in Council, prescribes in that respect. 38 V., c. 7, s. 60.

Deposits to be entered in depositor's book.

67. Every deposit received by any postmaster appointed for that purpose shall be entered by him at the time in the depositor's book, and the entry shall be attested by him and by the dated stamp of his office; and the amount of such deposit shall, upon the day of such receipt, be reported by such postmaster to the Postmaster General, and the acknowledgment of the Postmaster General, signified by the officer whom he appoints for the purpose, shall be forthwith transmitted to the depositor:

Acknowledgment by Postmaster General.

Effect of acknowledgment and entry.

2. Such acknowledgment shall be conclusive evidence of the claim of the depositor to the repayment of the deposit, with the interest thereon, upon demand made by him on the Postmaster General; and, in order to allow a reasonable time for the receipt of the acknowledgment, the entry by the proper officer in the depositor's book shall also be conclusive evidence of the title, as respects a deposit made in any part of Canada other than the Province of British Columbia or the North-West Territories, for ten days from the making of the deposit, and as respects a deposit made in the Province of British Columbia or the North-West Territories for eighteen days from the making of the deposit; and if such acknowledgment has not been received by the depositor through the post within such ten or such eighteen days respectively, and before or upon the expiry thereof he demands such acknowledgment from the Postmaster General, by letter addressed to him at Ottawa, then the entry in his book shall be conclusive evidence of title during another term of ten or eighteen days respectively, and *toties quoties*:

If acknowledgment is not received.

Minimum deposit.

3. No deposit shall be received of less amount than one dollar, or of any sum not a multiple thereof. 49 V., c. 21, s. 1, *part*.

No seizure of moneys in hands of Postmaster General.

68. No sum of money deposited under this Act, shall, while in the hands of any postmaster or while in course of transmission to or from the Postmaster General, at any time be liable to demand, seizure or detention, under legal process against the depositor thereof. 49 V., c. 21, s. 1, *part*.

Deposit to be repaid to depositor on demand with the least possible delay.

69. On demand of the depositor, or person legally authorized to claim on account of the depositor, made in such form as is prescribed in that behalf for repayment of any deposit or any part thereof, the authority of the Postmaster General for such repayment shall be transmitted to the depositor forthwith, and the depositor shall be entitled to repayment of any sum that is due to him with the least possible delay

after his demand is made at any post office where deposits are received or paid. 38 V., c. 7, s. 62.

70. The postmasters and other officers of the post office engaged in the receipt or payment of deposits shall not disclose the name of any depositor or the amount deposited or withdrawn, except to the Postmaster General, or to such of his officers as are appointed to assist in carrying into operation the provisions of this Act in relation to post office savings banks. 38 V., c. 7, s. 63.

Name of depositor or amount deposited or withdrawn not to be disclosed by officers.

71. All moneys so deposited with the Postmaster General shall forthwith be paid over to the Minister of Finance and Receiver General, and shall be credited to an account called "Post Office Savings Bank Account;" and all sums withdrawn by depositors, or by persons legally authorized to claim on account of depositors, shall be repaid to them by the Minister of Finance and Receiver General, through the Post Office Department, and charged to such account. 38 V., c. 7, s. 64.

Money deposited to be paid over to Receiver General and sums withdrawn to be repaid by him.

72. The interest payable to the persons making such deposits shall be at the rate of four per centum per annum; but such interest shall not be calculated on any amount less than one dollar or some multiple thereof, and shall not commence until the first day of the month next following the day of deposit, and shall cease on the first day of the month in which such deposit is withdrawn. 38 V., c. 7, s. 65.

Interest on all deposits to be payable for each \$1, for each whole calendar month, at 4 per cent. per annum.

73. On the thirtieth day of June in every year the interest on deposits shall be added to and become part of the principal money. 38 V., c. 7, s. 66.

Interest when to become principal.

74. The Postmaster General may, with the consent of the Governor in Council, whenever it is deemed expedient, issue certificates of deposit in sums of not less than one hundred dollars, and bearing interest at a rate not exceeding five per centum per annum, to depositors who, having like sums at the credit of their ordinary deposit accounts, desire to transfer such sums from such ordinary deposit accounts to a special deposit account represented by such certificates, and bearing the rate of interest specified therein; and such certificate shall not be transferable, but shall be evidence of the depositor's claim upon such special deposit account to the amount expressed in such certificate, with the interest due thereon, and shall be redeemable upon such previous notice as is expressed therein, and in all respects subject to such regulations as are made by the Postmaster General, with the sanction of the Governor in Council. 38 V., c. 7, s. 67.

Certificates of deposit, bearing interest at five per cent., may be issued for sums not less than \$100.

How and when redeemable.

Post office savings bank regulations may be made by Postmaster General.

75. Except as is herein otherwise specially provided the Postmaster General may make and, from time to time as he sees occasion, alter regulations for superintending, inspecting and regulating the mode of keeping and examining the accounts of depositors, and with respect to the making of deposits and to the withdrawal of deposits and interest, and all other matters incidental to carrying the provisions of this Act, in relation to post office savings banks, into execution by him; and all regulations so made shall be binding on the persons interested in the subject matter thereof to the same extent as if such regulations formed part of this Act; and copies of all regulations issued under the authority of this Act, in relation to post office savings banks, shall be laid before both Houses of Parliament within fourteen days from the date thereof, if Parliament is then sitting, and if not, then within fourteen days from the next re-assembling of Parliament. 38 V., c. 7, s. 68.

Legal effect of regulations.

Copies to be laid before parliament.

Monthly returns of receipts and payments to be published in *Canada Gazette*.

76. As soon as possible after the end of each month, the Postmaster General shall make a return to the Minister of Finance and Receiver General of all moneys received and paid during the preceding month, and of the total amount in deposit at the end of each month, and the said Minister shall cause such monthly statement to be published in the *Canada Gazette*. 38 V., c. 7, s. 69.

Annual account and statement to be laid before Parliament

77. An annual account of all deposits received and paid under the authority of this Act, and of the expenses incurred during the year ending the thirtieth of June, together with a statement of the total amount due at the close of the year to all depositors, shall be laid by the Postmaster General before both Houses of Parliament within ten days after the commencement of the next following session thereof. 38 V., c. 7, s. 70.

POSTMASTER GENERAL'S REPORTS.

Annual report to Parliament.

78. The Postmaster General shall annually make to the Governor General, so that they may be laid before Parliament within ten days after the meeting thereof in each session, the following reports, which shall be made up to the thirtieth day of June then next preceding, that is to say:—

General accounts current, what to contain and show.

First. A report of the finances, receipts and expenditure of the Post Office of Canada for the year ended on the thirtieth day of June previous, in the form of a general account current, showing on the one side the whole amount of balances due to the department from postmasters or others at the time up to which the then last report was made, the whole amount of postage that accrued within the year elapsed since such last report, and any and every other item of revenue or receipt,—and on the other side of the account, the charges and expenditures incurred by the de-

partment within the said year, of every kind and nature, showing in separate amounts the charges for mail transportation, for salaries and commission and allowances to postmasters, for printing and advertising, and for incidental and miscellaneous items of expenditure, showing also the balances remaining due from postmasters and others at the close of such year,—and showing in the shape of a balance what the result of the operations of the department is for the said year, whether the revenue exceeds the expenditure, or the expenditure the revenue, and in either case, to what amount;

Second. A report showing in detail all payments made and charges incurred for mail transportation, during the said year, stating in each case the name of the contractor or person receiving payment, the mail route, the mode and frequency of transportation, and the sums paid ;

Payments,
for mail trans-
port in
detail.

Third. A report in detail of all charges for salaries, commissions and allowances, showing in each case the name of the person, the service or duty performed, and the amount paid ;

Salaries, &c.,
in detail.

Fourth. A report in detail of the expenditure of the department within the said year for printing and advertising, and for all incidental and miscellaneous items of disbursement, showing the sum paid under each head of expenditure, and the names of the persons to whom paid ;

Incidental
expenditure
in detail.

Fifth. A report of all cases occurring within the said year of the abstraction or loss of letters containing money sent through the post, showing the particulars of each case, and stating the result of the proceedings instituted therein by the department ;

Cases of loss
or abstraction
of money
letters.

Sixth. A report of the money order offices in operation at any time within the said year, designating in each case the county wherein the office is situate, the number and amount of orders issued and paid, and the amount of commission arising thereupon at each office respectively,—distinguishing, with respect to the commission, the proportion allowed as compensation to the postmaster, and the proportion accruing to the revenue in each case ;

Money order
offices.

Seventh. The cost of the money order system for the year to which the report relates, specifying in detail the disbursements for salaries, advertising, account books, printing, stationery and every other item of expenditure ;

Cost of
money order
system.

Eighth. The losses, if any, sustained in conducting the money order system, and how incurred ;

Losses under
money order
system.

Ninth. Statement of dead letters received during the year, and of their contents, valuable or otherwise, showing how such dead letters have been disposed of ;

Dead letters.

Tenth. Statement of post office savings bank transactions during the said year, and of the total amount due at the close of the same to all depositors. 38 V., c. 7, s. 71.

Post office
savings bank
transactions.

OFFENCES AND PENALTIES.

79. Every one who steals, embezzles, secretes or destroys any post letter is guilty of felony, and liable to imprisonment for a term not exceeding five years and not less than three years; unless such post letter contains any chattel, money or valuable security,—in which case the offender shall be liable to imprisonment for life, or for a term not less than five years. 38 V., c. 7, s. 72, *part.*

80. Every one who steals from or out of a post letter any chattel, money or valuable security, is guilty of felony, and liable to imprisonment for life, or for a term not less than five years. 38 V., c. 7, s. 72, *part.*

81. Every one who steals a post letter bag, or a post letter from a post letter bag, or a post letter from any post office, or from any officer or person employed in the Canada Post Office, or from a mail,—or stops a mail with intent to rob or search the same,—is guilty of felony, and liable to imprisonment for life, or for a term not less than five years. 38 V., c. 7, s. 72, *part.*

82. Every one who unlawfully opens any post letter bag, —or unlawfully takes any letter out of such bag,—is guilty of felony, and liable to imprisonment for five years. 38 V., c. 7, s. 72, *part.*

83. Every one who steals, embezzles or secretes any parcel sent by parcel post, or any article contained in any such parcel, is guilty of felony, and liable to imprisonment for a term not less than three years. 38 V., c. 7, s. 72, *part.*

84. Every one who receives any post letter or post letter bag, or any chattel, money or valuable security, parcel or other thing, the stealing, taking, secreting or embezzling whereof is hereby declared to be felony, knowing the same to have been feloniously stolen, taken, secreted or embezzled, is guilty of felony, and liable to imprisonment for any term not less than five years. 38 V., c. 7, s. 72, *part.*

85. Every one who unlawfully issues any money order with a fraudulent intent, is guilty of felony, and liable to imprisonment for a term not less than three years. 38 V., c. 7, s. 72, *part.*

86. Every one who forges, counterfeits or imitates any postage stamp issued or used under the authority of this Act, or by or under the authority of the Government or proper authority of the United Kingdom, or of any British possession, or of any foreign country,—or knowingly uses any such forged, counterfeit or imitated stamp,—or engraves, cuts, sinks

or makes any plate, die or other thing whereby to forge, counterfeit or imitate such stamp or any part or portion thereof, —or has possession of any such plate, die or other thing as aforesaid, except by the permission in writing of the Postmaster General, or of some officer or person who, under regulations made in that behalf, may lawfully grant such permission, —or forges, counterfeits or unlawfully imitates, uses or affixes, to or upon any letter or packet, any stamp, signature, initials or other mark or sign purporting that such letter or packet ought to pass free of postage, or at a lower rate of postage, or that the postage thereon or any part thereof has been prepaid or ought to be paid by or charged to any person or department, is guilty of felony, and liable to imprisonment for life, or for a term not less than five years. 38 V., c. 7., s. 72, *part.* Felony.
Punishment.

87. Every one who forges, counterfeits or imitates any post office money order, or advice of such money order, or post office savings bank depositor's book, or authority of the Postmaster General for repayment of a post office savings bank deposit or of any part thereof,—or any signature or writing in or upon any post office money order, money order advice, post office savings bank depositors' book, or authority of the Postmaster General for repayment of a post office savings bank deposit or of any part thereof, with intent to defraud, is guilty of felony, and liable to imprisonment for any term not exceeding seven years, and not less than two years. 38 V., c. 7., s. 72, *part.* Forging
money order
or depositor's
book, &c.

88. Every one who steals, purloins, embezzles or obtains by any false pretence, or aids or assists in stealing, purloining, embezzling, or obtaining by any false pretence, or knowingly or unlawfully makes, forges or counterfeits, or causes to be unlawfully made, forged or counterfeited, or knowingly aids or assists in falsely and unlawfully making, forging or counterfeiting any key suited to any lock adopted for use by the Post Office Department, and in use on any Canada mail or mail-bag, or has in his possession any such mail-key or any such mail-lock, with the intent unlawfully or improperly to use, sell or otherwise dispose of the same, or to cause the same to be unlawfully or improperly used, sold or otherwise disposed of, is guilty of felony, and liable to imprisonment for a term not exceeding seven years, and not less than two years. 38 V., c. 7., s. 72, *part.* Stealing, &c.,
mail key or
mail lock.

Felony.
Punishment.

89. Every one who unlawfully opens, or wilfully keeps, secretes, delays or detains, or procures, or suffers to be unlawfully opened, kept, secreted or detained, any post letter bag or any post letter,—whether the same came into the possession of the offender by finding or otherwise howsoever,—or after payment or tender of the postage thereon, if payable to the person having possession of the same, neglects or refuses to deliver up any post letter to the person to whom it is Unlawfully
opening, &c.,
post letter
bag or post
letter.

addressed or who is legally entitled to receive the same,— is guilty of a misdemeanor. 38 V., c. 7, s. 72, *part*.

Stealing, &c.,
certain other
mailable
matter.

90. Every one who steals or for any purpose embezzles or secretes any printed vote or proceeding, newspaper, printed paper or book, packet or package of patterns or samples of merchandise or goods, or of seeds, cuttings, bulbs, roots, scions or grafts, or any post card or other mailable matter, not being a post letter, sent by mail, is guilty of a misdemeanor. 38 V., c. 7, s. 72, *part*.

Wilfully de-
stroying mat-
ter sent by
mail or par-
cel post.

91. Every one who wilfully and maliciously destroys, damages, detains or delays any parcel sent by parcel post, any packet or package of patterns or samples of merchandise or goods, or of seeds, cuttings, bulbs, roots, scions or grafts, or any printed vote or proceeding, newspaper, printed paper or book or other mailable matter, not being a post letter, sent by mail, is guilty of a misdemeanor. 38 V., c. 7, s. 72, *part*.

Enclosing
explosive
substance in
matter sent
by post.

92. Every one who encloses in or with any letter, packet or other mailable matter sent by post, or puts into any post office, any explosive, dangerous or destructive substance or liquid or any matter or thing likely to injure any letter or other mailable matter or the person of any officer or servant of the post office, is guilty of a misdemeanor, unless such offence is by law constituted a crime of greater magnitude. 38 V., c. 7, s. 72, *part*.

Enclosing a
letter in any
other mail-
able matter.

93. Every one who encloses a letter or letters, or any writing intended to serve the purpose of a letter or post card, in a parcel posted for the parcel post,—or in a packet of samples or patterns posted to pass at the rate of postage applicable to samples and patterns,—or encloses a letter or post card, or any writing to serve the purpose of a letter or post card, or encloses any other thing, in a newspaper posted to pass as a newspaper at the rate of postage applicable to newspapers (except in the case of the accounts and receipts of newspaper publishers, which shall be permitted to pass folded within the newspapers sent by them to their subscribers)—or encloses a letter or any writing intended to serve the purpose of a letter or post card, in any mail matter sent by post not being a letter, shall incur a penalty not exceeding forty dollars and not less than ten dollars in each case. 38 V., c. 7, s. 72, *part*.

Removing
postage
stamp or
mark thereon
with fraudu-
lent intent.

94. Every one who, with fraudulent intent, removes from any letter, newspaper or other mailable matter sent by post, any postage stamp which has been affixed thereon, or wilfully, with intent aforesaid, removes from any postage stamp or post card, post band or wrapper which has been previously used, any mark which has been made thereon at any

post office, is guilty of a misdemeanor. 38 V., c. 7, s. 72, *part.*

95. Every one who abandons, or obstructs or wilfully delays the passing or progress of any mail, or any car, train, locomotive engine, tender, carriage, vessel, horse or animal employed in conveying any mail on any railway, public highway, river, canal, or water communication, is guilty of a misdemeanor: Provided always, that nothing in this section contained shall prevent any person from being liable, under any other Act or otherwise, to any other or greater punishment than is provided for any offence under this section: but no person shall be punished twice for the same offence. 40 V., c. 34.

Abandoning or obstructing mail, &c., to be misdemeanor.
Not to prevent greater punishment if incurred.
Proviso.

96. Every one who cuts, tears, rips or wilfully damages or destroys any post letter bag, is guilty of a misdemeanor. 38 V., c. 7, s. 72, *part.*

Cutting, &c., post letter bag.

97. Every one who, being a mail carrier or person employed to convey any mail, post letter bag or post letters, is guilty of any act of drunkenness, negligence or misconduct whereby the safety or punctual delivery of such mail, post letter bag or post letters might be endangered,—or, contrary to this Act or any regulation made under it, collects, receives or delivers any letter or other mailable matter,—or neglects to use due care and diligence to convey any mail, post letter bag or post letter, at a rate of speed appointed therefor by the regulations then in force or the contract under which he acts, is guilty of a misdemeanor. 38 V., c. 7, s. 72, *part.*

Being drunk on duty as a mail carrier, &c.

98. Every one who, being a toll-gate keeper, refuses or neglects forthwith upon demand to allow any mail or any carriage, horse or animal employed in conveying the same, to pass through such toll-gate, whether on pretence of the non-payment of any toll or other pretence whatsoever, is guilty of a misdemeanor. 38 V., c. 7, s. 72, *part.*

Refusing to allow mail to pass through toll-gate.

99. Every one who, being a ferryman, wilfully detains or delays or refuses to convey over a mail at his ferry, is guilty of a misdemeanor. 38 V., c. 7, s. 72, *part.*

Detaining, &c., mail at ferry.

100. Every one who, being a postmaster or other person authorized to issue money orders, issues any money order, unless he has previously received the purchase money or sum payable therefor, is guilty of a misdemeanor. 38 V., c. 7, s. 72, *part.*

Issuing money orders before payment.

101. Every one who, being a postmaster, wilfully destroys, mutilates or obliterates or refuses to produce or to deliver up to any inspector or other proper officer of the Post Office Department on demand, any book containing or

Mutilating official books, &c.

which ought to contain the record or account of the money orders issued or paid, or of the registered letters or other business of his office, is guilty of a misdemeanor. 38 V., c. 7, s. 72, *part*.

Hypothecating postage stamps, &c.

102. Every one who, being a postmaster or other officer, agent or employee of the Post Office Department, hypothecates, pledges or subjects to any lien in any shape or way, any postage stamps, stamped envelopes, post cards, post bands or wrappers intrusted to him for safe keeping, sale or issue to the public, or for any other purpose, or attempts to commit such offence, is guilty of a misdemeanor. 38 V., c. 7, s. 72, *part*.

Posting of immoral books or pictures, &c., or of advertisements of swindling enterprises.

103. Every one who posts for transmission or delivery by or through the post any obscene or immoral book, pamphlet, picture, print, engraving, lithograph, photograph or other publication, matter or thing of an indecent, immoral, seditious, disloyal, scurrilous or libellous character,—or any letter upon the outside or envelope of which, or any post card or post band or wrapper upon which there are words, devices, matters or things of the character aforesaid,—or any letter or circular concerning an illegal lottery, so-called gift concert or other similar enterprise, offering prizes, or concerning schemes devised and intended to deceive and defraud the public for the purpose of obtaining money under false pretences, is guilty of a misdemeanor. 46 V., c. 18.

Wilfully contravening regulations.

104. Every one who wilfully violates any regulation lawfully made under this Act is guilty of a misdemeanor, if such violation is declared to be a misdemeanor by such regulation. 38 V., c. 7, s. 72, *part*.

Embezzlement or unlawful use of money intrusted to him, by an officer of, or connected with the post office, to be felony.

105. Every officer of or connected with the post office who converts to his own use in any way whatsoever, or uses by way of investment in any kind of property or merchandise, or lends, with or without interest, any portion of the public moneys intrusted to him for safe keeping, transfer, disbursement, or for any other purpose, shall be deemed to have embezzled so much of the said moneys as are so taken, converted, invested, used or lent, and is guilty of a felony; and the neglect or refusal to pay over any public moneys in his hands, or to transfer or disburse any such moneys promptly, on the requirement of the Postmaster General, shall be *prima facie* evidence of such conversion to his own use of so much of the public moneys as are in the hands of such officer: and every person who advises or knowingly and willingly participates in such embezzlement, shall, for every such offence, forfeit and pay to Her Majesty a fine equal to the amount of the money embezzled, and shall be liable to imprisonment for a term not exceeding seven years and not less than three months. 38 V., c. 7, s. 73.

Penalty for advising, &c., such embezzlement, &c.

106. No person other than a postmaster shall exercise the business of selling postage stamps or stamped envelopes to the public, unless duly licensed so to do by the Postmaster General and under such conditions as he prescribes; and every person who violates this provision, by selling postage stamps or stamped envelopes to the public without a license from the Postmaster General, shall, on summary conviction, incur a penalty not exceeding forty dollars for each offence. 38 V., c. 7, s. 74.

None but postmasters to sell postage stamps without license.

107. Every person who wilfully or maliciously injures or destroys any street letter box, pillar box or other receptacle established by authority of the Postmaster General for the deposit of letters or other mailable matter, is guilty of a misdemeanor and liable to fine or imprisonment or both, in the discretion of the court. 38 V., c. 7, s. 75, *part*.

Wilfully injuring, &c., any street letter box, &c.

108. Every person who uses or attempts to use in prepayment of postage on any letter or mailable matter posted in Canada, any postage stamp which has been before used for a like purpose, or who uses or attempts to use for the purpose of transmission by or through the post, any post card, or stamped envelope or stamped post band or wrapper, which has been before used for a like purpose, shall incur a penalty not exceeding forty dollars and not less than ten dollars for every such offence; and the letter or other mailable matter on which such stamp has been so improperly used, and the post card, stamped envelope, or stamped post band or wrapper so used more than once may be detained, or in the discretion of the Postmaster General forwarded to its destination charged with double postage. 38 V., c. 7, s. 76.

Penalty for using postage stamps used before.

109. Every person who, without the authority of the Postmaster General,—the proof of which authority shall rest on such person,—places or permits or causes to be placed or to remain on his house or premises, the words "Post Office" or any other words or mark which imply or give reasonable cause to believe that such house or premises is a post office or a place for the receipt of letters, shall, on summary conviction, incur a penalty not exceeding ten dollars for each offence. 38 V., c. 7, s. 77.

Penalty for placing the words "Post Office" on a house, &c., without authority.

PROCEDURE, CRIMINAL AND CIVIL.

110. Every indictable offence against this Act may be dealt with, inquired of, tried and punished, and laid and charged to have been committed, either in the district or county or place where the offence is committed, or in that in which the offender is apprehended or is in custody, as if actually committed therein:

Venue, &c., in cases of indictable offences against this Act.

2. When the offence is committed in or upon or in respect of a mail, or upon a person engaged in the conveyance

Venue, &c., in cases of offences com-

mitted in respect of mails, &c., in transit.

or delivery of a post letter bag, or post letter, or chattel or money or valuable security sent by post, such offence may be dealt with and inquired of, tried and punished and charged to have been committed as well within the district, county or place in which the offender is apprehended or is in custody, as in any district, county or place through any part whereof such mail, person, post letter bag, post letter, chattel, money or valuable security passed in the course of conveyance and delivery by the post, in the same manner as if it had been actually committed in such district, county or place :

As to roads, rivers, &c., forming boundaries.

3. Whenever the side or centre or other part of a highway, or the side, bank, centre or other part of a river or canal, or navigable water, constitutes the boundary between two districts, counties or places, to pass along the same shall be held to be passing through both :

Accessories and abettors and their offences, how dealt with.

4. Every accessory before or after the fact, if the offence is felony,—and every person aiding or abetting or counselling or procuring the commission of any offence if the same is a misdemeanor, may be dealt with, indicted, tried and punished as if he were a principal, and his offence may be laid and charged to have been committed in any district, county or place where the principal offender may be tried. 38 V., c. 7, s. 75, *part.* and s. 79.

Property of any mailable matter sent by post, may be laid in the Postmaster General.

111. When an offence is committed in respect of a post letter bag, or a post letter, or other mailable matter, chattel, money or a valuable security, sent by post, the property of such post letter bag, post letter, or other mailable matter, chattel, money or valuable security, sent by post, may in the indictment preferred against the offender, be laid in the Postmaster General; and it shall not be necessary to allege in the indictment, or to prove upon the trial or otherwise, that the post letter bag, post letter, or other mailable matter, chattel or valuable security was of any value :

Value need not be alleged or proved.

Property of other things and of postage money to be laid in Her Majesty;

2. The property of any chattel or thing used or employed in the service of the post office, or of moneys arising from duties of postage, shall, except in the cases aforesaid, be laid in Her Majesty, if the same is the property of Her Majesty, or if the loss thereof would be borne by Her Majesty, and not by any person in his private capacity :

General allegation of employment of accused in the Post Office of Canada, sufficient.

3. In any indictment against any person employed in the Post Office of Canada for any offence against this Act, or in any indictment against any person for an offence committed in respect of any person so employed, it shall be sufficient to allege that such offender or such other person as aforesaid, was employed in the Post Office of Canada at the time of the commission of such offence, without stating further the nature or particulars of his employment. 38 V., c. 7, s. 80.

112. The Postmaster General (subject to the approval of the Governor in Council) may compromise and compound any action, suit or information at any time commenced by his authority, or under his control, against any person for recovering any pecuniary penalty incurred under this Act, on such terms and conditions as he, in his discretion, thinks proper,—with full power to him or any of the officers or persons acting under his orders, to accept the penalty so incurred or alleged to be incurred, or any part thereof, without action, suit or information brought or commenced for the recovery thereof. 38 V., c. 7, s. 81.

Postmaster General may compromise any action, &c.

113. Every pecuniary penalty imposed by this Act, or by any regulation of the Postmaster General made under it, shall be recoverable with costs by the Postmaster General, by civil action in any court of competent jurisdiction, and shall belong to Her Majesty for the public uses of Canada, saving always the power of the Governor in Council to allow any part or the whole of such penalty to the officer or person by whose information or intervention the same was recovered; but no such penalty shall be sued for except within one year after it is incurred:

Penalties to be recoverable with costs by the Postmaster General, and to belong to the Crown.

Limitation of actions for penalties.

2. If the penalty does not exceed forty dollars it shall be recoverable before any one justice of the peace in a summary manner, and if not paid, may be levied by distress under warrant of such justice; and if the penalty exceeds forty dollars, the offender may be indicted for a misdemeanor for violating the provisions of this Act, or the regulations made under it, instead of being sued for such penalty, and if convicted, shall be punishable by fine or imprisonment or both, in the discretion of the court. 38 V., c. 7, s. 82.

Penalty \$40 or under; how recoverable.

When offender may be indicted for a misdemeanor.

114. In any action or proceeding for the recovery of postage, or of any penalty under this Act, the same may be recovered on the evidence of any one credible witness, and any postmaster or other officer or servant of the Post Office of Canada shall be a competent witness, although he is entitled to or entertains reasonable expectation of receiving some portion or the whole of the sum to be recovered; and the burden of proof that any thing proved to have been done by the defendant was done in conformity to or without violation of this Act, shall lie upon the defendant. 38 V., c. 7, s. 83.

Evidence.

115. In any action, suit or proceeding against any postmaster or other officer of the Post Office of Canada, or his sureties, for the recovery of any sum of money alleged to be due to the Crown as the balance remaining unpaid of moneys received by such postmaster or officer by virtue of his office, a statement of the account of such postmaster or officer showing such balance, and attested as correct by the certifi-

Evidence in action against postmaster or other officer of the post office or his sureties.

cate and signature of the accountant of the Post Office of Canada, or of the officer then doing the duties of such accountant, shall be evidence that such amount is so due and unpaid as aforesaid; and in every such suit judgment shall be rendered for double the amount appearing by such account to be so due to the Crown by the defendant; but nothing herein contained shall be construed to prevent the provisions of "*The Consolidated Revenue and Audit Act*" from applying to such postmaster or officer. 38 V., c. 7, s. 84.

Suits, &c., by the Postmaster General to be brought in his name of office and may be continued, &c., by his successor.

116. All suits, proceedings, contracts and official acts brought, had, entered into or done by the Postmaster General, shall be brought, had, entered into or done in and by his name of office, and may be continued, enforced and completed by his successor in office as fully and effectually as by himself; and no appointment or authority of any Postmaster General of Canada, or of any postmaster, officer or servant of the Post Office of Canada, shall be liable to be traversed or called in question, in any case, except by those who act for the Crown:

Suits for debts, &c., to be in the name of the Postmaster General.

2. All suits for the recovery of debts or balances due to Her Majesty in respect to the postal service, whether they appear by bond or obligation made in the name of the existing or any preceding Postmaster General, or otherwise, may be instituted in the name of "The Postmaster General." 38 V., c. 7, s. 85.

SECURITY BY OFFICERS.

Bonds by sureties for officials of Post Office Department may include losses of mail matter by their crime or neglect.

117. Any bond or instrument of guarantee given and executed to Her Majesty, by any person or body corporate, as security for the due performance of the duties of his office, by any officer, employee, clerk or servant employed by or under the Postmaster General, may be expressed to extend to and include as a breach of the conditions thereof, any theft, larceny, robbery, embezzlement, loss or destruction by such officer, employee, clerk or servant, or through his malfeasance, misfeasance or neglect of duty, of any money, goods, chattels, valuables or effects, or of any letter or parcel containing the same, which may come into his custody or possession as such officer, employee, clerk or servant, and although the same does not belong to the Crown and the Postmaster General is not liable for the loss thereof; and Her Majesty may, upon such bond or instrument of guarantee, proceed for, demand and recover the amount or value of any such money, goods, chattels, valuables or effects not otherwise recovered by or for the persons entitled to the same, to the amount of the penalty stipulated in such bond or instrument; and upon the recovery and receipt of the same the Postmaster General shall apportion and pay the same to such person or amongst such persons as he determines to be the owner of or otherwise entitled to receive any such money, goods, chattels, valuables or effects, or the equiva-

Suit upon such bond and application of moneys recovered.

lent or value thereof: but nothing herein contained shall create any liability on the part of Her Majesty or the Postmaster General, to any person whomsoever, to indemnify or hold harmless, pay or reimburse such person for the loss of any such money, goods, chattels, valuables or effects, except as herein expressly provided. 38 V., c. 7, s. 78.

Proviso:
non-liability
of Postmaster
General, &c.

PROTECTION OF OFFICERS.

118. All provisions of "*The Customs Act*," and more especially the provisions for protecting officers and others employed in collecting duties or in preventing the evasion of the laws imposing duties, when in the performance of the duties of their office, or in respect of suits or proceedings against them for things done or alleged to be done in pursuance of any law, shall extend and apply in like manner to officers and persons employed in or under the Post Office of Canada, and to suits or proceedings against them for things done or alleged to be done under this Act. 38 V., c. 7, s. 86.

Certain provisions of "*The Customs Act*" to extend to officers of the post office.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 36.

An Act respecting the Public Works of Canada. A. D. 1886.

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

SHORT TITLE.

1. This Act may be cited as "*The Public Works Act.*" Short title.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—
- (a.) The expression "Minister" means the Minister of Public Works; Interpretation: "Minister."
- (b.) The expression "department" means the Department of Public Works; "Department."
- (c.) The expression "public work" or "public works" means and includes any work or property under the control of the Minister. "Public Works."

DEPARTMENT OF PUBLIC WORKS.

3. There shall be a department of the Civil Service of Canada which shall be called "The Department of Public Works," over which the Minister of Public Works for the time being, appointed by commission under the Great Seal of Canada, shall preside; and the Minister shall have the management and direction of the department, and shall hold office during pleasure. Department and Minister of Public Works. 42 V., c. 7, s. 4, *part.*

4. The Governor in Council may appoint an officer who shall be called the Deputy of the Minister of Public Works, and who shall be the chief officer of the department, a secretary for the department, and one or more chief engineers, a chief architect, and such other officers as are necessary for the proper conduct of the business of the department, all of whom shall hold office during pleasure: Deputy and officers.

2. In case of the absence of the secretary, or of his inability to act, the Minister may, in writing, authorize some other officer of the department to act, for the time, in his stead. Acting secretary. 42 V., c. 7, s. 7, *part.*

Duties of
secretary.

5. The secretary of the department shall, unless otherwise directed in any case by the Minister, keep separate accounts of the moneys appropriated for and expended on each public work; he shall submit such accounts to be audited in such manner as is appointed by law, or by the Governor in Council; he shall have charge of all plans, contracts, estimates, documents, titles, models and other like things relating to any such work; he shall keep proper accounts with each contractor or other person employed by or under the department; he shall see that all contracts are properly drawn out and executed; he shall prepare all certificates upon which any certificate for the payment of money is to issue; he shall keep minutes of all proceedings of the department; he shall prepare reports and conduct, under the direction of the Minister, the correspondence of the department; and generally he shall do and perform all such acts and things pertaining to the business of the department as he is, from time to time, directed to do and perform by the Minister. 42 V., c. 7, s. 9, *part*.

Duties of
chief engi-
neer and
chief archi-
tect.

6. The chief engineer, or the chief architect, shall prepare maps, plans and estimates for all public works which are about to be constructed, altered or repaired, by or under the management of the Minister; he shall report, for the information of the Minister, on any question relating to any such public work which is submitted to him; he shall examine and revise the plans, estimates and recommendations of other engineers, architects and officers in respect to any such public work; and generally he shall advise the Minister on all engineering or architectural questions affecting any such work. 42 V., c. 7, s. 10, *part*.

POWERS OF THE MINISTER.

Matters under
the control of
the Minister.

7. The Minister shall have the management, charge and direction of the dams, the hydraulic works, the construction and repair of harbors, piers and works for improving the navigation of any water—the slides, dams, piers, booms and other works for facilitating the transmission of timber—the roads and bridges, the public buildings, the vessels, dredges, scows, tools, implements and machinery for the improvement of navigation—the telegraph lines, and all other property which now belong to Canada, and also the works and properties acquired, constructed, extended, enlarged, repaired or improved at the expense of Canada, or for the acquisition, construction, repairing, extending, enlarging or improving of which any public money is voted and appropriated by Parliament (except works for which money has been appropriated as a subsidy only), and every work required for any such purpose—and also all such portions of the property known as the “Ordnance Property,” as were transferred to the Government of the late

Province of Canada or to the Government of Canada by the Government of the United Kingdom, and afterwards placed under the control of the department,—with the exceptions following, that is to say:—

(a.) Such public works as have been or are hereafter lawfully transferred to any Province forming part of Canada ;

Public works transferred to Provinces. And to municipalities and others.

(b.) Such public works as have been or are hereafter leased, sold or otherwise lawfully transferred to municipalities, incorporated companies or others, unless the same are subject to be and are resumed by Her Majesty in virtue of the provisions of any Act, or of any lease, sale or transfer thereof, or relating thereto ;

(c.) Such public works as are, by this Act or by any other Act of the Parliament of Canada, placed under the control and management of any other Minister or department ;

Under other departments.

(d.) Such public works as have been or are hereafter, by proclamation, abandoned or left to the control of municipal or local authorities :

Works abandoned.

2. The Minister shall also have the management, charge and direction of the heating, maintenance and keeping in repair of the Government buildings at the seat of Government, and any alterations, from time to time, requisite therein, and the supplying of furniture and fittings, or repairs to the same. 31 V., c. 12, ss. 10, 11 and 14 ;—31 V., c. 35, s. 2, part ;—35 V., c. 24, s. 1 ;—42 V., c. 7, s. 5, part.

Government buildings, &c.

8. If at any time a doubt arises whether the management, charge and direction of any public work belongs to the Minister of Public Works or to the Minister of Railways and Canals, the question shall be decided by the Governor in Council, and the works and property which shall be under the management, charge and direction of either Minister may, from time to time, be determined in like manner ; and the Governor in Council may determine by which Minister any power vested in the Minister of Public Works on the fifteenth day of May, one thousand eight hundred and seventy-nine, shall be exercised. 42 V., c. 7, s. 5, part.

Powers of Governor in Council in case of doubt.

9. The Minister shall direct the construction, maintenance and repair of all harbors, roads or parts of roads, bridges, slides and other public works or buildings constructed or maintained at the expense of Canada, and which are by this Act, or are hereafter, placed under his management and control. 31 V., c. 12, s. 15, part.

Construction or repair of works.

10. Nothing in this Act shall authorize the Minister to cause expenditure not previously sanctioned by Parliament, except for such repairs and alterations as the necessities of the public service demand. 31 V., c. 12, s. 15, part.

No expenditure without authority of Parliament.

11. The Minister or the deputy of the Minister may require any account sent in by any contractor, or by any

Attesting accounts of contractors.

person in the employ of the department, to be attested on oath, which oath, as well as that to be taken by any witness, may be administered by the Minister or the deputy of the Minister. 31 V., c. 12, s. 17.

Power to examine persons on oath.

12. The Minister may send for and examine, on oath, all such persons as he deems necessary, respecting any matter upon which his action is required, and may cause such persons to bring with them such papers, plans, books, documents and things as it is necessary to examine with reference to such matter, and may pay such persons a reasonable compensation for their time and disbursements :

Penalty for neglecting to attend, &c.

2. Such persons shall comply with the summons of the Minister, after due notice ; and every person so summoned who neglects or refuses to attend and be examined shall incur a penalty of twenty dollars. 31 V., c. 12, s. 18.

Tenders to be invited for works. Exception.

13. The Minister shall invite tenders, by public advertisement, for the execution of all works, except in cases of pressing emergency in which delay would be injurious to the public interest, or in which, from the nature of the work, it can be more expeditiously and economically executed by the officers and servants of the department. 31 V., c. 12, s. 20.

Security to be taken from contractors.

14. The Minister, in all cases in which any public work is being carried out by contract, shall take all reasonable care that good and sufficient security is given to and in the name of Her Majesty, for the due performance of the work within the amount and time specified for its completion ; and also in all cases in which it seems to the Minister not to be expedient to let such work to the lowest tenderer, he shall report the same and obtain the authority of the Governor in Council previously to passing by such lowest tender ; and no sum of money shall be paid to the contractor on any contract, nor shall any work be commenced, until the contract has been signed by all the parties therein named, nor until the requisite security has been given. 31 V., c. 12, s. 21.

Provision when the lowest tender is not taken.

SALE OR TRANSFER OF PUBLIC WORKS TO LOCAL AUTHORITIES.

Works may be declared no longer under control of the Minister.

15. The Governor in Council may, by proclamation, declare any public road or bridge under the management and control of the Minister, to be no longer under his management and control ; and upon, from and after a day to be named in the proclamation, such road or bridge shall cease to be under the management and control of the Minister, and no tolls shall thereafter be levied thereon under the authority of this Act. 31 V., c. 12, s. 52.

How they shall then be kept up, &c.

16. Every public road or bridge declared, as aforesaid, to be no longer under the management and control of the Min-

ister, shall be under the control of and shall be maintained and kept in repair by the municipal or other authorities of the locality and the road officers thereof, in like manner as other public roads and bridges therein under their control. 31 V., c. 12, s. 53.

17. The Minister may enter into arrangements with any Provincial Government, municipal council or other local corporation or authority, or with any company in the Provinces of Ontario or Quebec, incorporated for the purpose of constructing or holding such work or works of like nature in the same Province—for the transfer to them of any of the public roads, harbors, rivers or river improvements, bridges or public buildings, whether within or without the limits of the local jurisdiction of such municipal councils or other authorities, which it is found convenient to place under their management:

Power to enter into arrangements for transfer of works to local authorities, &c.

2. On the completion of such arrangements, the Governor in Council may grant, and, by so granting, transfer and convey for ever or for any term of years, all or any of such roads, harbors, rivers and river improvements, bridges or public buildings, to such Provincial Government, municipal council or other local authority or company (hereinafter called the grantee), upon such terms and conditions as are agreed upon; and the said Governments, municipal councils or other local authorities may enter into such arrangements and may take and hold any works so transferred. 31 V., c. 12, s. 54.

Transfers, how made.

18. Any such grant may be made by Order in Council, and by such order any or all of the powers and rights vested in the Crown, or in any officer or department, in respect of such public work, may be granted to and vested in the grantee to whom the public work is granted:

Form and effect of transfer.

2. Such Order in Council may contain any conditions, clauses and limitations agreed upon, which, as well as all the provisions of such Order in Council, shall, in so far as they are not inconsistent with this Act and do not purport to grant any right or power not immediately before the making of such Order in Council vested in the Crown or in the Governor in Council, or in some officer or department of the Government, have force and shall be obeyed as if they had been contained in this Act and had formed part thereof:

Conditions and limitations of the grant.

3. Any such Order in Council may, with the consent of the grantee, be revoked or amended by any subsequent Order in Council, and the consent of the grantee thereto shall be presumed unless disputed by such grantee, and, if disputed, may be proved by any copy of such Order in Council, on which the consent of the grantee thereto is written and attested by such signature or seal, or both, as

Revoking or amending the grant.

would be sufficient to make any deed or agreement the deed or agreement of such grantee. 31 V., c. 12, s. 55.

What the conditions of the grant may extend to.

19. The provisions and conditions of any Order in Council made under this Act may extend—to the mode of adjusting and determining any difference arising between the Crown and any municipal corporation, local authority or company, as to their respective rights under the same,—or to the reservation of the right of re-entry by the Crown into possession of any public work on the default of such corporation, authority or company to perform the conditions agreed upon,—and to the vesting in any sheriff power to give possession of such public work to any public officer for the Crown, on any warrant, under the hand and seal of the Governor General, addressed to such sheriff, reciting such default and commanding him to give possession to such officer for the Crown as aforesaid :

Enactments may be made for enforcing conditions.

2. No enactment made for the purpose of enforcing the provisions of any such Order in Council shall be deemed an infringement of the rights of the municipal corporation, local authority or company to which it relates, and nothing in this section shall prevent the enforcement of the rights of the Crown in any lawful manner not inconsistent with the provisions and conditions of any such Order in Council. 31 V., c. 12, s. 56.

Work transferred to be kept in thorough repair.

20. One of the conditions of every such lease or transfer of any bridge, road or public work, shall be that such work shall be kept in thorough repair, and that, for all the purposes of such contract, sale or lease, the sufficiency of such repair shall be ascertained and decided on by such engineer as the Minister appoints to examine the same. 31 V., c. 12, s. 57.

TOLLS ON PUBLIC WORKS.

Governor in Council may impose tolls for use of public works.

21. The Governor in Council may impose and authorize the collection of tolls and dues upon any public work vested in Her Majesty, and under the control or management of the Minister, and may, from time to time, in like manner, alter and change such tolls or dues, and may declare the exemptions therefrom ; and all such tolls and dues shall be payable in advance and before the right to the use of the public work in respect of which they are incurred accrues, if so demanded by the collector thereof :

Recovery of tolls.

2. All tolls and dues imposed under this Act shall be recoverable, with costs, in any court of competent jurisdiction, by the collector or person appointed to receive the same, in his own name, or in the name of Her Majesty, and by any form of proceeding by which debts to the Crown are recoverable :

Goods on board vessels

3. The goods on board of any steamboat, vessel, raft, crib or other craft, and the animal or animals attached to any

carriage or vehicle, and the goods contained therein, to whomsoever the same belong, shall be liable for any tolls, dues or penalties imposed and levied under this Act, and they, or any of them, may be seized, detained and sold in the same manner as the steamboat, vessel, raft, crib or other craft, carriage or vehicle in which they are or to which they are attached, as if they belonged to the person violating any such regulation, saving the recourse of the real owner thereof against such person who is deemed the owner for the purposes of this Act. 31 V., c. 12, s. 58, s. 61, *part, and* s. 62.

22. Her Majesty's officers and soldiers, being in proper uniform, dress or undress, except when passing in any hired or private vehicle, and all carriages and horses employed in Her Majesty's service, when conveying persons or baggage, shall be exempted from payment of any tolls on using or travelling over any road or bridge under the control of the Minister. 31 V., c. 12, s. 60.

23. All tolls, dues or other revenues imposed and collected on public works, shall be paid by the persons receiving the same to the Minister of Finance and Receiver General, in such manner and at such intervals as he appoints, but such intervals shall, in no case, exceed one month. 31 V., c. 12, s. 63.

24. The Governor in Council may order the tolls at the several gates erected on any public road or bridge vested in the Crown, or under the management of the Minister, to be let to farm, under such regulations and by such form of lease as he thinks expedient; and the lessee or farmer of such tolls, or any person he appoints, may demand and take such tolls, and proceed for the recovery of the same in the name of such lessee or farmer, in case of non-payment or evasion thereof, in the same manner and by the same means as are given by law to any collector of tolls or other person authorized to collect the same. 31 V., c. 12, s. 64.

REGULATIONS FOR USE OF PUBLIC WORKS.

25. The Governor in Council may, from time to time, make such regulations as he deems necessary for the management, maintenance, proper use and protection of all or any of the public works, or for the ascertaining and collection of the tolls, dues and revenues thereon. 31 V., c. 12, s. 65.

PENALTIES.

26. The Governor in Council may, by such regulations, impose such penalties, not exceeding in any one case four hundred dollars, for any violation of any such regulation,

Or authorize the seizure and sale of vessels contravening regulations.

Proviso: rights of the Crown saved.

Punishment of persons employed on public works disobeying regulations lawfully made.

If injury is done by such disobedience, to person or property.

If such injury is not done.

as he deems necessary for insuring the observance of the same and the payment of the tolls and dues imposed as aforesaid—and may also, by such regulations, provide for the non-passing or detention and seizure, at the risk of the owner, of any steamboat, vessel or other craft, carriage, animal, timber or goods, on which tolls or dues have accrued and have not been paid, or in respect of which any such regulations have been violated, or any injury done to such public works and not paid for, or for or on account of which any penalty has been incurred and remains unpaid—and for the sale thereof, if such tolls, dues, damages or penalty are not paid by the time fixed for the purpose, and for the payment of such tolls, dues, damages or penalty out of the proceeds of such sale, returning the surplus, if any, to the owner or his agent; but no such provision shall impair the right of the Crown to recover such tolls, dues, penalty or damages in the ordinary course of law; and any such tolls, dues or penalties shall always be recoverable as herein provided. 31 V., c. 12, s. 66.

27. Every one who is an officer or servant of, or a person employed by the Minister on any public work under the Minister, and who wilfully or negligently violates any by-law, order or regulation of the department, or any Order in Council lawfully made or in force respecting the public work on which he is employed, and of which a copy has been delivered to him, or has been posted up or open to his inspection in some place where his work or his duties, or any of them, are to be performed,—if such violation causes injury to any property or to any person, or exposes any property or any person to the risk of injury, or renders such risk greater than it would have been but for such violation, although no actual injury occurs,—is guilty of a misdemeanor, and shall, according as the court before which the conviction is had considers the offence proved to be more or less grave, or the injury or risk of injury to person or property to be more or less great, be liable to a penalty not exceeding four hundred dollars, or to imprisonment for a term not exceeding five years, or to both penalty and imprisonment, in the discretion of the court. 31 V., c. 12, s. 67.

28. If such violation does not cause injury to any property or person, or expose any property or person to the risk of injury, or make such risk greater than it would have been but for such violation, the officer, servant or other person guilty thereof shall incur a penalty, not exceeding the amount of thirty days' pay and not less than fifteen days' pay of the offender from the department, in the discretion of the justice of the peace before whom the conviction is had; and such penalty shall be recoverable, with costs, before any one justice of the peace having jurisdiction where the

offence has been committed or where the offender is found, on the oath of one credible witness other than the informer. 31 V., c. 12, s. 68.

29. A moiety of every pecuniary penalty recovered under either of the two sections next preceding shall belong to Her Majesty for the public uses of Canada, and the other moiety shall belong to the informer, unless he is an officer or servant of or person in the employ of the Minister,—in which case he shall be a competent witness, and the whole penalty shall, in such case, belong to Her Majesty, for the uses aforesaid. 31 V., c. 12, s. 69.

Application of pecuniary penalties.

RECOVERY OF DUES AND PENALTIES.

30. All pecuniary penalties imposed by this Act, or by any regulation made under the authority thereof, shall be recoverable, with costs, before any justice of the peace for the district, county or place in which the offence was committed, under the "*Act respecting summary proceedings before Justices of the Peace*," and if sufficient distress cannot be found, and such penalty is not forthwith paid, such justice may, by warrant under his hand and seal, cause the person offending to be imprisoned for such term as such justice directs, not exceeding thirty days, unless such penalty and costs are sooner paid; and such penalties shall, except as hereinbefore provided, belong to Her Majesty, for the public uses of Canada:

Recovery of penalties.

Application.

2. Provided always, that all tolls and dues on timber passing any slide, and all penalties for violating any regulation respecting such slides, or for non-payment of such tolls and dues, may be enforced, imposed and collected by and before any justice of the peace within any district or county in Canada in which the timber respecting which such tolls or dues, or the person from whom such payment or penalty is demanded, happens to be at the time when application is made to such justice to enforce payment of the same. 31 V., c. 12, s. 61, *part*.

As to tolls and dues on timber.

GENERAL PROVISIONS.

31. All actions, suits and other proceedings at law or in equity, for the enforcement of any contract, agreement or obligation in respect of any public work, may be instituted in the name of the Attorney General of Canada. 31 V., c. 12, s. 8.

Actions for enforcing contracts, &c.

32. All contracts, bonds, agreements or leases for or respecting any work or building now the property of Canada, or for any tolls for the same, entered into by the Commissioner of Public Works of the late Province of Canada, or by the Board of Works of the Province of Nova Scotia or of the Province of New Brunswick, or by any

Existing contracts, &c., continued.

commissioners or other persons duly authorized to enter into the same, in any Province of Canada, shall inure to the use of Her Majesty, and may be enforced as if they had been entered into with Her Majesty under the authority of this Act. 31 V., c. 12, s. 12.

Recovering possession of maps, plans, &c., relating to Public Works.

33. The Governor in Council may, from time to time, require any person, or any provincial authority, having the possession or custody of any maps, plans, specifications, estimates, reports or other papers, books, drawings, instruments, models, contracts, documents or records, which are not private property, and which relate to any public work, to deliver the same forthwith to the secretary of the department. 31 V., c. 12, s. 9.

What writings shall bind the department.

34. No deed, contract, document or writing in respect of any matter under the control or direction of the Minister shall be binding on Her Majesty or be deemed to be the act of the Minister, unless the same is signed by him or by the deputy of the Minister, and countersigned by the secretary of the department, or the person authorized to act for him. 42 V., c. 7, s. 11.

Effect of secretary's certificate.

35. A copy of any map, plan, or other document in the custody of the secretary of the department, certified by him to be a true copy, shall be held to be authentic and shall be *primâ facie* of the same legal effect as the original in any court or elsewhere. 42 V., c. 7, s. 9, *part*.

Publication of regulations, &c.

36. All proclamations, regulations or Orders in Council made under this Act, shall be published in the *Canada Gazette*. 31 V., c. 12, s. 70, *part*.

Annual report to the Governor to be laid before Parliament.

37. The Minister shall make and submit to the Governor General an annual report on all the works under his control, which shall be laid before both Houses of Parliament, within twenty-one days after the commencement of each session thereof, showing the state of each work and the amounts received and expended in respect thereof, with such further information as is requisite. 31 V., c. 12, s. 19.



CHAPTER 37.

An Act respecting the Department of Railways and Canals. A. D. 1886.

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

INTERPRETATION.

1. In this Act, unless the context otherwise requires,—
- (a.) The expression “Minister” means the Minister of Railways and Canals; Interpretation. “Minister.”
 - (b.) The expression “department” means the Department of Railways and Canals; “Department.”
 - (c.) The expressions “railway” and “canal” mean and include respectively, every railway and the rolling stock thereon, and every canal and lock which belong to Canada; and every railway and the rolling stock thereon, and every canal and lock acquired, constructed, extended, enlarged, repaired or improved at the expense of Canada, or for the acquisition, construction, repairing, extending, enlarging or improving of which any public money is voted and appropriated by Parliament (except works for which money has been appropriated as a subsidy only), and all works and property appertaining or incidental to such railway or canal, or which are placed under the control of the Minister by the Governor in Council. 31 V., c. 12, s. 10, *part*;—35 V., c. 24, s. 1, *part*;—42 V., c. 7, s. 5, *part*. “Railway” and “Canal.”

DEPARTMENT OF RAILWAYS AND CANALS.

2. There shall be a department of the Civil Service of Canada which shall be called “The Department of Railways and Canals,” over which the Minister of Railways and Canals for the time being, appointed by commission under the Great Seal of Canada, shall preside; and the Minister shall have the management and direction of the department, and shall hold office during pleasure. 42 V., c. 7, s. 4, *part*. Department and Minister of Railways and Canals.

3. The Governor in Council may appoint an officer who shall be called the deputy of the Minister of Railways and Canals, and who shall be the chief officer of the department, a secretary for the department, and two or more chief engineers, and such other officers as are necessary for the Deputy and other officers.

proper conduct of the business of the department,—all of whom shall hold office during pleasure :

Acting secretary.

2. In case of the absence of the secretary, or of his inability to act, the Minister may, in writing, authorize some other officer of the department to act for the time in his stead :

Chief engineers.

3. One of such chief engineers shall act as chief engineer of one branch of the department, and another shall act as chief engineer of the other branch of the department, and with respect to such works, or classes of works, as the Governor in Council, from time to time, directs. 42 V., c. 7, s. 7, and s. 10, *part*.

Duties of secretary of the department.

4. The secretary of the department shall, unless otherwise directed in any case by the Minister, keep separate accounts of the moneys appropriated for and expended on each railway or canal under the management of the Minister; he shall submit such accounts to be audited in such manner as is appointed by law, or by the Governor in Council; he shall have charge of all plans, contracts, estimates, documents, titles, models and other like things relating to any such railway or canal; he shall keep proper accounts with each contractor or other person employed by or under the department; he shall see that all contracts are properly drawn out and executed; he shall prepare all certificates upon which any certificate for the payment of money is to issue; he shall keep minutes of all proceedings of the department; he shall prepare reports and conduct, under the direction of the Minister, the correspondence of the department; and generally he shall do and perform all such acts and things pertaining to the business of the department as he is, from time to time, directed by the Minister to do and perform. 42 V., c. 7, s. 9, *part*.

Duties of chief engineers.

5. The chief engineers respectively shall prepare maps, plans and estimates for all railways and canals which are about to be constructed, altered or repaired by or under the management of the Minister; they shall report, for the information of the Minister, on any question relating to any such railway or canal which is submitted to them; they shall examine and revise the plans, estimates and recommendations of other engineers, architects and officers touching any such railway or canal, and generally they shall advise the Minister on all engineering or architectural questions affecting any such work. 42 V., c. 7, s. 10, *part*.

POWERS OF THE MINISTER.

Powers of the Minister.

6. The Minister shall have the management, charge and direction of all Government railways and canals, and of all works and property appertaining or incident to such railways and canals :

2. Whenever, by any Act or document, the Minister of Public Works is given any power or authority, or has a duty cast upon him in regard to railways or canals, or other public works of any of the classes which, by this or any other Act or by an Order in Council made under any Act, are placed under the management, charge and direction of the Minister of Railways and Canals, or, in regard to any railway, canal or other work of any of the classes aforesaid, whether the same are or are not the property of Her Majesty, the power or authority so given, or the duty so cast upon the Minister of Public Works, shall be exercised or performed by the Minister of Railways and Canals. 42 V., c. 7, s. 5, *part*;—46 V., c. 5, s. 1.

Certain powers and duties to belong to Minister of Railways and Canals.

7. The Minister shall direct the construction, maintenance and repair of all railways and canals, and of all other works appertaining or incident thereto, constructed or maintained at the expense of Canada, and which are by this Act or are hereafter placed under his management and control. 31 V., c. 12, s. 15, *part*;—42 V., c. 7, s. 5, *part*.

Construction or repair of works.

8. Nothing in this Act shall authorize the Minister to cause expenditure not previously sanctioned by Parliament, except for such repairs and alterations as the necessities of the public service demand. 31 V., c. 12, s. 15, *part*;—42 V., c. 7, s. 5, *part*.

No expenditure without authority of Parliament.

9. The Minister or the deputy of the Minister, or any officer of the department whose duty it is to investigate or pay or certify for payment any claim, may require any account sent in by any contractor, or any person in the employ of the Minister, or any claim for damages, to be attested on oath—which oath, as well as that taken by any witness, may be administered by the Minister, the deputy of the Minister or such officer. 31 V., c. 12, s. 17;—42 V., c. 7, s. 5, *part*;—44 V., c. 25, s. 99.

Evidence on oath may be required as to claims.

10. The Minister may send for and examine, on oath, all such persons as he deems necessary, touching any matter upon which his action is required, and may cause such persons to bring with them such papers, plans, books, documents and things as it is necessary to examine with reference to such matter, and may pay such persons a reasonable compensation for their time and disbursements:

Persons and papers may be sent for.

2. Such persons shall comply with the summons of the Minister after due notice; and every person so summoned who neglects or refuses to attend and be examined, shall incur a penalty of twenty dollars in each case. 31 V., c. 12, s. 18;—42 V., c. 7, s. 5, *part*;—44 V., c. 25, s. 100.

Penalty for neglecting to attend, &c.

11. The Minister shall invite tenders, by public advertisement, for the execution of all works, except in cases of pres-

Tenders to be invited for works.

Exception. sing emergency, in which delay would be injurious to the public interest, or in which, from the nature of the work, it can be more expeditiously and economically executed by the officers and servants of the Minister. 31 V., c. 12, s. 20;—42 V., c. 7, s. 5, *part*;—44 V., c. 25, s. 103.

Security to be required. **12.** The Minister, in all cases in which any public work under his control is being carried out by contract, shall take all reasonable care that good and sufficient security is given to and in the name of Her Majesty, for the due performance of the work, within the amount and time specified for its completion; and also, in all cases in which it seems to the Minister not to be expedient to let such work to the lowest tenderer, he shall report the same and obtain the authority of the Governor in Council previously to passing by such lowest tender; and no sum of money shall be paid to the contractor on any contract, nor shall any work be commenced, until the contract has been signed by all the parties therein named, nor until the requisite security has been given. 31 V., c. 12, s. 21;—42 V., c. 7, s. 5, *part*;—44 V., c. 25, s. 104.

Report when lowest tender is not accepted.

Conditions previous to payment.

TOLLS ON CANALS.

Governor in Council may impose tolls for use of canals. **13.** The Governor in Council may impose and authorize the collection of tolls and dues upon any canal, and may, from time to time, in like manner, alter and change such dues or tolls, and may declare the exemptions therefrom; and all such dues and tolls shall be payable in advance and before the right to the use of the canal in respect of which they are incurred accrues, if so demanded by the collector thereof:

Recovery of tolls. 2. All tolls and dues imposed under this Act may be recovered, with costs, in any court of competent jurisdiction, by the collector or person appointed to receive the same, in his own name or in the name of Her Majesty, and by any form of proceeding by which debts to the Crown are recoverable:

Goods on board vessels liable for tolls, &c. 3. The goods on board of any steamboat, vessel, raft, crib or other craft, to whomsoever the same belong, shall be liable for any tolls, dues or penalties imposed and levied under this Act, and they or any of them may be seized, detained and sold in the same manner as the steamboat, vessel, raft, crib or other craft in which they are, as if they belonged to the person violating any such regulation, saving the recourse of the real owner thereof against such person who is deemed the owner for the purposes of this Act:

Tolls on the St. Lawrence canals. 4. The same tolls shall be payable on steamboats or vessels of any kind, and passengers, taken down the river St. Lawrence past any of the canals between Montreal and Kingston, as would be payable on such steamboats, vessels or passengers, if the same had been taken through the canal or canals past which they are so taken down; and such tolls

shall be levied in like manner, and under the like penalties and forfeitures for the non-payment thereof. 31 V., c. 12, ss. 58, 59, 61, *part*, and 62;—42 V., c. 7, s. 5, *part*.

14. All tolls, dues or other revenues imposed and collected under this Act, shall be paid by the persons receiving the same to the Minister of Finance and Receiver General, in such manner and at such intervals as he appoints, but such intervals shall in no case exceed one month. 31 V., c. 12, s. 63;—42 V., c. 7, s. 5, *part*.

Moneys from tolls to be paid over to the Receiver General.

REGULATIONS FOR USE OF CANALS.

15. The Governor in Council may, from time to time, make such regulations as he deems necessary for the management, maintenance, proper use and protection of all or any of the canals or for the ascertaining and collection of the tolls, dues and revenues thereon. 31 V., c. 12, s. 65;—42 V., c. 7, s. 5, *part*.

Governor in Council may make regulations for use of canals.

PENALTIES.

16. The Governor in Council may, by such regulations, impose such penalties, not exceeding in any one case four hundred dollars, for any violation of any such regulation as he deems necessary for insuring the observance of the same and the payment of the tolls and dues imposed as aforesaid—and may also, by such regulations, provide for the non-passing or detention and seizure, at the risk of the owner, of any steamboat, vessel or other craft, timber or goods, on which tolls or dues have accrued and have not been paid, or in respect of which any such regulations have been violated, or any injury done to such canals and not paid for, or for or on account of which any penalty has been incurred and remains unpaid—and for the sale thereof, if such tolls, dues, damages or penalty are not paid by the time fixed for the purpose, and for the payment of such tolls, dues, damages or penalty out of the proceeds of such sale, returning the surplus, if any, to the owner or his agent: but no such provision shall impair the right of the Crown to recover such tolls, dues, penalty or damages in the ordinary course of law; and any such tolls, dues or penalties shall always be recoverable as herein provided. 31 V., c. 12, s. 66;—42 V., c. 7, s. 5, *part*.

And impose fines for contravention.

Or authorize the seizure and sale of vessels contravening regulations.

Proviso: rights of the Crown saved.

17. Every one who is an officer or servant of, or a person employed by the Minister on any canal, and who wilfully or negligently violates any order or regulation of the department, or any Order in Council lawfully made or in force, respecting the canal on which he is employed, and of which a copy has been delivered to him, or has been posted up or open to his inspection in some place where his work or his duties, or any of them, are to be performed

Punishment of persons employed on canals disobeying regulations lawfully made.

If injury is done by such disobedience, to person or property.

—if such violation causes injury to any property or to any person, or exposes any property or any person to the risk of injury, or renders such risk greater than it would have been but for such violation, although no actual injury occurs, is guilty of a misdemeanor, and shall, according as the court before which the conviction is had considers the offence proved to be more or less grave, or the injury or risk of injury to person or property to be more or less great, be liable to a penalty not exceeding four hundred dollars, or to imprisonment for a term not exceeding five years, or to both penalty and imprisonment, in the discretion of the court. 31 V., c. 12, s. 67, *part*;—42 V., c. 7, s. 5, *part*.

If such injury is not done.

18. If such violation does not cause injury to any property or person, or expose any property or person to the risk of injury, or make such risk greater than it would have been but for such violation, the officer, servant or other person guilty thereof shall incur a penalty, not exceeding the amount of thirty days' pay and not less than fifteen days' pay of the offender from the department, in the discretion of the justice of the peace before whom the conviction is had; and such penalty shall be recoverable, with costs, before any one justice of the peace having jurisdiction where the offence has been committed or where the offender is found, on the oath of one credible witness other than the informer. 31 V., c. 12, s. 68;—42 V., c. 7, s. 5, *part*.

Application of pecuniary penalties.

19. A moiety of every pecuniary penalty recovered under either of the two sections next preceding shall belong to Her Majesty for the public uses of Canada, and the other moiety shall belong to the informer, unless he is an officer or servant of or person in the employ of the Minister,—in which case he shall be a competent witness, and the whole penalty shall in such case belong to Her Majesty, for the uses aforesaid. 31 V., c. 12, s. 69;—42 V., c. 7, s. 5, *part*.

RECOVERY OF PENALTIES.

Recovery of penalties.

20. All pecuniary penalties imposed by this Act, or by any regulation made under the authority thereof, shall be recoverable, with costs, before any justice of the peace for the district, county, or place in which the offence was committed, under the "*Act respecting summary proceedings before Justices of the Peace*," and if sufficient distress cannot be found, and such penalty is not forthwith paid, such justice may, by warrant under his hand and seal, cause the person offending to be imprisoned for such term as such justice directs, not exceeding thirty days, unless such penalty and costs are sooner paid; and such penalties shall, except as hereinbefore provided, belong to Her Majesty, for the public uses of Canada. 31 V., c. 12, s. 61, *part*;—42 V., c. 7, s. 5, *part*.

Applica-
tion.

GENERAL PROVISIONS.

21. All contracts, bonds, agreements or leases for or respecting any railway or canal now the property of Canada, or for any tolls for the same, entered into by the Commissioner of Public Works of the late Province of Canada, or by the Board of Works of the Province of Nova Scotia or of the Province of New Brunswick, or by any commissioners or other persons duly authorized to enter into the same in any Province of Canada, shall inure to the use of Her Majesty, and may be enforced as if they had been entered into with Her Majesty under the authority of this Act. 31 V., c. 12, s. 12;—42 V., c. 7, s. 5, *part*.

Existing contracts, &c., continued.

22. The Governor in Council may, from time to time, require any person, or any provincial authority, having the possession or custody of any maps, plans, specifications, estimates, reports or other papers, books, drawings, instruments, models, contracts, documents or records, which are not private property and which relate to any railway, building or property connected therewith, or to any canal which is now or which is hereafter placed under the control of the Minister, to deliver the same without delay to the secretary of the department. 31 V., c. 12, s. 9;—42 V., c. 7, s. 5, *part*;—44 V., c. 25, s. 93.

Recovery of maps, plans, &c.

23. No deed, contract, document or writing relating to any matter under the control or direction of the Minister shall be binding upon Her Majesty, unless it is signed by the Minister, or unless it is signed by the deputy of the Minister, and countersigned by the secretary of the department, or unless it is signed by some person specially authorized by the Minister, in writing, for that purpose: Provided always, that such authority from the Minister, to any person professing to act for him, shall not be called in question except by the Minister, or by some person acting for him or for Her Majesty. 44 V., c. 25, s. 98.

What deeds or writings shall be binding on the Crown.

Proviso.

24. A copy of any map, plan or other document in the custody of the secretary of the department, certified by him to be a true copy, shall be held to be authentic, and shall be *prima facie* of the same legal effect as the original in any court or elsewhere. 42 V., c. 7, s. 9, *part*.

Effect of secretary's certificate.

25. Moneys in the hands of an officer, employee or servant of the Minister, as an officer or servant of Her Majesty, due or payable by Her Majesty to any person, or out of which any payment on behalf of Her Majesty is to be made, and given to or being in the possession of such officer, employee or servant for that purpose, shall not be subject to any execution, attachment or garnishee process; and if any such officer, employee or servant is served with any execution, attachment or

Money in hands of officers not liable to attachment.

garnishee process in regard to such moneys, the same may be set aside, with costs, by any court of competent jurisdiction. 44 V., c. 25, s. 106.

As to actions
for enforcing
contracts, &c.

26. All actions, suits and other proceedings at law or in equity, for the enforcement of any contract, agreement or obligation in respect of any railway or any canal under the control of the Minister, or in respect of the construction, maintenance, working or repair of the same, may be instituted in the name of the Attorney General of Canada. 31 V., c. 12, s. 8;—42 V., c. 7, s. 5, *part*;—44 V., c. 25, s. 107.

Publication of
regulations,
&c.

27. All proclamations, regulations or Orders in Council made under this Act, shall be published in the *Canada Gazette*. 31 V., c. 12, s. 70, *part*;—42 V., c. 7, s. 5, *part*.

Annual re-
port to the
Governor to
be laid before
Parliament.

28. The Minister shall make and submit to the Governor General an annual report on all the railways and canals under his control, which shall be laid before both Houses of Parliament within twenty-one days after the commencement of each session thereof, showing the state of each work and the amounts received and expended in respect thereof, with such further information as is requisite. 31 V., c. 12, s. 19;—42 V., c. 7, s. 5, *part*;—44 V., c. 25, s. 102.

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 38.

An Act respecting Government Railways.

A. D. 1886.

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

SHORT TITLE.

1. This Act may be cited as "*The Government Railways Act.*" 44 V., c. 25, s. 1.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—

(a.) The expression "Minister" means the Minister of Railways and Canals and any member of the Queen's Privy Council for Canada performing the duties of the said Minister for the time being; the expression "Deputy" means the deputy of the Minister of Railways and Canals; the expression "secretary" means the secretary of the Department of Railways and Canals; and the expression "Department" means the Department of Railways and Canals;

Interpretation.

"Minister."

"Deputy."

"Secretary."

"Department."

(b.) The expression "superintendent" or "chief superintendent," in this Act or in the regulations relating to Government railways, means the superintendent of the Government railway or railways of which he has, under the Minister, the charge and direction, and his powers shall be the same in regard to the railway or railways so under his charge and direction, whether he is called "superintendent" or "chief superintendent";

"Superintendent."

(c.) The expression "engineer" means any engineer or person permanently or temporarily employed by the Minister to perform such work as is ordinarily performed by a civil engineer;

"Engineer."

(d.) The expression "arbitrators" or "official arbitrators" means the official arbitrators mentioned in the "*Act respecting the Official Arbitrators*";

"Arbitrators."

(e.) The expression "lands" includes all granted or ungranted, wild or cleared, public or private lands, and all real property, messuages, lands, tenements and hereditaments of any tenure, and all real rights, easements, servitudes and damages, and all other things for which compensation is to be paid by the Crown;

"Lands."

- "Toll." (f.) The expression "toll" includes any rate or charge or other payment payable for any passenger, animal, carriage, goods, merchandise, matters or thing conveyed on the railway;
- "Goods." (g.) The expression "goods" includes things of every kind that may be conveyed upon the railway, or upon steam or other vessels connected therewith;
- "County." (h.) The expression "county" includes any union of counties, county, riding or like division of a county in any Province, or any division thereof into separate municipalities, in the Province of Quebec;
- "Highway." (i.) The expression "highway" means any public road, street, lane or other public way or communication;
- "Railway." (j.) The expression "railway" means any railway, and all property and works connected therewith, under the management and direction of the department; 44 V., c. 25, s. 3, *part.*
- "Constable." (k.) The expression "constable" means a railway constable appointed under this Act.

Power exercised by deputies.

3. Whenever the powers herein given to the Minister are exercised by the superintendent, or by any other person or officer, employee or servant of the department thereunto specially authorized by the Minister, or his deputy, or an acting deputy, the same shall be presumed to be exercised by the authority of the Minister, unless the contrary is made to appear. 44 V., c. 25, s. 4.

APPLICATION OF ACT.

To what railways this Act applies. **4.** This Act applies to all railways which are vested in Her Majesty, and which are under the control and management of the Minister. 44 V., c. 25, s. 2.

POWERS.

- Powers of Minister. **5.** The Minister may by himself, his engineers, superintendents, agents, workmen and servants,—
- To explore. (a.) Explore and survey the country through which it is proposed to construct any Government railway;
- To enter on lands. (b.) Enter into and upon any public lands or the lands of any corporation or person whatsoever for that purpose;
- To fix the site of railway. (c.) Make surveys, examinations or other arrangements on such lands necessary for fixing the site of the railway, and set out and ascertain such parts of the lands as are necessary and proper for the railway;
- To fell timber. (d.) Fell or remove any trees standing in any woods, lands or forests where the railway is to pass, to the distance of six rods on either side thereof;
- To construct all necessary works. (e.) Make or construct in, upon, across, under or over any land, streets, hills, valleys, roads, railways or tramroads, canals, rivers, brooks, streams, lakes or other waters, such

temporary or permanent inclined planes, embankments, cuttings, aqueducts, bridges, roads, sidings, ways, passages, conduits, drains, piers, arches or other works as he thinks proper;

(f.) Make conduits or drains into, through or under any lands adjoining the railway, for the purpose of conveying water from or to the railway;

To make conduits or drains.

(g.) Cross, intersect, join and unite the railway with any other railway at any point on its route, and upon the lands of such other railway, with the necessary conveniences for the purposes of such connection; and in the event of disagreement upon the amount of compensation to be made therefor, or upon the point or manner of such crossing and connection, the same shall be determined by the official arbitrators;

To cross or unite with other railways.

(h.) Construct, maintain and work the railway across, along or upon any stream of water, watercourse, canal, highway or railway which it intersects or touches; but the stream, watercourse, highway, canal or railway so intersected or touched, shall be restored to its former state, or to such state as not to impair its usefulness;

To carry railway across streams, &c.

(i.) Make, complete, alter and keep in repair the railway, with one or more sets of rails or tracks, to be worked by the force and power of steam, or of the atmosphere, or of animals, or by mechanical power, or by any combination of them;

To make and work railway.

(j.) Erect and maintain all necessary and convenient buildings, stations, depots, wharves and fixtures, and, from time to time, alter, repair or enlarge the same, and purchase and acquire stationary or locomotive engines and carriages, wagons, floats and other machinery necessary for the accommodation and use of the passengers, freight or business of the railway;

To erect necessary buildings, &c.

(k.) Take, transport, carry and convey persons and goods on the railway, and construct, make and do all other matters and things necessary and convenient for making, extending and using the railway;

To convey persons and goods.

(l.) Enter into and upon any lands of Her Majesty, or into and upon the lands of any person whatsoever, lying along the route or line of railway, between the first day of November in any year and the fifteenth day of April next following, and erect and maintain temporary snow fences thereon, subject to the payment of such land damages (if any) as are thereafter established, in the manner by law provided, to have been actually suffered: but all such snow fences so erected shall be removed on or before the fifteenth day of April next following the erection thereof;

To erect snow fences on adjoining lands.

(m.) Change the location of the line of railway in any particular part at any time, for the purpose of lessening a curve, reducing a gradient, or otherwise benefiting such line of railway, or for any other purpose of public advantage; and all the provisions of this Act shall relate as fully

Proviso.
To change location of line in certain cases.

to the part of such line of railway, so at any time changed or proposed to be changed, as to the original line. 44 V., c. 25, s. 5, *part*.

Branch railway may be made for certain purposes

6. The Minister may, by and with the authority of the Governor in Council, for the purpose of connecting any city, town, village, manufactory or manufactories, mine or mines, or any quarry or quarries of stone or slate, or any well or spring, with the main line of the railway or with any branch thereof, or for the purpose of giving increased facilities to business, or for the purpose of transporting the products of any such manufactory, mine, quarry, well or spring, build, make and construct, and work and use, sidings or branch lines of railway, not exceeding in any one case six miles in length :

Powers in such case.

2. The Minister and those acting under him shall, for every such purpose, have and may exercise all the powers given them with respect to the main line ; and all provisions of this Act which are applicable to such extension shall extend and apply to every such siding or branch line of railway :

As to short branches.

3. If the branch or siding does not exceed one mile in length, the Minister may construct such branch or siding without an Order in Council ; and in the event of his so constructing a branch or siding not exceeding one mile in length, all the provisions of this Act which are applicable to extensions, as aforesaid, shall likewise apply in the manner aforesaid. 44 V., c. 25, s. 6.

Navigation not to be impeded.

7. The Minister shall not cause any obstruction in or impede the free navigation of any river, stream or canal, to or across or along which the railway is carried. 44 V., c. 25, s. 7.

Provision in case railway crosses a navigable river or canal.

8. If the railway is carried across any navigable river or canal, the Minister shall leave openings between the abutments or piers of the bridge or viaduct over the same, and shall make the same of such clear height above the surface of the water, or shall construct such drawbridge or swingbridge over the channel of the river, or over the whole width of the canal, as will not obstruct or impede the free navigation of the river or canal, subject to such regulations as to the opening of such swingbridge or drawbridge as the Governor in Council makes from time to time. 44 V., c. 25, s. 8.

Bridges to be properly floored.

9. No train shall be allowed to pass over any canal, or over the navigable channel of any river, without such proper flooring being first laid under and on both sides of the railway track over such canal or channel as the Minister deems sufficient to prevent anything falling from the railway into such canal or river, or upon the boats or vessels, or craft or persons navigating such canal or river. 44 V., c. 25, s. 9.

HIGHWAYS AND BRIDGES.

10. The railway shall not be carried along an existing highway, but merely cross the same in the line of the railway, unless leave has been obtained from the proper municipal or local authority therefor; and no obstruction of such highway with the works shall be made without turning the highway so as to leave an open and good passage for carriages, and, on the completion of the works, replacing the highway; but in either case the rail itself, if it does not rise above or sink below the surface of the road more than one inch, shall not be deemed an obstruction; but this section shall not limit or interfere with the powers of the Minister to divert or alter any road, street or way, when another convenient road is substituted in lieu thereof. 44 V., c. 25, s. 49.

Railway not to be carried along a highway unless by leave of municipality.

Proviso: if road is diverted under this Act.

11. No part of the railway which crosses any highway without being carried over by a bridge, or under by a tunnel, shall rise above or sink below the level of the highway more than one inch; and the railway may be carried across or above any highway within the limits aforesaid. 44 V., c. 25, s. 50.

Rise of rail above road limited.

12. The span of the arch of any bridge erected for carrying the railway over or across any highway, shall, at all times, be and be continued of the open and clear breadth and space, under such arch, of not less than twenty feet, and of a height from the surface of such highway to the centre of such arch of not less than twelve feet; and the descent under any such bridge shall not exceed one foot in twenty feet. 44 V., c. 25, s. 51.

Span and height of arch over highway.

13. The ascent of all bridges erected to carry any highway over any railway shall not be more than one foot in twenty feet increase over the natural ascent of the highway; and a good and sufficient fence shall be made on each side of every bridge, which fence shall be not less than four feet above the surface of the bridge. 44 V., c. 25, s. 52.

Ascent of bridge carrying highway over railway.

14. Every bridge or other erection or structure over, or through or under which any railway to which this Act applies passes, and every tunnel through which any such railway passes, shall, at all times hereafter, be so maintained as to admit of an open and clear headway of at least seven feet between the top of the highest freight cars used on the railway and the bottom of the lower beams, members or portions of that part of such bridge, erection, structure or tunnel which is over the railway:

Height of lowest members of any structure over railway prescribed as to existing railways and structures.

2. The Minister, before using higher freight cars than those which admit of such open and clear headway of at least seven feet, shall, after having first obtained the con-

Provision if higher freight cars are here-

after used on railway.

Proviso: as to existing bridges, &c.

Highway bridges, &c., hereafter constructed over railways to have a certain clear height above the rails.

Provision if higher freight cars are used thereafter.

Signboards at railway crossings.

Fences on each side of railway with gates and crossings.

sent of the municipality or of the owners of such bridge or other erection, structure or tunnel, raise every such bridge or other erection, structure or tunnel, and the approaches thereto, if necessary, so as to admit of such open and clear headway of at least seven feet; but this and the next preceding sub-section shall not apply to any bridge, erection, structure or tunnel now existing, which is exempted from the operation thereof by the Governor in Council:

3. Whenever a highway bridge or any other erection, or structure, or tunnel, is constructed over or on the line of a railway, or whenever it becomes necessary to reconstruct any highway bridge or other erection, or structure, or tunnel already built over or on the line of a railway, or to make large repairs to the same, the lower beams, members or portions of the superstructure of any such tunnel, highway or overhead bridge, or of any other erection or structure over any railway, and the approaches thereto, shall be constructed or reconstructed at the cost of the Crown or of the municipality or other owner of the bridge, erection or structure, or tunnel, as the case may be, and shall, at all times, be maintained at a sufficient height from the surface of the rails of the railway, to admit of an open and clear headway of at least seven feet between the top of the highest freight cars then used on the railway and the lower beams, members or portions of such bridge or other erection, or tunnel; and thereafter, the Minister, before using higher freight cars than those used on the railway at the time of the construction or reconstruction of, or large repair to, such bridge or other erection or structure, or tunnel, shall, after having first obtained the consent of the municipality, or of the owners of such highway bridge, or other erection or structure, or tunnel, raise the said tunnel or bridge, or other erection or structure, and the approaches thereto, if necessary, so as to admit, as aforesaid, of an open and clear headway of at least seven feet over the top of the highest freight cars then about to be used on the railway. 44 V., c. 25, s. 53.

15. Signboards stretching across or projecting over the highway crossed at a level by any railway, shall be erected and kept up at each crossing at such height as to leave sixteen feet from the highway to the lower edge of the signboard, and shall have the words "railway crossing" painted on each side of the signboard, in letters not less than six inches in length. 44 V., c. 25, s. 54.

FENCES.

16. Within six months after any lands have been taken for the use of the railway, the Minister, if thereunto required by the proprietors of the adjoining lands, shall erect and maintain, on each side of the railway, fences at

least four feet high and of the strength of an ordinary division fence, with swing gates or sliding gates, commonly called hurdle gates, with proper fastenings, at farm crossings of the railway, for the use of the proprietors of the lands adjoining the railway; and also cattle guards at all public road crossings, suitable and sufficient to prevent cattle and animals from getting on the railway. 44 V., c. 25, s. 55.

17. Until such fences and cattle guards are duly made, Her Majesty shall, subject to the provisions of sections twenty, twenty-two and twenty-three, be liable for all damages done by the trains or engines on the railway, to cattle, horses or other animals on the railway, which have gained access thereto for want of such fence and cattle guards. 44 V., c. 25, s. 56.

Liability of Her Majesty until fences and cattle guards are made.

18. After the fences or guards have been duly made, and while they are duly maintained, no such liability shall accrue for any such damages, unless negligently or wilfully done. 44 V., c. 25, s. 57.

But not afterwards.

19. At every road and farm crossing on the grade of the railway, the crossing shall be sufficiently fenced on both sides so as to allow of the safe passage of trains. 44 V., c. 25, s. 63.

Crossings to be fenced.

INJURIES TO CATTLE.

20. No horses, sheep, swine or other cattle shall be permitted to be at large upon any highway within half a mile of the intersection of such highway with any railway on grade, unless such cattle are in charge of some person or persons to prevent their loitering or stopping on such highway at such intersection. 44 V., c. 25, s. 60.

Cattle not to be at large within a certain distance of railway.

21. All cattle found at large in violation of the next preceding section may, by any person finding the same at large, be impounded in the pound nearest to the place where the same are so found, and the pound keeper with whom the same are so impounded shall detain the same in the like manner, and subject to the like regulations as to the care and disposal thereof, as in the case of cattle impounded for trespass on private property. 44 V., c. 25, s. 61.

Cattle found at large may be impounded.

22. If the cattle of any person, which are at large contrary to the provisions hereinbefore contained, are killed or injured by any train at such point of intersection, he shall not have any right of action or be entitled to compensation in respect of the same, unless the same are killed or injured through the negligence or wilfulness of some officer, employee or servant of the Minister. 44 V., c. 25, s. 62.

If killed, &c., Her Majesty not liable.

Exception.

Non-liability
in certain
cases.

23. Neither Her Majesty nor any officer, employee or servant of the Minister (except where the killing or injuring is negligent or wilful) shall be liable for any damage done by any train or engine to cattle, horses or other animals, on the railway, in any of the following cases, that is to say:—

Cattle at
large.

(a.) When they are at large contrary to the provisions of section twenty, and are killed or injured by any engine or train at the point of intersection;

Coming from
certain lands.

(b.) When they gain access to the railway from property other than that of the owner, or other than that in which the owner has a right of pasturage;

Or through
gates left
unfastened.

(c.) When they gain access to the railway through a gate of a farm or private crossing, the fastenings of which are in good order, unless such gate is left open by an employee of the Minister;

Or through
fence pro-
perly made.

(d.) When they gain access to the railway through or over a fence constructed in accordance with section sixteen;

Or in contra-
vention of
s. 20.

(e.) When they are at large contrary to the provisions of section twenty, and gain access to the railway from the highway at the point of intersection. 44 V., c. 25, s. 64.

WORKING THE RAILWAY.

Certain con-
trivances to
be used upon
passenger
trains.

24. Such apparatus and arrangements as best afford good and sufficient means of immediate communication between the conductors and the engine drivers of such trains while the trains are in motion, and good and sufficient means of applying, by the power of the steam engine or otherwise, at the will of the engine driver or other person appointed to such duty, the brakes to the wheels of the locomotive or tender, or both, or of all or any of the cars or carriages composing the trains, and of disconnecting the locomotive, tender and cars or carriages from each other by any such power or means, and also such apparatus and arrangements as best and most securely place and fix the seats or chairs in the cars or carriages, shall be provided and used in and upon trains run for the conveyance of passengers. 44 V., c. 25, s. 65.

Precautions
at crossing
on a level.

25. Every locomotive or railway engine, or train of cars, on every railway, shall, before it crosses the track of any other railway on a level, be stopped for at least the space of one minute. 44 V., c. 25, s. 66.

And on cross-
ing a draw or
swingbridge.

26. When a railway passes any draw or swingbridge over a navigable river, canal or stream, which is subject to be open for the purposes of navigation, the trains shall in every case be stopped at least three minutes before crossing, to ascertain from the bridge tender that the said bridge is closed and in perfect order for passing. 44 V., c. 25, s. 67.

- 27.** An employee shall be stationed at each point on the line crossed on a level by any other railway, and no train shall proceed over such crossing until signal has been made to the conductor thereof that the way is clear. 44 V., c. 25, s. 68. Employee at level crossings.
- 28.** No locomotive or railway engine shall pass in or through any thickly-peopled portion of any city, town or village at a speed greater than six miles per hour, unless the track is properly fenced. 44 V., c. 25, s. 69. Reduced speed through cities, &c.
- 29.** Whenever any train of cars is moving reversely in any city, town or village, the locomotive being in the rear, a person shall be stationed on the last car in the train, who shall warn persons standing on or crossing the track of such railway, of the approach of such train. 44 V., c. 25, s. 70. Precautions when moving reversely.
- 30.** Every servant of the Minister employed on a passenger train or at a station for passengers, shall wear, upon his hat or cap, a badge which shall indicate his office; and he shall not, without such badge, be entitled to demand or receive from any passenger any fare or ticket, or to exercise any of the powers of his office, or to interfere with any passenger or his baggage or property. 44 V., c. 25, s. 71. Servants of department to wear badges.
- 31.** The trains shall be started and run at regular hours fixed by public notice, and shall furnish sufficient accommodation for the transportation of all such passengers and goods as are within a reasonable time previous thereto offered for transportation at the place of starting, and at the junctions of other railways, and at usual stopping places established for receiving and discharging way-passengers and goods from the trains. 44 V., c. 25, s. 72. Trains to be run at regular hours.
- 32.** Such passengers and goods shall be taken, transported and discharged at, from and to such places, on the due payment of the toll, freight or fare lawfully authorized therefor. 44 V., c. 25, s. 73. Passengers and goods to be carried.
- 33.** Her Majesty shall have a lien on all goods transported over the railway, for the freight and charges thereon, as well as for any balance previously due for freight or otherwise by the owner or consignee; and the said goods shall be liable to be sold by public auction for the payment of the charges thereon and other balances due; and if the owner or his agent does not, within ten days after the arrival of the goods at the place of destination, pay the freight and other charges due thereon, or payable in respect thereof, and take possession of and remove such article from the railway premises, the superintendent may sell the same at public auction—after giving ten days' public notice of such sale—to defray the railway claims and all expenses Lien for freight and charges on goods carried.
Sale of such goods in default of payment.

- Risk of owners. incurred in respect thereof, and in the meantime the said goods shall be at the risk of the owner thereof. 44 V., c. 25, s. 76.
- Sale of unclaimed goods. Notice. Application of proceeds. **34.** If any goods remain in the possession of Her Majesty unclaimed for the space of twelve months, the superintendent may thereafter, and on giving public notice thereof by advertisement for six weeks in the *Official Gazette* of the Province in which such goods are, and in such newspapers as he deems necessary, sell such goods by public auction at a time and place mentioned in such advertisement, and may, out of the proceeds thereof, defray the railway claims and all expenses incurred in respect thereof; and the balance of the proceeds, if any, shall be paid to the Minister of Finance and Receiver General, to be kept until claimed by the person entitled thereto. 44 V., c. 25, s. 77.
- Bell and whistle. **35.** Every locomotive engine shall be furnished with a bell of at least thirty pounds weight, and with a steam whistle. 44 V., c. 25, s. 78.
- How and when to be used. Liability in case of neglect. **36.** The bell shall be rung or the whistle sounded at the distance of at least eighty rods from every place where the railway crosses any highway, and shall be kept ringing or be sounded at short intervals, until the engine has crossed such highway; and Her Majesty shall be liable for all damages sustained by any person by reason of any neglect to comply with this provision, and one half of such damages shall be chargeable to and be deducted from any salary due to the engineer having charge of such engine, and neglecting to sound the whistle or ring the bell as aforesaid, or shall be recoverable from such engineer. 44 V., c. 25, s. 79.
- Passengers to produce their tickets, or be removed. Proviso. **37.** Passengers shall produce and deliver up their railway tickets to the conductor or other person in charge of the train, whenever requested so to do by such officer; and if any passenger refuses so to do, or to pay the proper fare, he may be removed from the train,—the train being first stopped and no unnecessary force being used: Provided always, that the place of removal is not more than half a mile distant from a station, or not more than half a mile distant from a dwelling house in sight of the place of removal and accessible therefrom. 44 V., c. 25, s. 80.
- Non-recourse of passengers injured while standing on platforms, &c. **38.** No person who is injured while on the platform of a car, or on any baggage, wood or freight car, in violation of any printed regulations posted up at the time in a conspicuous place inside of the passenger cars then in the train, shall have any claim in respect of the injury, if room inside of such passenger cars, sufficient for the proper accommodation of the passengers, was furnished at the time. 44 V., c. 25, s. 81.

39. Any officer, employee or servant of the Minister may refuse to take any package or parcel which he suspects to contain goods of a dangerous nature, or may require the same to be opened to ascertain the fact; and no such goods of a dangerous nature shall be carried, except in cars specially designated for that purpose, on each side of each of which shall be plainly marked, in large letters, the words "dangerous explosives." 44 V., c. 25, s. 83.

Dangerous goods may be refused.

Cars containing them to be so marked.

TOLLS.

40. The Governor in Council may impose and authorize the collection of tolls and dues upon any railway vested in Her Majesty, or under the control or management of the Minister, and, from time to time, in like manner, may alter and change such tolls or dues, and may declare the exemptions therefrom; and all such tolls and dues shall be payable in advance, if so demanded by the collector thereof. 44 V., c. 25, s. 85.

Governor in Council to fix tolls.

How payable.

41. All such tolls and dues may be recovered, with costs, in any court of competent jurisdiction, by the collector or person appointed to receive the same, in his own name or in the name of Her Majesty, and by any form of proceeding by which debts to Her Majesty may be recovered. 44 V., c. 25, s. 86.

Recovery of tolls.

42. All tolls, dues or other revenues imposed and collected in respect of any Government railway, shall be paid by the persons receiving the same to the Minister of Finance and Receiver General, in such manner and at such intervals as are appointed by him; but such intervals shall in no case exceed one month. 44 V., c. 25, s. 87.

To be paid over to Receiver General.

RULES AND REGULATIONS.

43. The Governor in Council may, from time to time, make such regulations as he deems necessary for the management, proper use and protection of all or any such railways, including station houses, yards and other property in connection therewith, or for the ascertaining and collection of the tolls, dues and revenues thereon, or to be observed by the conductors, engine drivers and other officers and servants of the Minister, and by all companies and persons using such railways or relating to the construction of the carriages and other vehicles to be used in the trains on such railways. 44 V., c. 25, s. 88.

Governor in Council may make regulations for certain purposes.

44. The Governor in Council may, by such regulations, impose such fines, not exceeding in any one case four hundred dollars, for any violation of any such regulation, as he deems necessary for insuring the observance of the same

May impose fines for violation of regulations.

And seize goods as to which violation takes place.

Sale of such goods in case of non-payment.

Rights of Crown saved, &c.

and the payment of the tolls and dues to be imposed as aforesaid; and may also, by such regulations, provide for the detention and seizure, at the risk of the owner, of any carriage, animal, timber or goods on which tolls or dues have accrued and have not been paid, or in respect of which any such regulations have been violated, or any injury has been done to such railways and not paid for, or for or on account of which any fine has been incurred and remains unpaid, and for the sale thereof, if such tolls, dues, damages or fine are not paid by the time fixed for the purpose, and for the payment of such tolls, dues, damages or fine, out of the proceeds of such sale—returning the surplus, if any, to the owner or his agent; and for the retention out of the salary of any officer, employee or servant of the Minister, of the amount of any forfeiture incurred by him for violation of any such regulation; but no such provision shall impair the right of the Crown to recover such tolls, dues, fines or damages in the ordinary course of law; and any such tolls, dues, fines or damages may always be recovered under the foregoing provisions of this Act; and such regulations shall be taken and read as part of this Act. 44 V., c. 25, s. 89.

GENERAL PROVISIONS.

Railways to be public works. **45.** All Government railways are, and shall be, public works of Canada. 44 V., c. 25, s. 92.

Construction of lines of telegraph. **46.** The Governor in Council may, at any time, cause a line or lines of electric telegraph to be constructed along the line of the railway, for the use of the Government of Canada, and for that purpose may enter upon and occupy such lands as are necessary for the purpose. 44 V., c. 25, s. 94.

Use of companies' telegraphs by Government. **47.** Every company shall, when required so to do by the Governor in Council, or any person authorized by him, place any electric telegraph, and the apparatus and operators which they have, at the exclusive use of the Government of Canada, and shall thereafter be paid reasonable compensation for such service. 44 V., c. 25, s. 95.

Conveyance of H. M.'s forces, mails, &c., and on what conditions. **48.** Her Majesty's naval or military forces, and all artillery, ammunition, baggage, provisions or other stores for their use, and all officers and others travelling on Her Majesty's naval, military or other service, and their baggage and stores, shall, at all times, when such service is required by one of Her Majesty's principal Secretaries of State, or by the commander of Her Majesty's forces in Canada, or by the chief naval officer on the North American or North Pacific Station, be carried on the railway on such terms and conditions and under such regulations as the Governor in

Council makes, from time to time, or as are agreed upon between the Government of Canada and one of Her Majesty's principal Secretaries of State. 44 V., c. 25, s. 96.

49. The Minister, or any person acting for him, in investigating or making inquiry into any accident upon the railway, or relating to the management of the railway, may examine witnesses under oath; and for that purpose may administer such oath. 44 V., c. 25, s. 101.

Witnesses may be examined on oath.

50. Her Majesty shall not be relieved from liability by any notice, condition or declaration, in the event of any damage arising from any negligence, omission or default of any officer, employee or servant of the Minister; nor shall any officer, employee or servant be relieved from liability by any notice, condition or declaration, if the damage arises from his negligence or omission. 44 V., c. 25, s. 74.

Liability for neglect, notwithstanding notice.

51. All thistles and other noxious weeds growing on the cleared land or ground adjoining the railway and belonging to the railway shall be cut down and kept constantly cut down, or rooted out. 44 V., c. 25, s. 84.

Noxious weeds to be cut down.

52. All proclamations, regulations and Orders in Council made under this Act shall be published in the *Canada Gazette*. 44 V., c. 25, s. 91, *part*.

Publication of proclamations, &c.

PROTECTION OF OFFICERS.

53. No action shall be brought against any officer, employee or servant of the Minister for anything done by virtue of his office, service or employment, unless within three months after the act is committed, and upon one month's previous notice thereof in writing; and the action shall be tried in the county or judicial district where the cause of action arose. 44 V., c. 25, s. 109.

Limitation of time for actions against officers.

RAILWAY CONSTABLES.

54. Any two justices of the peace, or a stipendiary or police magistrate, in the Provinces of Ontario, Nova Scotia, New Brunswick, British Columbia, Prince Edward Island or Manitoba or the District of Keewatin, and any judge of the Court of Queen's Bench or Superior Court, or clerk of the peace, or clerk of the Crown, or judge of the sessions of the peace in the Province of Quebec, and any judge of the Supreme Court or two justices of the peace or stipendiary or police magistrate in the North-West Territories, on the application of the superintendent of any railway which passes within the local jurisdiction of such justices of the peace, magistrate, judge, clerk, or judge of the sessions of the peace, as the case may be, may, in their or his discretion, appoint

Constables may be appointed to act on the line of any railway, and how.

any persons recommended for that purpose by such superintendent, to act as constables on and along such railway; and every person so appointed shall take an oath or make a solemn declaration in the form or to the effect following, that is to say:—

Oath of office.

“ I, A. B., having been appointed a constable to act upon and along (*here name the railway*), under the provisions of ‘*The Government Railways Act*,’ do swear that I will well and truly serve our Sovereign Lady the Queen, in the said office of constable, without favor or affection, malice or ill-will; and that I will, to the best of my power, cause the peace to be kept, and prevent all offences against the peace; and that while I continue to hold the said office I will, to the best of my skill and knowledge, discharge the duties thereof faithfully, according to law. So help me God”:

By whom to be administered in the several Provinces.

2. Such oath or declaration shall be administered in either of the Provinces of Ontario, Nova Scotia, New Brunswick, British Columbia, Prince Edward Island or Manitoba or in the District of Keewatin, by any one such justice or magistrate, and, in the Province of Québec, by any such judge, clerk, or judge of the sessions of the peace, and, in the North-West Territories, by any such judge or magistrate or by any justice of the peace; and every constable who is so appointed, and has taken such oath or made such declaration, may act as a constable for the preservation of the peace, and for the security of persons and property against felonies and other unlawful acts on such railway, and on any of the works belonging thereto, and on and about any trains, roads, wharves, quays, landing places, warehouses, lands and premises thereof, whether the same are in the county, city, town, parish, district or other local jurisdiction within which he was appointed, or in any other place through which such railway passes, or in which the same terminates, and in all places not more than one quarter of a mile distant from such railway; and shall have all such powers, protections and privileges for the apprehending of offenders, as well by night as by day, and for doing all things for the prevention, discovery and prosecution of felonies and other offences, and for keeping the peace, which any constable duly appointed has within his constable-wick:

Powers of such constables and to what localities they shall extend.

Further powers and duties of such constables.

3. Any such constable may take such persons as are punishable by summary conviction, for any offence against the provisions of this Act, or of any of the Acts, rules or regulations affecting any such railway, before any justice or justices appointed for any county, city, town, parish, district or other local jurisdiction within which any such railway passes; and every such justice may deal with all such cases as though the offence had been committed and the person taken within the limits of his own local jurisdiction:

4. Any two justices of the peace, or a stipendiary or police magistrate, in either of the Provinces of Ontario, Nova Scotia, New Brunswick, British Columbia, Prince Edward Island or Manitoba, or in the District of Keewatin, and any judge of the Court of Queen's Bench or Superior Court, or clerk of the peace, or clerk of the Crown, or judge of the sessions of the peace, in the Province of Quebec, and any judge of the Supreme Court, stipendiary or police magistrate, or two justices of the peace in the North-West Territories, may dismiss any such constable who is acting within their several jurisdictions; and the superintendent may dismiss any such constable who is acting on such railway; and upon every such dismissal, all powers, protections and privileges belonging to any such person by reason of such appointment, shall wholly cease; and no person so dismissed shall be again appointed or act as constable for such railway, without the consent of the authority by whom he was dismissed:

Who may
dismiss any
such con-
stable.

Superintend-
ent may
dismiss.
Effect of
dismissal.

5. The superintendent shall cause to be recorded in the office of the clerk of the peace or of the municipality for every county, city, town, parish, district or other local jurisdiction through which such railway passes, the name and designation of every constable so appointed at his instance, the date of his appointment and the authority making it, and also the fact of every dismissal of any such constable, the date thereof, and the authority making the same, within one week after the date of such appointment or dismissal, as the case may be; and such clerk of the peace or of the municipality shall keep such record in such form as the Governor in Council, from time to time, directs, in a book which shall be open to public inspection, charging such fee or fees as the Governor in Council, from time to time, authorizes. 44 V., c. 25, s. 110, *part*;—49 V., c. 25, s. 30.

Names of
constables
to be recorded
with certain
particulars.

PENALTIES AND FORFEITURES.

55. Every constable who is guilty of any neglect or breach of duty in his office of constable, shall be liable, on summary conviction thereof, within any county, city, district or other local jurisdiction through which such railway passes, to a penalty not exceeding eighty dollars, the amount of which penalty may be deducted from any salary due to such offender, if such constable is in receipt of a salary from the Minister, or to imprisonment for a term not exceeding two months. 44 V., c. 25, s. 110, *part*.

Punishment
of constables
neglecting
their duty.

56. Every person who assaults or resists any constable in the execution of his duty, or who incites any person so to do, shall, for every such offence, be liable, on summary conviction, to a penalty not exceeding eighty dollars, or to imprisonment with or without hard labor for a term not exceeding two months. 44 V., c. 25, s. 110, *part*.

Punishment
for resisting
constables.

Placing freight cars, &c., in rear of passenger cars a misdemeanor.

57. Every officer or agent of the Minister, and every conductor of a train, who directs or knowingly permits any baggage, freight, merchandise or lumber cars to be placed in rear of the passenger cars, is guilty of a misdemeanor, and shall be punishable accordingly. 44 V., c. 25, s. 75.

Driver or conductor intoxicated.

58. Every person who is intoxicated while he is in charge of a locomotive engine or acting as the conductor of a car or train of cars, is guilty of a misdemeanor. 44 V., c. 25, s. 111.

Punishment of officers or servants contravening regulations, &c.

59. Every officer or servant of, and every person employed by the Minister on any railway under the control of the Minister, who wilfully or negligently violates any rule, order or regulation of the department, or regulation made by the Governor in Council, lawfully made or in force, respecting the railway on which he is employed, and of which a copy has been delivered to him, or has been posted up or open to his inspection in some place where his work or his duties, or any of them, are to be performed,—if such violation causes injury to any property or to any person, or exposes any property or any person to the risk of injury, or renders such risk greater than it would have been but for such violation, although no actual injury occurs, is guilty of a misdemeanor, and shall, in the discretion of the court before which the conviction is had, and according as such court considers the offence proved to be more or less grave, or the injury or risk of injury to person or property to be more or less great, be punished by fine or imprisonment, or both, but no such fine shall exceed four hundred dollars, and no such imprisonment shall exceed the term of five years. 44 V., c. 25, s. 112, *part*.

If any person is thereby injured, or exposed to injury.

If no injury or exposure to injury.

60. If such violation does not cause injury to any property or person, or expose any property or person to the risk of injury, or make such risk greater than it would have been but for such violation, the officer, servant or other person guilty thereof shall incur a penalty not exceeding the amount of thirty days' pay and not less than fifteen days' pay of the offender from the department, in the discretion of the justice of the peace before whom the conviction is had; and such penalty shall be recoverable, with costs, before any one justice of the peace having jurisdiction where the offence was committed or where the offender is found, on the oath of one credible witness other than the informer. 44 V., c. 25, s. 113.

Penalty.

How recoverable.

Penalty if goods of a dangerous nature are sent without being properly marked.

61. Every person who sends or carries, by the railway, any aquafortis, oil of vitriol, gunpowder, dynamite, nitro-glycerine or any other goods of a dangerous nature, without, at the time of sending or carrying the said goods, distinctly marking their nature on the outside of the pack-

age containing the same, and otherwise giving notice in writing to the station master or other servant of the Minister with whom the same are left, shall incur a penalty of five hundred dollars for every such offence. 44 V., c. 25, s. 82.

62. Every person who bores, pierces, cuts, opens or otherwise injures any cask, box or package, containing wine, spirits or other liquors, or any case, box, sack, wrapper, package or roll of goods, in or about any car, wagon, boat, vessel, warehouse, station house, wharf, quay or premises of or belonging to any Government railway, with intent feloniously to steal or otherwise unlawfully to obtain or to injure the contents, or any part thereof, or who unlawfully drinks, or wilfully spills or allows to run to waste any such liquors, or any part thereof, shall, for every such offence, be liable, upon summary conviction, to a penalty not exceeding twenty dollars, over and above the value of the goods or liquors so taken or destroyed, or to imprisonment for a term not exceeding one month. 44 V., c. 25, s. 119.

Punishment for boring casks or breaking packages, &c., on railway.

63. Every person who wilfully obstructs any officer or employee in the execution of his duty, shall, on summary conviction, be liable for every such offence to a penalty not exceeding forty dollars; and in default of payment to imprisonment for any term not exceeding three months. 44 V., c. 25, s. 120, *part*.

Punishment for obstructing officers or employees in the execution of their duty.

64. Every person who rides, leads or drives any horse or any other animal, or permits any such horse or other animal to enter upon the railway, and within the fences and guards, without the consent of an officer or employee of the Minister, shall, for every such offence, incur a penalty not exceeding forty dollars, and shall also pay to the person aggrieved all damages sustained thereby: Provided always, that no person shall be liable to the said penalty when he rides, leads or drives any horse or other animal over a farm crossing, unless he allows such horse or other animal to loiter unnecessarily or remain upon the railway or the appurtenances thereof. 44 V., c. 25, s. 58.

Penalty for going on the track, &c., with cattle, &c.

Proviso.

65. Every person not connected with the department or employed by the Minister, who walks along the track of the railway, except where the same is laid across or along a highway, shall, for every such offence, incur a penalty not exceeding twenty dollars. 44 V., c. 25, s. 59.

Penalty for walking on the track.

66. Except as herein otherwise provided, all pecuniary penalties imposed by this Act, or by any regulation made under the authority hereof, shall be recoverable, with costs, before any justice of the peace for the district, county or place in which the offence was committed, upon proof by confession, or by the oath of any one credible witness, and

Recovery of pecuniary penalties.

Imprisonment if not paid.

may, if not forthwith paid, be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand and seal of such justice; and if sufficient distress cannot be found, and such penalty is not forthwith paid, such justice may, by warrant under his hand and seal, cause the person offending to be imprisoned for such time as such justice directs, not exceeding thirty days, unless a longer time is, by this Act, in that behalf provided:

Application of penalties.

2. A moiety of every penalty shall belong to Her Majesty for the public uses of Canada, and the other moiety to the informer, unless he is an officer or servant of or person in the employ of the Minister—in which case he shall be a competent witness and the whole penalty shall belong to Her Majesty for the uses aforesaid. 44 V., c. 25, s. 121.

INTERCOLONIAL RAILWAY.

Intercolonial Railway defined.

67. The line of railway from the city of Halifax to Pictou, in the Province of Nova Scotia, and the line of railway from the city of St. John to Point du Chêne, in the Province of New Brunswick, together with the line from Hadlow, in the Province of Quebec, to Moncton, in the Province of New Brunswick, and from Painsec Junction, in the Province of New Brunswick, to Truro, in the Province of Nova Scotia, and all branches, works and property thereto appertaining are hereby declared to constitute and form the Intercolonial Railway. 44 V., c. 25, s. 122.

As to plans of lands taken for Intercolonial Railway.

68. In the case of lands which were taken for the Intercolonial Railway, under an Act made and passed in the thirty-first year of Her Majesty's reign, intituled "*An Act respecting the construction of the Intercolonial Railway*," and when plans of such lands were deposited of record in the office of the registrar of deeds for the county or registration division in which the lands were situate, without any description of the land being deposited of record, with such plans thereof as in the seventh section of the said Act required, the filing of the plans only shall be held, taken and construed to have been a sufficient compliance with the provisions of the said section; and the depositing of such plans only shall be held and taken to have operated as a dedication to the public of such lands, whereupon the same became and were vested in Her Majesty:

Effect of certified copies.

2. A certified copy of any such plan may be used, and shall be evidence in like manner and effect and under the like circumstances as provided in "*The Expropriation Act*" in regard to the plans and description therein mentioned. 44 V., c. 25, s. 10, *part.*

Plans of lands taken for the same in N.S. and N.B.,

69. In all cases in which lands now in the possession of Her Majesty for the said railway were taken under any Act or Acts of the Provinces of Nova Scotia or New Brunswick,

by the provisions of which Acts, plans and descriptions of the lands so taken should have been recorded, filed or deposited in the office of the registrar of deeds of the county in which such lands were situate, and plans only, without any description were recorded, filed or deposited as aforesaid, or in which plans and descriptions or plans only of lands taken were recorded, filed or deposited as aforesaid, although the Act or Acts under which they were taken did not require them to be so recorded, filed or deposited, the recording, filing or depositing of the plans and descriptions, or plans only, as the case may be, shall be taken and construed to have been a sufficient compliance with the provisions of any such Act or Acts; and the recording, filing or depositing of such plans and descriptions, or plans only, as the case may be, shall be held and taken to have vested in the Crown such an interest in the lands taken as would now be vested in the Crown if the provisions of such Act or Acts had been fully and literally complied with :

2. A certified copy of any such plans and descriptions, or plans only, as the case may be, may be used and shall be evidence in like manner and effect and under like circumstances as provided in "*The Expropriation Act*" in regard to the plans and descriptions therein mentioned. 44 V., c. 25, s. 10, *part*.

OTTAWA : Printed by BROWN CHAMBERLIN, LAW Printer to the Queen's Most Excellent Majesty.



CHAPTER 39.

An Act respecting Expropriation of Lands.

A. D. 1886.

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

SHORT TITLE.

1. This Act may be cited as "*The Expropriation Act.*" Short title.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—
- (a.) The expression "Minister" means the head of the department charged with the construction and maintenance of the public work; Interpretation. "Minister."
- (b.) The expression "department" means the department of the Government of Canada charged with the construction and maintenance of the public work; "Department."
- (c.) The expression "superintendent" means the superintendent of the public work of which he has, under the Minister, the charge and direction; "Superintendent."
- (d.) The expression "public work" or "public works" means and includes the dams, hydraulic works, hydraulic privileges, harbors, wharves, piers and works for improving the navigation of any water—the lighthouses and beacons—the slides, dams, piers, booms and other works for facilitating the transmission of timber—the roads and bridges, the public buildings, the telegraph lines, Government railways, canals, locks, fortifications and other works of defence, and all other property, which now belong to Canada, and also the works and properties acquired, constructed, extended, enlarged, repaired or improved at the expense of Canada, or for the acquisition, construction, repairing, extending, enlarging or improving of which any public money is voted and appropriated by Parliament, and every work required for any such purpose,—but not any work for which money is appropriated as a subsidy only; "Public Works."
- (e.) The expression "conveyance" includes a "surrender" to the Crown; and any conveyance to Her Majesty, or to the Minister, or any officer of the department, in trust for or to the use of Her Majesty, shall be held to be a surrender; "Conveyance."

"Land."

(f.) The expression "land" includes all granted or ungranted, wild or cleared, public or private lands, and all real property, messuages, lands, tenements and hereditaments of any tenure, and all real rights, easements, servitudes and damages, and all other things for which compensation is to be paid by Her Majesty under this Act;

"Lease."

(g.) The expression "lease" includes any agreement for a lease. 31 V., c. 12, s. 10, *part*;—35 V., c. 24, s. 1, *part*;—37 V., c. 13, s. 3, *part*;—44 V., c. 25, s. 3, *part*.

POWER TO TAKE LAND.

Powers of the Minister.

3. The Minister may, by himself, his engineers, superintendents, agents, workmen and servants,—

Entering lands, &c.

(a.) Enter into and upon any land to whomsoever belonging, and survey and take levels of the same, and make such borings, or sink such trial pits as he deems necessary for any purpose relative to the public work; 31 V., c. 12, s. 22.

Taking possession.

(b.) Enter upon and take possession of any land, real property, streams, waters and watercourses, the appropriation of which is, in his judgment, necessary for the use, construction, maintenance or repair of the public work, or for obtaining better access thereto; 31 V., c. 12, s. 24, *part*;—33 V., c. 18, ss. 8 and 9, *part*;—44 V., c. 25, s. 5, sub-s. 5.

Deposit and removal of materials.

(c.) Enter with workmen, carts, carriages and horses upon any land, and deposit thereon soil, earth, gravel, trees, bushes, logs, poles, brushwood or other material found on the land required for the public work, or for the purpose of digging up, quarrying and carrying away earth, stones, gravel or other material, and cutting down and carrying away trees, bushes, logs, poles and brushwood therefrom, for the making, constructing, maintaining or repairing the public work: and the Minister may make and use all such temporary roads to and from such timber, stones, clay, gravel, sand or gravel pits as are required by him for the convenient passing to and from the works during their construction and repair, and may enter upon any land for the purpose of making proper drains to carry off the water from the public work, or for keeping such drains in repair; 31 V., c. 12, s. 25;—44 V., c. 25, s. 5, sub-s. 6.

Changing course of stream, &c.

(d.) Alter the course of any river, canal, brook, stream or watercourse, and divert or alter, as well temporarily as permanently, the course of any such rivers, streams of water, roads, streets or ways, or raise or sink the level of the same, in order to carry them over or under, on the level of, or by the side of, the public work, as he thinks proper;

Proviso.

but before discontinuing or altering any public road, he shall substitute another convenient road in lieu thereof; and the land theretofore used for any road, or part of a road, so discontinued, may be transferred by the Minister to and shall thereafter become the property of the owner of

the land of which it originally formed a part ; 31 V., c. 12, s. 29 ;—44 V., c. 25, s. 5, sub-s. 8.

(e.) Contract and agree with all persons, seigneurs, guardians, tutors, curators and trustees whatsoever, not only for themselves, their heirs, successors and assigns, but also for and on the behalf of those whom they represent, whether infants, absentees, lunatics, married women or other persons otherwise incapable of contracting, for the purchase of any land or other property necessary for the constructing, maintenance and use of the public work, at such prices as are agreed upon ; and also contract and agree with all such persons as to the amount of compensation to be paid for any damages sustained by them by reason of anything done under and by authority of this Act, or of any other Act respecting public works or Government railways. 31 V., c. 12, s. 24, *part* ;—33 V., c. 18, ss. 8 and 9, *part* ;—44 V., c. 25, s. 5, sub-s. 15.

Agreements to purchase.

And for compensation.

4. Whenever it is necessary, in the building, maintaining or repairing of the public work, to take down or remove any wall or fence of any owner or occupier of land or premises adjoining the public work, or to construct any back ditches or drains for carrying off water, such wall or fence shall be replaced as soon as the necessity which caused its taking down or removal has ceased ; and after the same has been so replaced, or when such drain or back ditch is completed, the owner or occupier of such land or premises shall maintain such walls or fences, drains or back ditches, to the same extent as such owner or occupier might be by law required to do if such walls or fences had never been so taken down or removed, or such drains or back ditches had always existed. 31 V., c. 12, s. 30 ;—44 V., c. 25, s. 5, sub-s. 9, *part*.

Removal of fences adjoining any public work.

Obligations of land owners.

MANNER OF TAKING LANDS, ETC., TITLES, BOUNDARIES.

5. Land taken for the use of Her Majesty shall be laid off by metes and bounds ; and when no proper deed or conveyance thereof to Her Majesty is made and executed by the person having the power to make such deed or conveyance, or when a person interested in such land is incapable of making such deed or conveyance, or when, for any other reason, the Minister deems it advisable so to do, a plan and description of such land signed by the Minister, the deputy of the Minister or the secretary of the department, or by the superintendent of the public work, or by an engineer of the department, or by a land surveyor duly licensed and sworn in and for the Province in which the land is situate, shall be deposited of record in the office of the registrar of deeds for the county or registration division in which the land is situate, and such land, by such deposit, shall thereupon become and remain vested in Her Majesty :

Proceedings for taking possession of lands.

Deposit of plan and description.

Correction allowed.

2. In case of any omission, misstatement or erroneous description in such plan or description, a corrected plan and description may be deposited with like effect :

When to be deposited.

3. Such plan and description may be deposited at any time, either before entry upon the land or within twelve months thereafter :

Deposit of plan of land now in possession of H. M.

4. A plan and description of any land now in the occupation or possession of Her Majesty and used for the purposes of any public work may be deposited at any time, in like manner and with like effect as herein provided, saving always the lawful claims to compensation of any person interested therein :

Attestation of plan deposited.

5. In all cases, when any such plan and description, purporting to be signed by the deputy of the Minister, or by the secretary of the department or by the superintendent of the public work, or by an engineer of the department, or by a land surveyor duly licensed as aforesaid, is deposited of record as aforesaid, the same shall be deemed and taken to have been deposited by the direction and authority of the Minister, and as indicating that in his judgment the land therein described is necessary for the purposes of the public work ; and the said plan and description shall not be called in question except by the Minister or by some person acting for him, or for the Crown :

Effect of certified copy.

6. A copy of any such plan and description, certified by the registrar of deeds, or his deputy, to be a true copy thereof, shall, without proof of the official character or handwriting of such registrar or deputy, be deemed and taken in all courts as *prima facie* evidence of the original, and of the depositing thereof :

Notwithstanding decease of certifying officer.

7. A copy of any such plan and description, certified by the registrar of deeds, or by his deputy, as in the next preceding sub-section mentioned, shall be *prima facie* evidence of the original and of the depositing thereof, although such registrar or deputy, at the time the same is so offered in evidence, is dead, or has resigned or has been removed from office :

When Provincial Crown lands are taken.

8. If the land taken is Crown land, under the control of the Government of the Province in which such land is situate, a plan of such land shall also be deposited in the Crown Land Department of the Province :

Registration not necessary.

9. No surrender, conveyance, agreement or award under this Act shall require registration or enrolment to preserve the rights of Her Majesty under it, but the same may be registered in the registry office of deeds for the place where the land lies, if the Minister deems it advisable. 37 V., c. 13, s. 3, *part* ;—44 V., c. 25, s. 3, *part*, and s. 10, *part*.

Effect of contract made before deposit of plan.

6. Every contract or agreement made by any person authorized by this Act to convey land, and made before the deposit of the plans and description, and before the setting out and ascertaining of the land required for the public work,

shall be binding at the price agreed upon for the same land, if it is afterwards so set out and ascertained within one year from the date of the contract or agreement, and although such land has, in the meantime, become the property of a third person; and possession of the land may be taken, and the agreement and price may be dealt with, as if such price had been fixed by an award of the official arbitrators, as hereinafter provided; and the agreement shall be in the place of an award. 44 V., c. 25, s. 11.

7. Whenever any gravel, stone, earth, sand or water is taken as aforesaid, at a distance from the public work, the Minister may lay down the necessary sidings, water pipes or conduits, or tracks over or through any land intervening between the public work and the land on which such material or water is found, whatever the distance is; and all the provisions of this Act, except such as relate to the filing of plans and descriptions, shall apply and may be used and exercised to obtain the right of way from the public work to the land on which such materials are situate; and such right may be acquired for a term of years, or permanently, as the Minister thinks proper; and the powers in this section contained may, at all times, be exercised and used in all respects, after the public work is constructed, for the purpose of repairing and maintaining the same. 44 V., c. 25, s. 12.

Powers to make sidings &c., to lands where materials are taken.

And for maintaining the railway.

8. Whenever, for the purpose of procuring sufficient lands for railway stations or gravel pits, or for constructing, maintaining and using the public work, any land may be taken under the provisions of this Act, and by purchasing the whole of any lot or parcel of land, of which any part may be taken under the said provisions, the Minister can obtain the same at a more reasonable price, or to greater advantage than by purchasing such part only as aforesaid, he may purchase, hold, use or enjoy the whole of such lot or parcel, and also the right of way thereto, if the same is separated from the public work, and may sell and convey the same, or any part thereof, from time to time, as he deems expedient; but the compulsory provisions of this Act shall not apply to the taking of any portion of such lot or parcel which is not, in the opinion of the Minister, necessary for the purposes aforesaid. 44 V., c. 25, s. 13.

When whole lot can be more advantageously purchased than a part.

9. The Minister may employ any person duly licensed or empowered to act as a surveyor for any Province in Canada, or any engineer, to make any survey, or establish any boundary and furnish the plans and descriptions of any property acquired or to be acquired by Her Majesty for the public work; and such surveys, boundaries, plans and descriptions shall have the same effect as if the operations pertaining thereto or connected therewith had been per-

Who may be employed to make surveys of land required.

Boundaries. formed by a land surveyor duly licensed and sworn in and for the Province in which the property is situate; and the boundaries of such properties may be permanently established by means of proper stone or iron monuments, planted by the engineer or surveyor so employed by the Minister, and shall be of the same effect, to all intents and purposes, as if such boundaries had been drawn and such monuments planted by a land surveyor duly licensed and sworn for the Province in which the property is situate; and such boundaries shall be held to be the true and unalterable boundaries of such property, provided they are so established and such monuments of iron or stone are planted, after due notice thereof has been given in writing to the proprietors of the land thereby affected, and that a *procès-verbal* or written description of such boundaries is approved and signed, in the presence of two witnesses, by such engineer or surveyor, on behalf of the Minister, and by the other person concerned; or that in case of the refusal of any person to approve or to sign the same, such refusal is recorded in such *procès-verbal* or description; and provided such boundary marks or monuments are planted in the presence of at least one witness, who shall sign the said *procès-verbal* or description; and provided also, that it shall not be incumbent on the Minister or those acting for him to have the boundaries established with the formalities in this section mentioned, but the same may be resorted to whenever he deems it necessary so to do. 31 V., c. 12, s. 23;—44 V., c. 25, s. 14.

Effect of survey.

Witnesses.

Proviso: formalities not obligatory.

COMPENSATION FOR LAND DAMAGES AND PAYMENT THEREOF.

Tender of composition and notice of arbitration. **10.** Whenever the Minister, or the person acting for him in that behalf, fails to agree with any person or corporation as to the value to be paid for any lands taken, or for compensation as aforesaid, the Minister, or the person acting for him, may tender the reasonable value, in his estimation, of the same, with a notice that if the offer is not accepted the question will be submitted to the official arbitrators; and in case such person does not reside, or such corporation has not its office on or near the property so required or used, the notice of submission shall be published in the *Canada Gazette* and in two newspapers published in or near the district or county in which such property is situate:

What shall be a legal tender. 2. Every tender by the Minister shall be deemed to be legally made by any written authority for the payment of such sum, given under the hand of the Minister, or the person acting for him in that behalf, and notified to the person having such claim. 31 V., c. 12, ss. 27 and 28 and s. 34, part;—44 V., c. 25, s. 15 and s. 27, part.

Compensation money to stand in lieu of land. **11.** The compensation money agreed upon or awarded by the official arbitrators for any land or property acquired or taken by the Minister shall stand in the stead of such land

or property; and any claim to or incumbrance upon such land or property shall, as respects Her Majesty, be converted into a claim to such compensation money or to a proportionate amount thereof, and shall be void as respects the land or property, which shall, by the fact of the taking possession thereof, or the filing of the plan and description, as the case may be, become and be absolutely vested in Her Majesty—subject always to the determination of the compensation to be paid and to the payment thereof when such conveyance, agreement or award has been made. 37 V., c. 13, s. 1;—44 V., c. 25, s. 18.

12. If the person conveying such land or property could not, without this Act, have conveyed the same or agreed for the compensation to be paid therefor, or if any owner or person to whom the compensation money, or any part thereof, is payable, refuses to execute the proper conveyance or other requisite instrument of transfer of the premises, or if the person entitled to claim the same cannot be found or is unknown to the Minister, or if the Minister has reason to fear any claim or incumbrance, or if for any other reason he deems it advisable—then, if the land or property so acquired or taken is situate in any of the Provinces of Canada other than Quebec, the Minister may pay such compensation money or sum awarded, or if there has been no compensation money agreed upon or amount awarded, then such sum of money as, in the opinion of the Minister, is sufficient compensation for such land or property, into the office of one of the superior courts for the Province in which the land is situate, with the interest thereon for six months, and may deliver to the clerk or prothonotary of the court a copy of the conveyance or of the agreement or award, or a certified copy of the plan and description. 37 V., c. 13, s. 2, *part*;—44 V., c. 25, s. 19.

As to clearing incumbrances in Provinces other than Quebec.

Payment into court.

13. A notice, in such form and for such time as the court appoints, shall be inserted by the clerk or prothonotary in a newspaper, if there is any published in the district or county in which the lands are situate—which shall state that Her Majesty has acquired title under this Act, and shall call upon all persons entitled to the land or to any part thereof, or representing or being the husbands of any persons so entitled, or claiming to hold or represent incumbrances thereon or interests therein, to file their claims to the compensation money or any part thereof; and all such claims shall be received and adjudged upon by the court, and the said proceedings shall forever bar all claims to the compensation money or any part thereof, including any claim in respect of dower as well as in respect of all mortgages or incumbrances upon the same; and the court shall make such order for the distribution, payment or investment of the compensation money and for the securing

Notice of such payment to be given.

Claims to be adjudged on by the court.

of the rights of all persons interested, as to right and justice and according to the provisions of this Act and to law appertain. 37 V., c. 13, s. 2, *part*;—44 V., c. 25, s. 20.

If the lands are in the Province of Quebec.

14. If the land or property so acquired or taken is situate in the Province of Quebec, the Minister may pay such compensation money or sum awarded, or if there has been none such, then such sum of money as, in the opinion of the Minister, is sufficient compensation for such land or property, into the hands of the prothonotary of the superior court for the district in which the land is situate, with the interest thereon for six months, and deliver to the said prothonotary an authentic copy or a copy verified by him of the conveyance or of the agreement or award, or a certified copy of the plan and description; and the same shall be deemed the title of Her Majesty to the land or property therein mentioned; and proceedings shall be had for the confirmation of such title of Her Majesty in like manner as in other cases of confirmation of title—except that in addition to the usual contents of the notice in such cases, the prothonotary shall state that Her Majesty has acquired title under this Act, and shall call upon all persons entitled to the land or property or any part thereof, or representing or being the husband of any person so entitled, to file their claims to the compensation money or any part thereof; and all such claims shall be received and adjudged upon by the court; and the said proceedings shall forever bar all claims to the compensation or any part thereof (including dower not yet open) as well as in respect of any mortgage, hypothec or incumbrance upon the same, and the court shall make such order for the distribution, payment or investment of the compensation money and for the security of the rights of all persons interested, as to right and justice and the provisions of this Act and to law appertain. 37 V., c. 13, s. 2, *part*;—44 V., c. 25, s. 21.

Proceedings for confirmation of title.

Judgment to bar all claims not filed.

As to costs and interest.

15. The costs of the proceedings or any part thereof, shall be paid by the Minister or by any other person, as the court orders, and if the order of distribution is obtained in less than six months from the payment of the compensation money into the court or to the prothonotary, the court shall direct a proportionate part of the interest to be returned to the Minister; and if, from any error, fault or neglect of the Minister, it is not obtained until after six months have expired, the court shall order the Minister to pay into court or to the prothonotary the interest for such further period as is right. 37 V., c. 13, s. 2, *part*;—44 V., c. 25, s. 22.

Payment when price does not exceed \$100.

16. If the price or compensation money agreed for or awarded does not exceed one hundred dollars, it may, in any Province, be paid to the person who, under this Act, can lawfully convey the lands or property or agree for the

compensation to be made in the case, with the same effect as if it had been paid into court under this Act; saving always the rights of any other person to such compensation money as against the person receiving the same. 37 V., c. 13, s. 2, *part*;—44 V., c. 25, s. 23.

17. If any person entitled to any compensation as aforesaid, is dissatisfied with the amount so paid by the Minister into the court or to the prothonotary of the court as aforesaid, the question of the amount of compensation may be referred to the official arbitrators or to one or to any greater number of arbitrators as the Minister sees fit; and the Minister may pay the amount of any award thereon into a court or to the prothonotary of a court, as the case may be, and the court shall make such order as to the same as if it had been paid in as compensation, as hereinbefore mentioned. 37 V., c. 13, s. 2, *part*;—44 V., c. 25, s. 24.

Reference to arbitrators if claimant is dissatisfied.

18. The compensation agreed on between the parties, or appraised and awarded, shall be paid for such land, real property, streams, water and watercourses, timber, stone or other material, to the owners or occupiers of such land or property, or to the persons suffering such damage as aforesaid, or into court as aforesaid, within six months after the amount of such compensation has been agreed on or appraised and awarded. 31 V., c. 12, s. 26;—37 V., c. 13, s. 4;—44 V., c. 25, s. 25;—45 V., c. 36.

Within what time compensation shall be paid

LANDS VESTED IN HER MAJESTY.

19. All lands, streams, watercourses and property acquired for any public work shall be vested in Her Majesty and, when not required for the public work, may be sold or disposed of under the authority of the Governor in Council, and all hydraulic powers created by the construction of any public work, or the expenditure of public money thereon, shall be vested in Her Majesty, and any portion thereof not required for the public work may be sold or leased under the authority aforesaid; and any portion of the shore or bed of any public harbor vested in Her Majesty, as represented by the Government of Canada, not required for public purposes, may, on the joint recommendation of the Ministers of Public Works and of Marine and Fisheries, be sold or leased under the authority aforesaid; and the proceeds of all such sales and leases shall be accounted for as public money; but no such sale or lease shall prejudice or affect any right or privilege of any riparian owner. 44 V., c. 25, s. 97;—47 V., c. 16, s. 1.

Lands acquired vested in Her Majesty.

Shores and beds of public harbors may be sold, &c.

Private rights saved.



CHAPTER 40.

An Act respecting the Official Arbitrators.

A.D. 1886,

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

INTERPRETATION.

1. In this Act, unless the context otherwise requires,—
- (a.) The expression “Minister” means the head of the department charged with the construction and maintenance of the public work, or with respect to which the claim has arisen ; Interpretation.
“Minister.”
- (b.) The expression “department” means the department of the Government of Canada charged with the construction and maintenance of the public work, or with respect to which the claim has arisen ; “Department.”
- (c.) The expression “public work” or “public works” means and includes the dams, hydraulic works, hydraulic privileges, harbors, wharves, piers and works for improving the navigation of any water—lighthouses and beacons—the slides, dams, piers, booms and other works for facilitating the transmission of timber—the roads and bridges, the public buildings, the telegraph lines, Government railways, canals, locks, fortifications and other works of defence, and all other property which now belong to Canada, and also the works and properties acquired, constructed, extended, enlarged, repaired or improved at the expense of Canada, or for the acquisition, construction, repairing, extending, enlarging or improving of which any public money is voted and appropriated by Parliament, and every work required for any such purpose ; but not any work for which money is appropriated as a subsidy only ; 31 V., c. 12, s. 10, *part* ;— 35 V., c. 24, s. 1, *part*. “Public work.”
- (d.) The expression “arbitrators” means the official arbitrators appointed under this Act, and includes “arbitrator,” when any claim is referred, under the provisions hereof, to a single arbitrator. “Arbitrators.”

OFFICIAL ARBITRATORS.

2. The Governor in Council may, from time to time, appoint any number of persons not exceeding four, who shall be official arbitrators for Canada : Appointment of arbitrators

Remuneration.

2. Every such arbitrator shall receive such remuneration as is, from time to time, fixed by the Governor in Council. 31 V., c. 12, s. 31, *part*.

Oath to be taken.

3. Every arbitrator shall take, before the Minister of Public Works or the Minister of Railways and Canals, or some one of Her Majesty's justices of the peace, an oath in the form following, that is to say:—

Form of oath.

“ I, A. B., do swear that I will well and truly hear, try and examine into such claims as are submitted to me for compensation for land or property taken possession of for the use and purposes of any public work, and that I will also well and truly examine into such claims as are submitted to me for compensation for damages consequent upon the construction of any public work, or for payment or allowance in respect of any contract; and that I will give a true judgment and just award thereon to the best of my knowledge and ability; and that I will take into due consideration the benefits derived and to be derived by the claimants through the construction of such public work as well as the injury done thereby. So help me God.” 31 V., c. 12, s. 32;—42 V., c. 7, s. 12, *part*.

Appointment of clerk.

4. The Governor in Council may appoint one or more proper persons to act as clerk or clerks to the arbitrators, and may fix the amount of the remuneration to be allowed to any such clerk. 31 V., c. 12, s. 33.

Duties of the arbitrators.

5. The arbitrators shall arbitrate on, appraise, determine and award the sums which shall be paid to any person for land or property taken for any public work, or for loss or damage caused by such taking, or in respect of any claim arising out of any contract, and with whom the Minister has not agreed, and cannot agree, or in respect of any other claim which may be referred to the said arbitrators under the provisions of this Act or of any other Act of the Parliament of Canada. 31 V., c. 12, s. 31, *part*.

How claims may be preferred.

6. If any person has any claim for property taken, or for alleged direct or consequential damage to property, arising from or connected with the construction, repair, maintenance or working of any public work, or arising out of anything done by the Government of Canada, or arising out of any death, or any injury to person or property on any public work, or any claim arising out of or connected with the execution or fulfilment, or on account of deductions made for the non-execution or non-fulfilment of any contract made and entered into on behalf of Her Majesty, such person may give notice, in writing, of such claim, to the Secretary of State—stating the particulars thereof, and how the same has arisen, which notice the Secretary of State shall refer to the head of the department with respect to which

the claim has so arisen : and thereupon the Minister may, at any time within thirty days after such notice, tender what he considers a fair compensation for the same, with notice that the said claim will be submitted to the decision of the arbitrators, unless the sum so tendered is accepted within ten days after such tender. 31 V., c. 12, s. 34, *part* ; —33 V., c. 23, s. 1 ; —44 V., c. 25, s. 27, *part*.

Action of the Minister thereon.

7. No arbitration shall be allowed in any case in which, by the terms of the contract therein, it is provided that the determination of any matters of difference arising out of or connected with the same shall be decided by the Minister, or by the architect, or by any engineer or officer of the department. 31 V., c. 12, s. 36 ; —44 V., c. 25, s. 29.

No arbitration when otherwise provided in contract.

8. No claim for land or other property alleged to have been taken for or injured by the construction, repair, maintenance or working of any public work, or for damages alleged to have been occasioned, directly or indirectly, to any such lands or other property by the construction, repair, maintenance or working of any such public work, or arising out of anything done by the Government of Canada, or arising out of any death or any injury to person or property on any public work, and no claim arising out of or connected with the execution or fulfilment, or on account of deductions made for the non-execution or non-fulfilment of any contract made and entered into on behalf of Her Majesty, shall be submitted to or be entertained by the arbitrators under this Act, unless such claim and the particulars thereof have been filed with the Secretary of State within twelve months next after the happening of the loss or injury complained of, when such claim relates to the taking of or damage occasioned to land or other property—and when such claim relates to or is alleged to arise out of the execution or fulfilment of any contract or agreement for the construction or maintenance of any public work, unless the same has been filed as aforesaid, within three months next after the date of the final estimate made under such contract ; and in other cases, unless the claim has been filed as aforesaid, within six months after the happening of the injury complained of, the breach of the contract or the act or omission upon which the claim is founded. 31 V., c. 12, s. 37 ; —33 V., c. 23, s. 2, *part* ; —44 V., c. 25, ss. 30 and 108.

Time within which claim may be made limited.

9. Every tender by the Minister shall be deemed to be legally made by any written authority for the payment of such sum, given under the hand of the Minister or the person acting for him in that behalf, and notified to the person who has such claim. 31 V., c. 12, s. 34, *part* ; —44 V., c. 25, s. 27, *part*.

What shall be deemed a legal tender.

10. The Minister may refer any of the claims aforesaid, or any question which he is authorized to refer, either to one

Reference may be to

one or more arbitrators.

One may take the evidence and hear the parties.

or to any greater number of arbitrators as he sees fit; and except in case of appeal as hereinafter provided, when the claim or question has not been referred to the whole board, the award of the sole arbitrator shall be binding, if there is only one; and the award of the majority of the arbitrators if there are three or more acting in the case, shall be binding as if made by all the arbitrators: and whenever the claim or question is referred to more than one of the arbitrators, any one of them may receive the evidence and hear the parties, and may exercise all the powers of the arbitrators preliminary or incident to the hearing and to the taking of the evidence, which shall thereafter be submitted to all the arbitrators to whom the case is referred, and the award of the majority of whom shall be binding, except in case of appeal as aforesaid. 31 V., c. 12, s. 35;—44 V., c. 25, s. 28.

Minister may refer certain claims to arbitration without previous tender.

Duty of arbitrators in such case.

11. If the Minister, from want of sufficient or reliable information as to the facts relating to any such claim, or on account of conflicting statements of facts, does not consider the case one in which a tender of satisfaction should be made, he may refer the claim to one or more of the arbitrators for examination and report, both as to matters of fact involved, and as to the amount of damages, if any, sustained; and thereupon the arbitrator or arbitrators to whom the claim has been referred shall have all the powers in reference thereto, that he or they would have if such claim had been referred after tender of satisfaction made; but the arbitrators' duty in such case shall be confined to reporting his or their findings upon the questions of fact, and upon the amount of damages, if any, sustained, and the principles upon which such amount has been computed. 41 V., c. 8, s. 3;—44 V., c. 25, s. 27, *part*.

Security to be given by claimant.

12. Before any claim is arbitrated upon, the claimant shall give security to the satisfaction of the arbitrators, or any one of them, for the payment of the costs and expenses incurred in respect to the arbitration in the event of the award being against such claimant, or of its not exceeding the sum tendered. 31 V., c. 12, s. 34, *part*;—44 V., c. 25, s. 27, *part*.

POWERS OF THE ARBITRATORS, AND PROCEEDINGS BY OR BEFORE THEM.

Witnesses may be summoned.

13. The arbitrators may, by summons or order in writing, signed by any one of them, or by their clerk or secretary, and left at the usual or last place of residence of the person to whom it is addressed, command the attendance from any part of Canada, of any person as a witness, or the production of any documents required by any of the parties, and may swear the witnesses to testify truly respecting the matters

on which they are to be interrogated ; and every person who disobeys any such summons or order in writing, or neglects or refuses to attend and produce such documents, shall incur a penalty not exceeding twenty-five dollars and not less than five dollars, which shall be recoverable in a summary manner before any justice of the peace, and shall be levied under the warrant of such justice, by distress and sale of the goods and chattels of the offender, unless the person establishes a reasonable cause for such disobedience, neglect or refusal :

Penalty for non-attendance.

2. No person shall be compelled to produce any document that he would not be compelled to produce at a trial in any superior court of the Province in which the arbitrators are sitting, or to attend as a witness more than three consecutive days ; and every witness shall be allowed, in addition to his reasonable travelling expenses, a sum not exceeding one dollar a day, in the discretion of the arbitrators ; and such remuneration shall be paid by the person requiring the attendance of the witness. 31 V., c. 12, s. 38 ;—44 V., c. 25, s. 31.

What production cannot be compelled.

Allowances to witnesses.

14. In the investigation of any claim, the arbitrators shall cause all legal evidence offered on each side to be taken down and recorded in writing, and shall make and keep a list of all plans, receipts, vouchers, documents and other papers produced before them during such investigation ; but they may, with the consent in writing of the Minister and of the opposite party, take the evidence of the witnesses adduced on either side, orally, and in such case need not reduce it to writing :

Evidence to be reduced to writing.

2. With the consent of the Minister or his agent and of the opposite party, the evidence of the said witnesses may be taken down in shorthand by a stenographer, who shall be previously sworn before one of the arbitrators, faithfully to take down and transcribe the evidence, and who shall, at the conclusion of the examination of a witness, read over the same to him ; and such evidence shall, when transcribed in ordinary writing and signed by the witness, if he can write, and if not, then attested by the stenographer, form the record of his evidence :

Employment of stenographer.

His duty.

3. The expenses incurred under this section in any case, shall be costs therein, and taxed and paid as such. 31 V., c. 12, s. 42 ;—41 V., c. 8, ss. 1 and 2 ;—44 V., c. 25, s. 33.

Costs in such case.

15. The arbitrators shall consider the advantage, as well as the disadvantage, of the public work, as respects the land or real property of any person through which the same passes or to which it is contiguous, or as regards any claim for compensation for damages caused thereby ; and the arbitrators shall, in assessing the value of any land or property taken, or in estimating and awarding the amount of damages, take into consideration the advantages accrued or likely to accrue to such person or his estate, as well as the

Certain matters to be taken into consideration by the arbitrators.

injury or damages occasioned by reason of the public work. 31 V., c. 12, s. 39;—44 V., c. 25, s. 16.

Value to be estimated as at the time of taking possession.

16. The arbitrators, in estimating and awarding the amount to be paid to any claimant for injury done to any land or property, and in estimating the amount to be paid for lands taken, shall estimate or assess the value thereof at the time when the injury complained of was occasioned, and not according to the value of the adjoining lands at the time of making their award. 31 V., c. 12, s. 40;—44 V., c. 25, s. 17.

Restrictions as to awards upon contracts.

17. In awarding upon any claim arising out of any contract in writing, the arbitrators shall decide in accordance with the stipulations in such contract, and shall not award compensation to any claimant on the ground that he expended a larger sum of money in the performance of his contract than the amount stipulated therein; nor shall they award interest on any sum of money which they consider to be due to such claimant, in the absence of any contract in writing, stipulating payment of such interest; and no clause in any such contract in which a drawback or penalty is stipulated for the non-performance of any condition thereof, or any neglect to complete any work, or to fulfil any covenant in such contract, shall be considered as comminatory, but it shall be construed as importing an assessment by mutual consent, of the damages caused by such non-performance or neglect. 31 V., c. 12, s. 41;—44 V., c. 25, s. 32.

How penalties in contracts shall be construed.

Copies of award to be delivered.

18. The arbitrators shall deliver to the Minister a copy of their award in each case, and to each individual claimant a copy of so much thereof as relates to his particular claim, within one month after they have agreed to the same. 31 V., c. 12, s. 43;—44 V., c. 25, s. 34.

Appeal to whole board when all have not acted.

19. Whenever a claim has been referred to one arbitrator, or to more than one arbitrator, but not to the whole board, and the claimant is dissatisfied with the award made, such claimant may, by notice in writing, delivered to any arbitrator who has joined in the award, or to the clerk or secretary of the board, within one month after the award has been notified to the claimant, pursuant to the next preceding section of this Act, appeal to the board of arbitrators, and the board shall hear the appellant, and make such decision and award as to them, or a majority of them, seem just. 31 V., c. 12, s. 44;—44 V., c. 25, s. 35.

When only new evidence may be adduced on appeal.

20. In case of such appeal, the appellant shall have no right to adduce further evidence than that already given on the original reference, unless he shows to the satisfaction of the board, that his knowledge of the existence of such further evidence has arisen since the first hearing of the

case, or unless the board thinks it right on hearing the claimant, to admit further evidence. 31 V., c. 12, s. 45 ;—44 V., c. 25, s. 36.

21. The clerk or secretary to the arbitrators shall, on payment at the rate of ten cents for every hundred words and twenty cents additional for every certificate, deliver to any person requiring the same, certified copies of any depositions or papers taken or filed before the arbitrators. 31 V., c. 12, s. 46 ;—44 V., c. 25, s. 37.

Copies of depositions and papers.

22. If the amount awarded in any case is greater than the amount tendered, Her Majesty shall pay the costs of arbitration, but if not greater the costs shall be paid by the claimant; and such costs shall, in other cases when the award is in favor of the claimant, be paid by Her Majesty, in addition to the amount awarded. 31 V., c. 12, s. 47, and s. 48, *part* ;—44 V., c. 25, s. 38 and s. 39, *part*.

Costs, by whom to be paid.

23. The costs shall, in either case, be taxed by the proper officer of the High Court of Justice of Ontario in the Province of Ontario, or of the Court of Queen's Bench, or the Supreme Court, in the Provinces of Nova Scotia, New Brunswick, Prince Edward Island, Manitoba and British Columbia and in the North-West Territories, and in the Province of Quebec by a judge of the Superior Court. 31 V., c. 12, s. 48, *part* ;—44 V., c. 25, s. 39, *part* ;—49 V., c. 25, s. 14.

Costs to be taxed.

APPEAL TO THE EXCHEQUER COURT.

24. An appeal shall lie to the Exchequer Court of Canada in all cases of arbitration under this Act, when the claim exceeds in value the sum of five hundred dollars according to the *bonâ fide* belief of the party or parties complaining of the award as shown on affidavit. 42 V., c. 8, s. 2 ;—44 V., c. 25, s. 40.

Appeal to the Exchequer Court.

25. In every case of appeal to the Exchequer Court of Canada, the submission, whether compulsory or by consent, may be made a rule of such court, upon motion and affidavits setting forth the facts. 42 V., c. 8, s. 3 ;—44 V., c. 25, s. 41.

Submission may be made a rule of court.

26. The court may set aside the award made and may remit the matters referred, or any or either of them, to the re-consideration and re-determination of the arbitrators, as the case requires, upon such terms as to costs or otherwise as the court deems proper. 42 V., c. 8, s. 4 ;—44 V., c. 25, s. 42.

Powers of the court in such cases.

27. Every application to set aside any award made, or to have the matter thereof remitted for re-consideration, shall

Time for application limited.

be made to the court within three months after the publication of the award and notice to the parties, but the time of the vacations of the court shall not be counted as part of such time. 42 V., c. 8, s. 5;—44 V., c. 25, s. 43.

Court may finally determine the case.

28. The court may, if it thinks proper, upon the evidence taken before the arbitrators, or upon the same and any further evidence which it orders to be adduced before it, make such final order and determination of the matters referred as it deems just and right between the parties; and such final order and determination shall be ordered to be performed and shall be enforced by the court, and the same shall be taken and dealt with as a final award under the authority hereof. 42 V., c. 8, s. 6;—44 V., c. 25, s. 44.

Execution of order.

Security for costs to be given.

29. No application shall be entertained by the court to set aside any award made, or to remit the subject matter thereof for re-consideration, until a deposit of fifty dollars has been paid to the registrar of the court as security for any costs that may be incurred,—which deposit shall be subject to the order of the court. 42 V., c. 8, s. 7;—44 V., c. 25, s. 45.

Further powers of the court.

30. The court shall have and may exercise all the powers contained in "*The Supreme and Exchequer Courts Act*," which, according to the nature of the case, are applicable to cases of reference under this Act. 42 V., c. 8, s. 8;—44 V., c. 25, s. 46.

Appeal to the Supreme Court.

31. An appeal shall lie from the Exchequer Court to the Supreme Court, from all judgments, orders, rules and decisions, in like cases and upon the same terms and conditions as are provided in "*The Supreme and Exchequer Courts Act*." 42 V., c. 8, s. 9;—44 V., c. 25, s. 47.

Costs; and enforcement of process.

32. All costs on appeal, whether for or against the claimant, or for or against Her Majesty, shall be in the order and discretion of the court, and shall be taxed and allowed by its proper officer; and all judgments, orders and decisions of the court shall be enforced by its process. 42 V., c. 8, s. 10;—44 V., c. 25, s. 48.



CHAPTER 41.

An Act respecting the Militia and Defence of Canada. A. D. 1886.

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

SHORT TITLE.

1. This Act may be cited as "*The Militia Act.*" 46 V., Short title. c. 11, s. 100.

INTERPRETATION.

2. In this Act, unless the context otherwise requires, the expression "corps" includes any Field Battery, Brigade, or Battery of Artillery, Troop of Cavalry, or any Company, Battalion, or Regiment: Interpretation.

2. "*The Interpretation Act*" shall apply to all regulations, orders and articles of engagement lawfully made or entered into under this Act. 46 V., c. 11, s. 98, *part.* Interpretation Act to apply to regulations, &c

COMMAND IN CHIEF.

3. The Command in chief of the Land and Naval Militia, and of all Military and Naval Forces, of and in Canada, is vested in the Queen, and shall be exercised and administered by Her Majesty personally or by the Governor General as Her representative. 46 V., c. 11, s. 1. Command in Chief vested in Her Majesty; how exercised.

DEPARTMENT OF MILITIA AND DEFENCE.

4. There shall be a Minister of Militia and Defence, who shall be charged with and be responsible for the administration of Militia affairs, including all matters involving expenditure, and of the fortifications, gunboats, ordnance, ammunition, arms, armories, stores, munitions and habiliments of war belonging to Canada: Minister of Militia and Defence; his duties.

2. The Minister of Militia and Defence shall have the initiative in all Militia affairs involving the expenditure of money: Initiative in money matters.

3. The Governor in Council shall, from time to time, make such orders as are necessary respecting the duties to be performed by the Minister of Militia and Defence. 46 V., c. 11, s. 2. Further duties.

Deputy and officers.

5. The Governor in Council may appoint a deputy of the Minister of Militia and Defence, and such other officers as are necessary for carrying on the business of the department,—all of whom shall hold office during pleasure. 46 V., c. 11, s. 3.

WORKS FOR DEFENCE.

Minister to have control of military buildings, &c.

6. The Minister of Militia and Defence shall have the control and management and shall be charged with the maintenance and repair of all military buildings, forts and fortifications in Canada. 47 V., c. 17, s. 1.

Works for defence may be declared public works.

7. The Governor in Council may declare any work for or connected with the defence of Canada, to be a public work within the meaning of "*The Public Works Act*," whether such work is to be constructed or the land required for it is to be acquired, wholly at the expense of Canada, or partly or wholly at the expense of the Government of the United Kingdom; and all the powers conferred upon the Minister of Public Works by "*The Expropriation Act*" and the "*Act respecting the Official Arbitrators*" shall thereupon, with regard to such work, be conferred upon the Minister of Militia and Defence, and all the powers conferred upon the Official Arbitrators, or any of them, by the Act lastly cited, shall then extend and apply to such work, and to the lands and property required for the same, as shall also such sections and provisions of "*The Public Works Act*" as the Governor in Council, from time to time, directs. 31 V., c. 12, s. 49.

Minister to have certain powers.

Powers of the Minister to extend to the exercise of clearance rights.

8. The powers of the Minister of Militia and Defence shall, with respect to any work so declared to be a public work, extend to the demolition and removal of all such buildings, walls, woods, trees, fences or other obstructions, natural or artificial, and to the filling up of such hollows, natural or artificial, on any land, as would, in the opinion of the engineers, civil or military, employed on such work, impair the effect thereof, and to the preventing the construction or existence of any such obstruction thereafter, without acquiring the land itself; and the said Minister or his agents may, under "*The Expropriation Act*," enter upon any such lands and cause the required work to be performed, and may, at any time thereafter, again enter thereupon and remove any such obstruction so as to restore the land to the state in which it was after the first performance of such work; and if the renewal of any such obstruction has been caused by the fault of the owner of the lands, or of those through whom he claims, the cost of removing it may be recovered from him by the said Minister; and the compensation to be paid for the exercise of the powers given by this section shall, if not agreed upon by the parties, be determined by the official arbitrators. 31 V., c. 12, s. 50.

Compensation to be fixed by arbitrators.

9. Every work in any part of Canada, certified by the commander of Her Majesty's forces in Canada, or in the Province in which such work is or is to be situate, to be required for the defence of Canada, shall be held to be a public work within the meaning of "*The Public Works Act*," and Her Majesty's Principal Secretary of State for the War Department shall have the same powers and rights with regard to the taking possession of lands or materials required for any such work, and with regard to lands required to be cleared and kept cleared of obstructions as aforesaid, as are hereby vested in the Minister of Militia and Defence; and the price to be paid for such lands or the compensation to be paid for the exercise of such powers and rights, if not agreed upon by the parties, shall be determined by the official arbitrators, as if such lands had been taken, or such powers and rights exercised, by the said Minister. 31 V., c. 12, s. 51, *part*.

Powers of
Secretary of
State for war

MILITIAMEN.

10. The Militia shall consist of all the male inhabitants of Canada, of the age of eighteen years and upwards, and under sixty—not exempted or disqualified by law, and being British subjects by birth or naturalization; but Her Majesty may require all the male inhabitants of Canada, capable of bearing arms, to serve in case of a *Levée en Masse*. 46 V., c. 11, s. 4.

Militia, of
whom com-
posed.

Proviso.

11. The male population so liable to serve in the Militia shall be divided into four classes:—

Classes of
militiamen.

The first class shall comprise those of the age of eighteen years and upwards, but under thirty years, who are unmarried or widowers without children;

First class.

The second class shall comprise those of the age of thirty years and upwards, but under forty-five years, who are unmarried or widowers without children;

Second.

The third class shall comprise those of the age of eighteen years and upwards, but under forty-five years, who are married or widowers with children;

Third.

The fourth class shall comprise those of the age of forty-five years and upwards, but under sixty years:

Fourth.

And the above shall be the order in which the male population shall be called upon to serve. 46 V., c. 11, s. 5.

Order for
service.

DIVISION OF MILITIA.

12. The Militia shall be divided into Active and Reserve Militia—Land Force; and Active and Reserve Militia—Marine Force:

Divisions of
the force.

The Active Militia—Land Force—shall be composed of—

(a.) Corps raised by voluntary enlistment;

(b.) Corps raised by ballot;

Land—active

(c.) Corps composed of men raised by voluntary enlistment and men balloted to serve :

Marine—
active.

The Active Militia—Marine Force—to be raised similarly, shall be composed of seamen, sailors and persons whose usual occupation is upon any steam or sailing craft, navigating the waters of Canada :

Reserve—
Land and
Marine.

The Reserve Militia—Land and Marine—shall consist of the whole of the men who are not serving in the Active Militia for the time being. 46 V., c. 11, s. 6.

PERIOD OF SERVICE.

Period of
service.

13. The period of service in the Active Militia in time of peace shall be three years. 46 V., c. 11, s. 7.

Present
active corps
continued.

14. Every corps of Active Militia duly authorized previously to and existing on the day on which this Act comes into force, including the officers commissioned thereto, shall, for the purposes of this Act, be held to be existing, and shall be continued as such, subject to the provisions of this Act ;

Exemption in
favor of
three years'
service men.

and thereafter, such men of any corps of Active Militia in any regimental division, as complete three years continuous service in such corps, or complete three years including any previous continuous service in the same corps immediately before the date this Act comes into force, or had served three years continuously in such corps immediately before such date, and are discharged, shall not be liable to be balloted for any period of drill or training of the Active Militia, until all the other men in the first, second and third classes of militiamen in the company division within which they reside, have volunteered or been balloted to serve. 46 V., c. 11, s. 8.

Until others
have been
balloted or
volunteered

Notice by
volunteers be-
fore retiring

15. No officer or man of an Active Militia corps, raised and maintained by voluntary enlistment, shall be permitted to retire therefrom in time of peace, without giving to his commanding officer six months' notice of his intention so to do. 46 V., c. 11, s. 9.

MILITARY DIVISIONS.

Military dis-
tricts to be
constituted
by Her Ma-
jesty.

16. Her Majesty may divide Canada into twelve military districts, that is to say : one comprising the Province of Nova Scotia, one comprising the Province of New Brunswick, one comprising the Province of Prince Edward Island, one comprising the Province of Manitoba, the North-West Territories and the District of Keewatin, one comprising the Province of British Columbia, three in the Province of Quebec, and four in the Province of Ontario. 46 V., c. 11, s. 10.

Power to
alter such
districts.

17. Her Majesty may alter the districts specified in the next preceding section, and increase or diminish the number thereof as is deemed necessary ; and may name the territorial

divisions which shall form each of the three military districts of Quebec, and each of the four military districts of Ontario, and may alter the same from time to time. 46 V., c. 11, s. 11.

18. Her Majesty may, from time to time, divide each military district into such number of regimental and brigade divisions as is deemed expedient, and may sub-divide such regimental divisions into company divisions ;—and may also, from time to time, alter such divisions or increase or diminish the number thereof; but all military districts and divisions existing on the day on which this Act comes into force, shall be continued as such, until altered under the provisions of this Act. 46 V., c. 11, s. 12.

Regimental and brigade and company divisions.

Power to alter.

Proviso: as to existing divisions.

ENROLMENT.

19. There shall be appointed for each regimental division from the residents therein, one Lieutenant-Colonel and two Majors of Reserve Militia; but such officers may be appointed from among non-residents in the regimental division in exceptional cases in which it appears to Her Majesty that such appointments will be more conducive to the interest of the Militia service; all orders and reports relating to the enrolment, at any time, of militiamen within the regimental division, shall be sent to, and received through and be acted on by the Lieutenant-Colonel, or in his absence through the senior Major of the division, for the time being, who shall act instead of the Lieutenant-Colonel during such absence:

Resident officers.

Exception.

Orders and reports, as to enrolment.

2. There shall be appointed for each company division from the residents therein, one Captain and two Lieutenants of Reserve Militia; and all orders and reports relating to the enrolment at any time of militiamen within the company division shall be sent to, and acted on by the Captain; or in his absence they shall be sent to the next senior officer of the company division, for the time being, who shall act instead of the Captain during such absence:

Officers of company divisions.

3. Notwithstanding anything contained in the preceding sub-section, appointments for company divisions in any city or town may be made from the residents of the regimental division within such city or town. 46 V., c. 11, s. 13.

Officers in cities or towns.

20. The enrolment of the Militia shall be made in each company division by the Captain thereof, with the assistance of the officers and non-commissioned officers of the company division; and the Captain, and under his orders, the other officers and non-commissioned officers of the company division, shall, by actual inquiry at each house therein, and by every other means in their power, make and complete, from time to time, and at such times as are fixed by the Governor in Council, a corrected roll, in duplicate, of the names of all the men in the different classes resi-

How and by whom enrolment shall be made in company divisions.

At times fixed by Gov. in Council.

What they must show.

dent within the company division, specifying separately those who are seamen or sailors, or persons engaged in or upon any steam or sailing craft upon the lakes or waters of Canada, those who are *bonâ fide* enrolled members of any company of Active Militia, and those who, after the day on which this Act comes into force, shall have completed such a term of service in the Militia as by law exempts them until they are again required in their turn to serve :

Roll to be in duplicate; to whom to be sent.

2. One copy of such roll shall be retained by the Captain, and the other shall be forwarded, on or before such day as is fixed by the Governor in Council, to the Lieutenant-Colonel of the regimental division,—which last named officer shall cause a copy of all the rolls of militiamen in the several company divisions within the regimental division, to be forwarded without delay to the officer for the time being commanding the Militia; but if from any cause the duties prescribed by this section cannot, in any particular case, be carried into effect within the time appointed, a special report of the facts relating to the delay shall be made to the officer for the time being commanding the Militia, who shall, without delay, fix another period within which the enrolment shall be completed and the rolls be forwarded :

Special reports in cases of delay.

Effect of enrolment.

3. The enrolment shall be held to be an embodiment of all the militiamen enrolled, and shall render them liable to serve under the provisions of this Act, unless exempt by law. 46 V., c. 11, s. 14.

EXEMPTIONS.

Persons always exempted.

21. The following persons only, between the ages of eighteen and sixty years, shall be exempt from enrolment and from actual service at any time:—

The Judges of all the courts of justice in the Dominion of Canada;

The Clergy and Ministers of all religious denominations;

The Professors in every College and University and all teachers in religious orders;

Officers and persons regularly employed in the collection or management of the Revenue, or in accounting for the same;

The Warden and all officers and servants employed permanently in the Penitentiaries, and the officers, keepers and guards of all public Lunatic Asylums;

Persons disabled by bodily infirmity;

The only son of a widow, being her only support :

Exempted, except in case of war, &c.

2. The following persons, though enrolled, shall be exempt from actual service at any time except in case of war, invasion or insurrection:—

Half-pay and retired officers of Her Majesty's Army or Navy;

Seafaring men and sailors actually employed in their calling;

Pilots and apprentice pilots during the season of navigation ;

Masters of Public and Common schools actually engaged in teaching :

3. Every person bearing a certificate from the Society of Quakers, &c. Quakers, Mennonites or Tunkers, and every inhabitant of Canada of any religious denomination, otherwise subject to military duty, who, from the doctrines of his religion, is averse to bearing arms and refuses personal military service, shall be exempt from such service when balloted in time of peace or war, upon such conditions and under such regulations as the Governor in Council, from time to time, prescribes : Conditions.

4. No person shall be entitled to exemption unless he has, at least one month before he claims such exemption, filed with the Captain of the company division within the limits whereof he resides, his affidavit, made before some justice of the peace, of the facts on which he rests his claim : Exemption must be claimed.

5. Whenever exemption is claimed, whether on the ground of age or otherwise, the burden of proof shall be upon the claimant : And proved.

6. Exemption shall not prevent any person from serving if he desires it and is not disabled by bodily infirmity. 41 V., c. 7, s. 4, *part* ;—46 V., c. 11, s. 15 ;—46 V., c. 37, s. 26. Not to prevent volunteering.

ACTIVE MILITIA.

22. The Active Militia force shall consist of regiments and troops of cavalry, regiments and field batteries of artillery, companies of mounted infantry, companies of engineers, regiments and batteries of garrison artillery, battalions and companies of infantry, and naval and marine corps, in such proportions as Her Majesty appoints ; and the strength of each such regiment, troop, battery, battalion, company or corps, shall be regulated, and officers appointed thereto, from time to time, by Her Majesty. 46 V., c. 11, s. 16. Of what corps the active militia shall consist.

23. Her Majesty may make regulations for the enrolment of such horses as are necessary for the purposes of field batteries of artillery and troops of cavalry : Enrolment of horses.

2. A military train and a medical staff, as well as commissariat, transport, hospital and ambulance corps, may be formed whenever the exigencies of the service require the same, at such places and in such manner, and of such strength, including the proper officers, as Her Majesty directs : Other corps when required.

3. Whenever the exigencies of the service require it, Her Majesty may raise and maintain a corps of sub-marine miners of such strength and under such conditions as the Governor in Council considers necessary for the protection of harbors and other places on the seaboard and inland waters of Canada. 46 V., c. 11, s. 17. Corps of sub-marine miners may be raised.

Signing roll,
and taking
oath of al-
legiance.

24. Every active militiaman shall sign a service roll in which the conditions of his service shall be stated; and every officer of Militia, on appointment, and every man on enlistment, or re-enlistment, shall take an oath in the form following, that is to say:—

“I, A. B., do sincerely promise and swear (or solemnly declare) that I will be faithful and bear true allegiance to Her Majesty:”

How admin-
istered.

Which oath or declaration may be administered by the commanding officer of the troop, battery, company or battalion, as the case may be, who has taken the same oath before a justice of the peace. 46 V., c. 11, s. 18, *part.*

Disbanding
corps.

25. Her Majesty may, at any time, disband any corps of Active Militia if considered necessary so to do. 46 V., c. 11, s. 18, *part.*

Accepting
corps of vol-
unteers.

26. Her Majesty may accept the services of corps of Volunteers, under such regulations as are made from time to time. 46 V., c. 11, s. 19.

Articles of
engagement
of volunteer
corps.

27. Any volunteer corps may enter into articles of engagement and make regulations not inconsistent with this Act, approved by Her Majesty; but the commanding officers of all corps of Volunteer Militia shall be responsible that their corps respectively are kept up to the full strength; and in the event of failure of any corps to maintain such complement of men for each respectively as Her Majesty considers necessary for its efficiency, or of any corps becoming inefficient, or if necessary so to do from any other cause, Her Majesty may disband such corps. 46 V., c. 11, s. 20.

Disbandment.

Corps enlisted
for continuous
service

28. Her Majesty may, for the purpose of providing for the care and protection of forts, magazines, armaments, warlike stores and such like service, and also for the purpose of securing the establishment of schools for military instruction in connection with corps enlisted for continuous service, raise, station and maintain, in addition to the ordinary Active Militia force, one troop of cavalry, three batteries of artillery, and not more than five companies of infantry, the whole strength of which several corps shall not exceed one thousand men: the officers shall be appointed during pleasure, and the men shall be enlisted under regulations made by the Governor in Council, for periods of three years' continuous service:

Purposes and
duties of such
corps.

2. Such corps, in addition to performing garrison and other duties, shall serve as practical schools of military instruction, by affording officers, non-commissioned officers and men of the Militia, opportunities of joining for courses of study and training:

To be deemed
called out for
active ser-
vice.

3. The officers, non-commissioned officers and men of such corps, as well as the officers, non-commissioned officers

and men attached, from time to time, for instruction, shall, for purposes of discipline, be held to be called out for active service, and be subject to the laws and regulations which, under the provisions of this Act, apply to officers, non-commissioned officers and men called out for such service. 46 V., c. 11, s. 21 ;—48-49 V., c. 72, s. 1

BALLOTING.

29. At any time when militiamen are required to be drafted in any regimental division, each company division therein shall, subject to the provisions of the two sections next following, contribute its quota according to the number of militiamen on the rolls and liable to serve, of the class or classes from which the men are to be taken ; and when militiamen are accepted or taken or balloted to serve in any quota, the company division or divisions furnishing the men shall receive credit therefor ; and the active militiamen taken, or accepted and enrolled for service, from time to time, in any company or regimental division, shall be attached or appointed to such companies, corps or battalions of the Active Militia as Her Majesty orders :

Each company to furnish its quota of men drafted

And be credited therefor.

Men drafted to be appointed to corps.

2. When a corps, raised by voluntary enlistment in any regimental division, for any cause ceases to exist, Her Majesty may make good the quota of that division by the organization of militiamen from the Reserve Militia to replace such corps :

If a volunteer corps is disbanded.

3. When by reason of death or removal, vacancies occur in any corps of Active Militia, organized under this Act, such vacancies shall be filled by other men drawn from the Reserve Militia, either by voluntary enlistment or by ballot, as circumstances require. 46 V., c. 11, s. 22.

Filling vacancies in service companies.

30. When active militiamen are required to be organized at any time, either for drill or for actual service, and enough men do not volunteer in any company division to complete the quota required from that division, the men enrolled in the first class and liable to serve shall be first balloted,—and if the number of men required to be balloted is greater than the whole number of men in the first class, the number requisite to make up the deficiency shall be taken from those in the second class,—and if more men than the whole number in the first and second classes are still required, the number requisite to make up the deficiency shall be taken from the third class,—and in like manner, if more men than are in the first, second and third classes, are still required, the number requisite to make up the deficiency shall be taken from the fourth class ; but at no time shall more than one son belonging to the same family residing in the same house, if there is more than one inscribed on the Militia roll, be drawn, unless the number of names so inscribed is insufficient to complete the required proportion of service men :

Ballot when sufficient men do not volunteer.

Proviso: as to sons in one family.

Men not taken may volunteer in- to another regimental division.

2. Any man not taken for service for the time being in any corps organized in the regimental division in which he resides, may volunteer to serve in any corps, in any regimental division contiguous thereto, and in such case the company division in which he resides shall have credit for such volunteer; and the man shall, on completing his full period of service, be entitled to the same exemption in his company division, as though he had served with men raised therein for the same period. 46 V., c. 11, s. 23.

When a company division furnishes more than its quota.

31. When any company division has furnished more men than its quota, as compared with other company divisions in the same regimental division, such company division shall not again be called upon in time of peace for more men, until the other company divisions have supplied men to equalize the proportion for each, according to the number of names inscribed on the Militia rolls thereof respectively. 46 V., c. 11, s. 24.

Governor in Council may make regulations respecting ballot, enrolment, &c.

32. The Governor in Council may, from time to time, make regulations for taking the enrolment and ballot,—for fixing the day on which the taking of the enrolment shall be commenced in each of the several military districts respectively,—for notifying the men liable to be taken, or those balloted in any company division for service in any quota,—for finally deciding claims of applicants for exemption, and for the administration of oaths before justices of the peace or the commanding officer of a corps, to ascertain any facts in reference to such claim of exemption,—for medical examinations, and for the discharge of such men as are unfit to serve,—and relating to every other matter and thing not inconsistent with this Act, and necessary to be done, in the enrolling, balloting, warning and bringing into service, of such numbers of the reserve militiamen in any company division as are required at any time: but any militiaman balloted and notified for service, may, at any time, be exempt, until again required in his turn to serve, by furnishing an acceptable substitute, on or before the day fixed for his appearance; but if, during any period of service, any man who is serving in the Active Militia as a substitute for another, becomes liable to service in his own person, he shall be taken for such service, and his place as substitute shall be supplied by the militiaman in whose stead he was serving. 46 V., c. 11, s. 25.

As to substitutes for men balloted.

Service men attaining 30 or 45 years of age.

33. Every active militiaman who, during any period of service, attains the age of thirty years or forty-five years, according to his class, shall be required to complete the full period for which he volunteered or was balloted to serve. 46 V., c. 11, s. 26.

IN AID OF THE CIVIL POWER.

34. The Active Militia, or any corps thereof, shall be liable to be called out for active service with their arms and ammunition, in aid of the civil power in any case in which a riot, disturbance of the peace, or other emergency requiring such service occurs, or is, in the opinion of the civil authorities hereinafter mentioned, anticipated as likely to occur, and, in either case, to be beyond the powers of the civil authorities to suppress, or to prevent or deal with,—whether such riot, disturbance or other emergency occurs, or is so anticipated within or without the municipality in which such corps is raised or organized :

How and in what cases active militia may be so called out.

2. The senior officer of the Active Militia present at any locality shall call out the same or such portion thereof as he considers necessary for the purpose of preventing or suppressing any such actual or anticipated riot or disturbance, or for the purpose of meeting and dealing with any such emergency as aforesaid, when thereunto required in writing by the chairman or custos of the Quarter Sessions of the Peace, or by any three justices of the peace of whom the warden, mayor, or other head of the municipality or county in which such riot, disturbance or other emergency occurs or is anticipated as aforesaid, may be one ; and he shall obey such instructions as are lawfully given to him by any justice of the peace in regard to the suppression of any such actual riot or disturbance, or in regard to the anticipation of such riot, disturbance or other emergency, or to the suppression of the same, or to the aid to be given to the civil power in case of any such riot, disturbance or other emergency :

Duty of senior officer present in the locality, on requisition of the proper civil authorities.

3. Every such requisition in writing, as aforesaid, shall express on the face thereof the actual occurrence of a riot, disturbance or emergency or the anticipation thereof, requiring such service of the Active Militia in aid of the civil power for the suppression thereof :

What the requisition must show.

4. Every officer and man of such Active Militia, or any portion thereof, shall, on every such occasion, obey the orders of his commanding officer ; and the officers and men, when so called out, shall, without any further or other appointment, and without taking any oath of office, be special constables, and shall be considered to act as such as long as they remain so called out ; but they shall act only as a military body, and shall be individually liable to obey the orders of their military commanding officer only :

Duty of officers and men, who shall be special constables.

5. When the Active Militia, or any corps thereof, is so called out in aid of the civil power, the municipality in which their services are required shall pay them, when so employed, the rates authorized to be paid for actual service to officers and men, and one dollar per diem for each horse actually and necessarily used by them, together with an allowance of one dollar to each officer, fifty cents to each man per diem in lieu of subsistence, and fifty cents per diem in lieu of forage for

Payment by municipality for such service.

Providing lodging and stabling.

Recovery of pay and allowances.

As to advance by Government.

each horse,—and, in addition, shall provide them with proper lodging, and with stabling for their horses; and the said pay and allowances for subsistence and forage, as also the value of lodging and stabling, unless furnished in kind by the municipality, may be recovered from it by the officer commanding the corps, in his own name, and, when so recovered, shall be paid over to the persons entitled thereto:

6. Such pay and allowances of the force called out, together with the reasonable cost of transport may, pending payment by the municipality, be advanced in the first instance out of the Consolidated Revenue Fund of Canada, by authority of the Governor in Council; but such advance shall not interfere with the liability of the municipality, and the commanding officer shall at once, in his own name, proceed against the municipality for the recovery of such pay, allowances and cost of transport, and shall, on receipt thereof, pay over the amount to Her Majesty. 46 V., c. 11, s. 27, *part.*

Obstructing conveyance of mails by railway.

Part of expenses may be paid by Government.

Accounts in such case.

In case of emergency in N. W. T., or Keewatin, the Lt. Governor of Manitoba may call out the active militia.

35. Whenever a municipality within the limits of which a railway passes whereon Her Majesty's mails are conveyed, has incurred expense by reason of the Militia being so called out in aid of the civil power, for preventing or repressing a riot or disturbance of the peace beyond the power of the civil authorities to deal with, and not local or provincial in its origin, by which riot or disturbance of the peace the conveyance of such mails might be obstructed, the Governor in Council may pay or reimburse out of any moneys which are provided by Parliament for the purpose, such part as seems just of the proper expenses incurred by any municipality, by reason of any part of the Active Militia being so called out in aid of the civil power:

2. An account of any such expenditure shall be laid before Parliament as soon as possible thereafter. 46 V., c. 11, s. 27, *part.*

36. If it appears to the satisfaction of the Lieutenant Governor of the Province of Manitoba, that a riot, disturbance of the peace or other emergency, requiring the services of the Active Militia in aid of the civil power, has occurred in the North-West Territories or in the District of Keewatin, or that such riot, disturbance or other emergency is anticipated as likely to occur, and, in either case, to be beyond the powers of the civil authorities to suppress, or to prevent or deal with, the Lieutenant Governor may, by a writing, expressing on the face thereof the actual occurrence of such riot, disturbance or emergency, or the anticipation thereof, require the senior officer of the Active Militia present in the Province of Manitoba to call out the same, or such portion thereof as he considers necessary for the purpose of preventing or suppressing any such actual or anticipated riot or disturbance, or for the purpose of meeting and dealing with any such emergency as aforesaid:

2. Such officer shall comply with such requisition and obey such instructions as are lawfully given him by the Lieutenant Governor, or by such justice of the peace as is designated for the duty by the Lieutenant Governor, in regard to the suppression of any such actual riot or disturbance, or in regard to the anticipation of such riot or disturbance or other emergency, or to the suppression of the same, or to the aid to be given to the civil powers in case of any such riot, disturbance or other emergency :

Duty and powers of officers and men in such case.

3. Every officer and man of such Active Militia, or any portion thereof, shall, on every such occasion, obey the orders of his commanding officer :

Orders to be obeyed.

4. The officers and men, when so called out, shall, without any further or other appointment, and without taking any oath of office, be special constables, and shall be considered to act as such so long as they remain so called out ; but they shall act only as a military body, and shall be individually liable to obey the orders of their military commanding officer only : and they shall be paid, when so employed, the rates authorized to be paid for actual service to officers and men, and one dollar per day for each horse actually and necessarily used by them, together with an allowance of one dollar to each officer, and fifty cents to each man per day, in lieu of subsistence, and fifty cents per day in lieu of forage for each horse :

To be special constables.

Pay and allowances.

5. Such pay and allowances and the reasonable cost of transport to and from the place where the services of the force are required, may be paid out of the Consolidated Revenue Fund of Canada by authority of the Governor in Council. 46 V., c. 11, s. 27, *part*.

Payable out of Con. Rev. Fund.

OFFICERS COMMANDING THE MILITIA.

37. There shall be appointed an officer who holds the rank of Colonel or rank superior thereto in Her Majesty's regular army, who shall be charged, under the orders of Her Majesty, with the military command and discipline of the Militia, and who, while he holds such appointment, shall have the rank of Major General in the Militia, and shall be paid at the rate of four thousand dollars per annum in full of all pay and allowances. 46 V., c. 11, s. 28.

Qualification and appointment of commanding officer.

Rank and pay.

38. There shall be an Adjutant General of Militia at headquarters who shall have the rank of Colonel in the Militia, and shall be paid at the rate of two thousand six hundred dollars per annum. 46 V., c. 11, s. 29, *part*.

Adjutant General at headquarters.

39. There may be a Quartermaster General at headquarters who shall have the rank of Colonel in the Militia, and shall be paid at the rate of two thousand six hundred dollars per annum. 46 V., c. 11, s. 29, *part*.

Quartermaster General.

Duties, how assigned.

40. The Governor in Council shall, from time to time, make such orders as are necessary respecting the duties to be performed by the officer commanding the Militia, by the Adjutant General, by the Quartermaster General, and by the officers of the Militia generally. 46 V., c. 11, s. 29, *part*.

DISTRICT STAFF.

Deputy Adjutant General.

41. In and for each of the twelve military districts herebefore mentioned, there shall be appointed one Deputy Adjutant General of Militia, who shall have the rank of Lieutenant-Colonel, and who shall command the Militia in his district; and he shall be paid at the rate of one thousand two hundred dollars per annum :

Staff and other officers.

2. There shall also be appointed in each of the military districts aforesaid such staff officers and such other officers as are necessary; and the salaries of such staff officers shall be fixed by the Governor in Council :

As to amalgamated districts.

3. If any two or more districts are amalgamated for administrative purposes, only one Deputy Adjutant General shall be appointed for the districts so amalgamated :

Change of designation.

4. Her Majesty may, whenever it is considered expedient, change the designation or name of office of the officer who commands the Militia in any district. 46 V., c. 11, s. 30.

OFFICERS.

Commissioned and non-commissioned officers.

42. Commissions of officers in the Militia shall be granted by Her Majesty during pleasure, and all non-commissioned officers in the Militia shall be appointed by the officer commanding the corps or battalion to which they belong, and shall hold their rank during pleasure. 46 V., c. 11, s. 31, *part*.

Registration of commissions.

43. It shall not be necessary to enregister at full length commissions of officers in the Militia, except those of the officer commanding the Militia, the Adjutant General and Deputy Adjutants General, but a record of all commissions shall be kept in the office of the Adjutant General. 46 V., c. 11, s. 31, *part*.

The Governor's signature to any such commission may be affixed by a stamp.

44. The Governor General may cause his signature to be affixed to any commission in the Militia, granted or issued under this Act, by stamping the same on such commission with a stamp approved by him, and used for the purpose by his authority; and the signature so affixed shall be, to all intents and purposes, as valid and effectual as if in the handwriting of the Governor General; and neither the authenticity of any such stamped signature, nor the authority of the person by whom it has been affixed to any commission, shall be called in question except on behalf of the Crown; and the forging or counterfeiting of any such

stamped signature, or the uttering thereof, knowing it to be forged or counterfeited, shall be a felony, punishable in like manner as the forgery of the Privy Seal or Seal-at-arms of the Governor General. 46 V., c. 11, s. 31, *part*.

45. Officers holding commissions in the Militia, may be placed on the retired list with honorary rank, not exceeding that of Lieutenant-Colonel, or without honorary rank according to, and under regulations approved by the Governor in Council; and Her Majesty may appoint officers from the retired list to commissions in the Militia; but no officer from the retired list shall be bound to serve in the Militia in a lower grade than that of the rank with which he retired. 46 V., c. 11, s. 32.

Officers on the retired list.

46. No person shall be appointed an officer in the Active Militia, except provisionally, until he has obtained a certificate of fitness from one of the military schools of Canada, or a board of officers of the Active Militia, constituted as Her Majesty appoints; or unless he had obtained a certificate from one of the schools of military instruction, heretofore established in the late Province of Canada, or from any board of officers which had been appointed for that purpose in any of the Provinces of Canada; and Her Majesty may prescribe conditions as to the qualification of officers of different grades, by General Order,—and may order the assembling of such boards as often as is expedient,—and may dispense with the conditions of this section in the case of men who have served as officers or non-commissioned officers in Her Majesty's regular army. 46 V., c. 11, s. 33, *part*.

Conditions of qualification of officers.

Certificates from military schools.

Board for examination.

47. In time of peace no person except the officer commanding the Militia, the Adjutant General and the Quartermaster General, shall hold higher rank in the Militia than that of Lieutenant-Colonel; but officers who held the rank of Colonel on the twenty-fifth day of May, one thousand eight hundred and eighty-three, shall retain the same; but Her Majesty may, whenever the Militia is called out for active service in the field, appoint therein Colonels and other officers of superior rank, in no case to exceed that of Major General. 46 V., c. 11, s. 33, *part*.

Rank in time of peace.

And when called out.

48. Her Majesty may appoint staff officers of the Militia with such rank as, from time to time, is found requisite or necessary for the efficiency of the Militia service; and such staff officers shall have such rank and authority in the Militia as are held relatively in Her Majesty's service, and their duties shall be such as are, from time to time, prescribed. 46 V., c. 11, s. 34.

Staff officers.

49. The relative rank and authority of officers in the Militia of Canada, shall be the same as the relative rank and authority of officers in Her Majesty's regular army; and

Relative rank of officers.

any body of Militia assembled on parade, shall be commanded by the officer highest in rank then present, on duty and in uniform, or the senior of two or more officers of equal rank ;
 Proviso. but no officer whose rank is provisional only, shall under any circumstances command an officer of the same grade whose rank is substantive. 46 V., c. 11, s. 35.

Officers of H. M.'s army to be senior. **50.** Officers of Her Majesty's regular army shall always be reckoned senior to Militia officers of the same rank, whatever are the dates of their respective commissions ;—and Colonels appointed by commission signed by the Commander of Her Majesty's regular forces in Canada, shall command Colonels of Militia, whatever are the dates of their respective commissions. 46 V., c. 11, s. 36.

CLOTHING, AND ARMS AND ACCOUTREMENTS.

Officers' arms and uniforms. **51.** Officers shall provide their own uniforms, arms and accoutrements. 46 V., c. 11, s. 37.

Quality of arms, &c. **52.** The arms and accoutrements of the officers and men of the Active Militia shall be such as Her Majesty, from time to time, directs ; and no such arms and accoutrements of the men shall be left in their possession except by special authority. 46 V., c. 11, s. 38.

Responsibility for damages. **53.** The value of all such articles of public property as have become deficient or damaged, while in possession of any corps, otherwise than through fair wear and tear or unavoidable accident, may be recovered by the Minister of Militia and Defence, or by any other person authorized by him, from the officer in command of such corps ; and the officer commanding any corps shall have power to recover the value of such articles of public property, or property of the corps, as have become deficient or damaged while in possession of his corps, otherwise than through fair wear and tear or unavoidable accident, from the officer, man or men who is or are responsible for the same. 46 V., c. 11, s. 39.

Recovery thereof.

Uniform clothing. **54.** Such of the several corps of Active Militia heretofore organized or hereafter to be organized, as are, for that purpose, named and specified, shall be supplied with uniform clothing of such one and similar color, pattern and design, as is ordered for each arm of the service designated in this Act ; and, if necessary, such uniform clothing may be replaced in every successive five years from the original issue ; and the said uniform clothing shall be delivered to the officer commanding the corps, to be delivered by him to the men upon such conditions and upon such security as are directed ; and the Governor in Council may, from time to time, make such regulations in respect to the uniform clothing, and may prescribe penalties for any infraction of

Regulations

such regulations as are deemed necessary or expedient ; but nothing herein contained shall prevent the re-supplying of clothing within the period aforesaid in special cases. 46 V., c. 11, s. 40. Proviso.

55. The several corps of Militia shall be furnished with arms, accoutrements and equipment ; and the same shall be kept in public armories whenever there are such, and where there are no such public armories, and until the same are provided, the officer commanding each corps shall himself actually keep the arms, accoutrements and equipment in a good and sufficient building, provided with suitable arm racks and provision for the care thereof, and shall be personally responsible for such arms, accoutrements and equipment : and the officer commanding any such corps may, in the discretion of the Governor in Council, be allowed annually such sum for the care of such arms, accoutrements and equipment as appears proper for the same ; and no arms, accoutrements or articles of equipment, shall be taken or removed from any such public armory, or from the care of such commanding officer, except under such regulations as are made in respect to the same by Her Majesty. 46 V., c. 11, s. 41. Arms and accoutrements.
Safe keeping.
Allowance for care of.
As to removal.

56. Every man serving in the Active Militia who requires to leave Canada, shall first return to the captain of his company all articles of public or corps property which he has in his possession, and shall obtain a written discharge from the captain of his company or other commanding officer of his corps ; and any militiaman who leaves Canada with any articles of public clothing or other public or corps property in his possession, is guilty of embezzlement, and may be tried for the same at any time ; and a record in the books of his corps of his having so received and not having returned any articles of public clothing or other public or corps property, shall be evidence of possession ; and he shall be entitled to quittance by certificate, and to see such quittance recorded in the books of his corps on returning such articles. 46 V., c. 11, s. 42. Men leaving Canada to return clothing, &c.
Penalty for default.
Proof.
Receipt.

57. No corps of the Active Militia, and no non-commissioned officer or man shall, at any time, appear in uniform or armed or accoutred, except when actually on duty or at parade or drill or at target practice, or at reviews or on field-days or inspections, or by order of the commanding officer. 46 V., c. 11, s. 43. When only men may appear in uniform.

DRILL AND TRAINING.

58. In time of peace there shall be trained and drilled annually, for such periods as are authorized by this Act, and under such regulations as Her Majesty, from time to time Number of men to be trained and drilled yearly

in time of
peace.

prescribes, the officers of Militia mentioned in the three sections next following, and forty-five thousand active militiamen ; but any increase above the number of forty thousand shall be authorized and regulated, from time to time, by the Governor in Council ; and Her Majesty shall, from time to time, by General Orders, designate the regimental divisions required to furnish the men for the purposes of such training and drill. 46 V., c. 11, s. 44.

Periods of
drill and rates
of pay.

59. Her Majesty may order the officers and men of the several corps of the Active Militia, or any portion thereof, to drill for a period not exceeding sixteen days or less than eight days in each year ; and for each day's drill of three hours, every officer, non-commissioned officer and man shall receive the pay of his respective rank, according to the following schedule, that is to say :—

Officers.

Rates of pay.	Lieutenant-Colonel.....	\$4.87
	Major.....	3.90
	Paymaster	3.05
	Adjutant, with rank of Lieutenant.....	2.44
	Adjutant, with rank of Second Lieutenant....	2.13
	Surgeon	3.65
	Assistant Surgeon.....	2.43
	Quartermaster.....	1.94
	Captain.....	2.82
	Lieutenant.....	1.58
	Second Lieutenant.....	1.28

Non-Commissioned Officers and Men.

	Sergeant Major	1.00
	Quartermaster Sergeant.....	90
	Paymaster's Clerk.....	90
	Orderly Room Clerk.....	90
	Hospital Sergeant.....	90
	Pay Sergeant.....	80
	Sergeant	75
	Corporal.....	60
	Bugler.....	50
	Private.....	50
	For each horse taking part in such drill.....	1.00

Pay for
horses.

and the officers and men of mounted corps shall receive, for each day's drill of three hours, one dollar for each horse that takes part in such drill. 46 V., c. 11, s. 45, *part*.

Drill of marine militia.

60. Her Majesty may order the officers and men of the Marine Militia, or any portion thereof, to be trained and drilled for a period not exceeding sixteen days, or less than

eight days in each year, at such times and places, and in such manner, as are thought proper; and for each day's drill every officer and man shall receive the pay of his rank, according to the said schedule. 46 V., c. 11, s. 45, *part*, and s. 46.

61. Her Majesty may order to assemble, for a period not exceeding sixteen or less than eight days in each year, the officers of the Reserve Militia, or any portion thereof, at such times and places as are thought proper, for drill and exercise; and for each day's drill of three hours every officer shall receive the pay of his rank, according to the said schedule. 46 V., c. 11, s. 45, *part*, and s. 47. Drill of reserve militia.

62. All sums of money required to defray any expense under the three sections next preceding may be paid out of the Consolidated Revenue Fund, upon warrant directed by the Governor General to the Minister of Finance and Receiver General; but no sum of money shall be so paid unless it is included in some appropriation made by Parliament; and a detailed account of moneys so expended shall be laid before Parliament during the then next session thereof. 45 V., c. 11, s. 45, *part*. To be paid out of Con. Rev. Fund. Proviso.

63. When corps of the Militia are ordered to assemble in a camp of exercise for drill and training, they shall be considered to be on service during the whole of the period for which they are called out, and when so assembled all ranks shall receive rations and shelter at the public expense in addition to their daily pay; in such cases the daily pay shall be for each day of twenty-four hours, and the drill and duty to be performed in camp, or in going to and from the camp, shall be as ordered by the commanding officer for the time being. 46 V., c. 11, s. 45, *part*. Provisions respecting attending for drill and training.

64. Payments for drill shall be made only upon proof of compliance with such regulations touching such drill, and the efficiency of the several corps, as Her Majesty orders; and any officer or man absent from drill shall forfeit his pay therefor. 46 V., c. 11, s. 48. Conditions of payment.

65. Her Majesty may, from time to time, appoint competent persons to instruct and drill the Militia, and may award such remuneration therefor as the Governor in Council orders. 46 V., c. 11, s. 49. Drill instructors.

66. Such of the officers and men of any corps of the Active Militia as reside within two miles of the place appointed for drill, may assemble or be ordered out by the officer commanding it, for drill or exercise, at other times than when performing the annual drill, under regulations approved by Her Majesty, and without receiving any pay therefor. 46 V. c. 11, s. 50. Occasional drill without pay.

Power to dis-
pense with
drill and
training in
any year.

67. Her Majesty may, by any General Order, dispense with the drill or training of any corps or part of a corps of the Active Militia, either in any particular year or until further order, and may, in like manner, again direct such drill and training, or either of them, to be resumed if it seems fit; and any such order shall have the force of law according to the terms thereof. 46 V., c. 11, s. 51.

INSPECTIONS.

Inspection.

68. The several corps of the Active Militia shall be subject to such inspections, from time to time, as Her Majesty directs. 46 V., c. 11, s. 52.

RIFLE RANGES AND DRILL SHEDS.

Rifle ranges.

69. At, or as near as possible to the head quarters of every regimental division, there may be provided a rifle range with suitable butts, targets and other necessary appliances; and Her Majesty may order the appropriation of such land as is necessary for the same, at a proper valuation,—and may stop, at such time as is necessary during the target practice of the Active Militia, the traffic on any roads, not being mail roads, that cross the line of fire,—and may make such other regulations for conducting target practice and registering the results thereof, and for the safety of the public, as are necessary,—and may impose penalties for wilful damage to any such butts, targets and appliances; and all such ranges shall be subject to inspection and approval before being used, and the owners of private property shall be compensated for any damage that accrues to their respective properties from the use of any such rifle range. 46 V., c. 11, s. 53.

Land for.

Practice at.

Penalties for
damages to
targets, &c.

Inspection.

Compensa-
tion to pro-
prietors.

Aid to local
authorities
for drill sheds,
&c.

70. The Governor in Council may, from time to time, make regulations relating to the conditions upon which Government aid shall be granted towards the construction, by the local authorities, of drill sheds and armories, in any regimental division, and the use thereof by the Militia. 46 V., c. 11, s. 54, *part.*

Militia
grounds not
required may
be disposed
of.

71. Any land now held or hereafter acquired by Her Majesty for Militia purposes, in connection with drill sheds, rifle ranges, armories or such like uses, and found unnecessary to be retained for the same, may be sold or disposed of by direction of the Governor in Council; and if any portion of the cost of such lands, or of any building thereon, has been defrayed by the municipality in which the land is situate, a fair proportion of the proceeds, as determined by the Governor in Council, may be returned to such municipality or expended therein for other Militia uses of a permanent nature. 46 V., c. 11, s. 54, *part.*

Application
of proceeds.

SCHOOLS OF MILITARY INSTRUCTION.

72. Schools of military instruction may be established in each Province of Canada for the purpose of enabling officers of the Militia, or candidates for commissions or promotion in the Militia, to perfect themselves in a knowledge of their military duties, drill and discipline; and for that purpose arrangements may be entered into with the officer commanding Her Majesty's regular forces in Canada, for the best means of effecting the same in connection with any regiment or regiments of Her Majesty's regular forces or otherwise; and all necessary rules and regulations, as to the terms upon which such instruction shall be compensated for, and generally for the advancement of military education amongst the officers and candidates for commissions as aforesaid, may be made by the Governor in Council. 46 V., c. 11, s. 55, *part*.

May be established in each Province.

Regulations by Governor in Council.

73. Whenever schools are established, either in connection with Imperial troops or corps of Militia, arms, accoutrements, uniform clothing and books of instruction may be issued, under regulations to be made by the Governor in Council, for use by pupils attending any such school during their attendance thereat. 46 V., c. 11, s. 55, *part*.

Arms, &c., for men attending school.

74. Her Majesty may, from time to time, from among the applicants for such purpose, select such persons in each Province of Canada as are fit to attend such schools of military instruction, and if necessary remove them; and the allowances to be paid to such persons during their stay at the school, and the period for which they shall undergo such instruction, shall be regulated by the Governor in Council; and every person who enters upon the course of military instruction as hereinbefore provided, shall thereupon and thenceforth, and for the period prescribed in such regulations, upon his signing a roll of entry for such instruction, be subject to the Queen's Regulations and Orders for the Army, the Army Act passed by the Parliament of the United Kingdom, and to such other orders, rules and regulations, of whatsoever nature or kind, not inconsistent with the provisions of this Act or of any regulation made under the authority thereof, to which Her Majesty's troops are subject. 46 V., c. 11, s. 56.

Selection of pupils.

Allowances.

Obligations of pupils signing the roll.

75. Her Majesty may, from time to time, order any persons who have obtained final certificates in any school of military instruction or from a board of examiners, and whether the same are commissioned officers or not, to attend a camp or camps of instruction at such time and place in Canada, and for such periods as are prescribed for such purpose; and Her Majesty may make all necessary rules and regulations for the command, discipline and good management of such camp or camps, and for the mode of instruction thereat;

Camps of instruction.

Regulations.

Allowances. and the allowances to be paid to such persons during their stay at the same shall be fixed by the Governor in Council; and every person who reports himself at such camp or camps, and signs a roll of entry thereat, shall thereupon and thenceforth and for the duration of such camp or camps, be subject to the Queen's Regulations and Orders for the Army, the Army Act passed by the Parliament of the United Kingdom, and to such other orders, rules and regulations, of whatever nature or kind, not inconsistent with the provisions of this Act or of any regulation made under the authority thereof, to which Her Majesty's troops are subject. 46 V., c. 11, s. 57.

Signing roll.

To be subject to Queen's Regulations, Army Act, &c.

RIFLE AND DRILL ASSOCIATIONS.

Such associations may be sanctioned. **76.** Her Majesty may sanction the organization of rifle associations, and of associations for purposes of drill, to be composed of Militia officers, or of men on the Militia rolls, and of independent companies of infantry composed of professors, masters or pupils of universities, schools or other public institutions, or of persons engaged in or about the same, under such regulations as are, from time to time, approved by Her Majesty; but such associations or companies shall not be provided with any clothing or allowance therefor. 46 V., c. 11, s. 58.

Proviso.

MILITARY INSTRUCTION IN SCHOOLS AND COLLEGES.

Arms for public schools. **77.** There shall be furnished to every normal school, university, college or school in Canada, in which there are instituted classes of instruction in military drill and exercises, under regulations prescribed by Her Majesty, arms and accoutrements necessary for the instruction of the pupils thereof over the age of twelve years. 46 V., c. 11, s. 59.

CALLING OUT THE MILITIA.

Commanding officer may call out militia on sudden emergencies. **78.** The officer commanding any military district or division, or the officer commanding any corps of Active Militia, may, upon any sudden emergency of invasion or insurrection, or imminent danger of either, call out the whole or any part of the Militia within his command, until the pleasure of Her Majesty is known; and the Militia so called out by their commanding officer shall immediately obey all such orders as he gives, and march to such place within or without the district or division as he directs. 46 V., c. 11, s. 60.

Calling out in time of war, &c., or danger thereof. **79.** Her Majesty may call out the Militia, or any part thereof, for active service either within or without Canada, at any time when it appears advisable so to do by reason of war, invasion or insurrection, or danger of any of them; and

the militiamen, when so called out for actual service, shall continue to serve for at least one year from the date of their being called out for actual service, if required so to do, or for any longer period which Her Majesty appoints :

Term of service.

2. Her Majesty may, from time to time, direct the furnishing by any regimental division of such number of militiamen as are required, either for reliefs or to fill vacancies in corps on active service :

Furnishing reliefs.

3. Whenever the Militia or any part thereof is called out for actual service by reason of war, invasion or insurrection, Her Majesty may place them under the orders of the Commander of Her regular forces in Canada :

Command of militia so called out.

4. The Active Militia or any corps thereof, or any part of a corps, shall also be liable to be called out for active service, with their arms and ammunition, under special or general regulations made by the Governor in Council, to act as guards of honor, escorts, or as guards and sentries, or to fire salutes in any of the following cases :—

Guards of honor on certain occasions.

(a.) The opening or closing of any session of the Parliament of Canada or of the Legislature of any Province of Canada ;

Opening or closing session.

(b.) For the purpose of attending the Governor General of Canada, or any member of the Royal Family while in Canada ;

Attending Governor &c.

(c.) For the purpose of guarding any armory or other place where arms, guns, ammunition or other military stores are kept :

Guarding armories, &c.

5. The Governor in Council may make regulations for calling out for active service as guards or sentries at the residence of the Governor General, or of any member of the Royal Family while in Canada, any corps or part of a corps of the Active Militia. 46 V., c. 11, s. 61.

Guards at Gov't house, &c.

80. In time of war no man shall be required to serve in the field continuously for a longer period than one year ; but any man who volunteers to serve for the war, or for any longer period than one year, shall be compelled to fulfil his engagement ; and Her Majesty may, in cases of unavoidable necessity (of which necessity Her Majesty shall be the sole judge), call upon any militiaman to continue to serve beyond his one year's service in the field, for any period not exceeding six months. 46 V., c. 11, s. 62.

Period of service in time of war.

Proviso.

81. Whenever the Militia, or any part or corps thereof, is called out for active service, the officers and men so called out shall be paid at such rates of daily pay as are paid to officers and men of the relative and corresponding grade in her Majesty's service, or such other rates as are, for the time being, fixed by the Governor in Council. 46 V., c. 11, s. 63.

Pay of militia when called out.

82. The Active Militia shall be subject to the Queen's Regulations and Orders for the Army ; and every officer and

To what laws Active Militia shall be sub-

- ject when called out. man of the Militia shall, from the time of being called out for active service, and also during the period of annual drill or training under the provisions of this Act, and also during any drill or parade of his corps at which he is present in the ranks or as a spectator, and also when going to or from the place of drill or parade of his corps, and also at any other time while in the uniform of his corps, be subject to the Army Act passed by the Parliament of the United Kingdom, and all other laws then applicable to Her Majesty's troops in Canada, and not inconsistent with this Act; except that no man shall be subject to any corporal punishment but death or imprisonment for any contravention of such laws; and
- Exception. and except, also, that Her Majesty may direct that any provisions of the said laws or regulations shall not apply to the Militia force:
- Exception. 2. Any officer or man charged with any offence committed while serving in the Militia, shall be held liable to be tried by court martial, and if convicted to be punished therefor, within six months after his discharge from the Militia or after the corps to which he belongs or belonged is relieved from active service, notwithstanding that he has been so discharged from the Active Militia, or that the corps to which he belonged has been so relieved from active service;
- Trial by court martial after discharge or relief. and any officer or man of the Militia may be tried for the crime of desertion at any time, without reference to the length of time which has elapsed since his desertion. 46 V., c. 11, s. 64.
- Trial for desertion.
- Roll to be kept of each company. **83.** The Captain or other officer commanding any company of Active Militia, with the assistance of the officers and non-commissioned officers of his company, shall make and keep at all times a correct roll of the company, in such form as Her Majesty directs; and the Lieutenant-Colonel or other officer commanding any battalion of Active Militia, and under him especially the Adjutant shall see that the company rolls are properly made out and corrected, from time to time, by the Captains or other officers commanding companies in such battalion, and shall report such officers as fail to perform their duty in this respect. 46 V., c. 11, s. 65.
- Duty of commanding officer and adjutant.
- Attendance at rendezvous. **84.** Every militiaman called out for active service shall attend at such time and place as are required by the officer commanding him, with any arms, accoutrements, ammunition and equipment he has received, and with such provisions as such officer directs. 46 V., c. 11, s. 66.
- Absence over seven days; trial as deserter. **85.** Every militiaman called out for active service who absents himself without leave from his corps, for a longer period than seven days, may be tried by court martial as a deserter. 46 V., c. 11, s. 67.

86. When any officer or man is killed in active service, or dies from wounds or disease contracted on actual service, provision shall be made for his wife and family out of the public moneys. 46 V., c. 11, s. 68, *part*. Provision for families of men killed, &c.

87. Every case of permanent disability, arising from injuries received or illness contracted on active service, shall be reported on by a medical board, and compensation awarded, under such regulations as are made, from time to time, by the Governor in Council; and any medical practitioner who signs a false certificate in any such case shall incur a penalty of four hundred dollars. 46 V., c. 11, s. 68, *part*. And for men permanently disabled. Punishment for giving false certificate.

BILLETING AND CANTONING TROOPS AND MILITIA ON ACTUAL SERVICE—TRANSPORT.

88. The Governor in Council may make regulations for the billeting and cantoning of troops and Militia when on active service, for the furnishing of carriages, horses and other conveyance for their transport and use, and for adequate compensation therefor; and may, by such regulations, impose fines not exceeding twenty dollars, and imprisonment in cases of default of payment of such fines. 46 V., c. 11, s. 69. Regulations by Governor in Council.

89. Every person lawfully required under this Act, or by any regulation made under the authority thereof, to furnish any railway car or engine, boat or other craft, for the conveyance or use of any troops or Militia, who neglects or refuses to furnish the same, shall incur a penalty not exceeding four hundred dollars for each such offence. 46 V., c. 11, s. 70. Penalty for refusing conveyance.

90. Nothing in this Act contained, or in any regulations made under the authority thereof, shall be construed to authorize the quartering or billeting of any troops or Militia, either on a march or in cantonment, in any convent or nunnery of any religious order of females, or to oblige any such religious order to receive such troops or Militia, or to furnish them with lodging or house room. 46 V., c. 11, s. 71. Troops not to be quartered in convents, &c.

COURTS OF INQUIRY AND COURTS MARTIAL.

91. Her Majesty may convene courts of inquiry and appoint officers of the Militia to constitute such courts, for the purpose of investigating and reporting on any matter connected with the government or discipline of the Militia, and with the conduct of any officer or man of the force; and may, at any time, convene courts martial, and delegate power to convene such courts, and to appoint officers to constitute the same for the purpose of trying any officer or man of the Militia, for any offence under this Act, and may also delegate power to approve, confirm, mitigate or remit any sentence of Courts of inquiry and courts martial may be convened.

Proviso. any such court ; but no officer of Her Majesty's regular army on full pay shall sit on any such court martial. 46 V., c. 11, s. 72.

Composition and powers of courts martial. **92.** The regulations for the composition of Militia courts of inquiry and courts martial, and the modes of procedure and powers thereof, shall be the same as the regulations which are at the time in force for the composition, modes of procedure and powers of courts of inquiry and courts martial for Her Majesty's regular army, and which are not inconsistent with this Act ; and the pay and allowances of officers and others attending such courts may be fixed by the Governor in Council :

Pay and allowances.

Attendance of witnesses.

Refusing to attend or give evidence, &c.

2. Every person required to give evidence before a court martial may be summoned, or ordered to attend :

3. If any person who is not enrolled in the Active Militia is summoned as a witness before a court martial, and after payment or tender of the reasonable expenses of his attendance, makes default in attending, or being in attendance as a witness,—

(a.) Refuses to take an oath or affirmation lawfully required by a court martial to be taken, or—

(b.) Refuses to produce any document in his power or control lawfully required by a court martial to be produced by him, or—

(c.) Refuses to answer any question to which a court martial lawfully requires an answer, or—

(d.) Is guilty of any contempt of the court martial by causing any interruption or disturbance in its proceedings,—

Offence to be certified to court of justice and punished.

The president of the court martial may certify the default, refusal or contempt of such person under his hand to a judge of any court of justice in the locality having power to punish persons guilty of like offences in that court ; and such court may thereupon inquire into the same, and if the person is found guilty, punish him in like manner as he would be punishable in a proceeding in such court for any such default, refusal or contempt. 46 V., c. 11, s. 73.

Sentence of death in certain cases only.

Subject to approval of H. M.

93. No Militia officer or militiaman shall be sentenced to death by any court martial, except for mutiny, desertion to the enemy, or traitorously delivering up to the enemy any garrison, fortress, post or guard, or for traitorous correspondence with the enemy ;—and no sentence of any general court martial shall be carried into effect until approved by Her Majesty. 46 V., c. 11, s. 74.

OFFENCES AND PENALTIES.

Claiming pay for drills not performed.

94. Every officer commanding a corps of Militia who knowingly claims pay, on account of any drills performed with his corps, for any man belonging to any other corps of Militia,—and every officer commanding a corps of Militia

who includes in any parade state or other return, any man not duly enrolled and attested as a militiaman, —and every non-commissioned officer or man of the Militia who claims or receives pay on account of any drill performed in the ranks of any other than his own proper corps, or in more than one corps during the annual drill in any year, is guilty of a misdemeanor, and shall also be liable to be tried and punished by court martial. 46 V., c. 11, s. 75.

Returning men not duly enrolled.

Claiming for drill performed with another corps.

95. Every officer and non-commissioned officer of the Militia who obtains, under false pretences, or who retains or keeps in his own possession, with intent to apply to his own use or benefit, any of the pay or moneys belonging to any officer or man of any corps, is guilty of a misdemeanor, and shall be dismissed the service; and every officer and non-commissioned officer who signs a false parade state, roll or pay-list, or any false return whatsoever, is guilty of a misdemeanor, and shall also be liable to be tried by court martial for the offence. 46 V., c. 11, s. 76, *part*.

Fraudulently retaining pay of the corps.

Signing false parade state, &c.

96. Every person of whom information is required by any officer, or non-commissioned officer, making any Militia roll, in order to enable him to comply with the provisions of this Act, who refuses to give such information or gives false information, shall incur a penalty not exceeding twenty dollars for each item of information demanded of him and falsely stated, and the like sum for each individual name that is refused, concealed or falsely stated; and every person who refuses to give his own name and proper information, when applied to as aforesaid, or gives a false name or information, shall incur a penalty not exceeding twenty dollars. 46 V., c. 11, s. 77, *part*.

Refusing required information, or giving false.

97. Every officer and every non-commissioned officer of the Militia, who refuses or neglects to make any enrolment or ballot, or to make or transmit, as herein prescribed, any roll or return, or copy thereof, required by this Act or by any regulation made under the authority thereof, shall incur a penalty, if an officer, not exceeding fifty dollars, and if a non-commissioned officer, not exceeding twenty-five dollars for each offence. 46 V., c. 11, s. 77, *part*.

Refusing to make enrolment, ballot, &c.

98. Every militiaman, drafted or liable to be drafted for service, who refuses or neglects to take the oath or to make the declaration hereinbefore prescribed, when tendered to him by a justice of the peace or by any commissioned officer in command of the corps to which such militiaman belongs, or in whose district he resides, shall be liable to imprisonment for a term not exceeding six months, and for every subsequent neglect or refusal to take such oath shall be liable to a further imprisonment not exceeding twelve months; and he may, on due proof in either case, be summarily committed

Men drafted refusing to be sworn, &c.

Punishment.

upon the warrant of any two justices of the peace. 46 V., c. 11, s. 78.

Personating another on parade.

99. Every officer and man of the Militia, and every person whatsoever, who falsely personates another at any parade of the Militia, or on any other occasion, for any of the purposes required by this Act, is guilty of a misdemeanor, and shall be liable to a fine not exceeding one hundred dollars. 46 V., c. 11, s. 79, *part.*

Refusing to assist in making rolls

100. Every officer and non-commissioned officer of the Militia who refuses or neglects to assist his commanding officer in making any roll or return, or refuses or neglects to obtain or to assist him in obtaining any information which he requires in order to make or correct any roll or return, shall incur a penalty, if an officer, not exceeding fifty dollars, and if a non-commissioned officer, not exceeding twenty-five dollars for each offence. 46 V., c. 11, s. 79, *part.*

Or to give information for making them.

101. Every person who refuses or neglects to give any notice or information necessary for making or correcting the roll of any company, which he is required by this Act to give to the commanding officer of such company or to any officer or non-commissioned officer thereof demanding the same, at any reasonable hour and place, shall incur a penalty of ten dollars for each offence. 46 V., c. 11, s. 79, *part.*

Refusing to attend drill.

102. Every officer and man of the Militia who, without lawful excuse, neglects or refuses to attend any parade or drill or training at the place and hour appointed therefor, or who refuses or neglects to obey any lawful order at or concerning such parade, drill or training, shall incur a penalty, if an officer, of ten dollars, and if a man of the Militia of five dollars, for each offence: and absence for each day shall be held to be a separate offence. 46 V., c. 11, s. 80, *part.*

Hindering militia at drill.

103. Every person who interrupts or hinders any Militia at drill, or trespasses on the bounds set out by the proper officer for such drill, shall incur a penalty of five dollars for each offence, and may be taken into custody and detained by any person by the order of the commanding officer until such drill is over for the day. 46 V., c. 11, s. 80, *part.*

Insolent or disorderly behavior.

104. Every officer and man who disobeys any lawful order of his superior officer, or is guilty of any insolent or disorderly behavior towards such officer, shall incur a penalty, if an officer, of twenty dollars, and if a man of the Militia, of ten dollars, for each offence. 46 V., c. 11, s. 80, *part.*

Not keeping arms in proper order.

105. Every militiaman who fails to keep in proper order any arms or accoutrements delivered or intrusted to him, or who appears at drill, parade or on any other occasion, with his

arms or accoutrements out of proper order, or unserviceable, or deficient in any respect, shall incur a penalty of four dollars for each such offence. 46 V., c. 11, s. 81, *part.*

106. Every person who unlawfully disposes of or removes any arms, accoutrements or other articles belonging to the Crown or corps, or who refuses to deliver up the same when lawfully required, or has the same in his possession, except for lawful cause, the proof of which shall lie upon him, shall incur a penalty of twenty dollars for each offence;— but nothing in this section shall prevent such offender from being indicted and punished for any greater offence, if the facts amount to such greater offence; and such offender may be arrested by order of the justice of the peace before whom the complaint is made, upon affidavit showing that there is reason to believe that such offender is about to leave Canada, carrying with him any such arms, accoutrements or articles. 46 V., c. 11, s. 81, *part.*

Unlawfully disposing of them.

Proviso.

Arrest for such offences.

107. Every officer and man of the Militia who, when his corps is lawfully called upon to act in aid of the civil power, refuses or neglects to go out with such corps, or to obey any lawful order of his superior officer, shall incur a penalty, if an officer, not exceeding one hundred dollars, and if a man of the Militia, not exceeding twenty dollars for each offence. 46 V., c. 11, s. 82.

Refusing to aid the civil power.

108. Every person who resists any draft of men enrolled under this Act, or counsels or aids any person to resist any such draft, or the performance of any service in relation thereto, or counsels any drafted man not to appear at the place of rendezvous, or wilfully dissuades him from the performance of any duty required by law of militiamen, shall be liable to a fine not exceeding one hundred dollars, or to imprisonment not exceeding six months, or to both. 46 V., c. 11, s. 83, *part.*

Resisting draft, &c.

109. Every person who—

(a.) Persuades any man who has been enlisted to serve in any corps of Militia to desert, or attempts to procure or persuade any such man to desert, or—

(b.) Knowing that any such man is about to desert, aids or assists him in deserting, or—

(c.) Knowing any such man is a deserter, conceals such man, or aids or assists him in concealing himself, or aids or assists in his rescue,—

Shall, on summary conviction, be liable to imprisonment, with or without hard labor, for a term not exceeding six months. 46 V., c. 11, s. 83, *part.*

Offences connected with desertion.

Punishment.

110. Every person who wilfully violates any provision of this Act, shall, when no other penalty is imposed for such

Contravening this Act in any way.

violation, incur a penalty not exceeding twenty dollars for each offence; but nothing in this section shall prevent his being indicted and punished for any greater offence if the facts amount to such greater offence. 46 V., c. 11, s. 84.

PROCEDURE.

How penalties are recoverable. **111.** Every penalty incurred under this Act shall be recoverable, with costs, by summary conviction, on the evidence of one credible witness, on complaint or information before one justice of the peace; and in case of non-payment of the penalty immediately after conviction, the convicting justice may commit the person so convicted and making default in payment of such penalty and costs, to the common jail of the territorial division for which the said justice is then acting, or to some house of correction or lock-up house situate therein, for a term not exceeding forty days when the penalty does not exceed twenty dollars, and for a term not exceeding sixty days when it exceeds the last mentioned sum. 46 V., c. 11, s. 85.

Imprisonment if not paid.

Term of imprisonment.

On whose complaint only prosecution shall be brought. **112.** No prosecution against an officer of the Militia for any penalty under this Act or under any regulation made under the authority thereof, shall be brought except on the complaint of the officer for the time being commanding the Militia; and no such prosecution against any man of the Militia, shall be brought except on the complaint of the commanding officer or Adjutant of the battalion or corps, or Captain of the company or corps to which such man belongs; but the officer for the time being commanding the Militia may authorize any officer of Militia to make such complaint in his name, and the authority of any such officer alleging himself to have been so authorized to make any complaint, shall not be controverted or called in question except by the officer for the time being commanding the Militia; and no such prosecution shall be commenced after the expiration of six months from the commission of the offence charged, unless it is for unlawfully buying, selling or having in possession arms, accoutrements or other articles delivered to the Militia, or for desertion. 46 V., c. 11, s. 86.

Proviso.

And within what time.

Recovery of sums payable to H. M. **113.** Every sum of money which any person or corporation is under this Act liable to pay or repay to the Crown, or which is equivalent to the damages done to any arms or other property of the Crown used for Militia purposes, shall be a debt due to the Crown, and may be recovered as such. 46 V., c. 11, s. 88.

In what local jurisdiction actions, &c., shall be brought. **114.** Every action and prosecution against any officer or person, for anything done in violation of this Act or of any regulation made under the authority thereof, shall be laid and tried in Quebec in the district, and in the other Pro-

vinces, in the county where the act complained of was done, and shall not be commenced after the end of six months from the violation, except as hereinbefore provided;—and in any such action the defendant may plead the general issue and give this Act and the special matter in evidence at the trial; and no plaintiff shall recover in any such action if a tender of sufficient amends was made before the action was brought, or if a sufficient sum of money has been paid into court by the defendant after the action was brought. 46 V., c. 11, s. 89, *part.*

General issue.

Tender of amends.

115. No action or prosecution shall be brought against any officer or person for anything purporting to be done under the authority of this Act, until at least one month after notice in writing of such action or prosecution has been served upon him, or left at his usual place of abode,—in which notice the cause of action, and the court in which it is to be brought, shall be stated, and the name and place of abode of the attorney indorsed thereon. 41 V., c. 11, s. 89, *part.*

Notice of actions for things purporting to be done under this Act.

REGULATIONS.

116. The Governor in Council may make regulations relating to anything necessary to be done for the carrying into effect of this Act, and may, by such regulations, impose fines, not exceeding twenty dollars each, and imprisonment, not exceeding forty days, in case of default of payment of such fine. 46 V., c. 11, s. 96.

Power to make regulations and impose fines.

117. All regulations made under the authority of this Act shall be published in the *Canada Gazette*; and when so published, they shall have the force of law as fully as if they were contained in this Act, of which they shall be deemed to form a part. 46 V., c. 11, s. 97, *part.*

Regulations to be published.

GENERAL PROVISIONS.

118. It shall not be necessary that any order or notice under this Act be in writing, unless herein required to be so, provided it is communicated to the person who is to obey or be bound by it, either directly by the officer or person making or giving it, or by some other person by his order. 46 V., c. 11, s. 91.

Notices, &c., need not be in writing unless herein so required.

119. All General Orders of Militia, or other Militia orders issued through or by the Adjutant General, shall be held sufficiently notified to all persons whom they concern, by their insertion in the *Canada Gazette*;—and a copy of the said *Gazette* purporting to contain them shall be evidence of such orders. 46 V., c. 11, s. 92.

Notice of General Orders in *Canada Gazette*.

120. Every order made by the commanding officer of any corps of Militia, shall be held to be sufficiently notified to

Notifying other orders.

all persons whom it concerns, by insertion in some newspaper published in the regimental division in which such corps is situated, or, if there is no such newspaper, then by posting a copy thereof on the door of every place of public worship, or of some other public place, in each company division affected by such orders. 46 V., c. 11, s. 93.

Proof of commissions, &c.

121. The production of a commission or appointment, warrant or order in writing, purporting to be granted or made according to the provisions of this Act, shall be *prima facie* evidence of such commission or appointment, warrant or order, without proving the signature or seal thereto, or the authority of the person granting or making such commission, appointment, warrant or order. 46 V., c. 11, s. 94.

Bonds under this Act valid

122. Every bond to the Crown entered into before any judge or justice of the peace, or officer authorized to take the same, by any person under the authority of this Act, or according to any General Order or regulation made under it, for the purpose of securing the payment of any sum of money, or the performance of any duty or act hereby required or authorized, shall be valid and may be enforced accordingly. 46 V., c. 11, s. 87.

Remission of penalties.

123. Every penalty when recovered shall be paid over to the Minister of Finance and Receiver General: but Her Majesty may remit any penalty incurred under the provisions of this Act. 46 V., c. 11, s. 90.

Payments to be made by warrant of the Governor.

124. All sums of money required to defray any expense authorized by this Act may be paid out of the Consolidated Revenue Fund, upon warrant directed by the Governor General to the Minister of Finance and Receiver General; but no sum of money shall be so paid unless it is included in some appropriation made by Parliament; and a detailed account of moneys so expended shall be laid before Parliament during the then next session thereof. 46 V., c. 11, s. 95.

Accounts to Parliament.

Affirmation or declaration in certain cases.

125. In any case in which a person might otherwise be sworn under this Act, a solemn affirmation or solemn declaration may be substituted, under like penalty for wilful falsehood, if such person would be entitled to a like substitution in a civil case. 46 V., c. 11, s. 98, *part*.

To be laid before Parliament.

126. All regulations made under this Act, and an annual report of the state of the Militia, shall be laid before Parliament by the Minister of Militia and Defence, within the first thirty days of the then next session thereof. 46 V., c. 11, s. 97, *part*.



CHAPTER 42.

An Act respecting the Royal Military College.

A. D. 1886.

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

- 1.** There shall be an institution for the purpose of imparting a complete education in all branches of military tactics, fortification, engineering and general scientific knowledge in subjects connected with and necessary to a thorough knowledge of the military profession, and for qualifying officers for command and for staff appointments; and such institution shall be known as the Royal Military College, and shall be located in some one of the garrison towns of Canada. 37 V., c. 36, s. 1. Military College established.
- 2.** The college shall be conducted under the superintendence of a military officer, whose title or designation shall be that of Commandant, and who has special qualifications with regard to discipline and to the instruction to be given, and there shall also be two other professors or instructors, and such other assistants as are found necessary and as are authorized by Parliament; all the staff of the college shall be appointed by the Governor in Council, and shall hold office during pleasure. 37 V., c. 36, s. 2, *part.* College staff
How appointed.
- 3.** The salary of the Commandant shall be not more than three thousand dollars, and the salaries of the other professors shall be not more than two thousand dollars each. 37 V., c. 36, s. 2, *part.* Salaries.
- 4.** The college shall be governed and its affairs administered under and according to regulations made, from time to time, and approved by the Governor in Council; such regulations shall be published in the *Canada Gazette*, and after such publication shall have the force of law as fully as if they were contained in this Act, of which they shall be deemed to form a part. 37 V., c. 36, s. 3. Government of College.
- 5.** A Board of Examiners shall be appointed by the Governor in Council, in each military district, consisting of three or more members, one of whom shall, when practicable, be an officer of the militia staff, who shall be authorized to Board to examine candidates.

examine candidates for admission to the college as cadets, and give certificates, in such form as is provided, to such as are able to qualify according to the regulations which are adopted; and meetings of such boards shall be held when directed by the Minister of Militia and Defence. 37 V., c. 36, s. 4.

Examination
necessary to
admission.

6. All candidates for admission to the college as students shall be required to pass an examination before the examiners as provided in the next preceding section, from whom a certificate shall be obtained that they are proficient in the subjects prescribed: they shall also be required to pass a medical examination and produce evidence of good moral character, and no candidate shall be accepted who is under fifteen or over twenty years of age. 37 V., c. 36, s. 5.

Age of
candidate.

Examiners to
transmit
reports.

7. The examiners shall transmit to the Department of Militia and Defence a report of the names of all candidates who succeed in obtaining certificates, for the information of the Governor in Council, with a report of each meeting,—which report may embody any particular circumstances connected with the examination or any special recommendation. 37 V., c. 36, s. 6.

Number of
cadets ad-
mitted.
How selected.

8. The number of cadets admitted annually shall not exceed two in each year from each military district: the selection shall be made by the Governor in Council from the list of names forwarded by the boards of examiners, having reference to the order of merit in which the applicants pass their preliminary examinations; and the collegiate term shall be four years. 37 V., c. 36, s. 7.

Selection from
other districts
in certain
cases.

9. If there are no names, or only one name, forwarded as provided from one or more of the military districts, either on account of there being no applicants for examination or a failure in obtaining a certificate, the Governor in Council may select the required number from candidates who have passed an examination in any of the other districts. 37 V., c. 36, s. 8.

Temporary
admission of
officers of
Active Militia.

10. The Governor in Council may, for special reasons in the interests of the service, admit for a limited time, officers of the Active Militia, although over the age of twenty years, who have obtained a first class certificate under the provisions of the forty-sixth section of "*The Militia Act*;" such admissions shall be under such regulations as the Governor in Council approves, and in addition to the number prescribed by this Act, but shall, at no time, exceed ten in number. 37 V., c. 36, s. 9.

Requirements
from cadets.

11. Each cadet shall be required to furnish himself with a mattress and bedding, books and such apparatus as are not

supplied by the Government, and to pay a contribution in aid of the expense of procuring mess room table furniture. 37 V., c. 36, s. 10, *part*.

12. A sum not exceeding the rate of three hundred dollars Payment for cadets. per annum, and such allowances as are, from time to time, authorized by the Governor in Council, may be paid for each cadet during such period as he remains at the college, to meet the ordinary expenses of living, and procuring uniform. 37 V., c. 36, s. 10, *part*.

13. Every person who enters upon a course of instruction Cadets, &c., to be subject to articles of war, &c. in the college shall sign a roll of entry, and be thenceforward, for the period of his pupilage, subject to the Queen's rules and regulations, the Mutiny Act, the Rules and Articles of War, and to such other rules and regulations as Her Majesty's troops are subjected to. 37 V., c. 36, s. 11.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 43.

An Act respecting Indians.

A. D. 1886.

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

SHORT TITLE.

1. This Act may be cited as "*The Indian Act.*" 43 V., Short title. c. 28, s. 1.

INTERPRETATION.

- 2.** In this Act, unless the context otherwise requires,—
- (a.) The expression "Superintendent General" means the Superintendent General of Indian Affairs, and the expression "Deputy Superintendent General" means the Deputy Superintendent General of Indian Affairs; Interpretation.
"Superintendent General."
- (b.) The expression "Agent," or "Indian Agent," means and includes a commissioner, assistant commissioner, superintendent, agent or other officer acting under the instructions of the Superintendent General; "Agent" or
"Indian agent."
- (c.) The expression "person" means any individual other than an Indian; "Person."
- (d.) The expression "band" means any tribe, band or body of Indians who own or are interested in a reserve or in Indian lands in common, of which the legal title is vested in the Crown, or who share alike in the distribution of any annuities or interest moneys for which the Government of Canada is responsible; "Band."
- (e.) The expression "the band" means the band to which the context relates; "The band."
- (f.) The expression "band," when action is being taken by the band as such, means the band in council; "Band."
- (g.) The expression "irregular band" means any tribe, band or body of persons of Indian blood who own no interest in any reserve or lands of which the legal title is vested in the Crown, who possess no common fund managed by the Government of Canada, and who have not had any treaty relations with the Crown; "Irregular band."
- (h.) The expression "Indian" means— "Indian."
- First.* Any male person of Indian blood reputed to belong to a particular band;
- Secondly.* Any child of such person;

Thirdly. Any woman who is or was lawfully married to such person ;

“Non-treaty Indian.”

(i.) The expression “non-treaty Indian” means any person of Indian blood who is reputed to belong to an irregular band, or who follows the Indian mode of life, even if such person is only a temporary resident in Canada ;

“Enfranchised Indian.”

(j.) The expression “enfranchised Indian” means any Indian, his wife or minor unmarried child, who has received letters patent granting to him in fee simple any portion of the reserve which has been allotted to him or to his wife and minor children, by the band to which he belongs, or any unmarried Indian who has received letters patent for an allotment of the reserve ;

“Reserve.”

(k.) The expression “reserve” means any tract or tracts of land set apart by treaty or otherwise for the use or benefit of or granted to a particular band of Indians, of which the legal title is in the Crown, and which remains a portion of the said reserve, and includes all the trees, wood, timber, soil, stone, minerals, metals and other valuables thereon or therein ;

“Special reserve.”

(l.) The expression “special reserve” means any tract or tracts of land, and everything belonging thereto, set apart for the use or benefit of any band or irregular band of Indians, the title of which is vested in a society, corporation or community legally established, and capable of suing and being sued, or in a person or persons of European descent, —but which land is held in trust for such band or irregular band of Indians ;

“Indian lands.”

(m.) The expression “Indian lands” means any reserve or portion of a reserve which has been surrendered to the Crown ;

“Intoxicants.”

(n.) The expression “intoxicants” means and includes all spirits, strong waters, spirituous liquors, wines, or fermented or compounded liquors or intoxicating drink of any kind whatsoever, and any intoxicating liquor or fluid, and opium and any preparation thereof, whether liquid or solid, and any other intoxicating drug or substance, and tobacco or tea mixed or compounded or impregnated with opium or with other intoxicating drugs, spirits or substances, and whether the same or any of them are liquid or solid. 43 V., c. 28, s. 2 ;—45 V., c. 30, s. 1.

APPLICATION OF ACT.

Governor in Council may exempt from operation of this Act ; and remove such exemption.

3. The Governor in Council may, by proclamation, from time to time, exempt from the operation of this Act, or from the operation of any one or more of the sections of this Act, Indians or non-treaty Indians, or any of them, or any band or irregular band of them, or the reserves or special reserves, or Indian lands, or any portions of them, in any Province, or in the North-West Territories, or in the District of Keewatin, or in any of them ; and may again, by proclamation, from time to time, remove such exemption. 43 V., c. 28, s. 110.

DEPARTMENT OF INDIAN AFFAIRS.

4. The Minister of the Interior, or the head of any other department appointed for that purpose by the Governor in Council, shall be the Superintendent General of Indian Affairs; and shall, as such, have the control and management of the lands and property of the Indians in Canada. 46 V., c. 6, s. 1.

Any Minister may be appointed Superintendent General of Indian Affairs.

5. There shall be a department of the Civil Service of Canada which shall be called the Department of Indian Affairs, over which the Superintendent General shall preside. 43 V., c. 28, s. 4.

Department of Indian Affairs.

6. The Department of Indian Affairs shall have the management, charge and direction of Indian Affairs. 43 V., c. 28, s. 7, *part*.

Duties of the Department of Indian Affairs.

7. The Governor in Council may appoint an officer who shall be called the Deputy of the Superintendent General of Indian Affairs, and may also appoint such other officers, clerks and servants as are requisite for the proper conduct of the business of the department. 43 V., c. 28, ss. 5 and 8, *parts*.

Deputy Superintendent General of Indian Affairs, his powers and duties.

8. The Governor in Council may appoint an Indian Commissioner for Manitoba, Keewatin and the North-West Territories, or an Indian Commissioner for Manitoba and Keewatin, and an Indian Commissioner for the North-West Territories, and may also appoint an Indian Superintendent for British Columbia, who shall have, respectively, such powers and duties as are assigned to them, respectively, by the Governor in Council :

Appointment of an Indian Commissioner and of an Indian Superintendent.

2. The Governor in Council may also appoint an Assistant Indian Commissioner for Manitoba, Keewatin and the North-West Territories, or an Assistant Indian Commissioner for Manitoba and Keewatin, and an Assistant Indian Commissioner for the North-West Territories, who shall have such of the powers and duties of the Commissioner, and such other powers and duties as are assigned to him by the Governor in Council :

Appointment of Assistant Indian Commissioners.

3. The Governor in Council may, also, from time to time, appoint officers and agents to carry out this Act, and Orders in Council made under it—which officers and agents shall be paid in such manner and at such rates as the Governor in Council directs, out of any fund that is appropriated by law for that purpose :

Governor may appoint officers, &c., to be paid out of moneys appropriated by Parliament.

4. The Governor General may appoint a Deputy Governor, who shall have the power, in the absence of or under instructions of the Governor General, to sign letters patent for Indian lands ; and the signature of such Deputy Governor to such patents shall have the same force and virtue as if such patents were signed by the Governor General. 43 V., c. 28, ss. 9 and 111 ;—44 V., c. 17, s. 14 ; 49 V., c. 7, s. 1.

Governor may appoint Deputy Governor to sign letters patent.

MEMBERSHIP OF BAND.

Exclusion of natural children from bands.

9. Any illegitimate child may,—unless he has, with the consent of the band whereof the father or mother of such child is a member, shared in the distribution moneys of such band for a period exceeding two years,—be, at any time, excluded from the membership thereof by the Superintendent General. 43 V., c. 28, s. 10.

Loss of membership through residence in a foreign country without leave.

10. Any Indian who has for five years continuously resided in a foreign country without the consent, in writing, of the Superintendent General or his agent, shall cease to be a member of the band of which he or she was formerly a member; and he shall not again become a member of that band, or of any other band, unless the consent of such band, with the approval of the Superintendent General or his agent, is first obtained. 43 V., c. 28, s. 11.

Effect of marriage of an Indian woman with any other than an Indian or a non-treaty Indian.

11. Any Indian woman who marries any person other than an Indian, or a non-treaty Indian, shall cease to be an Indian in every respect within the meaning of this Act, except that she shall be entitled to share equally with the members of the band to which she formerly belonged, in the annual or semi-annual distribution of their annuities, interest moneys and rents; but such income may be commuted to her at any time at ten years' purchase, with the consent of the band. 43 V., c. 28, s. 12.

Effect of marriage of an Indian woman with an Indian of any band but her own, or with a non-treaty Indian.

12. Any Indian woman who marries an Indian of any other band, or a non-treaty Indian, shall cease to be a member of the band to which she formerly belonged, and shall become a member of the band or irregular band of which her husband is a member; but if she marries a non-treaty Indian, while becoming a member of the irregular band of which her husband is a member, she shall be entitled to share equally with the members of the band of which she was formerly a member, in the distribution of their moneys; but such income may be commuted to her at any time at ten years' purchase, with the consent of the band. 43 V., c. 28, s. 13.

As to half-breeds in Manitoba.

13. No half-breed in Manitoba who has shared in the distribution of half-breed lands shall be accounted an Indian; and no half-breed head of a family, except the widow of an Indian, or a half-breed who has already been admitted into a treaty, shall, unless under very special circumstances, which shall be determined by the Superintendent General or his agent, be accounted an Indian, or entitled to be admitted into any Indian treaty; and any half-breed who has been admitted into a treaty shall be allowed to withdraw therefrom on signifying in writing his desire so to do,—which signification in writing shall be

signed by him in the presence of two witnesses, who shall certify the same on oath before some person authorized by law to administer the same :

2. The half-breeds who are by the father's side either wholly or partly of Indian blood now settled in the seigniory of Caughnawaga, and who have inhabited the said seigniory for the last twenty years, are hereby confirmed in their possession and right of residence and property, but not beyond the tribal rights and usages which others of the band enjoy. 43 V., c. 28, s. 14;—47 V., c. 27, s. 4.

Half-breeds of Caughnawaga confirmed in certain rights.

RESERVES.

14. All reserves for Indians, or for any band of Indians, or held in trust for their benefit, shall be deemed to be reserved and held for the same purposes as they were held before the passing of this Act, but shall be subject to the provisions of this Act. 43 V., c. 28, s. 15.

Reserves to be subject to this Act.

15. The Superintendent General may authorize surveys, plans and reports to be made of any reserve for Indians, showing and distinguishing the improved lands, the forests and lands fit for settlement, and such other information as is required; and may authorize the whole or any portion of a reserve to be sub-divided into lots. 43 V., c. 28, s. 16.

Surveys, plans, reports and sub-division into lots of reserves may be authorized.

16. No Indian shall be deemed to be lawfully in possession of any land in a reserve, unless he has been or is located for the same by the band, or council of the band, with the approval of the Superintendent General; but no Indian shall be dispossessed of any land on which he has improvements, without receiving compensation therefor, at a valuation approved by the Superintendent General, from the Indian who obtains the land, or from the funds of the band, as is determined by the Superintendent General. 43 V., c. 28, s. 17.

What Indians only to be deemed lawful possessors of land in reserves.

17. When the Superintendent General approves of any location as aforesaid, he shall issue, in triplicate, a ticket granting a location title to such Indian, one triplicate of which he shall retain in a book to be kept for the purpose; and the other two of which he shall forward to the local agent—one to be delivered to the Indian in whose favor it was issued, and the other to be filed by the agent, who shall also cause the same to be copied into a register of the band, provided for the purpose. 43 V., c. 28, s. 18.

Location ticket in triplicate; and how dealt with.

18. The conferring of any such location title shall not have the effect of rendering the land covered thereby subject to seizure under legal process, and such title shall be transferable only to an Indian of the same band, and then only with the consent and approval of the Superintendent

Effect of such ticket limited.

General, whose consent and approval shall be given only by the issue of a ticket, in the manner prescribed in the next preceding section. 43 V., c. 28, s. 19.

Privileges of Indians and non-treaty Indians having improved lands included in reserves in certain Provinces.

19. Every Indian and every non-treaty Indian, in the Province of British Columbia, in the Province of Manitoba, in the North-West Territories or in the District of Keewatin, who has, previously to the selection of a reserve, possession of and who has made permanent improvements on a plot of land which is or shall be included in, or surrounded by, a reserve, shall have the same privileges, in respect of such plot, as an Indian enjoys who holds under a location title. 43 V., c. 28, s. 21.

DESCENT OF PROPERTY.

Indian may devise certain property by will.

20. Any Indian who holds, under location ticket or other duly recognized title, any parcel of land upon the reserve of his band, or upon a reserve of any other band, upon which he, or he and his family, or any of them, resided at the date of his death, may devise the same by will, as well as his personal effects or other property of which he is the recognized owner, to such member or members of his family, or relative or relatives, as to him seems proper; provided the said will, after his death, is consented to by the band owning the said reserve, and approved of by the Superintendent General, and that such devise is not to any relative who is not entitled to reside upon the reserve of the band on which the property devised is situated, or to any relative farther removed than a second cousin:

Proviso: as to approval.

May be subject to trusts.

2. The devise may be made subject to such trusts as to the devisor seems proper, if the same are within the provisions of this Act, or any other Act respecting Indian affairs:

Effect of non-approval.

3. If such will is not assented to or approved of, as aforesaid, the Indian shall be deemed to have died intestate:

Distribution of estate in case of intestacy.

4. Upon the death of any Indian who holds, under location ticket or other duly recognized title, any parcel of land, and who has died intestate, the right and interest therein of such deceased Indian shall, together with his goods and chattels, devolve one-third upon his widow, if any, if she is a woman of good moral character and was living with her husband at the time of his death, and the remainder upon his children, in equal shares, if they are Indians within the meaning of this Act, and such children shall have a like estate in such land as their father had; but the Superintendent General may, in his discretion, direct that the widow, if she is of good moral character, shall have the right to occupy such parcel of land, and have the use of such goods and chattels during the term of her widowhood:

Proviso.

Administration of property of minors.

5. During the minority of such children, the administration and charge of such land and goods and chattels as they are entitled to, as aforesaid, shall devolve upon the widow,

if any, of such deceased Indian, if she is a woman of good moral character and was living with her husband at the time of his death; and as each male child attains the age of twenty-one years, and each female child attains that age or marries before that age, with the consent of the said widow the share of such male or female child shall be conveyed or delivered, as the case may be, to him or her; but the Superintendent General may, at any time, remove the widow from such administration and charge, and confer the same upon some other person, and, in like manner, may remove such other person and appoint another, and so, from time to time, as occasion requires:

6. If any such Indian dies without issue, leaving a widow of good moral character, such lot or parcel of land, and his goods and chattels, shall be vested in her, and if he leaves no widow, then they shall be vested in the Indian nearest of kin to the deceased; but if he has no heir nearer than a cousin, the same shall be vested in Her Majesty for the benefit of the band:

7. Whatever is the final disposition of the land, the claimant shall not be held to be lawfully in possession until he obtains a location ticket from the Superintendent General, in the manner prescribed in regard to new locations:

8. The Superintendent General may, whenever there are minor children, appoint a fit and proper person to take charge of such children and their property, and may remove such person and appoint another, and so, from time to time, as occasion requires:

9. The Superintendent General may decide all questions which arise respecting the distribution, among those entitled, of the lands and goods and chattels of a deceased Indian, and may also do whatsoever he, under the circumstances, thinks will best give to each claimant his share, according to the true intent and meaning of this Act, whether such share is part of the lands or goods and chattels themselves, or is part of the proceeds thereof, if it is thought best to dispose thereof—regard always being had in any such disposition to restrictions upon the disposition of property in a reserve. 47 V., c. 27, s. 5.

TRESPASSING ON RESERVES.

21. No person, or Indian other than an Indian of the band, shall settle, reside or hunt upon, occupy or use any land or marsh, or shall settle, reside upon or occupy any road, or allowance for road, running through any reserve belonging to or occupied by such band; and all mortgages given or consented to by any Indian, and all leases, contracts and agreements made or purporting to be made by any Indian, whereby persons or Indians other than Indians of the band are permitted to reside or hunt upon such reserve, shall be void. 43 V., c. 28, s. 22.

Removal of trespassers and their cattle.

22. If any person, or Indian other than an Indian of the band, without the license of the Superintendent General (which license he may at any time revoke), settles, resides or hunts upon, occupies, uses, or causes or permits any cattle or other animals owned by him, or in his charge, to trespass on any such land or marsh, or fishes in any marsh, river, stream or creek on or running through a reserve, or settles, resides upon or occupies any such road, or allowance for road, on such reserve,—or if any Indian is illegally in possession of any land in a reserve—the Superintendent General, or such officer or person as he thereunto deposes and authorizes, shall, on complaint made to him, and on proof of the fact to his satisfaction, issue his warrant, signed and sealed, directed to any literate person willing to act in the premises, commanding him forthwith—

Removal of persons.

(a.) To remove from the said land, marsh or road, or allowance for road, every such person or Indian and his family, so settled, or who is residing or hunting upon, or occupying, or is illegally in possession of the same; or—

And of cattle.

(b.) To remove such cattle or other animals from such land or marsh; or—

Prevention of fishing.

(c.) To cause such person or Indian to cease fishing in any marsh, river, stream or creek, as aforesaid; or—

Notice to trespasser.

(d.) To notify such person or Indian to cease using, as aforesaid, the said lands, river, streams, creeks or marshes, roads or allowance for roads;

Effect of warrant.

And such person shall accordingly remove or notify every such person or Indian, or remove such cattle or other animals, or cause such person or Indian to cease fishing, as aforesaid, and for that purpose shall have the same powers as in the execution of criminal process; and the expenses incurred in any such removal or notification shall be borne by the person removed or notified, or who owns the cattle or other animals removed, or who has them in charge, and may be recovered from him as the costs in any ordinary action or suit, or if the trespasser is an Indian, such expenses may be deducted from his share of annuity and interest money, if any such are due to him. 47 V., c. 27, s. 21.

Costs.

Removal and punishment of persons returning after having been removed.

23. If any person or Indian, after he has been removed or notified as aforesaid, or after any cattle or other animals owned by him or in his charge have been removed, as aforesaid, returns to, settles, resides or hunts upon, or occupies or uses, as aforesaid, any of the said land, marsh or lots, or parts of lots, or causes or permits any cattle or other animals owned by him or in his charge, to return to any of the said land, marsh, or lots or parts of lots, or returns to any marsh, river, stream or creek on or running through a reserve, for the purpose of fishing therein, or settles or resides upon or occupies any of the said roads, allowances for roads, or lots or parts of lots, the Superintendent General,

or any officer or person deputed and authorized, as aforesaid, upon view, or upon proof on oath made before him, or to his satisfaction, that the said person or Indian has returned to, settled, resided or hunted upon, or occupied or used, as aforesaid, any of the said lands, marshes, lots or parts of lots, or has returned to, settled or resided upon or occupied any of the said roads, or allowances for roads, or lots or parts of lots, or has caused or permitted any cattle or other animals owned by him, or in his charge, to return to any of the said land, marsh or lots or parts of lots, or has returned to any marsh, river, stream or creek, on or running through a reserve, for the purpose of fishing therein, shall direct and send his warrant, signed and sealed, to the sheriff of the proper county or district, or to any literate person therein; and if the said reserve is not situated within any county or district, then to any literate person, commanding him forthwith to arrest such person or Indian, and bring him before any stipendiary magistrate, police magistrate, justice of the peace, or Indian agent, who may, on conviction, commit him to the common gaol of the said county or district; or if there is no gaol in the said county or district, then to the gaol nearest to the said reserve in the Province or Territory, there to remain for the time ordered in such warrant, but which shall not exceed thirty days for the first offence, and thirty days additional for each subsequent offence. 43 V., c. 28, s. 24;—45 V., c. 30, s. 3;—47 V., c. 27, s. 6.

Warrant to sheriff, to arrest and commit to gaol.

Limitation of imprisonment.

24. Such sheriff or other person shall accordingly arrest the said person or Indian, and deliver him to the gaoler or sheriff of the proper county, district, Province or Territory, who shall receive such person or Indian, and imprison him in the said gaol for the term aforesaid. 43 V., c. 28, s. 25.

Arrest and imprisonment.

25. The Superintendent General, or such officer or person aforesaid, shall cause the judgment or order against the offender to be drawn up and filed in his office; and such judgment shall not be appealed from, or removed by *certiorari* or otherwise, but shall be final. 43 V., c. 28, s. 26.

Judgment to be drawn up and filed, and to be final.

26. Every person, or Indian other than an Indian of the band to which the reserve belongs, who, without the license in writing of the Superintendent General, or of some officer or person deputed by him for that purpose, cuts, carries away, or removes from any of the said land, roads or allowances for roads, in the said reserve, any of the trees, saplings, shrubs, underwood, timber or hay thereon, or removes any of the stone, soil, minerals, metals or other valuables from the said land, roads or allowances for roads, shall, on conviction thereof before any stipendiary magistrate, police magistrate, or any two justices of the peace or Indian agent, incur—

Punishment of trespassers on reserves.

Penalties for removing certain things.

Trees.

(a.) For every tree he cuts, carries away or removes, a penalty of twenty dollars;

Saplings, &c.

(b.) For cutting, carrying away or removing any of the saplings, shrubs, underwood, timber or hay, if under the value of one dollar, a penalty of four dollars; but if over the value of one dollar, a penalty of twenty dollars;

Stone, minerals, &c.

(c.) For removing any of the stone, soil, minerals, metals or other valuables aforesaid, a penalty of twenty dollars, -

And the costs of prosecution in each case :

Recovery of penalties and costs.

2. In default of immediate payment of the said penalties and costs, such magistrate, justices of the peace, or Indian agent, or the Superintendent General, or such other officer or person as he has authorized in that behalf, may issue a warrant, directed to any person or persons by him or them named therein, to levy the amount of the said penalties and costs by distress and sale of the goods and chattels of the person or Indian liable to pay the same; and similar proceedings may be had upon such warrant issued by the Superintendent General, or such other officer or person as aforesaid, as if it had been issued by the magistrate, justices of the peace or Indian agent, before whom the person was convicted; or such magistrate, or justices of the peace, or Indian agent, or the Superintendent General, or such other officer or person as aforesaid, without proceeding by distress and sale, may, upon non-payment of the said penalties and costs, order the person or Indian liable therefor to be imprisoned in the common gaol of the county or district in which the said reserve or any part thereof lies, for a term not exceeding thirty days, if the penalty does not exceed twenty dollars, or for a term not exceeding three months if the penalty exceeds twenty dollars :

Committal without distress.

Committal in default of distress.

3. If upon the return of any warrant for distress and sale, the amount thereof has not been made, or if any part of it remains unpaid, such magistrate, or justices of the peace, or Indian agent, or the Superintendent General, or such other officer or person as aforesaid, may commit the person in default to the common gaol, as aforesaid, for a term not exceeding thirty days, if the sum claimed upon the said warrant does not exceed twenty dollars, or for a term not exceeding three months if the sum exceeds twenty dollars :

Application of penalties.

4. All such penalties shall be paid to the Minister of Finance and Receiver General, and shall be disposed of for the use and benefit of the band of Indians for whose benefit the reserve is held, in such manner as the Governor in Council directs :

License by Superintendent General.

5. Nothing herein contained shall be construed to prevent the Superintendent General from issuing a license to any person or Indian to cut and remove trees, wood, timber and hay, or to quarry and remove stone and gravel on and from the reserve, if he, or his agent, acting by his instructions, first obtains the consent of the band thereto in the

ordinary manner, as hereinafter provided. 43 V., c. 28, s. 27, part;—45 V., c. 30, s. 3;—47 V., c. 27, s. 7.

27. Every Indian who, without the license in writing of the Superintendent General, or of some officer or person deputed by him for that purpose, cuts, carries away or removes from the land of an Indian who holds a location title, or who is otherwise recognized by the department as the occupant of such land, any of the trees, saplings, shrubs, underwood, timber or hay thereon, or removes any of the stone, soil, minerals, metals or other valuables off the said land; and every Indian who, without license as aforesaid, cuts, carries away or removes from any portion of the reserve of his band, for sale and not for the immediate use of himself and his family, any trees, timber or hay thereon, or removes any of the stone, soil, minerals, metals or other valuables therefrom, for sale, as aforesaid, shall incur the penalties provided in the next preceding section in respect to Indians of other bands and other persons, and similar proceedings may be had for the recovery thereof as are provided for in the said section. 43 V., c. 28, s. 28.

Punishment of Indians trespassing on land of another Indian;

Or removing certain things.

Penalty.

28. In all orders, writs, warrants, summonses and proceedings whatsoever made, issued or taken by the Superintendent General, or any officer or person by him deputed as aforesaid, or by any stipendiary magistrate, police magistrate, justice of the peace or Indian agent, it shall not be necessary to insert or express the name of the person or Indian summoned, arrested, distrained upon, imprisoned or otherwise proceeded against therein, except when the name of such person or Indian is truly given to or known by the Superintendent General, or such officer or person, or such stipendiary magistrate, police magistrate, justice of the peace or Indian agent; and if the name is not truly given to or known by him, he may name or describe the person or Indian by any part of the name of such person or Indian given to or known by him; and if no part of the name is given to or known by him, he may describe the person or Indian proceeded against in any manner by which he may be identified; and all such proceedings, containing or purporting to give the name or description of any such person or Indian, as aforesaid, shall *prima facie* be sufficient. 43 V., c. 28, s. 29.

Name of offender need not be inserted in the warrant in certain cases.

What description shall suffice.

29. All sheriffs, gaolers or peace officers, to whom any such process is directed by the Superintendent General, or by any officer or person by him deputed as aforesaid, or by any stipendiary magistrate, police magistrate, justice of the peace or Indian agent, and all other persons to whom such process is directed with their consent, shall obey the same; and all other officers shall, upon reasonable requisition so to do, assist in the execution thereof. 44 V., c. 17, s. 9.

Sheriff, &c., to assist in such removal.

SALE OR BARTER OF PRODUCE AND MAPLE TREES GROWN ON RESERVES.

Governor in Council may make regulations for prohibiting or regulating the sale of produce by Indians.

30. The Governor in Council may make such regulations as, from time to time, seem advisable for prohibiting or regulating the sale, barter, exchange or gift, by any band or irregular band of Indians, or by any Indian of any band or irregular band, in the Province of Manitoba, the North-West Territories or the District of Keewatin, of any grain or root crops, or other produce grown upon any Indian reserve in the Province of Manitoba, the North-West Territories or the District of Keewatin; and may further provide that such sale, barter, exchange or gift shall be null and void, unless the same are made in accordance with regulations made in that behalf:

Penalty for buying from Indians contrary to such regulations.

2. Every person who buys or otherwise acquires from any such Indian or band, or irregular band of Indians, any such grain, root crops or other produce, contrary to any such regulations, shall, on summary conviction before a stipendiary magistrate, police magistrate, or two justices of the peace or an Indian agent, be liable to a penalty not exceeding one hundred dollars, or to imprisonment for a term not exceeding three months, or to both. 44 V., c. 17, s. 1, *part, and* s. 2;—45 V., c. 30, ss. 3 *and* 6.

Superintendent General may direct seizure of produce unlawfully possessed by any person.

31. If any such grain or root crops, or other produce as aforesaid, are unlawfully in the possession of any person, within the intent and meaning of this Act, and of any regulations made by the Governor in Council under this Act, any person acting under the authority, either general or special, of the Superintendent General, may, with such assistance in that behalf as he thinks necessary, seize and take possession of the same; and he shall deal therewith as the Superintendent General, or any officer or person thereunto by him authorized, directs. 44 V., c. 17, s. 3.

Governor in Council may prohibit cutting of trees on reserves.

Penalty for contravention of such regulations.

32. The Governor in Council may, from time to time, make regulations for prohibiting the cutting, carrying away or removing from any reserve or special reserve, of any hard or sugar-maple tree or sapling; and every person who cuts, carries away or removes from any reserve or special reserve, any hard or sugar-maple tree or sapling, or buys or otherwise acquires from any Indian or non-treaty Indian, or other person, any hard or sugar-maple tree or sapling so cut, carried away or removed from any reserve or special reserve, contrary to any such regulation, shall, on summary conviction before a stipendiary magistrate, police magistrate, or two justices of the peace or an Indian agent, be liable to a penalty not exceeding one hundred dollars, or to imprisonment for a term not exceeding three months, or to both. 44 V., c. 17; ss. 4 *and* 5;—45 V., c. 30, s. 3.

ROADS AND BRIDGES.

33. Indians residing upon any reserve, and engaged in the pursuit of agriculture as their then principal means of support, shall be liable, if so directed by the Superintendent General, or any officer or person by him thereunto authorized, to perform labor on the public roads laid out or used in or through, or abutting upon such reserve,—which labor shall be performed under the sole control of the Superintendent General, or officer or person aforesaid, who may direct when, where and how and in what manner such labor shall be applied, and to what extent the same shall be imposed upon Indians who are resident upon any of the said lands; and the Superintendent General, or officer or person aforesaid, shall have the like power to enforce the performance of such labor by imprisonment or otherwise, as may be done by any power or authority under any law, rule or regulation in force in the Province or Territory in which such reserve is situate, for the non-performance of statute labor; but the labor to be so required of any such Indian shall not exceed in amount or extent what may be required of other inhabitants of the same Province, Territory, county or other local division, under the laws requiring and regulating such labor and the performance thereof. 43 V., c. 28, s. 34.

Indians liable to labor on public roads in reserves, and to what extent.

Powers of the Superintendent General.

Proviso: as to the amount of such labor.

34. Every band of Indians shall cause the roads, bridges, ditches and fences within its reserve to be put and maintained in proper order, in accordance with the instructions received, from time to time, from the Superintendent General, or from the agent of the Superintendent General; and whenever, in the opinion of the Superintendent General, the same are not so put or maintained in order, he may cause the work to be performed at the cost of such band, or of the particular Indian in default, as the case may be, either out of its or his annual allowances, or otherwise. 43 V., c. 28, s. 35.

Band to cause roads to be put and kept in order.

Power of the Superintendent General.

COMPENSATION FOR PORTION OF RESERVE USED FOR ANY PURPOSE OR TRESPASSED UPON.

35. If any railway, road or public work passes through or causes injury to any reserve belonging to or in possession of any band of Indians, or if any act occasioning damage to any reserve is done under the authority of an Act of Parliament, or of the Legislature of any Province, compensation shall be made to them therefor in the same manner as is provided with respect to the lands or rights of other persons; and the Superintendent General shall, in any case in which an arbitration is had, name the arbitrator on behalf of the Indians, and shall act for them in any matter relating to the settlement of such compensation; and the amount

Superintendent General to name arbitrator on behalf of Indians when property is taken from them for any public improvement.

awarded in any case shall be paid to the Minister of Finance and Receiver General for the use of the band of Indians for whose benefit the reserve is held, and for the benefit of any Indian who has improvements thereon. 42 V., c. 9, s. 9, sub-s. 37;—43 V., c. 28, s. 31.

Her Majesty's name may be used in proceedings in certain cases.

36. In all cases of encroachment upon, or of violation of trust respecting any special reserve, proceedings may be taken in the name of Her Majesty, in any superior court, notwithstanding the legal title is not vested in Her Majesty. 43 V., c. 28, s. 32.

SURRENDER AND FORFEITURE OF LANDS IN RESERVE.

Title to vest in H. M. if title to reserves held in trust lapses.

37. If, by the violation of the conditions of any such trust as aforesaid, or by the breaking up of any society, corporation or community, or if by the death of any person or persons without a legal succession of trusteeship, in whom the title to a special reserve is held in trust, the said title lapses or becomes void in law, the legal title shall become vested in Her Majesty in trust, and the property shall be managed for the band or irregular band previously interested therein as an ordinary reserve :

Surrender of special reserve to Her Majesty in trust.

2. The trustees of any special reserve may, at any time, surrender the same to Her Majesty in trust, whereupon the property shall be managed for the band or irregular band previously interested therein as an ordinary reserve. 43 V., c. 28, s. 33.

Provisions respecting sale or lease of reserves.

38. No reserve or portion of a reserve shall be sold, alienated or leased until it has been released or surrendered to the Crown for the purposes of this Act, excepting that in cases of aged, sick and infirm Indians and widows or children left without a guardian, or in the cases of Indians engaged in the practice of any one of the learned professions, or in teaching schools, or in pursuing a trade which interferes with their cultivating land on the reserve, the Superintendent General shall have the power to lease, for their support or benefit, the lands to which they are entitled. 43 V., c. 28, s. 36;—47 V., c. 27, s. 8.

Release or surrender of a reserve; when valid.

39. No release or surrender of a reserve, or portion of a reserve, held for the use of the Indians of any band, or of any individual Indian, shall be valid or binding, except on the following conditions :—

Assent of band.

(a.) The release or surrender shall be assented to by a majority of the male members of the band, of the full age of twenty-one years, at a meeting or council thereof summoned for that purpose, according to the rules of the band, and held in the presence of the Superintendent General, or of an officer duly authorized to attend such council, by the Governor in Council or by the Superintendent General; but no

Indian shall be entitled to vote or be present at such council unless he habitually resides on or near and is interested in the reserve in question ;

Proviso.

(b.) The fact that such release or surrender has been assented to by the band at such council or meeting, shall be certified on oath before some judge of a superior, county or district court, or stipendiary magistrate, by the Superintendent General, or by the officer authorized by him to attend such council or meeting, and by some one of the chiefs or principal men present thereat and entitled to vote ; and when such assent has been so certified, as aforesaid, such release or surrender shall be submitted to the Governor in Council for acceptance or refusal. 43 V., c. 28, s. 37.

Proof of assent.

Approval of Governor in Council.

40. Nothing in this Act shall confirm any release or surrender which, but for this Act, would have been invalid ; and no release or surrender of any reserve, or portion of a reserve, to any person other than Her Majesty, shall be valid. 43 V., c. 28, s. 39.

Act not to confirm invalid releases or surrenders.

41. All Indian lands, which are reserves or portions of reserves, surrendered or to be surrendered to Her Majesty, shall be deemed to be held for the same purposes as before the passing of this Act ; and shall be managed, leased and sold as the Governor in Council directs, subject to the conditions of surrender and the provisions of this Act. 43 V., c. 28, s. 40.

Certain Indian lands to be held by the Crown for the same purposes as heretofore.

SALE AND TRANSFER OF LANDS IN RESERVES.

42. Every certificate of sale or receipt for money received on the sale of Indian lands granted or made by the Superintendent General or any agent of his, so long as the sale to which such receipt or certificate relates is in force and not rescinded, shall entitle the person to whom the same is granted, or his assignee, by instrument registered under this or any former Act providing for registration in such cases, to take possession of and occupy the land therein comprised, subject to the conditions of such sale, and thereunder, unless the same has been revoked or cancelled, to maintain actions and suits against any wrongdoer or trespasser, as effectually as he could do under a patent from the Crown ; and such receipt or certificate shall be *prima facie* evidence for the purpose of possession by such person, or the assignee, under an instrument registered as aforesaid, in any such action or suit ; but the same shall have no force against a license to cut timber existing at the time of the making or granting thereof. 43 V., c. 28, s. 42.

Effect of former unrescinded certificates of sale or receipts.

Evidence of possession.

Proviso.

43. The Superintendent General shall keep a book for registering, at the option of the persons interested, the particulars of any assignment made, as well by the original

Registers of assignments to be kept.

purchaser or lessee of Indian lands, or his heirs or legal representatives, as by any subsequent assignee of any such lands, or the heirs or legal representatives of such assignee :

Entries there-
in, on what
proof to be
made.

2. Upon any such assignment being produced to the Superintendent General, and, except in cases where such assignment is made under a corporate seal, with an affidavit of due execution thereof, and of the time and place of such execution, and the names, residences and occupations of the witnesses; or, as regards lands in the Province of Quebec, upon the production of such assignment, executed in notarial form, or of a notarial copy thereof, the Superintendent General shall cause the material parts of every such assignment to be registered in such book of registry, and shall cause to be indorsed on every such assignment a certificate of such registration, signed by himself, or by the Deputy Superintendent General or any other officer of the department by him authorized to sign such certificates :

Effect of as-
signment and
registration.

3. Every such assignment so registered shall be valid against any assignment previously executed, which is subsequently registered or is unregistered; and no such registration shall be made until all the conditions of the sale, grant or location are complied with or dispensed with by the Superintendent General, and every assignment registered, as aforesaid, shall be unconditional in its terms. 43 V., c. 28, s. 43.

If subscribing
witness is
dead, &c.

44. If any subscribing witness to any such assignment is dead, or is absent from Canada, the Superintendent General may register such assignment upon the production of an affidavit proving the death or absence of such witness, and his handwriting, or the handwriting of the person making such assignment. 43 V., c. 28, s. 44.

Patents,
how to be pre-
pared, regis-
tered and
signed.

45. Every patent for Indian lands shall be prepared in the Department of Indian Affairs, and shall be signed by the Superintendent General of Indian Affairs or his deputy, or by some other person thereunto specially authorized by order of the Governor General in Council, and when so signed, shall be registered by an officer specially appointed for that purpose by the Registrar General, and then transmitted to the Secretary of State of Canada, by whom, or by the Under Secretary of State, the same shall be countersigned, and the Great Seal of Canada thereto caused to be affixed: Provided, that every such patent for land shall be signed by the Governor or by the Deputy Governor appointed under this Act for that purpose :

Patent to is-
sue to their
assignee or
devisee after
proof of right
thereto.

2. On any application for a patent by the heir, assignee or devisee of the original purchaser from the Crown, the Superintendent General may receive proof, in such manner as he directs and requires, in support of any claim for a patent, when the original purchaser is dead; and upon being

satisfied that the claim has been equitably and justly established, may allow the same, and cause a patent to issue accordingly: but nothing in this section shall limit the right of a person claiming a patent to land in the Province of Ontario to make application at any time to the Commissioner, under the "*Act respecting the Heir, Devisee and Assignee Commission*," being chapter twenty-five of the Revised Statutes of Ontario (1877) or the corresponding provision in any subsequent revision of the said Statutes. 43 V., c. 28, s. 45;—49 V., c. 7, s. 2.

46. If the Superintendent General is satisfied that any purchaser or lessee of any Indian lands, or any assignee claiming under or through him, has been guilty of any fraud or imposition, or has violated any of the conditions of sale or lease, or if any such sale or lease has been made or issued in error or mistake, he may cancel such sale or lease, and resume the land therein mentioned, or dispose of it as if no sale or lease thereof had ever been made; and all such cancellations heretofore made by the Governor in Council, or by the Superintendent General, shall continue valid until altered. 43 V., c. 28, s. 46.

Power of the Superintendent General in cases of fraud.

Cancellations confirmed.

47. Whenever any purchaser, lessee or other person refuses or neglects to deliver up possession of any land after revocation or cancellation of the sale or lease, as aforesaid, or whenever any person is wrongfully in possession of any Indian lands and refuses to vacate or abandon possession of the same, the Superintendent General may apply to the judge of the county court of the county, or to a judge of the superior court in the district in which the land lies, in Ontario or Quebec respectively, or to any judge of a superior court, or to any judge of a county court of the county in which the land lies, in any other Province, or to a judge of the Supreme Court of the North-West Territories in the said Territories, or to any stipendiary magistrate in any other Territory or district in which the land lies, for an order in the nature of a writ of *habere facias possessionem* or writ of possession; and the said judge or magistrate, upon proof to his satisfaction that the right or title of the person to hold such land has been revoked or cancelled, as aforesaid, or that such person is wrongfully in possession of Indian lands, shall grant an order upon the purchaser, lessee or person in possession, to deliver up the same to the Superintendent General, or person by him authorized to receive the same; and such order shall have the same force as a writ of *habere facias possessionem*, or writ of possession; and the sheriff, or any bailiff or person to whom it has been intrusted for execution by the Superintendent General, shall execute the same in like manner as he would execute such writ in an action of ejectment or a possessory action. 43 V., c. 28, s. 47;—49 V., c. 25, s. 30.

Obtaining possession after such cancellation in case of resistance.

Order in the nature of a writ of possession.

Execution of such order.

Enforcing
payment of
rent due to
the Crown.

48. Whenever any rent payable to the Crown on any lease of Indian lands is in arrear, the Superintendent General, or any agent or officer appointed under this Act and authorized by the Superintendent General to act in such cases, may issue a warrant, directed to any person or persons by him named therein, in the form of a distress warrant, as in ordinary cases of landlord and tenant, or as in the case of distress and warrant of a justice of the peace for non-payment of a pecuniary penalty; and the same proceedings may be had thereon, for the collection of such arrears, as in either of the said last-mentioned cases; or an action of debt, as in ordinary cases of rent in arrear, may be brought therefor in the name of the Superintendent General; but demand of rent shall not be necessary in any case. 43 V., c. 28, s. 48.

Action of
debt.

Who to act or
give notice
for the
Crown.

49. When by law or by any deed, lease or agreement relating to any of the lands herein referred to, any notice is required to be given, or any act to be done, by or on behalf of the Crown, such notice may be given and act done by or by the authority of the Superintendent General. 43 V., c. 28, s. 49.

Cancellation
of erroneous
letters patent
and issue of
corrected
ones in their
stead.

50. Whenever letters patent have been issued to or in the name of the wrong person, through mistake, or contain any clerical error or misnomer, or wrong description of any material fact therein, or of the land thereby intended to be granted, the Superintendent General, if there is no adverse claim, may direct the defective letters patent to be cancelled and a minute of such cancellation to be entered in the margin of the registry of the original letters patent, and correct letters patent to be issued in their stead,—which corrected letters patent shall relate back to the date of those so cancelled, and have the same effect as if issued at the date of such cancelled letters patent. 43 V., c. 28, s. 50.

Lands pat-
ented twice
over.

51. In all cases in which grants or letters patent have issued for the same land, inconsistent with each other, through error, and in all cases of sales or appropriations of the same land, inconsistent with each other, the Superintendent General may, in cases of sale, cause a repayment of the purchase money, with interest; or when the land has passed from the original purchaser or has been improved before a discovery of the error, he may, in substitution, assign land or grant a certificate entitling the person to purchase Indian lands, of such value and to such extent as the Superintendent General deems just and equitable under the circumstances; but no such claim shall be entertained unless it is preferred within five years from the discovery of the error. 43 V., c. 28, s. 51.

Compensation
in certain
cases.

Limitation of
time for
claim.

Cases of
deficiency of
land provided
for.

52. Whenever, by reason of false survey or error in the books or plans in the department, or in the late Indian

branch of the Department of the Interior, any grant, sale or appropriation of land is found deficient, or any parcel of land contains less than the quantity of land mentioned in the patent therefor, the Superintendent General may order the purchase money of so much land as is deficient, with the interest thereon from the time of the application therefor, —or, if the land has passed from the original purchaser, the purchase money which the claimant, if he was ignorant of a deficiency at the time of his purchase, has paid for so much of the land as is deficient, with interest thereon from the time of the application therefor,—to be paid to him in land or money, as the Superintendent General directs; but no such claim shall be entertained unless application is made within five years from the date of the patent, and unless the deficiency is equal to one-tenth of the whole quantity described, as contained in the particular lot or parcel of land granted. 43 V., c. 28, s. 52.

Compensation.

Limitation of time for claim.

53. Whenever patents for Indian lands have issued through fraud or in error or improvidence, the Exchequer Court of Canada, or a superior court in any Province may, upon action, bill or plaint, respecting such lands situate within its jurisdiction, and upon hearing the parties interested, or upon default of the said parties after such notice of proceeding as the said courts shall respectively order, decree such patents to be void; and upon a registry of such decree in the office of the Registrar General of Canada, such patents shall be void to all intents:

Certain courts may avoid patents issued in error, &c.

Effect of registry of decree.

2. The practice in court, in such cases, shall be regulated by orders, from time to time, made by the said courts respectively. 43 V., c. 28, s. 53.

Practice in such cases.

TIMBER LANDS.

54. The Superintendent General, or any officer or agent authorized by him to that effect, may grant licenses to cut trees on reserves and ungranted Indian lands, at such rates, and subject to such conditions, regulations and restrictions, as are, from time to time, established by the Governor in Council, and such conditions, regulations and restrictions shall be adapted to the locality in which such reserves or lands are situated. 43 V., c. 28, s. 56.

Licenses to cut trees; by whom and how to be granted.

55. No license shall be so granted for a longer period than twelve months from the date thereof: and if, in consequence of any incorrectness of survey or other error, or cause whatsoever, a license is found to comprise land included in a license of a prior date, or land not being reserve, or ungranted Indian lands, the license granted shall be void in so far as it comprises such land, and the holder or proprietor of the license so rendered void shall have no claim upon the Crown for indemnity or compensation by reason of such avoidance. 43 V., c. 28, s. 57.

For what time.

As to error in description, &c.

License must describe the and and kind trees to be ut its effect

56. Every license shall describe the lands upon which the trees may be cut, and the kind of trees which may be cut, and shall confer, for the time being, on the licensee the right to take and keep exclusive possession of the land so described, subject to such regulations as are made; and every license shall vest in the holder thereof all rights of property whatsoever in all trees of the kind specified, cut within the limits of the license, during the term thereof, whether such trees are cut by the authority of the holder of such license or by any other person, with or without his consent; and every license shall entitle the holder thereof to seize, in revendication or otherwise, such trees and the logs, timber or other product thereof, if the same are found in the possession of any unauthorized person, and also to institute any action or suit against any wrongful possessor or trespasser, and to prosecute all trespassers and other offenders to punishment, and to recover damages, if any; and all proceedings pending at the expiration of any license may be continued to final termination, as if the license had not expired. 43 V., c. 28, s. 58.

Rights of holders of licenses as to trespassers.

Continuing proceedings.

Return to be made by licensee.

57. Every person who obtains a license shall, at the expiration thereof, make to the officer or agent granting the same, or to the Superintendent General, a return of the number and kinds of trees cut, and of the quantity and description of saw-logs, or of the number and description of sticks of square or other timber, manufactured and carried away under such license; and such statement shall be sworn to by the holder of the license, or his agent, or by his foreman; and every person who refuses or neglects to furnish such statement, or who evades or attempts to evade any regulation made by the Governor in Council, shall be held to have cut without authority, and the timber or other product made shall be dealt with accordingly. 43 V., c. 28, s. 59.

Punishment for not making return or for evasion of regulations.

Trees cut and their products to be liable for the payment of dues.

58. All trees cut, and the logs, timber or other product thereof, shall be liable for the payment of the dues thereon, so long as and wheresoever the same, or any part thereof, are found, whether in the original logs or manufactured into deals, boards or other stuff; and all officers or agents intrusted with the collection of such dues, may follow and seize and detain the same wherever they are found, until the dues are paid or secured. 43 V., c. 28, s. 60.

Security taken for dues not to affect lien.

59. No instrument or security taken for the dues, either before or after the cutting of the trees, as collateral security, or to facilitate collection, shall in any way affect the lien for such dues, but the lien shall subsist until the said dues are actually discharged. 43 V., c. 28, s. 61.

Sale of seized timber after a certain delay.

60. If any timber so seized and detained for non-payment of dues remains more than twelve months in the custody of

the agent or person appointed to guard the same, without the dues and expenses being paid, the Superintendent General may order a sale of the said timber to be made after sufficient notice ; and the balance of the proceeds of such sale, after retaining the amount of dues and costs incurred, shall be handed over to the owner or claimant of such timber, upon his applying therefor and proving his right thereto. 43 V., c. 28, s. 62.

61. If any person, without authority, cuts, or employs or induces any other person to cut, or assists in cutting any trees of any kind on Indian lands, or removes or carries away, or employs, or induces or assists any other person to remove or carry away, any trees of any kind so cut from Indian lands, he shall not acquire any right to the trees so cut, or any claim to any remuneration for cutting or preparing the same for market, or conveying the same to or towards market ; and when the trees, or logs or timber, or other product thereof, have been removed, so that the same cannot, in the opinion of the Superintendent General, conveniently be seized, he shall, in addition to the loss of his labor and disbursements, incur a penalty of three dollars for each tree, rafting stuff excepted, which he is proved to have cut or caused to be cut or carried away ; and such penalty shall be recoverable with costs, at the suit and in the name of the Superintendent General or resident agent, in any court having jurisdiction in civil matters to the amount of the penalty ; and in all such cases it shall be incumbent on the person charged to prove his authority to cut ; and the averment of the person seizing or prosecuting, that he is duly employed under the authority of this Act, shall be sufficient proof thereof, unless the defendant proves the contrary. 43 V., c. 28, s. 63.

Punishment for unlawfully cutting trees ; and forfeiture thereof.

Additional penalty in case of removal of trees.

Proof of right to cut, on whom to lie.

62. When the Superintendent General, or any officer or agent acting under him, receives satisfactory information, supported by affidavit made before a justice of the peace or before any other competent authority, that any trees have been cut without authority on Indian lands, describing where the trees, logs, timber or other product thereof are to be found, the Superintendent General, officer or agent, may seize, or cause to be seized, the same in Her Majesty's name, wheresoever found, and place the same under proper custody, until the matter is decided by competent authority. 43 V., c. 28, s. 64, *part.*

Seizure of trees cut without authority.

63. When the trees, timber, logs or other product thereof, so reported to have been cut without authority, on Indian lands, have been made up or intermingled with other trees, timber, logs or other product thereof, into a crib, dram or raft, or in any other manner, so that it is difficult to distinguish the trees, timber, logs or other product thereof, cut on reserves

Presumption of law in case of mixture of these and other trees.

All to be deemed cut on Indian lands without authority.

on reserves or Indian land, without license, from that with which it is made up or intermingled, the whole of the trees, timber, logs or other product thereof, so made up or intermingled, shall be held to have been cut without authority on Indian lands, and shall be seized, and forfeited, and sold, by the Superintendent General, or any other officer or agent acting under him, unless evidence satisfactory to him is adduced, showing the probable quantity not cut on Indian lands. 43 V., c. 28, s. 64, *part.*

Seizing officer may command assistance in the name of the Crown.

64. Every officer or person seizing trees, logs, timber or other product thereof, in the discharge of his duty under this Act, may, in the name of the Crown, call in any assistance necessary for securing and protecting the same. 43 V., c. 28, s. 65, *part.*

Burden of proof in certain cases to lie on claimant, not on prosecutor or seizing officer.

65. Whenever any trees, logs, timber or other product thereof are seized for non-payment of Crown dues, or for any other cause of forfeiture, or whenever any prosecution is brought in respect of any penalty or forfeiture under this Act, and any question arises whether the said dues have been paid or whether the trees, logs, timber or other product were cut on lands other than any of the lands aforesaid, the burden of proving payment, or on what land the same were cut, as the case may be, shall lie on the owner or claimant and not on the officer who seizes the same, or the person who brings such prosecution. 43 V., c. 28, s. 66, *part.*

Sale of trees, &c., seized, may be ordered in default of notice of claim.

66. All trees, logs, timber or other product thereof seized under this Act, shall be deemed to be condemned, unless the person from whom the same are seized, or the owner thereof, within one month from the day of the seizure, gives notice to the seizing officer or nearest officer or agent of the Superintendent General, that he claims or intends to claim the same; and in default of such notice, the officer or agent seizing shall report the circumstances to the Superintendent General, who may order the sale of the same by the said officer or agent, 43 V., c. 28, s. 67, *part.*

Proceedings for trial of validity of seizure, &c.

67. Any judge of any superior, county or district court, or any stipendiary magistrate, police magistrate or Indian agent, may, in a summary way, under the "*Act respecting summary proceedings before Justices of the Peace*," try and determine such seizures,—and may, pending the trial, order the delivery of the trees, logs, timber or other product thereof to the alleged owner, on receiving security by bond, with two good and sufficient sureties, first approved by the said agent, to pay double the value of such trees, logs, timber or other product, in case of their condemnation; and such bond shall be taken in the name of the Superintendent General, for Her Majesty, and shall be delivered up to and kept by the Superintendent General; and if such seized trees, logs, timber or other pro-

Delivery on security given.

Bond to be given, &c.

duct thereof are condemned, the value thereof shall be paid forthwith to the Superintendent General or agent, and the bond cancelled, otherwise the penalty of such bond shall be enforced and recovered. 43 V., c. 28, s. 67, *part*;—45 V., c. 30, s. 8.

68. Every one who avails himself of any false statement or false oath to evade the payment of dues under this Act, shall forfeit the timber in respect of which the dues are attempted to be evaded. 43 V., c. 28, s. 68. Punishment of attempts to evade payment of dues.

MANAGEMENT OF INDIAN MONEYS.

69. All moneys or securities of any kind applicable to the support or benefit of Indians, or any band of Indians, and all moneys accrued or hereafter to accrue from the sale of any Indian lands or of any timber on any reserves or Indian lands, shall, subject to the provisions of this Act, be applicable to the same purposes and be dealt with in the same manner as they might have been applied to or dealt with but for the passing of this Act. 43 V., c. 28, s. 69. Indian moneys to be dealt with as heretofore.

70. The Governor in Council may, subject to the provisions of this Act, direct how, and in what manner, and by whom, the moneys arising from sales of Indian lands, and from the property held or to be held in trust for the Indians, or from any timber on Indian lands or reserves, or from any other source, for the benefit of Indians, (with the exception of any sum not exceeding ten per cent. of the proceeds of any lands, timber or property, which is agreed at the time of the surrender to be paid to the members of the band interested therein,) shall be invested, from time to time, and how the payments or assistance to which the Indians are entitled shall be made or given,—and may provide for the general management of such moneys, and direct what percentage or proportion thereof shall be set apart, from time to time, to cover the cost of and incidental to the management of reserves, lands, property and moneys under the provisions of this Act, and for the construction or repair of roads passing through such reserves or lands, and by way of contribution to schools attended by such Indians. 43 V., c. 28, s. 70. Governor in Council may direct how Indian funds shall be invested and managed and payments made therefrom.

71. The proceeds arising from the sale or lease of any Indian lands, or from the timber, hay, stone, minerals or other valuables thereon, or on a reserve, shall be paid to the Minister of Finance and Receiver General to the credit of the Indian fund. 43 V., c. 28, s. 71. Proceeds of sales to be paid to the Receiver General.

72. The Superintendent General may stop the payment of the annuity and interest money of any Indian who is proved, to the satisfaction of the Superintendent General, Payment of annuity may be stopped in cases of marital desertion.

guilty of deserting his family; and the Superintendent General may apply the same towards the support of any family, woman or child, so deserted. 43 V., c. 28, s. 83, *part.*

Similar provision as to Indian woman.

73. The Superintendent General may also stop the payment of the annuity and interest money of any woman who has no children, and who deserts her husband and lives immorally with another man. 43 V., c. 28, s. 83, *part.*

Indians may be relieved out of the funds of the band, when sick, &c.

74. The Superintendent General may, whenever sick or disabled, or aged or destitute Indians are not provided for by the band of which they are members, furnish sufficient aid from the funds of the band for the relief of such sick, disabled, aged or destitute Indians. 43 V., c. 28, s. 84.

ELECTION OF CHIEFS.

Governor in Council may provide for election of chiefs.

75. Whenever the Governor in Council deems it advisable, for the good government of a band, to introduce the system of election of chiefs, he may provide that the chiefs of any band of Indians shall be elected, as hereinafter provided, at such time and place as the Superintendent General directs; and they shall, in such case, be elected for a term of three years, but may be deposed by the Governor in Council for dishonesty, intemperance, immorality or incompetency; and they may be in the proportion of one head chief and two second chiefs or councillors for every two hundred Indians:

Proviso: as to number.

2. No band shall have more than six head chiefs and twelve second chiefs, but any band, composed of thirty Indians, may have one chief:

Proviso: as to present life chiefs.

3. Provided that life chiefs, now living, shall continue to hold the rank of chief until death or resignation, or until their removal, by the Governor in Council, for dishonesty, intemperance, immorality or incompetency; but in the event of the Governor in Council providing that the chiefs of a band shall be elected, the life chiefs shall not exercise the powers of chiefs, unless elected, under the provision aforesaid, to the exercise of such powers:

Further proviso as to them.

4. An election may be set aside by the Governor in Council on the report of the Superintendent General, if it is proved by two witnesses before the Indian agent for the locality or such other person as is deputed by the Superintendent General to take evidence in the matter, that fraud or gross irregularity was practised at the said election; and every Indian who is proved guilty of such fraud or irregularity, or connivance thereat, may be declared ineligible for re-election for six years, if the Governor in Council, on the report of the Superintendent General, so directs. 43 V., c. 28, s. 72;—47 V., c. 27, s. 9.

Election of chiefs may be set aside for certain reasons.

REGULATIONS TO BE MADE BY CHIEFS.

Chiefs to make regulations for certain purposes.

76. The chief or chiefs of any band in council may frame, subject to confirmation by the Governor in Council, rules

and regulations in respect of the subjects following, that is to say:—

- (a.) As to what religious denomination the teacher of the school established on the reserve shall belong to: Provided always, that he shall be of the same denomination as the majority of the band; and that the Protestant or Catholic minority may likewise have a separate school, with the approval of and under regulations made by the Governor in Council; Religious denomination of school teacher.
- (b.) The care of the public health; Health.
- (c.) The observance of order and decorum at assemblies of the Indians in general council, or on other occasions; Order.
- (d.) The repression of intemperance and profligacy; Intemperance, &c.
- (e.) The prevention of trespass by cattle, and the protection of sheep, horses, mules and cattle; Trespass.
- (f.) The construction and maintenance of water-courses, roads, bridges, ditches and fences; Roads, &c.
- (g.) The construction and repair of school houses, council houses and other Indian public buildings, and the attendance at school of children between the ages of six and fifteen years; School houses, &c.
- (h.) The establishment of pounds and the appointment of pound-keepers; Pounds.
- (i.) The locating of the land in their reserves, and the establishment of a register of such locations; Location of land.
- (j.) The repression of noxious weeds; Weeds.
- (k.) The imposition of punishment, by fine, penalty or imprisonment, or both, for violation of any of such rules or regulations; but the fine or penalty shall in no case exceed thirty dollars, and the imprisonment shall in no case exceed thirty days; and the proceedings for the imposition of such punishment shall be taken under the "*Act respecting summary proceedings before Justices of the Peace.*" 43 V., c. 23, s. 74;—47 V., c. 27, s. 10. Punishment for infraction of rules.

EXEMPTION FROM TAXATION.

77. No Indian or non-treaty Indian shall be liable to be taxed for any real or personal property, unless he holds, in his individual right, real estate under a lease or in fee simple, or personal property outside of the reserve or special reserve—in which case he shall be liable to be taxed for such real or personal property at the same rate as other persons in the locality in which it is situate: Liability of Indians or non-treaty Indians to taxation.

2. No taxes shall be levied on the real property of any Indian, acquired under the enfranchisement clauses of this Act, until the same has been declared liable to taxation by proclamation of the Governor in Council, published in the *Canada Gazette*: As to taxes on property of an enfranchised Indian.

3. All land vested in the Crown or in any person, in trust for or for the use of any Indian or non-treaty Indian, or any band or irregular band of Indians or non-treaty Indians, Exemptions from taxation.

shall be exempt from taxation. 43 V., c. 28, ss. 75 and 76 ;—
47 V., c. 27, s. 11.

LEGAL RIGHTS OF INDIANS.

No lien
or charge to
be taken
on property of
an Indian.

Proviso.

78. No person shall take any security or otherwise obtain any lien or charge, whether by mortgage, judgment or otherwise, upon real or personal property of any Indian or non-treaty Indian, except on real or personal property subject to taxation under the next preceding section ; but any person selling any article to an Indian or non-treaty Indian may take security on such article for any part of the price thereof which is unpaid. 43 V., c. 28, s. 77.

As to rights
of action by
Indians.

79. Indians and non-treaty Indians shall have the right to sue for debts due to them, or in respect of any tort or wrong inflicted upon them, or to compel the performance of obligations contracted with them ; but in any suit or action between Indians, or in any case of assault in which the offender is an Indian, no appeal shall lie from any judgment, order or conviction by any police magistrate, stipendiary magistrate, or two justices of the peace or an Indian agent, when the sum adjudged or the penalty imposed does not exceed ten dollars. 43 V., c. 28, s. 78 ;—45 V., c. 30, s. 3 ;—47 V., c. 27, s. 24.

Things
pawned by
Indians for
intoxicants
not to be
retained.

80. No pawn taken from any Indian or non-treaty Indian for any intoxicant, shall be retained by the person to whom such pawn is delivered ; but the thing so pawned may be sued for and shall be recoverable, with costs of suit, in any court of competent jurisdiction by the Indian or non-treaty Indian who pawned the same. 43 V., c. 28, s. 79.

Exemptions
from seizure.

81. No presents given to Indians or non-treaty Indians, and no property purchased or acquired with or by means of any annuities granted to Indians, or any part thereof, and in the possession of any band of such Indians, or of any Indian of any band or irregular band, shall be liable to be taken, seized or distrained for any debt, matter or cause whatsoever :

Traffic in pre-
sents and pro-
perty restrict-
ed.

2. No such presents or property shall, in the Province of British Columbia, the Province of Manitoba, the North-West Territories or in the District of Keewatin, be sold, bartered, exchanged or given by any band or irregular band of Indians, or any Indian of any such band, to any person or Indian other than an Indian of such band :

Punishment
for contraven-
tion.

3. Every such sale, barter, exchange or gift shall be null and void, unless such sale, barter, exchange or gift is made with the written assent of the Superintendent General or his agent ; and every one who buys or otherwise acquires any presents or property purchased as aforesaid, without the written consent of the Superintendent General or his agent,

as aforesaid, is guilty of a misdemeanor, and liable to a fine not exceeding two hundred dollars, or to imprisonment for a term not exceeding six months :

4. If any presents given to Indians or non-treaty Indians, or any property purchased or acquired with or by means of any annuities granted to Indians, are or is unlawfully in the possession of any person, within the true intent and meaning of this section, any person acting under the authority of the Superintendent General may, with such assistance in that behalf as he thinks necessary, seize and take possession of the same, and he shall deal therewith as the Superintendent General directs. 43 V., c. 28, s. 80.

Presents, &c., unlawfully in possession of any person may be seized.

ENFRANCHISEMENT.

82. The eleven sections next following, shall not apply to any band of Indians in the Province of British Columbia, the Province of Manitoba, the North-West Territories or the District of Keewatin, except in so far as the said sections are, by proclamation of the Governor in Council, from time to time, extended to any band of Indians in any of the said Provinces, Territories or District. 43 V., c. 28, s. 107.

Provision as to Indians in British Columbia, Manitoba, the N. W. Territories or Keewatin.

83. Whenever any male Indian or unmarried Indian woman, of the full age of twenty-one years, makes application to the Superintendent General to be enfranchised, the Superintendent General shall instruct the agent of the band of which the applicant is a member, to call upon the latter to furnish a certificate, under oath, before a judge of any court of justice, by the priest, clergyman or minister of the religious denomination to which the applicant belongs, or by a stipendiary magistrate or two justices of the peace, to the effect that to the best of the knowledge and belief of the deponent or deponents, the applicant for enfranchisement is, and has been for at least five years previously, a person of good moral character, temperate in his or her habits, and of sufficient intelligence to be qualified to hold land in fee simple, and otherwise to exercise all the rights and privileges of an enfranchised person. 47 V., c. 27, s. 16, *part.*

Proceedings for enfranchisement.

Certificate to be obtained.

84. Upon receipt of such a certificate, the agent shall, with the least possible delay, submit the same to a council of the band of which the applicant is a member; and he shall then inform the Indians assembled at such council, that thirty days will be given within which affidavits made before a judge or a stipendiary magistrate will be received, containing reasons, if any there are, of a personal character affecting the applicant, why such enfranchisement should not be granted to the applicant. 47 V., c. 27, s. 16, *part.*

To be submitted to council of band.

85. At the expiration of the thirty days aforesaid, the agent shall forward to the Superintendent General all affi-

Affidavits to be sent to

Superintendent General.

davits which have been filed with him in the case, as well as one made by himself before a judge or a stipendiary magistrate, containing his reasons for or against the enfranchisement of the applicant; and if the Superintendent General, after examining the evidence, decides in favor of the applicant, he may grant him or her a location ticket as a probationary Indian for the land occupied by him or her, or for such proportion thereof as appears to the Superintendent General fair and proper. 47 V., c. 27, s. 16, *part*.

Location ticket may be granted.

Certain educational acquirements to confer enfranchisement.

86. Every Indian who is admitted to the degree of doctor of medicine, or to any other degree, by any University of learning, or who is admitted, in any Province of Canada, to practise law, either as an advocate, a barrister, solicitor or attorney, or a notary public, or who enters holy orders, or who is licensed by any denomination of Christians as a minister of the gospel, may, upon petition to the Superintendent General, *ipso facto* become and be enfranchised under this Act, and he shall then be entitled to all the rights and privileges to which any other member of the band to which he belongs would be entitled if he was enfranchised under the provisions of this Act; and the Superintendent General may give him a suitable allotment of land from the lands belonging to the band of which he is a member; but if he is not the recognized holder of a location on the reserve, by ticket or otherwise, he shall first obtain the consent of the band and the approval of the Superintendent General to such allotment. 47 V., c. 27, s. 16, *part*.

Allotment in such case. Proviso.

Patent may issue after probation.

87. After the expiration of three years, or such longer period as the Superintendent General deems necessary in the event of the conduct of such Indian not being satisfactory, the Governor in Council may, on the report of the Superintendent General, order the issue of letters patent, granting to such Indian the land in fee simple, which has, with this object in view, been allotted to him by location ticket, but without power to sell, lease or otherwise alienate the land, except with the sanction of the Governor in Council; and provisos to such effect shall be inserted in the letters patent conveying the land to the said Indian, and in such cases compliance with the provisions of sections thirty-eight and thirty-nine of this Act shall not be necessary. 47 V., c. 27, s. 17.

Conditions.

Enfranchised Indian to declare name chosen; and to be known by it.

88. Every such Indian shall, before the issue of such letters patent, declare to the Superintendent General the name and surname by which he wishes to be enfranchised and thereafter known, and on his receiving such letters patent, in such name and surname, he shall be held to be also enfranchised, and he shall thereafter be known by such name or surname; and if such Indian is a married man, his wife and minor unmarried children shall also be held to be

Wife and minor child-

enfranchised; and from the date of such letters patent the provisions of this Act and of any Act or law making any distinction between the legal rights, privileges, disabilities and liabilities of Indians and those of Her Majesty's other subjects, shall cease to apply to such Indian, or to the wife or minor unmarried children of such Indian as aforesaid, so declared to be enfranchised, who shall no longer be deemed Indians within the meaning of the laws relating to Indians, except in so far as regards their right to participate in the annuities and interest moneys, and rents and councils of the band to which they belonged:

2. Any children of a probationary Indian, who, being minors and unmarried when the probationary ticket was granted to such Indian, arrive at the full age of twenty-one years before the letters patent are issued to such Indian, may, at the discretion of the Governor in Council, receive letters patent in their own names, subject to the same restrictions and reservations as are contained in the letters patent issued to their parent, for their respective shares of the land allotted under the said ticket, at the same time that letters patent are granted to their parent:

3. If any Indian child who arrives at the full age of twenty-one years, during his or her parent's probationary period, is not qualified for enfranchisement, or if any child of such parent, who was a minor at the commencement of such period, is married during such period, a quantity of land equal to the share of such child shall be deducted, in such manner as the Superintendent General directs, from the allotment made to such Indian parent on receiving his probationary ticket. 43 V., c. 28, s. 101;—47 V., c. 27, s. 18.

89. If any probationary Indian fails in qualifying to become enfranchised, or dies before the expiration of the required probation, his claim, or the claim of his heirs, to the land for which a probationary ticket was granted, or the claim of any unqualified Indian, or of any Indian who marries during his or her parent's probationary period, to the land deducted, under the operation of the next preceding section, from his or her parent's probationary allotment, shall, in all respects, be the same as that conferred by an ordinary location ticket under this Act. 43 V., c. 28, s. 102.

90. The children of any widow who becomes either a probationary or enfranchised Indian shall be entitled to the same privileges as those of a male head of a family in like circumstances. 43 V., c. 28, s. 103.

91. In allotting land to probationary Indians, the quantity to be allotted to the head of a family shall be in proportion to the number of such family, compared with the total quantity of land in the reserve, and the whole number of the band; but the Superintendent General may determine

ren also enfranchised. Effect of such enfranchisement.

As to children attaining their majority before their father's probation expires.

As to children found unqualified; or being married.

If Indian fails to qualify, or dies before expiration of probation, &c.

As to children of a widow enfranchised, &c.

Rules for allotting lands to probationary Indians.

Proviso as to power of Superintendent General in this behalf.

what quantity shall be allotted to each member for enfranchisement purposes, provided that each female of any age, and each male under fourteen years of age, shall receive at least one-half the quantity allotted to each male of fourteen years of age and over. 43 V., c. 28, s. 104;—47 V., c. 27, s. 19.

As to Indians not members of the band but permitted to reside on their reserve.

92. Every Indian who is not a member of the band, and every non-treaty Indian, who, with the consent of the band and the approval of the Superintendent General, has been permitted to reside upon the reserve, or to obtain a location thereon, may, on being assigned a suitable allotment of land by the Superintendent General for enfranchisement, become enfranchised on the same terms and conditions as a member of the band; and such enfranchisement shall confer upon such Indian the same legal rights and privileges, and make such Indian subject to such disabilities and liabilities as affect Her Majesty's other subjects; but such enfranchisement shall not confer upon such Indian any right to participate in the annuities, interest moneys, rents or councils of the band. 43 V., c. 28, s. 105;—47 V., c. 27, s. 20.

Proviso.

Provision when band decides that all its members may become enfranchised.

93. If any band, at a council summoned for the purpose according to their rules, and held in the presence of the Superintendent General, or an agent duly authorized by him to attend such council, decides to allow every member of the band who chooses, and who is found qualified, to become enfranchised, and to receive his or her share of the principal moneys of the band, and sets apart for such member a suitable allotment of land for the purpose, any applicant belonging to such band, after such a decision, may be dealt with as provided in the foregoing provisions respecting enfranchisement, until his or her enfranchisement is attained; and whenever any member of the band, who, for the three years immediately succeeding the date on which he was granted letters patent, or for any longer period that the Superintendent General deems necessary, by his exemplary good conduct and management of property proves that he is qualified to receive his share of such moneys, the Governor in Council may, on the report of the Superintendent General to that effect, order that the said Indian be paid his share of the capital funds at the credit of the band, or his share of the principal of the annuities of the band, estimated as yielding five per cent., out of such moneys as are provided for the purpose by Parliament:

Or when Indian becomes qualified by exemplary conduct.

If such Indian be a married man or a widow.

2. If such Indian is a married man he shall also be paid his wife's and minor unmarried children's share of such funds and other principal moneys, and if such Indian is a widow, she shall also be paid her minor unmarried children's share:

And as to unmarried children of

3. The unmarried children of such married Indians, who become of age during the probationary period, either for

enfranchisement or for payment of such moneys, if qualified by the character for integrity, morality and sobriety which they bear, shall receive their own share of such moneys, when their parents are paid; and if not so qualified, before they can become enfranchised or receive payment of such moneys they must themselves pass through the probationary periods:

any such enfranchised and married Indians.

4. All such Indians, and their unmarried minor children, who are paid their share of the principal moneys of their band, as aforesaid, shall thenceforward cease, in every respect, to be Indians of any class within the meaning of this Act, or Indians within the meaning of any other Act or law. 43 V., c. 28, s. 106.

Indian laws to cease to apply.

OFFENCES AND PENALTIES.

94. Every one who sells, exchanges with, barter, supplies or gives to any Indian or non-treaty Indian, any intoxicant, or causes or procures the same to be done, or attempts the same or connives thereat, or opens or keeps, or causes to be opened or kept, on any reserve or special reserve, a tavern, house or building in which any intoxicant is sold, bartered, exchanged or given, or who is found in possession of any intoxicant in the house, tent, wigwam or place of abode of any Indian or non-treaty Indian, or of any person, or upon any other part of the reserve or special reserve, or who sells, exchanges with, barter, supplies or gives to any person, on any reserve or special reserve, any intoxicant, shall, on summary conviction before any judge, police magistrate, stipendiary magistrate or two justices of the peace, or Indian agent, upon the evidence of one credible witness, other than the informer or prosecutor,—or in the Province of Manitoba, the Province of British Columbia, the North-West Territories or the District of Keewatin, upon the evidence of the informer alone, if he is a credible person,—be liable to imprisonment for a term not exceeding six months and not less than one month, with or without hard labor, or to a penalty not exceeding three hundred dollars and not less than fifty dollars, with costs of prosecution, a moiety of which penalty shall belong to the informer or prosecutor, and the other moiety whereof shall belong to Her Majesty, to form part of the fund for the benefit of that body of Indians or non-treaty Indians, with respect to one or more members of which the offence was committed, or he shall be liable to both penalty and imprisonment in the discretion of the convicting judge, magistrate, or justices of the peace or Indian agent. 43 V., c. 28, s. 90, *part*;—44 V., c. 17, s. 10;—45 V., c. 30, s. 3.

Punishment for furnishing intoxicants to Indians.

Penalties and their application.

95. The commander or person in charge of any steamer or other vessel, or boat, from or on board of which any intoxicant has been sold, bartered, exchanged, supplied or

Of commanders of vessels, on board of which the

same are
furnished.

given to any Indian or non-treaty Indian, shall, on summary conviction before any judge, police magistrate, stipendiary magistrate or two justices of the peace, or Indian agent, upon the evidence of one credible witness, other than the informer or prosecutor,—or in the Province of Manitoba, the Province of British Columbia, the North-West Territories or the District of Keewatin, upon the evidence of the informer alone, if he is a credible person,—be liable to a penalty not exceeding three hundred dollars and not less than fifty dollars for each such offence, with costs of prosecution,—which penalty shall be applied as provided in the next preceding section; and in default of immediate payment of such penalty and costs, any person so convicted shall be committed to any common gaol, house of correction, lock-up or other place of confinement by the judge, magistrate or two justices of the peace, or Indian agent, before whom the conviction has taken place, for a term not exceeding six months and not less than one month, with or without hard labor, or until such penalty and costs are paid. 43 V., c. 28, s. 90, *part.*

Penalties and
their applica-
tion.

Imprisonment
in default of
payment.

Punishment
of Indians
making or
having intoxi-
cants, or sell-
ing the same
to other In-
dians.

96. Every Indian or non-treaty Indian who makes or manufactures any intoxicant, or who has in his possession, or concealed, or who sells, exchanges with, barter, supplies or gives to any other Indian or non-treaty Indian, any intoxicant, shall, on summary conviction before any judge, police magistrate, stipendiary magistrate or two justices of the peace, or Indian agent, upon the evidence of one credible witness, other than the informer or prosecutor,—or in the Province of Manitoba, the Province of British Columbia, the North-West Territories or the District of Keewatin, upon the evidence of the informer alone, if he is a credible person,—be liable to imprisonment for a term not exceeding six months and not less than one month, with or without hard labor, or to a penalty not exceeding one hundred dollars and not less than twenty-five dollars, or to both penalty and imprisonment, in the discretion of the convicting judge, magistrate, or justices of the peace or Indian agent. 43 V., c. 28, s. 90, *part.*

Penalty or im-
prisonment,
or both.

Evidence of
Indians.

97. In all cases arising under the three sections next preceding, Indians or non-treaty Indians shall be competent witnesses. 43 V., c. 28, s. 90, *part.*

No penalty in
cases speci-
fied.

98. No penalty shall be incurred when the intoxicant is made use of in case of sickness under the sanction of a medical man or under the directions of a minister of religion. 43 V., c. 28, s. 90, *part.*

Giving intoxi-
cants to In-
dian or being
found drunk
in reserve, &c.

99. Every one who gives or supplies an intoxicant to an Indian or non-treaty Indian on an order, verbal or written, shall be liable to all the penalties to which he would have been liable if he had sold the same without such

order; and every person found drunk in the house, tent, wigwam or other domicile of an Indian, or gambling therein, and every person found within an Indian village, settlement or reserve after sunset, and who refuses to leave after having been requested so to do by an Indian agent or chief, shall be liable to all the fines and penalties to which he would have been liable if he had supplied intoxicants to Indians, and under similar process. 47 V., c. 27, s. 13. Punishment.

100. The keg, barrel, case, box, package or receptacle from which any intoxicant has been sold, exchanged, bartered, supplied or given, as well that in which the original supply was contained as the vessel wherein any portion of such original supply was supplied as aforesaid, and the remainder of the contents thereof, if such barrel, keg, case, box, package, receptacle or vessel aforesaid, respectively, can be identified, —and any intoxicant imported, manufactured or brought into and upon any reserve or special reserve, or into the house, tent, wigwam or place of abode, or on the person of any Indian or non-treaty Indian, or suspected to be upon any reserve or special reserve, may, upon a search warrant in that behalf being granted by any judge, police magistrate, stipendiary magistrate or justice of the peace be searched for, and if found, seized by any Indian superintendent, agent or bailiff, or other officer connected with the Indian Department, or by any constable, wheresoever found on such land or in such place or on the person of such Indian or non-treaty Indian; and on complaint before any judge, police magistrate, stipendiary magistrate, justice of the peace or Indian agent, he may, on the evidence of any credible witness that this Act has been violated in respect thereof, declare the same forfeited, and cause the same to be forthwith destroyed; and may condemn the Indian or person in whose possession the same is found to pay a penalty not exceeding one hundred dollars and not less than fifty dollars, and the costs of prosecution: Keg, &c., in which intoxicants are carried, to be forfeited.
Intoxicants and vessels containing them may be searched for, seized and destroyed by order of J. P.
Penalty for having the same in possession.

2. A moiety of such penalty shall belong to the prosecutor and the other moiety to Her Majesty, for the purposes hereinbefore mentioned; and in default of immediate payment, the offender may be committed to any common gaol, house of correction, lock-up or other place of confinement, with or without hard labor, for any term not exceeding six months, and not less than two months, unless such penalty and costs are sooner paid. 43 V., c. 28, s. 91;—44 V., c. 17, s. 11;—45 V., c. 30, s. 3. Application of penalty.
Imprisonment in default of payment.

101. If it is proved before any judge, police magistrate, stipendiary magistrate or two justices of the peace, or Indian agent, that any vessel, boat, canoe or conveyance of any description, upon the sea or sea coast, or upon any river, lake or stream, is employed in carrying any intoxicant, Vessels used in conveying intoxicants in contravention of this Act subject to seizure and forfeiture.

to be supplied to Indians or non-treaty Indians, such vessel, boat, canoe or conveyance so employed may be seized and declared forfeited, as in the next preceding section mentioned, and sold, and the proceeds thereof paid to Her Majesty for the purposes hereinbefore mentioned. 43 V., c. 28, s. 92;—45 V., c. 30, s. 3.

Articles exchanged for intoxicants may be seized and forfeited.

102. Every article, chattel, commodity or thing in the purchase, acquisition, exchange, trade or barter of which, in violation of this Act, the consideration, either wholly or in part, is an intoxicant, is forfeited to Her Majesty and may be seized, as is hereinbefore provided in respect to any receptacle of any intoxicant, and may be sold, and the proceeds thereof paid to Her Majesty, for the purposes hereinbefore mentioned 43 V., c. 28, s. 93.

No intoxicant to be introduced at any council or meeting of Indians respecting surrender of reserve.

103. No one shall introduce any intoxicant at any council or meeting of Indians held for the purpose of discussing or of assenting to a release or surrender of a reserve or portion thereof, or for the purpose of assenting to the issuing of a timber or other license; and every person who introduces, at such meeting, and every agent or officer employed by the Superintendent General, or by the Governor in Council, who introduces, allows or countenances by his presence, the use of such intoxicant among such Indians, a week before, or at, or a week after, any such council or meeting, shall incur a penalty of two hundred dollars, recoverable by action in any court of competent jurisdiction,—a moiety of which penalty shall belong to the informer. 43 V., c. 28, s. 38.

Intoxicated Indians, how to be dealt with.

104. Any constable may, without process of law, arrest any Indian or non-treaty Indian whom he finds in a state of intoxication, and convey him to any common gaol, house of correction, lock-up or other place of confinement, there to be kept until he is sober; and such Indian or non-treaty Indian shall, when sober, be brought before any judge, police magistrate, stipendiary magistrate, or justice of the peace or Indian agent, and if convicted of being so found in a state of intoxication, shall be liable to imprisonment in any common gaol, house of correction, lock-up or other place of confinement, for a term not exceeding one month, or to a penalty not exceeding thirty dollars and not less than five dollars, or to both penalty and imprisonment, in the discretion of the convicting judge, magistrate, justice of the peace or Indian agent. 43 V., c. 28, s. 94, *part*;—45 V., c. 30, ss. 3 and 5, *part*.

Penalties.

Further penalty if Indian refuses to state where he obtained the intoxicant.

105. If any Indian or non-treaty Indian who has been so convicted, refuses, upon examination, to state or give information of the person, place and time from whom, where and when, he procured such intoxicant, and if from any other Indian or non-treaty Indian, then, if within his know-

ledge, from whom, where and when such intoxicant was originally procured or received, he shall be liable to imprisonment as aforesaid for a further period not exceeding fourteen days, or to an additional penalty not exceeding fifteen dollars and not less than three dollars, or to both penalty and imprisonment, in the discretion of the convicting judge, magistrate, justice of the peace or Indian agent. 43 V., c. 28, s. 94, *part*;—45 V., c. 30, ss. 3 and 5, *part*.

106. Every person who, being the keeper of any house, tent or wigwam, allows or suffers any Indian woman to be or remain in such house, tent or wigwam, knowing, or having probable cause for believing, that such Indian woman is in or remains in such house, tent or wigwam, with the intention of prostituting herself therein, is guilty of an offence against this Act, and shall, on summary conviction before any stipendiary magistrate, police magistrate, justice of the peace or Indian agent, be liable to a penalty not exceeding one hundred dollars and not less than ten dollars, or to imprisonment in any gaol or place of confinement for a term not exceeding six months:

Penalties on keepers of houses committing certain offences.

2. Every Indian who keeps, frequents, or is found in a disorderly house, tent or wigwam used for such a purpose as aforesaid, shall be liable to the same penalty and on similar process. 43 V., c. 28, s. 95;—45 V., c. 30, s. 3;—47 V., c. 27, s. 14.

Penalty for frequenting disorderly houses.

107. Every person who appears, acts or behaves as master or mistress, or as the person who has the care or management of any house, tent or wigwam, in which any Indian woman is, or remains, for the purpose of prostituting herself therein, shall be deemed and taken to be the keeper thereof, notwithstanding he or she is not in fact the real keeper thereof. 43 V., c. 28, s. 96.

Who shall be deemed the master or mistress of such houses.

108. No appeal shall lie from any conviction under the fourteen sections next preceding, except to a judge of a superior court, county, circuit or district court, or to the chairman or judge of the court of the sessions of the peace, having jurisdiction where the conviction was had; and such appeal shall be heard, tried and adjudicated upon by such judge or chairman without the intervention of a jury; and no such appeal shall be brought after the expiration of thirty days from the conviction:

To what judges only appeal shall lie from conviction under preceding sections.

2. No such conviction shall be quashed for want of form, or be removed by *certiorari* into any superior court; and no warrant of commitment shall be held void by reason of any defect therein, if it is therein alleged that the person has been convicted, and if there is a good and valid conviction to sustain the same. 43 V., c. 28, s. 97;—47 V., c. 27, s. 15.

No removal by *certiorari*.

109. Every agent who knowingly and falsely informs, or causes to be informed, any person applying to him to purchase

Punishment of agents giving false

information as to lands. any land within his division and agency, that the same has already been purchased, or who refuses to permit the person so applying to purchase the same according to existing regulations, shall be liable therefor to the person so applying, in the sum of five dollars for each acre of land which the person so applying offered to purchase, recoverable by action of debt in any court of competent jurisdiction. 43 V., c. 28, s. 54.

Penalty.

Recovery.

Agents not to become interested in or owners of Indian lands. **110.** No agent for the sale of Indian lands shall, within his division, directly or indirectly, except under an order of the Governor in Council, purchase any land which he is appointed to sell, or become proprietor of or interested in any such land, during the time of his agency; and every such purchase or interest shall be void:

Penalty for violation. 2. Every such agent who so offends shall forfeit his office and incur a penalty of four hundred dollars for every such offence, recoverable in an action of debt by any person who sues for the same. 43 V., c. 28, s. 41.

Inciting Indians. **111.** Every one who induces, incites or stirs up any three or more Indians, non-treaty Indians, or half-breeds apparently acting in concert—

To threaten. (a) To make any request or demand of any agent or servant of the Government in a riotous, routous, disorderly or threatening manner, or in a manner calculated to cause a breach of the peace; or—

To cause breach of peace. (b) To do any act calculated to cause a breach of the peace, —is guilty of a misdemeanor, and liable to imprisonment for a term not exceeding two years. 47 V., c. 27, s. 1.

Punishment.

Inciting to commit indictable offences. **112.** Every one who incites any Indian to commit any indictable offence is guilty of felony and liable to imprisonment for any term not exceeding five years. C. S. U. C., c. 128, s. 104.

Punishment.

Sale or gift of ammunition may be prohibited. **113.** The Superintendent General may, when he considers it in the public interest so to do, prohibit, by public notice to that effect, the sale, gift, or other disposal, to any Indian in the Province of Manitoba or in any part thereof, or in the North-West Territories or in any part thereof, of any fixed ammunition or ball cartridge; and every person who, after such notice, without the permission in writing of the Superintendent General, sells or gives, or in any other manner conveys to any Indian, in the section of country thus prohibited, any fixed ammunition or ball cartridge, shall incur a penalty not exceeding two hundred dollars, or shall be liable to imprisonment for a term not exceeding six months, or to both penalty and imprisonment within the limits aforesaid, at the discretion of the court before which the conviction is had:

Penalty for violation.

2. Every offender against the provisions of this section may be tried in a summary manner by any stipendiary or police magistrate or by any two justices of the peace, or by an Indian agent. 45 V., c. 30, s. 3;—47 V., c. 27, s. 2.

Summary trial.

114. Every Indian or person who engages in or assists in celebrating the Indian festival known as the "Potlach" or the Indian dance known as the "Tamanawas," is guilty of a misdemeanor, and liable to imprisonment for a term not exceeding six months and not less than two months:

Celebrating a certain feast or dance.

Punishment.

2. Every Indian or person who encourages, either directly or indirectly, an Indian to get up such a festival or dance, or to celebrate the same, or who assists in the celebration of the same, is guilty of a like offence, and shall be liable to the same punishment. 47 V., c. 27, s. 3.

Inciting to celebrate the same.

115. Any judge of a court, judge of sessions of the peace, recorder, police magistrate or stipendiary magistrate, shall have full power to do alone whatever is authorized by this Act to be done by a justice of the peace or by two justices of the peace. 44 V., c. 17, s. 6.

Who may act as a justice, or as two justices of the peace.

116. Any recorder, police magistrate or stipendiary magistrate, appointed for or having jurisdiction to act in any city or town shall, with respect to offences and matters under this Act, have and exercise jurisdiction over the whole county or union of counties or judicial district in which the city or town for which he has been appointed or in which he has jurisdiction is situate. 44 V., c. 17, s. 7.

Jurisdiction in city or town to give jurisdiction in surrounding country or district.

117. Every Indian agent shall be *ex officio* a justice of the peace for the purposes of this Act, and shall have the power and authority of two justices of the peace, with jurisdiction wheresoever any violation of the provisions of this Act occurs, or wheresoever it is considered by him most conducive to the ends of justice that any violation aforesaid shall be tried. 44 V., c. 17, s. 12;—45 V., c. 30, s. 3;—47 V., c. 27, ss. 22 and 23.

Indian Agent to be *ex officio* a justice of the peace.

118. If any Indian is convicted of any crime punishable by imprisonment in a penitentiary or other place of confinement, the costs incurred in procuring such conviction, and in carrying out the various sentences recorded, may be defrayed by the Superintendent General, and paid out of any annuity or interest coming to such Indian, or to the band, as the case may be. 43 V., c. 28, s. 82;—47 V., c. 27, s. 12.

Indian undergoing imprisonment for crime not to receive share of annuity while imprisoned.

119. Whenever in this Act in which it is provided that the conviction shall take place on the evidence of one credible witness other than the informer or prosecutor, the informer or prosecutor shall, nevertheless, be allowed to give evidence. 44 V., c. 17, s. 13.

Informer may give evidence.

Evidence of unbelieving Indian may be received on his solemn affirmation.

120. Upon any inquest, or upon any inquiry into any matter involving a criminal charge, or upon the trial of any crime or offence whatsoever or by whomsoever committed, any court, judge, police or stipendiary magistrate, recorder, coroner, justice of the peace or Indian agent, may receive the evidence of any Indian or non-treaty Indian, who is destitute of the knowledge of God or of any fixed and clear belief in religion, or in a future state of rewards and punishments, without administering the usual form of oath to any such Indian or non-treaty Indian, as aforesaid, upon his solemn affirmation or declaration to tell the truth, the whole truth and nothing but the truth, or in such form as is approved by such court, judge, magistrate, recorder, coroner, justice of the peace or Indian agent, as most binding on the conscience of such Indian or non-treaty Indian. 43 V., c. 28, s. 85 ;—45 V., c. 30, s. 3, *part.*

Substance of evidence of Indian to be reduced to writing and signed by him and by judge, and interpreter.

121. In the case of any inquest, or upon any inquiry into any matter involving a criminal charge, or upon the trial of any crime or offence whatsoever, the substance of the evidence or information of any such Indian or non-treaty Indian, as aforesaid, shall be reduced to writing and signed by the Indian (by mark if necessary), giving the same, and verified by the signature or mark of the person acting as interpreter, if any, and by the signature of the judge, magistrate, recorder, coroner, justice of the peace, Indian agent or person before whom such evidence or information is given. 43 V., c. 28, s. 86 ;—45 V., c. 30, s. 3.

Indian to be cautioned to tell the truth.

122. The court, judge, magistrate, recorder, coroner, justice of the peace or Indian agent shall, before taking any such evidence, information or examination, caution every such Indian or non-treaty Indian, as aforesaid, that he will be liable to incur punishment if he does not tell the truth, the whole truth and nothing but the truth. 43 V., c. 28, s. 87 ;—45 V., c. 30, s. 3.

Written declarations, &c., of Indians may be used as evidence as those of other persons.

123. The written declaration or examination so made, taken and verified of any such Indian or non-treaty Indian, as aforesaid, may be lawfully read and received as evidence upon the trial of any criminal proceeding, when under the like circumstances the written affidavit, examination, deposition or confession of any person might be lawfully read and received as evidence. 43 V., c. 28, s. 88.

Effect of solemn affirmation, &c., of Indian.

124. Every solemn affirmation or declaration, in whatsoever form made or taken, by any Indian or non-treaty Indian, as aforesaid, shall be of the same force and effect as if such Indian or non-treaty Indian had taken an oath in the usual form. 43 V., c. 28, s. 89, *part.*

Want of form not to

125. No prosecution, conviction or commitment under this Act shall be invalid for want of form, so long as the

same is according to the true meaning of this Act. 43 V., c. 28, s. 98. invalidate conviction.

GENERAL PROVISIONS.

126. No Indian or non-treaty Indian, resident in the Province of Manitoba, the North-West Territories or the District of Keewatin, shall be held capable of having acquired or of acquiring a homestead or pre-emption right to a quarter section, or any portion of land in any surveyed or unsurveyed lands in the Province of Manitoba, the North-West Territories or in the District of Keewatin, or the right to share in the distribution of any lands allotted to half-breeds, subject to the following exceptions:—

Indians may not have homesteads in Manitoba, the North-West Territories or Keewatin, except as specified.

(a.) He shall not be disturbed in the occupation of any plot on which he has permanent improvements prior to his becoming a party to any treaty with the Crown ; Undisturbed occupation in a certain case.

(b.) Nothing in this section shall prevent the Superintendent General, if found desirable, from compensating any Indian for his improvements on such a plot of land, without obtaining a formal surrender thereof from the band ; May be compensated for improvements.

(c.) Nothing in this section shall apply to any person who withdrew from any Indian treaty prior to the first day of October, in the year one thousand eight hundred and seventy-four. 43 V., c. 28, s. 81. Section not to apply to certain Indians.

127. At the election of a chief or chiefs, or at the granting of any ordinary consent required of a band under this Act, those entitled to vote at the council or meeting thereof shall be the male members of the band, of the full age of twenty-one years ; and the vote of a majority of such members, at a council or meeting of the band summoned according to its rules, and held in the presence of the Superintendent General, or of an agent acting under his instructions, shall be sufficient to determine such election or grant such consent. 43 V., c. 28, s. 73, *part*. How and by whom chiefs may be elected.

128. If any band has a council of chiefs or councillors, any ordinary consent required of the band may be granted by a vote of a majority of such chiefs or councillors, at a council summoned according to its rules, and held in the presence of the Superintendent General or his agent. 43 V., c. 28, s. 73, *part*. How consent may be granted if the band has a Council.

129. All affidavits required under this Act, or intended to be used in reference to any claim, business or transaction in connection with Indian affairs, may be taken before the judge or clerk of any county or circuit court, or any justice of the peace, or any commissioner for taking affidavits in any court, or the Superintendent General, or the deputy of the Superintendent General, or any inspector of Indian agencies, or any Indian agent, or any surveyor duly Before whom affidavits to be used under this Act may be made.

licensed and sworn, appointed by the Superintendent General to inquire into, or to take evidence, or report in any matter submitted to or pending before the Superintendent General, or if made out of Canada, before the mayor or chief magistrate of, or the British consul in, any city, town or municipality, or before any notary public. 43 V., c. 28, s. 108, *part.*

Certified
copies of
official papers
to be evi-
dence.

130. Copies of any records, documents, books or papers belonging to or deposited in the department, attested under the signature of the Superintendent General, or of the deputy of the Superintendent General, shall be evidence in all cases in which the original records, documents, books or papers would be evidence. 43 V., c. 28, s. 109.

Publication of
regulations.

131. All regulations made under this Act shall be published in the *Canada Gazette*. 44 V., c. 17, s. 1, *part.*

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 44.

The Indian Advancement Act.

A. D. 1886.

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

INTERPRETATION.

1. In this Act, unless the context otherwise requires, the expressions used in this Act shall have the same meaning as the same expressions have in "*The Indian Act*," but the expression "reserve" in this Act, includes two or more reserves, and the expression "band" includes two or more bands united for the purposes of this Act by the Order in Council applying it. 47 V., c. 28, s. 2.

Interpretation.

APPLICATION OF ACT.

2. This Act may be made applicable, as hereinafter provided, to any band of Indians in any of the Provinces, or in the North-West Territories of Canada, or in the District of Keewatin, except in so far as it is herein otherwise provided:

To what bands Act may be made applicable.

2. The provisions of "*The Indian Act*" shall continue to apply to every band to which this Act is, from time to time, declared to apply, in so far only as they are not inconsistent with this Act: Provided always, that if it thereafter appears to the Governor in Council that this Act cannot be worked satisfactorily by any band to which it has been declared to apply, the Governor in Council may declare that after a day named in the Order in Council, this Act shall no longer apply to such band, and such band shall thereafter be subject only to "*The Indian Act*," except that by-laws, rules and regulations theretofore made under this Act, and not inconsistent with the seventy-sixth section of "*The Indian Act*," shall continue in force until they are repealed by the Governor in Council. 47 V., c. 28, ss. 1 and 13.

Application of Indian Act.

Proviso: revocation of application of this Act for cause.

As to by-laws.

GENERAL PROVISIONS.

3. Whenever any band of Indians is declared by the Governor in Council to be considered fit to have this Act applied to them, this Act shall so apply, from the time appointed in such Order in Council. 47 V., c. 28, s. 3.

When this Act shall apply.

Division of reserve into sections.

4. Every reserve to which this Act is to apply shall, by the Order in Council applying it, be divided into sections, the number of which shall not exceed six or be less than two, and each section shall have therein a number of male Indians of full age, equal, as nearly as is found convenient, to such proportion of the male Indians of full age resident on the reserve, as one section of the reserve bears to all the sections :

Designation of each.

2. The sections shall be distinguished by numbers from one upwards, and the reserve shall be designated in the Order in Council as "*The Indian Reserve,*" inserting such name as is thought proper, and the sections shall be designated by the numbers assigned to them respectively. 47 V., c. 28, s. 4.

First election of members of the council.

5. On a day and at a place, and between the hours prescribed in the Order in Council, the male Indians of the full age of twenty-one years, resident on the reserve, hereinafter termed electors, shall meet for the purpose of electing the members of the council of the reserve :

Who shall be deemed elected.

2. One or more members, as provided in such Order in Council to represent each section thereof, shall be elected by the electors resident in such section, and the Indian or Indians, as the case may be, having the votes of the greatest number of electors for each section, shall be the councillor or councillors, as the case may be, therefor, provided he or they are respectively possessed of, and living in, a house in the reserve :

Who shall preside at the election, and his powers.

3. The agent for the reserve shall preside at the election, or in his absence some person appointed by him as his deputy, with the consent of the Superintendent General, or some person appointed by the Superintendent General may preside at the said election, and shall take and record the votes of the electors, and may,—subject to appeal to the Superintendent General by or on behalf of any Indian or Indians who deems himself or themselves aggrieved by the action of such agent or deputy, or of such agent or person appointed as aforesaid,—admit or reject the claim of any Indian to be an elector, and may determine who are the councillors for the several sections, and shall report the same to the Superintendent General. 47 V., c. 28, s. 5.

4. In any case of an equality of votes at any such election the agent or person presiding thereat shall have the casting vote.

First meeting of councillors.

6. On a day and at a place, and between the hours prescribed by the Superintendent General, if the day fixed for the same is within eight days from the date at which the councillors were elected, the said councillors shall meet and elect one of their number to act as chief councillor, and the councillor so elected shall be the chief councillor. 47 V., c. 28, s. 6.

7. The councillors shall remain in office until others are elected in their stead, and an election for that purpose shall be held in like manner, at the same place and between the like hours on the like day, in each succeeding year, if it is not a Sunday or holiday, in which case it shall be held on the next day thereafter which is not a Sunday or a holiday :

2. If there is a failure to elect on the day appointed for the election, the Superintendent General shall appoint another day on which it shall be held. 47 V., c. 28, s. 7.

8. In the event of a vacancy in the council, by the death or inability to act of any councillor, more than three months before the time for the next election, an election to fill such vacancy shall be held by the agent or his deputy, after such notice to the electors concerned as the Superintendent General directs, at which only the electors of the section represented by the councillor to be replaced shall vote, and to such election the provisions respecting other elections shall apply, so far as they are applicable :

2. If the councillor to be replaced is the chief councillor, then an election of a chief councillor shall be held in the manner already provided, but the day fixed for such election shall be at least one week after the date when the new councillor is elected :

3. During the time of any vacancy the remaining councillors shall constitute the council, and they may, in the event of a vacancy in the office, appoint a chief from among themselves for the time being. 47 V., c. 28, s. 8.

9. The council shall meet for the despatch of business, at such place on the reserve and at such times as the agent for the reserve appoints, but which shall not exceed twelve times or be less than four times in the year for which it is elected, and due notice of the time and place of each meeting shall be given to each councillor by the agent :

2. At such meeting the agent for the reserve, or his deputy appointed for the purpose, with the consent of the Superintendent General, shall preside and record the proceedings, and may control and regulate all matters of procedure and form, adjourn the meeting to a time named, or *sine die*, and report and certify all by-laws and other acts and proceedings of the council to the Superintendent General, to which certificate full faith and credence shall be given in all courts and places whatsoever :

3. He shall address the council and explain and advise them upon their powers and duties, and any matter requiring their consideration, but he shall have no vote on any question to be decided by the council :

4. Each councillor present shall have a vote on every question to be decided by the council, and such question shall be decided by the majority of votes, the chief coun-

Term of office.

Provision for failure of election.

Vacancies, how filled.

In office of chief councillor.

Remaining councillors to constitute council.

Meetings of the council.

Who shall preside.

Duties of person presiding.

Votes.

cillor voting as a councillor and having also a casting vote, in case the votes would otherwise be equal :

Quorum. 5. Four councillors shall be a quorum for the despatch of any business. 47 V., c. 28, s. 9.

Council may
make by-laws,
&c.

10. The council may make by-laws, rules and regulations, which, if approved and confirmed by the Superintendent General, shall have force as law within and with respect to the reserve, and the Indians residing thereon, upon all or any of the following subjects, that is to say :—

Religious de-
nomination of
school
teacher.

(a.) The religious denomination to which the teacher or teachers of the school or schools established on the reserve shall belong, as being that of the majority of the Indians resident on the reserve; but the Protestant or Roman Catholic minority on the reserve may also have a separate school or schools, with the approval of and under regulations made by the Governor in Council ;

Health.
Order.

(b.) The care of the public health ;

(c.) The observance of order and decorum at elections of councillors, meetings of the council, and assemblies of Indians on other occasions, or generally, on the reserve, by the appointment of constables and erection of lock-up houses, or by the adoption of other legitimate means ;

Intemperance.
Sub-division
of reserve.

(d.) The repression of intemperance and profligacy ;

(e.) The sub-division of the land in the reserve, and the distribution of the same amongst the members of the band ; also, the setting apart, for common use, of woodland and land for other purposes ;

Trespass.

(f.) The protection of and the prevention of trespass by cattle, sheep, horses, mules and other domesticated animals ; and the establishment of pounds, the appointment of pound-keepers and the regulation of their duties, fees and charges ;

School houses,
&c.

(g.) The construction and repair of school houses, council houses and other buildings for the use of the Indians on the reserve, and the attendance at school of children between the ages of six and fifteen years ;

Roads, &c.

(h.) The construction, maintenance and improvement of roads and bridges, and the contributions, in money or labor, and other duties of residents on the reserve, in respect thereof ; and the appointment of road masters and fence viewers, and their powers and duties ;

Water courses,
&c.

(i.) The construction and maintenance of water courses, ditches and fences, and the obligations of vicinage, the destruction and repression of noxious weeds and the preservation of the wood on the various holdings, or elsewhere, in the reserve ;

Removal of
trespassers.

(j.) The removal and punishment of persons trespassing upon the reserve, or frequenting it for improper purposes ;

Revenue.

(k.) The raising of money for any or all of the purposes for which the council may make by-laws, as aforesaid, by assessment and taxation on the lands of Indians enfranchised, or in possession of lands by location ticket in the

reserve, the valuation for assessment being made yearly, in such manner and at such times as are appointed by the by-law in that behalf, and being subject to revision and correction by the agent for the reserve, and in force only after it has been submitted to him and corrected, if, and as he thinks justice requires, and approved by him,—the tax to be imposed for the year in which the by-law is made, and not to exceed one-half of one per cent. on the assessed value of the land on which it is to be paid; and if such tax is not paid at the time prescribed by the by-law, the amount thereof, with the addition of one-half of one per cent. thereon, may be paid by the Superintendent General to the treasurer out of the share of the Indian in default in any moneys of the band; or if such share is insufficient to pay the same, the defaulter shall, for violation of the by-law imposing the tax, be liable to a penalty equal to the deficiency caused by such default: Provided always, that any Indian deeming himself aggrieved by the decision of the agent, made as hereinbefore provided, may appeal to the Superintendent General, whose decision in the matter shall be final;

Assessment.

Rate.

Payment out of Indian's share on his default.

Appeal.

(l.) The appropriation and payment to the local agent, as treasurer, by the Superintendent General, of so much of the moneys of the band as are required for defraying expenses necessary for carrying out the by-laws made by the council, including those incurred for assistance absolutely necessary for enabling the council or the agent to perform the duties assigned to them;

Appropriation of certain funds.

(m.) The imposition of punishment by penalty or by imprisonment, or by both, for any violation of or disobedience to any by-law, rule or regulation made under this Act, committed by any Indian of the reserve; but such penalty shall, in no case, except for non-payment of taxes, exceed thirty dollars, nor the imprisonment thirty days; the proceedings for the imposition of such punishment may be taken before one justice of the peace, under the "*Act respecting summary proceedings before Justices of the Peace*;" and the amount of any such penalty shall be paid over to the treasurer of the band to which the Indian incurring it belongs, for the use of such band;

Penalties and enforcement thereof.

(n.) The amendment, repeal or re-enactment of any such by-law, by a subsequent by-law, made and approved as hereinbefore provided. 47 V., c. 28, s. 10.

Amending by-laws.

11. Every member of a council elected under the provisions of this Act, who is proved to be a habitual drunkard or to be living in immorality, or to have accepted a bribe, or to have been guilty of dishonesty or of malfeasance of office of any kind, shall, on proof of the fact to the satisfaction of the Superintendent General, be disqualified from acting as a member of the council, and shall, on being notified, cease forthwith so to act; and the vacancy occa-

Disqualification in certain cases.

sioned thereby shall be filled in the manner hereinbefore provided. 47 V., c. 28, s. 11.

Proof of by-laws, &c.

12. A copy of any by-law, rule or regulation under this Act, approved by the Superintendent General, and purporting to be certified by the agent for the band to which it relates to be a true copy thereof, shall be evidence of such by-law, rule or regulation, and of such approval, without proof of the signature of such agent; and no such by-law, rule or regulation shall be invalidated by any defect of form, if it is substantially consistent with the intent and meaning of this Act. 47 V., c. 28, s. 12.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 45.

An Act respecting the North-West Mounted Police Force. A. D. 1886.

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

1. In this Act, unless the context otherwise requires,—
 - (a.) The expression “Minister” means the Minister for the time having the control and management of the North-West Mounted Police Force; Interpretation. “Minister.”
 - (b.) The expression “the force” means the North-West Mounted Police Force; “The force.”
 - (c.) The expression “member of the force” or “member,” includes the commissioner and every other officer, non-commissioned officer and man of the force. 42 V., c. 36, s. 2. “Member of the force.”

2. The Governor in Council may constitute a police force in and for the North-West Territories, which shall be known as “*The North-West Mounted Police*,” and may, from time to time as is found necessary, appoint, by commission, a commissioner of police, an assistant commissioner of police, and one or more staff and other superintendents and inspectors, surgeons, assistant surgeons and veterinary surgeons of the police,—each of whom shall hold office during pleasure. 42 V., c. 36, s. 3. Police force may be established.

3. The President of the Privy Council shall have the control and management of the force, and of all matters connected therewith; but the Governor in Council may, at any time, order that the same shall be transferred to any other Minister, and the same shall accordingly, by such order, be so transferred to and be under the control and management of such other Minister. 42 V., c. 36, s. 29. Control and management.

4. The commissioner of police shall perform such duties and shall be subject to the control, orders and authority of such person or persons as are, from time to time, named by the Governor in Council for that purpose. 42 V., c. 36, s. 4. Commissioner of police.

5. The Governor in Council may authorize arrangements to be made with any surgeon or veterinary surgeon to perform the duties of surgeon or veterinary surgeon, respectively, for the force, as to any portions or detachments Arrangements with surgeons and veterinary surgeons.

thereof, and may pay reasonable and proper remuneration for any services so rendered. 42 V., c. 36, s. 23.

Constables. **6.** The Governor in Council may, from time to time, authorize the commissioner of police to appoint, by warrant under his hand, such number of constables as he thinks proper, not exceeding in all one thousand men, and to appoint from among them non-commissioned officers of different grades, and the commissioner may delegate such authority to any commissioned officer of the force; and such number thereof shall be mounted as the Governor in Council, at any time, directs; and the Governor in Council may authorize the commissioner to appoint supernumerary constables, not exceeding in all twenty men, and to employ not exceeding in all fifty men, as scouts, at such rates of pay as are authorized by the Minister. 45 V., c. 29, s. 1, *part*;—48-49 V., c. 53, s. 1.

Non-commissioned officers.

Supernumeraries and scouts.

Qualifications required. **7.** No officer or constable shall be appointed to the police force unless he is of a sound constitution, able to ride, active and able-bodied, of good character, and between the ages of eighteen and forty years,—nor unless he is able to read and write either the English or the French language; but the provision in this section as to age shall not apply to any officer appointed before the passing of this Act, or to the commissioner or assistant commissioner. 45 V., c. 29, s. 1, *part*.

Oath of allegiance and of office. **8.** Every member of the force shall, before entering upon the duties of his office, take the oath of allegiance and an oath of office in the form following, that is to say:—

Form of oath. “I, A. B., solemnly swear that I will faithfully, diligently and impartially execute and perform the duties required of me as a member of the North-West Mounted Police force, and will well and truly obey and perform all lawful orders and instructions which I shall receive as such, without fear, favor or affection of or towards any person whomsoever: So help me God:”

Before whom to be taken. 2. Such oaths may be taken by the commissioner before any judge, stipendiary magistrate or justice of the peace having jurisdiction in any part of Canada, and by any other member of the force, before the commissioner of police, or any person having jurisdiction as aforesaid; and such oaths shall be retained by the commissioner as part of the records of his office. 45 V., c. 29, s. 1, *part*.

Powers of members of the force. **9.** The commissioner and the assistant commissioner shall, respectively, have all the powers of a stipendiary magistrate under this or any Act in force in the North-West Territories; and the superintendents, and such other officers as the Governor in Council approves, shall be *ex officio* justices of the peace; and every constable of the force

shall be a constable in and for the whole of the North-West Territories, for carrying out any laws or ordinances in force therein, and also in every Province of Canada, for the purpose of carrying out the criminal and other laws of Canada. 42 V., c. 36, s. 8.

10. Whenever any officer or member of the force is serving with the Militia as a military force, by order of the Governor in Council, every such officer and member of the force shall be subject to "*The Militia Act*," and any Act amending the same, in the same manner and to the same extent as the Active Militia are subject thereto: Police to be subject to Militia Act when serving with Militia.

2. In any such case the commissions of the officers of the force shall, for the purpose of seniority and command, be considered equivalent to those issued to the officers of the Militia of corresponding rank from the date of their respective commissions, according to the following scale, that is to say:— Relative rank of officers of Militia and Mounted Police.

Commissioner, as Lieutenant Colonel ;
 Assistant Commissioner, on appointment, as Major,—after three years service as Lieutenant Colonel ;
 Senior Superintendent, as Major ;
 Other Superintendents, as Captains ;
 Inspector, as Lieutenant ;
 Senior Surgeon, as Surgeon ;
 Assistant Surgeon, as Assistant Surgeon ;
 Veterinary Surgeon, as Veterinary Surgeon. 43-49 V., c. 54, s. 1.

11. Every constable shall, upon appointment to the force, sign articles of engagement for a term of service not exceeding five years, and such engagement shall be made with the commissioner, and may be enforced by the commissioner for the time being ; but such constable may be previously dismissed or discharged by the commissioner. 42 V., c. 36, s. 9. Articles of engagement to be signed.

12. The Governor in Council shall appoint the place at which the headquarters of the force shall, from time to time, be kept ; and the office of the commissioner shall be kept there, and the same may be at any place in the North-West Territories. 42 V., c. 36, s. 11. Headquarters of the force.

13. It shall be the duty of the force, subject to the orders of the commissioner,— Duties of the force.

(a.) To perform all duties which now are or hereafter shall be assigned to constables in relation to the preservation of the peace, the prevention of crime, and of offences against the laws and ordinances in force in the North-West Territories, and the criminal and other laws of Canada, and the apprehension of criminals and offenders, and others who are lawfully taken into custody ; Preservation of the peace, &c.

Attendance on judge and execution of process.

(b.) To attend upon any judge, stipendiary magistrate or justice of the peace when specially required, and to execute all warrants and perform all duties and services in relation thereto, which may, under this Act or the laws and ordinances in force in the North-West Territories, or the criminal or other laws of the Dominion of Canada, be lawfully performed by constables ;

Escort of convicts and lunatics.

(c.) To perform all duties which may be lawfully performed by constables in relation to the escort and conveyance of convicts and other prisoners and lunatics, to or from any courts, places of punishment or confinement, asylums or other places ;

Searching for, seizing and destroying intoxicants.

(d.) Upon information, or upon reasonable grounds of suspicion, and without the necessity of any intervention or process of law, to enter any shop, store, hut, tent, wigwam, dwelling or building, or place or enclosure,—and also to enter, and for such purpose stop and detain while travelling, any vessel, canoe, carriage, wagon, cart, sleigh, or other vehicle or means of conveyance of any description, and to search all parts thereof, and any kegs, barrels, cases, boxes, or packages or receptacles of any kind, for spirits, strong waters, spirituous liquors, wines, or fermented or compounded liquors, or intoxicating drink of any kind,—and to break and destroy any such kegs, barrels, cases, boxes, or packages or other receptacles of any kind whatsoever, found containing the same,—and to pour out and destroy all spirits, strong waters, spirituous liquors, wines, or fermented or compounded liquors or intoxicating drink ; but no constable shall so enter any hut, tent, wigwam or dwelling, unless accompanied by or under the order of a commissioned officer :

Proviso.

Protection of the force.

2. The force shall, for such purposes and the performance of the duties assigned to them by or under the authority of this Act, in addition to the powers and duties conferred or imposed by this Act, have all the powers, authority, protection and privileges which any constable has by law. 42 V., c. 36, s. 12.

REMUNERATION.

Remuneration of members of the force.

14. The Governor in Council may, from time to time, fix the sums to be paid to the commissioner and other members of the force, regard being had to the number of constables, from time to time, actually organized and enrolled, and the consequent responsibility attaching to their offices respectively, and to the nature of the duty or service and amount of labor devolving upon them ; but such sums shall not exceed the amounts following, that is to say,—

Commissioner of police, per annum	\$2,600 00
Assistant commissioner, per annum.....	1,600 00
Each superintendent, per annum.....	1,400 00
Each inspector, per annum.....	1,000 00
Each surgeon or assistant surgeon, per annum....	1,400 00

Each veterinary surgeon, per annum.....	\$700 00
Staff constables, per diem.....	1 50
Other non-commissioned officers, per diem.....	1 00
Constables, per diem.....	75
Working pay to artisans, per diem.....	50

45 V., c. 29, s. 1, *part.*

REGULATIONS.

15. The Governor in Council may, from time to time, regulate and prescribe the amounts to be paid for the purchase of horses, vehicles, harness, saddlery, clothing, arms and accoutrements, or articles necessary for the force; and also the expenses of travelling, and of rations, or of boarding or billeting the force, and of forage for the horses. 42 V., c. 36, s. 24. Regulation of certain expenses.

16. The Governor in Council may make regulations for the quartering, billeting and cantoning of the force or any portions or detachments thereof,—and for the furnishing of boats, carriages, vehicles of transport, horses and other conveyances for their transport and use, and for giving adequate compensation therefor; and may, by such regulations, impose fines, not exceeding two hundred dollars, for violation of any such regulation, or for refusing to billet any of the force, or to furnish transport as herein mentioned: but no such regulations shall authorize the quartering or billeting of any of the force in any nunnery or convent or upon any religious order of females. 42 V., c. 36, s. 25. Quartering, billeting, &c.
Penalty for violation.
Proviso.

17. The Governor in Council may establish the precedence and rank in the force of the several commissioned officers, and, from time to time, make rules and regulations for any of the following purposes, that is to say:—to regulate and prescribe the clothing, arms, training and discipline of the force,—to regulate and prescribe the duties and authorities of the commissioner and the other members of the force, and the several places at or near which the same, or the force, or any portions thereof, may, from time to time, be stationed,—and generally all and every such matters and things, for the good government, discipline and guidance of the force, as are not inconsistent with this Act. 42 V., c. 36, s. 13. General regulations.

OFFENCES.

18. Every member of the force, other than a commissioned officer, who is convicted of any of the following offences,— Certain offences by members of the force.

- (a.) Disobeying the lawful command of or striking his superior;
- (b.) Oppressive or tyrannical conduct towards his inferior;
- (c.) Intoxication, however slight;

(d.) Having intoxicating liquor illegally in his possession, or concealed;

(e.) Directly or indirectly receiving any gratuity, without the commissioner's sanction, or any bribe;

(f.) Wearing any party emblem;

(g.) Otherwise manifesting political partisanship;

(h.) Overholding any complaint;

(i.) Mutinous or insubordinate conduct;

(j.) Unduly overholding any allowances or any other public money intrusted to him;

(k.) Misapplying any money or goods levied under any warrant or taken from any prisoner;

(l.) Divulging any matter or thing which it is his duty to keep secret;

(m.) Making any anonymous complaint to the Government or the commissioner;

(n.) Communicating, without the commissioner's authority, either directly or indirectly, to the public press, any matter or thing touching the force;

(o.) Wilfully, or through negligence or connivance, allowing any prisoner to escape;

(p.) Using any cruel, harsh or unnecessary violence towards any prisoner or other person;

(q.) Leaving any post on which he has been placed as sentry or on other duty;

(r.) Deserting or absenting himself from his duties or quarters without leave;

(s.) Scandalous or infamous behavior;

(t.) Disgraceful, profane or grossly immoral conduct;

(u.) Violating any standing order, rule or regulation, or any order, rule or regulation hereafter made; or—

(v.) Any disorder or neglect to the prejudice of morality or discipline, although not specified in this Act or in any rule or regulation,—

To be breach
of discipline.

Trial and
punishment
for the same.

Shall be held to have committed a breach of discipline:

2. The commissioner, assistant commissioner or the superintendent commanding at any post, or such other commissioned officer as is thereunto empowered by the commissioner, may, forthwith, on a charge in writing of any one or more of the foregoing offences being preferred against any member of the force, other than a commissioned officer, cause the person so charged to be brought before him, and he shall then and there, in a summary way, investigate the said charge or charges, and on oath, if he thinks fit, and if proved to his satisfaction, shall thereof convict the offender, —who shall be liable to a penalty not exceeding one month's pay, or to imprisonment, with hard labor, for a term not exceeding one year, or to both fine and imprisonment, in addition to any punishment to which the offender is liable, in respect of such offence, under any law in force in the North-West Territories, or in any Province in which the offence is committed:

Further liability.

3. In all cases of imprisonment under sentence, the pay of the offender shall be forfeited during the period of imprisonment suffered; and all sentences of imprisonment for a term exceeding one month shall be forthwith reported to the commissioner (or in case of his absence from the Territories, to the assistant commissioner), who may reverse or mitigate the same in his discretion. 45 V., c. 29, s. 1; *part*.

Forfeiture of pay.
Report to commissioner

19. All pecuniary penalties so imposed shall form a fund to be managed by the commissioner, with the approval of the Minister, and be applicable to the payment of rewards for good conduct or meritorious services, to the establishment of libraries and recreation rooms, and such other objects, for the benefit of the members of the force, as the Minister approves. 42 V., c. 36, s. 15.

Application of penalties.

20. Whenever the commissioner deems it advisable to make or cause to be made any special inquiry into the conduct of any commissioned officer or other member of the force, or into any complaint against any of them, he or the commissioned officer or officers whom he appoints for that purpose may examine any person on oath or affirmation, and may compel the attendance of any necessary witnesses, in the same manner as if the proceedings were before justices, under the "Act respecting summary proceedings before Justices of the Peace." 42 V., c. 36, s. 17.

Witnesses may be examined under oath, &c.

21. Any member of the force who refuses to obey an order distinctly given by a superior officer of the force, or resists the authority of such officer, may be forthwith placed under arrest and detained in custody, to be dealt with under the provisions of this Act. 45 V., c. 29, s. 1, *part*.

Refusal to obey orders.

22. Every commissioned officer or other member of the force who, if discharged or dismissed, refuses or neglects to forthwith deliver up to the commissioner or to a commissioned officer, or to a constable authorized to receive the same, his clothing, arms, accoutrements and all property of the Crown in his possession as a member of the force or used for police purposes, shall incur a penalty of fifty dollars in addition to the value of the articles not delivered up; and such penalty and value shall be recoverable, with costs, on summary conviction before any stipendiary magistrate or justice of the peace having jurisdiction in the North-West Territories:

Or to deliver up clothing, arms, &c.

Penalty.

2. If such penalty, value and costs are not paid immediately after conviction, such magistrate or justice of the peace may, in his discretion, levy the same by distress and sale, or commit the person so convicted and making default in payment of the said penalty, value and costs, to any common gaol or house of correction or lock-up house within the

Recovery of penalty.

Imprisonment in default.

North-West Territories, for a term not exceeding six months, unless such penalty, value and costs are sooner paid. 42 V., c. 36, s. 16.

- Unlawfully buying or selling clothing, arms, &c.** **23.** Every person who unlawfully disposes of, receives, buys or sells, or has in his possession without lawful cause, or refuses to deliver up when thereunto lawfully required, any horse, vehicle, harness, arms, accoutrements, clothing or other thing used for police purposes, shall be liable to a penalty of double the value thereof, and to a further penalty not exceeding twenty-five dollars, and, in default of payment forthwith, to imprisonment for any term not exceeding three months. 42 V., c. 36, s. 18.
- Penalty.**
- Desertion.** **24.** Every member of the force who, having deserted, absented himself from his duties without leave, or refused to do duty therein, is found in any part of Canada other than the North-West Territories, shall, on conviction thereof, be liable for every such offence to a penalty not exceeding one hundred dollars, or to imprisonment, with hard labor, for any term not exceeding twelve months, or to both :
- Evidence in such case.** 2. Upon the trial of any offender under this section it shall not be necessary to produce or give in evidence the original engagement or agreement to serve in the force signed by such offender, but such engagement may be proved by parol evidence or by a certificate purporting to be signed by the commissioner, assistant commissioner or any superintendent or inspector of the force, giving the date and term of such engagement ; and such certificate shall be *prima facie* evidence of such engagement. 45 V., c. 29, s. 1, *part.*
- Prosecutions under preceding sections.** **25.** Offenders under either of the two sections next preceding may be prosecuted before the commissioner, or a stipendiary magistrate, or any justice of the peace in any part of Canada, and the "*Act respecting summary proceedings before Justices of the Peace,*" shall apply to such prosecutions. 42 V., c. 36, s. 20.
- GENERAL PROVISIONS.**
- Superannuation Act to apply.** **26.** "*The Civil Service Superannuation Act*" shall apply to all commissioned officers of the force. 42 V., c. 36, s. 31.
- Publication of regulations.** **27.** All regulations or Orders in Council made under this Act shall be published in the *Canada Gazette*, and shall have the force of law from the date of their publication, or from such later date as is therein appointed for their coming into force. 42 V., c. 36, s. 28.
- Expenses payable out of Con. Rev. Fund.** **28.** All sums of money required to defray any expense authorized by this Act may be paid out of the Consolidated Revenue Fund of Canada. 42 V., c. 36, s. 26.

29. A separate account shall be kept of all moneys expended under this Act, and a detailed statement thereof shall be laid before Parliament at each session thereof. 42 V., c. 36, s. 27. Separate account to be kept.

SPECIAL APPLICATION.

30. This Act shall be in force in the District of Keewatin and shall apply thereto; and the Lieutenant Governor of the said District shall, subject to any order in that behalf from the Governor General, have the local disposition of the said force in such numbers and to such extent as the Governor General directs, and may exercise such power in aid of the administration of civil and criminal justice, and for the general peace, order and good government of the said District, and for and in aid of the performance of all duties assigned by the laws in force in the said District to any constables or officers therein. 42 V., c. 36, s. 32. Act to be in force in District of Keewatin.

31. The Governor in Council may, from time to time, enter into arrangements with the Government of any Province of Canada, for the use or employment of the said police force, or any portion thereof, in aiding the administration of justice in such Province, and in carrying into effect the laws of the Legislature thereof; and may, in any such arrangement, agree upon and determine the amount of money which shall be paid by the Province using the same in respect of such services of the force. 42 V., c. 36, s. 30. Arrangements with Provincial Governments.

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CHAPTER 46.

An Act respecting Subsidies and Allowances to the Pro- A. D. 1886.
vinces.

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

1. The Province of New Brunswick, in consideration of the Legislature thereof having passed an Act providing for the repeal of all duties of export on lumber exported from the said Province, shall, so long as no such duties of export are imposed by the said Legislature, be paid in addition to the subsidy to which the said Province is entitled, a subsidy at the rate of one hundred and fifty thousand dollars annually, as indemnity for the loss of such duties and the right to impose the same. 36 V., c. 41, s. 1.

Subsidy to New Brunswick in lieu of export duty on lumber.

2. In the accounts between the several Provinces and Canada, the amounts payable to and chargeable against the Provinces of Ontario and Quebec respectively, in so far as they depend on the amount of debt with which each Province entered the Union, shall be calculated and allowed as if the sum fixed by the one hundred and twelfth section of "*The British North America Act, 1867*," was increased from sixty-two million five hundred thousand dollars, to the sum of seventy-three million six thousand and eighty-eight dollars and eighty-four cents, and as if the amounts fixed, as regards the Provinces of Nova Scotia and New Brunswick, by "*The British North America Act, 1867*," and as regards the Province of British Columbia by the terms and conditions on which it was admitted into the Dominion, were increased in the same proportion:

Allowances to Provinces in relation to amount of debt.

2. The increased subsidy to be allowed to the Province of Nova Scotia under this section shall be based upon the sum of nine million one hundred and eighty-six thousand seven hundred and fifty-six dollars, as if that sum had been mentioned in the one hundred and fourteenth section of "*The British North America Act, 1867*," instead of the sum of eight million dollars. 32-33 V., c. 2, s. 1;—36 V., c. 30, s. 1;—37 V., c. 3, s. 1.

As to Nova Scotia.

3. In the accounts between the several Provinces and Canada, the amounts by which the yearly subsidy to each

Additional allowance calculated on

previous
years.

was increased by the Act of the Parliament of Canada, passed in the thirty-sixth year of Her Majesty's reign, chaptered thirty (as explained by the Act of the said Parliament, passed in the thirty-seventh year of Her Majesty's reign, chaptered three, as to Nova Scotia), shall be calculated and allowed to Ontario and Quebec (jointly, as having formed the late Province of Canada), and to Nova Scotia and New Brunswick, as if the said Acts had directed that such increase should be allowed from the day of the coming into force of "*The British North America Act, 1867*," and the total amount of the half yearly payments which would in that case have been made on account of such increase from the first day of July, one thousand eight hundred and sixty-seven, up to and including the first day of January, one thousand eight hundred and seventy-three, with interest on each at five per cent. per annum, from the day on which it would have been so paid to the first day of July, one thousand eight hundred and eighty-four, shall be deemed capital owing to the said Provinces respectively, bearing interest at five per cent. per annum, which interest shall be payable to them as part of their yearly subsidies from Canada. 47 V., c. 4, s. 1.

As to British
Columbia,
and Prince
Edward Is-
land.

4. In the accounts between Canada and the Provinces of British Columbia and Prince Edward Island, the amounts calculated and allowed as the debts of those Provinces respectively, on the nineteenth day of April, one thousand eight hundred and eighty-four, and on which they were then paid interest by Canada, shall be increased by amounts bearing the same proportion to the respective populations of the said Provinces, as ascertained by the census of one thousand eight hundred and eighty-one, as the total of the amounts to be added under the next preceding section as capital owing to Ontario and Quebec, Nova Scotia and New Brunswick, bear to the combined population of the four last named Provinces, as ascertained by the said census of one thousand eight hundred and eighty-one; and the amounts of such increases, as regards the said Provinces of British Columbia and Prince Edward Island, shall be deemed capital owing to the said Provinces respectively, bearing interest at the rate of five per cent. per annum, which interest shall be payable to them as part of their respective subsidies from Canada; that is to say, the amount of the increase of the yearly subsidy and the capital on which the same is payable to the several Provinces respectively, under this and the next preceding section, shall be as follows:—

Capital and
yearly pay-
ments spe-
cified.

	Yearly increase.	Capital.
To Ontario and Quebec jointly...	\$269,875 16	\$5,397,503 13
Nova Scotia.....	39,939 68	798,793 45
New Brunswick.....	30,225 97	604,519 35
British Columbia.....	4,155 39	83,107 88
Prince Edward Island.....	9,148 68	182,973 78

47 V., c. 4, ss. 2 and 3;—48-49 V., c. 41, schedule A, part.

5. The following amounts shall be allowed as the annual subsidy to the Province of Manitoba, and shall be paid yearly to the said Province, that is to say:—

Subsidy to Manitoba.

(a.) For the support of the Government and Legislature, fifty thousand dollars;

(b.) On an estimated population of one hundred and fifty thousand, at eighty cents per head, one hundred and twenty thousand dollars, subject to be increased as hereinafter mentioned, that is to say: a census of the Province shall be taken in every fifth year, reckoning from the general census of one thousand eight hundred and eighty-one; and an approximate estimate of the population shall be made at equal intervals of time between each quinquennial and decennial census; and whenever the population, by any such census or estimate, exceeds one hundred and fifty thousand, which shall be the minimum on which the said allowance shall be calculated, the amount of the said allowance shall be increased accordingly, and so on, until the population has reached four hundred thousand souls;

Readjustment of *per capita* allowance to the Province.

Increase proportionate to population be allowed on census and estimate.

(c.) As an indemnity for the want of public lands, one hundred thousand dollars. 45 V., c. 5, s. 1, *part*;—48-49 V., c. 50, ss. 3, *part*, 4, and 5, *part*.

6. The capital sum on which the Province of Manitoba is entitled to receive half yearly payments of interest at the rate of five per cent. per annum, as fixed by the Act thirty-third Victoria, chapter three, and as readjusted or increased by any subsequent Act, shall, from and after the first day of July, one thousand eight hundred and eighty-five, be calculated on a population of one hundred and twenty-five thousand, at the rate *per capita* ascertained by dividing by seventeen thousand (that is to say, the estimated population of the Province of Manitoba under the Act thirty-third Victoria, chapter three) the sum of five hundred and fifty-one thousand, four hundred and forty-seven dollars,—being the amount of capital on which the said Province was entitled to receive interest under and by virtue of section twenty-four of the Act last above cited and the Act thirty-sixth Victoria, chapter thirty;—and shall be charged with such advances as had, up to the twentieth day of July, one thousand eight hundred and eighty-five, been made to the Province, and with such expenditure as had been made therein by the Dominion for purposes of a strictly local character, and with a further sum of one hundred and fifty thousand dollars, which the Dominion Government may advance to the Province to meet the expenditure of constructing a lunatic asylum, and other exceptional services. 48-49 V., c. 50, s. 6;—49 V., c. 8, s. 1.

Calculation of sum on which interest is payable to the Province of Manitoba as subsidy.

Charges thereon.

Advance for lunatic asylum.

7. The grants of land authorized by sections four and five of the "Act respecting the Province of Manitoba" and the payments to the Province of Manitoba, authorized by

Condition of grants and payments under this Act.

the foregoing sections of this Act, shall be made as a full settlement of all claims made by the said Province for the reimbursement of costs incurred in the government of the disputed territory, or the reference of the boundary question to the Judicial Committee of the Privy Council, and all other questions and claims discussed between the Dominion and the Provincial Governments, up to the tenth day of January, one thousand eight hundred and eighty-five. 48-49 V., c. 50, s. 7.

Advances
to Provinces
authorized.

8. The Governor in Council may, in his discretion, advance, from time to time, to any Province of Canada, any sums required for local improvements in the Province, and not exceeding in the whole the amount by which the debt of the Province for which Canada is responsible then falls short of the debt with which the Province was allowed to enter the Union :

Conditions of
such ad-
vances.

2. Such advances shall be deemed additions to the debt of the Province, and the Province may repay them to Canada, on such notice, in such sums and on such conditions as the Government of Canada and that of the Province agree upon ; and any amount so repaid shall be deducted from the debt of the Province in calculating the subsidy payable to it : Provided always, that no such advance shall be made to any Province unless it has been previously sanctioned by an Act of the Legislature of that Province. 48-49 V., c. 4, s. 1.

Proviso: for
sanction by
Province.

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CHAPTER 47.

An Act respecting the Province of Manitoba.

A. D. 1886.

NOTE.—The sections of the Act 33rd Victoria, c. 3, numbered 2 and 6 to 24, both inclusive, and 26, have not been consolidated, in view of the Act of the Parliament of the United Kingdom, 34-35 V., c. 28.

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

1. The boundaries of the Province of Manitoba shall be as follows :—Beginning at the intersection of the international boundary dividing Canada from the United States of America by the centre of the road allowance between the twenty-ninth and thirtieth ranges of townships lying west of the first principal meridian in the system of Dominion land surveys; thence northerly, following upon the said centre of the said road allowance as the same is now or hereafter located, defining the said range line on the ground across townships one to forty-four, both inclusive, to the intersection of the said centre of the said road allowance by the centre of the road allowance on the twelfth base line in the said system of Dominion land surveys; thence easterly along the said centre of the road allowance on the twelfth base line, following the same to a point where the said centre of the road allowance on the twelfth base line would be intersected by a line drawn due north from where the westerly boundary of the Province of Ontario intersects the aforesaid international boundary line dividing Canada from the United States of America; thence due south, following upon the said line to the International boundary aforesaid, and thence westerly, following upon the said International boundary line dividing Canada from the United States of America, to the place of beginning. 44 V., c. 14, s. 1.

2. The territory added to the Province of Manitoba by the Act passed in the forty-fourth year of Her Majesty's reign and chaptered fourteen, shall be subject to all such provisions as have been or are hereafter enacted, respecting the Canadian Pacific Railway and the lands to be granted in aid thereof. 44 V., c. 14, s. 2, *part.*

Provision as to Canadian Pacific Railway.

Lands vested
in Her
Majesty.

3. All ungranted or waste lands in the Province shall be vested in Her Majesty, and administered by the Governor in Council for the purposes of Canada, subject to and except in so far as the same are affected by the conditions and stipulations contained in the agreement for the surrender of Rupert's Land by the Hudson's Bay Company to Her Majesty. 33 V., c. 3, ss. 30 and 34.

Swamp lands
to belong to
the Province.

4. All Crown lands in Manitoba which are shown to the satisfaction of the Dominion Government to be swamp lands, shall be transferred to the Province and enure wholly to its benefit and uses. 48-49 V., c. 50, s. 1.

Allotment of
150,000 acres
for a univer-
sity.

5. An allotment of land, not exceeding one hundred and fifty thousand acres, of fair average quality, shall be selected by the Dominion Government and granted as an endowment to the University of Manitoba for its maintenance as a University capable of giving proper training in the higher branches of education, and to be held in trust for that purpose upon some basis or scheme to be framed by the University and approved by the Dominion Government. 48-49 V., c. 50, s. 2.

To be held
in trust.

Certain laws,
commissions,
&c., to con-
tinue in force.

6. All laws and ordinances in force in the territory added to the Province of Manitoba by the Act passed in the forty-fourth year of Her Majesty's reign, and chaptered fourteen, at the time of the coming into force of this Act, and all courts of civil and criminal jurisdiction, and all legal commissions, powers and authorities, and all officers, judicial, administrative and ministerial, existing therein at the time of the coming into force of this Act, shall continue therein as if such territory had not been added to the said Province; subject, nevertheless, with respect to matters within the legislative authority of the Legislature of the Province of Manitoba, to be repealed, abolished or altered by the said Legislature. 44 V., c. 14, s. 3.



CHAPTER 48.

An Act respecting Claims to certain Lands in the Province of Manitoba. A. D. 1886.

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

INTERPRETATION.

1. In this Act, unless the context otherwise requires,—
- (a.) The expression “the Province” means the Province of Manitoba; Interpretation. “Province.”
- (b.) The expression “commissioners” includes the commissioner in cases in which the commission is issued to one person only. “Commissioners.” 38 V., c. 53, s. 14.

QUIETING OF TITLES.

2. All grants of land in freehold made by the Hudson's Bay Company up to the eighth day of March, in the year one thousand eight hundred and sixty-nine, shall, if required by the owner, be confirmed by grant from the Crown: Grants in freehold confirmed.
2. All grants of estates less than freehold in land, made by the Hudson's Bay Company up to the eighth day of March aforesaid, shall, if required by the owner, be converted into an estate in freehold by grant from the Crown: Certain other grants to be freehold.
3. All persons who satisfactorily establish undisturbed occupancy of any lands within the Province prior to, and who were, by themselves or their servants, tenants or agents, or those through whom they claim, in actual peaceable possession thereof on the fifteenth day of July, one thousand eight hundred and seventy, shall be entitled to receive letters patent therefor, granting the same absolutely to them respectively in fee simple: Provided always, that from and after the first day of May, which will be in the year one thousand eight hundred and eighty-six, all the rights and claims given by this sub-section shall, in so far as respects rights to claims for grants from the Crown, with respect to which application has not been made to the Department of the Interior before the day last aforesaid, cease and determine: Title to land by occupancy. Proviso: time for claims limited.

Effect of failure to prefer claims.

Exception.

4. All such claims made before the said first day of May, in the year one thousand eight hundred and eighty-six, but which the claimants have not, before the expiration of six months after the said day, established to the satisfaction of the Minister of the Interior, shall be barred as fully and effectually as if such claims had not been made; but nothing in this sub-section shall apply to claims made before the said first day of May, one thousand eight hundred and eighty-six, and which, before the expiration of six months thereafter, have been referred to the commissioner or commissioners under the following provisions of this Act. 33 V., c. 3, s. 32, *part*;—38 V., c. 52, s. 1;—43 V., c. 7, ss. 1 and 2;—47 V., c. 26, s. 1.

CONFLICTING CLAIMS TO LANDS.

Commission may be appointed to consider certain cases.

3. The Governor in Council may, from time to time, issue a commission under the Great Seal, to such person or persons as he sees fit, empowering him or them, or a majority of them, to investigate such cases as are referred to them by the Minister of the Interior, in respect of the following matters:—

(a.) Any such cases as arise under the first and second sub-sections of the next preceding section of this Act; and—

(b.) Any cases of adverse or conflicting claims between different persons to lands mentioned in the third sub-section of the said section, in respect of which also it has been previously established, to the satisfaction of the Minister of the Interior, that there has been undisturbed occupancy of the same, as defined in the said third sub-section;

Report.

And to report the evidence in respect of such claims, and who is the person to whom, in their opinion, the patent ought to issue for the lands to which the claims respectively relate. 38 V., c. 53, s. 1.

Sittings of the commissioners.

4. The sittings of the commissioners shall be held at the place of the sittings of the county court in each of the counties of the Province, and the time and place of such sittings shall be advertised by the commissioners, for a period of three months, in some newspaper in the Province, together with a list of claims to be heard before them, and they shall give such other notice of the time and place of such sitting as will best tend to inform persons interested in the same. 38 V., c. 53, s. 2.

Preliminary proceedings before claim is considered.

5. The commissioners shall not receive or proceed upon any claim until the person, or some one of the persons, by whom or on whose behalf the same is made, has made and produced before the commissioners an affidavit or affirmation in writing, signed by him, that to the best of his knowledge and belief the claim is well founded, that he is not aware of any adverse claims, and that there is no other

person in possession; or if he is aware of any adverse claim, or that there is any other person in possession, that he has, at least one month before the making of such affidavit or affirmation, caused to be served upon the person making, having, or supposed to have such adverse claim, or who is in possession as aforesaid, a notice in writing of his claim and of his intention to bring the same before the commissioners at the time appointed by them for hearing the claims of the respective parties; and a copy of such notice shall be affixed to the affidavit or affirmation. 41 V., c. 14, s. 1.

6. A list of all lands to which this Act applies, or is believed to apply, shall, from time to time, as is necessary, be prepared by the Surveyor General of Dominion Lands; and such list shall specify the name or names of the person or persons in possession, together with the number of the section, part of section, range and number of township of which the land consists or forms part, or some other adequate description thereof, and of the township or place in which the same lies; and copies of such list shall be put up in some conspicuous place in the office of each of the county courts of the Province, and in the office of the registrar of each of the said counties, during at least three months before the claim comes to be heard before the commissioners; and no claim shall be heard by the said commissioners unless a certificate of compliance with the provisions of this section, from the clerk of the court and registrar of the county, is produced to the commissioners; and for each certificate the clerk of the county court and registrar of the county may each demand and receive the sum of fifty cents. 38 V., c. 53, s. 8.

List to be prepared.

What it shall specify.

To be posted up.

Certificate of compliance with foregoing provisions.

7. The claimant, or the heir, devisee or assignee of any claimant, may bring any such adverse or conflicting claim before the said commissioners, either personally or by agent or attorney, and produce before the said commissioners all such documents, proofs and evidence as he has to advance in support of such claim; and such evidence may be given *vivá voce* before the said commissioners, or by written affidavits or affirmations, sworn or affirmed before any one entitled to administer an oath or affirmation in the place where the same is sworn or affirmed. 38 V., c. 53, s. 8.

How claim may be preferred.

Evidence.

8. All certificates of the Hudson's Bay Company, or of any chief factor of the Hudson's Bay Company, or of the clerk of the Executive Council of the Province, or copies certified by them respectively, of documents in their custody, shall be received in evidence before the said commissioners. 38 V., c. 53, s. 4.

Certain documents to be evidence.

- Witnesses may be summoned.** **9.** The commissioners may summon before them, by summons under the hand of any one of them, the claimant or claimants, or any person interested in the case, or any other person whom they deem it expedient to examine as a witness, or whom they have reason to believe to be in possession of any document by the production of which the ends of justice may be better attained ; and may require such claimant or person or such witness, to submit to such oral examination upon oath, or to answer on oath and to sign his answers to interrogatories or cross interrogatories in writing, or to produce such books, papers or documents in his possession, as to the said commissioners appear requisite. 38 V., c. 53, s. 5.
- And required to give evidence.**
- Interrogatories.** **10.** The commissioners may cause such interrogatories or cross interrogatories as they deem requisite to be served upon and answered by any such claimant, person or witness, or any witness whose deposition is produced in evidence before them ; and may cause commissions to be issued for the examination of any witness not resident in Manitoba, and for requiring such witness to produce such books, papers or other documents as he has in his possession ; and may, in their discretion, delay the proceedings in the case until such evidence and answers have been adduced and given, and returned with the commission. 38 V., c. 53, s. 6.
- Commissions to examine.**
- Attendance may be enforced.** **11.** The commissioners shall have the same power to enforce the attendance of witnesses, and to compel them to give evidence, as is vested in any court of law in civil cases ; but no person or witness shall be compelled to answer any question that he would not be compelled to answer in a court of law in a civil case. 41 V., c. 14, s. 2, *part*.
- Proviso.**
- Adjournment of proceeding.** **12.** The commissioners may defer, delay or adjourn the proceedings on any claim brought before them, and may give such further or enlarged time for the production of evidence, or for any other purpose relative to such claim, and for the decision thereon, as they deem expedient for the attainment of the ends of justice. 38 V., c. 53, s. 9.
- Decision, how arrived at.** **13.** The commissioners shall be guided in their proceedings and report by the justice and equity of the case, without regard to legal forms or to the strict letter of the law, or legal rules of evidence ; and they shall report their decision to the Minister of the Interior, who may, if he thinks fit, thereupon cause letters patent to issue, granting the lands in question to the person who has been reported by the commissioners to be entitled to the same, or otherwise, in his discretion, may submit the same for the consideration and approval of the Governor in Council. 38 V., c. 53, s. 10.
- Effect of decision.**

14. No letters patent shall issue on any decision and report of the commissioners until after the expiration of three months from the time when such report was transmitted to and marked as received by the Minister of the Interior. 38 V., c. 53, s. 11.

When letters patent may issue.

15. If, before the expiration of such three months, the commissioners, or a quorum or majority of them, find reason to believe that such decision and report were obtained by surprise or erroneously made in any respect, and that justice requires that the issuing of the letters patent should be stayed, the commissioners, or a majority of them, although it is not then the regular period of their sitting, may report accordingly to the said Minister, and the issuing of the letters patent shall thereupon be stayed until the commissioners again report upon the case; and the commissioners may re-hear the case, or admit any new claim, and may receive or insist upon any new evidence, as to them appears expedient to enable them to do justice in the case; and they may thereafter decide and report thereon as if no prior report had been made, and with like effect. 38 V., c. 53, s. 12.

Report in case of erroneous decision.

Re-hearing.

16. The commissioners may, from time to time, make and establish such rules and forms, with regard to any proceedings to be had before them, and to such notices, papers and other documents as are required in the conduct of such proceedings, as to them appear expedient, for the better attainment of the purposes of justice. 38 V., c. 53, s. 13.

Rules and forms may be prescribed.

17. Nothing in this Act contained shall limit the right of the Minister of the Interior to investigate, or cause to be otherwise investigated than is hereinbefore mentioned, such adverse or conflicting claims as aforesaid, and to cause letters patent to issue therefor to the person appearing to him to be entitled thereto. 38 V., c. 53, s. 15.

Certain rights not affected.



CHAPTER 49.

An Act respecting Roads and Road Allowances in the A. D. 1886.
Province of Manitoba.

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

1. The road allowances in townships surveyed and sub-divided, and all road allowances set out on block lines, surveyed in the Province of Manitoba before the passing of this Act, shall be the property of the said Province. 39 V., c. 20, s. 1. Certain road allowances to be the property of the Province.

2. On the survey and sub-division of any township within the Province, and the approval of such survey and sub-division of any township, the fact shall be notified to the Lieutenant Governor by the Minister of the Interior, and by virtue of such notification all section road allowances in such township shall become the property of the Province. 39 V., c. 20, s. 2. Other road allowances after survey.

3. On the Government of Canada receiving notice from the Government of the Province of the particular thoroughfares or public travelled roads or trails in the Province which existed as such on the fifteenth day of July, one thousand eight hundred and seventy, and which the Government of the Province desires to have transferred to the Province, the Governor in Council may pass an order directing the same to be forthwith surveyed by a Dominion land surveyor, and thereafter may transfer each such thoroughfare, public travelled road or trail, according to the plan and description thereof, to the Province, subject to any rights acquired under patents for any lands crossed thereby, issued previously to the receipt of such notice: Provided, that excepting those public thoroughfares in the Province which are designated as "Great Highways" by the first section of the Act of the Legislature of the Province of Manitoba, passed in the thirty-fourth year of Her Majesty's reign and chaptered thirteen,—the width of which shall be two chains,—no such thoroughfare, public travelled road or trail as above mentioned, transferred to the Province, shall be held to have a greater width than one and one-half chains or ninety-nine feet. 39 V., c. 20, s. 3. Certain roads and tracts may be transferred to the Province. Proviso: as to width.

Roads in the
"outer two
miles."

4. The Minister of the Interior shall cause roads to be laid out, in the survey of the "Outer Two Miles" known as the "Hay Privilege" proposed to be granted to the owners of the front lots in the old parishes, as follows:—

In rear of
and between
certain
farms.

(a.) A road one chain and fifty links wide in rear of the farms fronting on the Red and Assiniboine Rivers and between the said farms and the corresponding lots in the "Outer Two Miles" or "Hay Privilege" before mentioned;

Between
"outer two
miles" and
sections
bounding
thereon.

(b.) A road one chain and fifty links wide in rear of the lots contained in the "Outer Two Miles" or "Hay Privilege" before mentioned, and between them and the sections, or legal sub-divisions thereof, bounding the same, except in cases where the said rear boundary of the said lots proves to be a regular section line in the township survey;

Between lots
in "outer two
miles."

(c.) Roads, each one chain in width, at convenient distances, say every two miles or thereabouts, between lots in the said "Outer Two Miles," and running from the front to the rear thereof:

Where to be
laid out.

2. The roads provided for in the last paragraph of the next preceding sub-section shall be laid out between such lots as the Minister of the Interior indicates with that view, and shall be taken half off each of such lots or the whole width off one of such lots, in the discretion of the Minister; and the persons to whom it is proposed to grant such lots may be compensated by the Minister for the quantity of land respectively contributed by them to any such road, by the issue of land scrip to them at the rate of one dollar and fifty cents for each acre of land so contributed. 39 V., c. 20, s. 4.

Compensa-
tion for land
taken.

Transfer of
such roads to
the Pro-
vince.

5. On the final completion of the survey and marking off of the lots and roads, as above provided, in the said "Outer Two Miles," and of the maps thereof, and the approval of the same, the Governor in Council may, on the report of the Minister of the Interior, transfer the said several roads provided for by the next preceding section to the Province. 39 V., c. 20, s. 5.

Land, how
vested, and
on what con-
ditions.

6. The unpatented land forming part of any road transferred under this Act to the Province shall be the property thereof,—the legal title thereto remaining in the Crown for the public uses of the Province; but no such road shall be closed up, or its direction varied, or any part of the land occupied by it sold or otherwise alienated, without the consent of the Governor in Council. 39 V., c. 20, s. 6.



CHAPTER 50.

An Act respecting the North-West Territories.

A. D. 1886.

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

SHORT TITLE.

1. This Act may be cited as "*The North-West Territories Act.*" 43 V., c. 25, s. 97.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—
- (a.) The expression "Territories" means the North-West Territories, as defined in this Act; Interpretation.
"Territories."
 - (b.) The expression "The Lieutenant Governor" means the Lieutenant Governor of the North-West Territories; "Lieutenant Governor."
 - (c.) The expression "Lieutenant Governor in Council" means the Lieutenant Governor of the Territories in Council, or the Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories, as the case may be; "Lt.-Governor in Council."
 - (d.) The expression "Supreme Court" means the Supreme Court of the North-West Territories; "Supreme Court."
 - (e.) The expression "intoxicating liquor" means and includes all spirits, strong waters, spirituous liquors, wines, fermented or compounded liquors or intoxicating fluids; "Intoxicating liquor."
 - (f.) The expression "intoxicant" includes opium or any preparation thereof, and any other intoxicating drug or substance, and tobacco or tea mixed, compounded or impregnated with opium, or with any other intoxicating drug, spirit or substance, and whether the same or any of them is liquid or solid. 43 V., c. 25, s. 1, *part*, and s. 90, *part*;—49 V., c. 25, s. 1. "Intoxicant."

GOVERNMENT AND LEGISLATION.

3. The Territories formerly known as "Rupert's Land" and the North-West Territory shall, with the exception of such portions thereof as form the Province of Manitoba and the District of Keewatin, continue to be called and known as the North-West Territories. 43 V., c. 25, s. 1, *part*. Territories defined.

- Lieutenant Governor.** **4.** There shall be for the Territories, an officer called the Lieutenant Governor, appointed by the Governor in Council, by instrument under the Great Seal of Canada, who shall hold office during pleasure :
- His powers.** **2.** The Lieutenant Governor shall administer the Government, under instructions, from time to time, given him by the Governor in Council, or by the Secretary of State of Canada. 43 V., c. 25, s. 2.
- Administrator.** **5.** The Governor in Council may, from time to time, appoint an Administrator to execute the office and functions of the Lieutenant Governor during his absence, illness or other inability. 43 V., c. 25, s. 3.
- Oaths to be taken.** **6.** Every Lieutenant Governor or Administrator so appointed shall, before assuming the duties of his office, take and subscribe, before the Governor General, or before some person duly authorized to administer such oaths, an oath of allegiance and an oath of office similar to those required to be taken by a Lieutenant Governor under "*The British North America Act, 1867.*" 43 V., c. 25, s. 4.
- Appointment of Council.** **7.** The Governor in Council, by warrant under his privy seal, may constitute and appoint such and so many persons, from time to time, not exceeding in the whole six persons, to be a council to aid the Lieutenant Governor in the administration of the Territories :
- Judges may be appointed.** **2.** The judges of the Supreme Court shall be eligible for appointment as members of the Council without emolument :
- Oaths to be taken.** **3.** Before entering upon the duties of their offices, the persons so appointed shall take and subscribe, before the Lieutenant Governor, such oath of allegiance and such oath of office as the Governor in Council prescribes, and the majority of the council so appointed shall form a quorum. 43 V., c. 25, s. 5 :—49 V., c. 25, s. 7, *part, and* s. 31.
- Quorum.**
- Clerk of the Council.** **8.** The Governor in Council may appoint a clerk of the said council, who shall act as and perform the duties of secretary to the Lieutenant Governor, and who shall take, before the Lieutenant Governor, such oath of office as the Governor in Council prescribes. 43 V., c. 25, s. 6.
- Seat of Government.** **9.** The seat of Government of the Territories shall be fixed, and may, from time to time, be changed by the Governor in Council. 43 V., c. 25, s. 7.
- Lieutenant Governor to preside at Council meetings.** **10.** The Lieutenant Governor shall preside at all sittings of the council ; and he shall, on all subjects, have the same right to vote as councillors have, and shall also have a casting vote in the event of a tie ; and the ordinances to be made

as hereinafter provided, shall be made by the Lieutenant Governor in Council, and shall be expressed to be so made; but this section shall cease to have effect when the number of members of the council elected under section eighteen of this Act amounts to twenty-one, and when a Legislative Assembly has been formed for the Territories. 43 V., c. 25, s. 12.

11. Subject to the provisions of this Act, the laws of England relating to civil and criminal matters, as the same existed on the fifteenth day of July, in the year of our Lord one thousand eight hundred and seventy, shall be in force in the Territories, in so far as the same are applicable to the Territories, and in so far as the same have not been, or are not hereafter repealed, altered, varied, modified, or affected by any Act of the Parliament of the United Kingdom applicable to the Territories, or of the Parliament of Canada, or by any ordinance of the Lieutenant Governor in Council. 49 V., c. 15, s. 3.

Laws of England on July 15, 1870, in force in Territories with certain exceptions.

12. All laws and ordinances in force in the Territories, and not repealed by or inconsistent with this Act, shall remain in force until it is otherwise ordered by the Parliament of Canada, by the Governor in Council, or by the Lieutenant Governor in Council, under the authority of this Act. 43 V., c. 25, s. 8.

Laws in force continued.

13. The Lieutenant Governor in Council shall have such powers to make ordinances for the government of the North-West Territories as the Governor in Council, from time to time, confers upon him; but such powers shall not, at any time, be in excess of those conferred by the ninety-second and ninety-third sections of "*The British North America Act, 1867*," upon the Legislatures of the several Provinces of Canada:

Powers of Lieutenant Governor and Council or Assembly. Ordinances respecting Government.

2. No such ordinance shall be so made which is inconsistent with or alters or repeals any provision of any Act of the Parliament of Canada in force in the Territories. 43 V., c. 25, s. 9;—48-49 V., c. 51, s. 1.

Limitation of powers.

14. The Lieutenant Governor in Council shall pass all necessary ordinances in respect to education; but it shall therein always be provided, that a majority of the ratepayers of any district or portion of the Territories, or of any less portion or subdivision thereof, by whatever name the same is known, may establish such schools therein as they think fit, and make the necessary assessment and collection of rates therefor; and also that the minority of the ratepayers therein, whether Protestant or Roman Catholic, may establish separate schools therein,—and in such case, the ratepayers establishing such Protestant or Roman Catholic separate

Ordinances respecting education. Majority schools. Minority schools.

schools shall be liable only to assessments of such rates as they impose upon themselves in respect thereof:

Declaratory
as to ordinan-
ces.

2. The power to pass ordinances, conferred upon the Lieutenant Governor by this section is hereby declared to have been vested in him from the seventh day of May, one thousand eight hundred and eighty. 43 V., c. 25, s. 10;—48-49 V., c. 51, s. 2.

Ordinances
respecting
administra-
tion of justice

15. The Lieutenant Governor in Council may, from time to time, but subject to the provisions of this Act, make ordinances in relation to the administration of justice in the Territories, and to the constitution, maintenance and organization of the Supreme Court, including procedure therein in civil matters, in as full and ample a manner as the Legislature of any Province of Canada could, under the fourteenth paragraph of the ninety-second section of "*The British North America Act, 1867*," or otherwise, make laws in relation to the administration of justice in the Province, and to the constitution, maintenance and organization of a provincial court, both of civil and criminal jurisdiction, including procedure in civil matters in such court. 49 V., c. 25, s. 27.

Ordinances
respecting
juries.

16. The Lieutenant Governor in Council may, from time to time, make ordinances in respect to the mode of calling juries, other than grand juries, in criminal as well as civil cases, and when and by whom and the manner in which they may be summoned or taken, and in respect to all matters relating to the same. 49 V., c. 25, s. 29.

Disallowance
of ordinances.

17. An authentic copy of every ordinance shall be transmitted by mail to the Secretary of State within thirty days after its passing; and if the Governor in Council, at any time within one year after its receipt by the Secretary of State, thinks fit to disallow the ordinance, such disallowance, when signified by the Secretary of State to the Lieutenant Governor, shall annul the ordinance from and after the date of such signification; and all ordinances so made, and all Orders in Council disallowing any ordinances so made, shall be laid before both Houses of Parliament as soon as conveniently may be after the making and enactment thereof respectively. 43 V., c. 25, s. 11.

Submission to
Parliament.

ELECTION OF MEMBERS OF COUNCIL AND ASSEMBLY.

Erection of
electoral dis-
tricts.

18. Whenever the Lieutenant Governor is satisfied, by such proof as he requires, that any district or portion of the Territories, not exceeding an area of one thousand square miles, contains a population of at least one thousand inhabitants of adult age, exclusive of aliens and unenfranchised Indians, he shall, by proclamation, erect such district or portion into an electoral district by a name and

with boundaries, which shall be respectively declared in the proclamation; and such electoral district shall thenceforth be entitled to elect a member of the Council, or of the Legislative Assembly, as the case may be. 43 V., c. 25, s. 15.

19. The Lieutenant Governor shall thereafter cause a writ to be issued by the clerk of the Council, in such form and addressed to such returning officer as he thinks fit, and until the Lieutenant Governor in Council otherwise provides, he shall, by proclamation, prescribe and declare the mode of providing voters' lists, the oaths to be taken by voters, the powers and duties of returning officers and deputy returning officers, the proceedings to be observed at such elections, and the period during which such elections may be continued, and such other provisions in respect to such elections as he thinks fit. 43 V., c. 25, s. 16.

Proceedings
thereupon
for elections.

20. The persons qualified to vote at such election shall be the *bonâ fide* male residents and householders of adult age, who are not aliens or unenfranchised Indians, within the electoral district, and who have respectively resided in such electoral district for at least twelve months immediately preceding the issue of the said writ. 43 V., c. 25, s. 17.

Voting qual-
fication.

21. Any person entitled to vote shall be eligible for election. 43 V., c. 25, s. 18.

Election
qualification.

22. Whenever the Lieutenant Governor is satisfied, as aforesaid, that any electoral district contains a population of two thousand inhabitants of adult age, exclusive of aliens and unenfranchised Indians, he shall issue his writ for the election of a second member for the electoral district, or he may, in the manner aforesaid, erect such electoral district into two electoral districts, each of which shall be entitled to elect a member, or he may, with the advice of his Council or Assembly as the case may be, from time to time, re-arrange such electoral districts or any of them, so as to secure as far as possible in the Council or Assembly of the Territories the representation of each district not exceeding one thousand square miles and containing one thousand inhabitants of adult age. 43 V., c. 25, s. 19;—48-49 V., c. 51, s. 3.

Additional
member.

Sub-division
of electoral
districts.

23. Elected members of the Council shall take the same oaths and have the same powers, rights and privileges as members appointed by the Governor in Council, and so soon as any members have been elected, a majority of those appointed and elected shall form a quorum for the transaction of business. 43 V., c. 25, s. 20.

Powers of
elected mem-
bers.

CONSTITUTION AND POWERS OF LEGISLATIVE ASSEMBLY.

When Legislative Assembly shall succeed Council.

24. When the number of elected members amounts to twenty-one, the Council hereinbefore appointed shall cease and determine; and the members so elected shall be constituted and designated as the Legislative Assembly of the Territories, and all the powers by this Act vested in the Council shall be thenceforth vested in and exercisable by the Legislative Assembly:

Sittings and powers of Assembly.

2. The Legislative Assembly shall be summoned at least once a year, and shall sit separately from the Lieutenant Governor, and shall present bills passed by it to the Lieutenant Governor for his assent, who may approve or disapprove of the same, or reserve the same for the assent of the Governor General. 43 V., c. 25, s. 21.

Number of members and term of service.

25. The number of members so to be elected, as hereinbefore mentioned, shall not exceed twenty-one, at which number the representation of the Territories shall remain; and the members so elected shall hold their seats for a term not exceeding two years, when they shall retire and others shall be elected in their stead, unless they are re-elected, as they may be; and another member shall be elected in the place of any member who dies or resigns his seat. 43 V., c. 25, s. 22.

WILLS.

Wills may be made.

26. Every person may devise, bequeath or dispose of by will, executed in manner hereinafter mentioned, all real and personal property to which he is entitled either at law or in equity, at the time of his death, and which, if not so devised, bequeathed or disposed of, would devolve upon his heir-at-law, or upon his executor or administrator. 43 V., c. 25, s. 47.

Testator must be of age.

27. No will made by any person under the age of twenty-one years shall be valid. 43 V., c. 25, s. 48.

Execution of wills.

28. No will shall be valid unless it is in writing, and executed in manner hereinafter mentioned, that is to say:—it shall be signed at the foot or end thereof, by the testator, or by some other person in his presence, and by his direction; and such signature shall be made or acknowledged by the testator, in the presence of two or more witnesses present at the same time; and such witnesses shall attest and shall subscribe the will in the presence of the testator, but no form of attestation shall be necessary. 43 V., c. 25, s. 49.

No further publication.

29. Every will executed in manner hereinbefore required, shall be valid without any other publication thereof. 43 V., c. 25, s. 50.

30. If any person who attests the execution of a will is, at the time of the execution thereof, or at any time afterwards, incompetent to be admitted as a witness to prove the execution thereof, such will shall not, on that account, be invalid. 43 V., c. 25, s. 51.

Subsequent incompetency of witness.

31. No person shall, on account of his being an executor of a will, be incompetent to be admitted as a witness to prove the execution of such will, or as a witness to prove the validity or invalidity thereof. 43 V., c. 25, s. 52.

Executor may be witness.

32. If any person attests the execution of any will, to whom, or to whose wife or husband, any beneficial devise or legacy affecting any real or personal property (other than a charge for the payment of a debt) is thereby given, such devise or legacy shall, so far only as concerns such person attesting the execution of such will, or the wife or husband of such person, or any person claiming under such person, wife or husband, be null and void, and such person so attesting shall be admitted to prove the execution of such will, or the validity or invalidity of such will, notwithstanding such devise or legacy. 43 V., c. 25, s. 53.

Devise to witness to be void, but witness may prove execution.

33. No will or codicil, or any part thereof, shall be revoked otherwise than by marriage or by another will or codicil executed in manner hereinbefore required, or by some writing declaring an intention to revoke the same, and executed in the manner in which a will is hereinbefore required to be executed, or by the burning, tearing, or otherwise destroying the same, by the testator, or by some person in his presence and by his direction, with the intention of revoking the same. 43 V., c. 25, s. 54.

Revocation of wills and codicils.

34. Every will shall be construed with reference to the real and personal property affected by it, to speak and take effect as if it had been executed immediately before the death of the testator, unless a contrary intention appears by the will. 43 V., c. 25, s. 55.

How a will shall be construed.

35. If any real property is devised to any person without any words of limitation, such devise shall be construed to pass the fee simple, or other the whole estate or interest which the testator had power to dispose of by will, in such real property, unless a contrary intention appears by the will. 43 V., c. 25, s. 56.

When fee simple shall pass.

MARRIED WOMEN.

36. All the wages and personal earnings of a married woman, and any acquisitions therefrom, and all proceeds or profits from any occupation or trade which she carries on separately from her husband, or derived from any literary,

Her own earnings to belong to her.

artistic or scientific skill, and all investments of such wages, earnings, moneys or property, shall be free from the debts or dispositions of the husband, and shall be held and enjoyed by such married woman, and disposed of without her husband's consent, as fully as if she were a *feme sole*, and no order for protection shall be necessary in respect of any such earnings or acquisitions; and the possession, whether actual or constructive, of the husband, of any personal property of any married woman, shall not render the same liable for his debts. 43 V., c. 25, s. 58.

No order
necessary.

Deposits in
bank.

37. A married woman may make deposits of money in her own name in any savings or other bank, and withdraw the same by her own cheque; and any receipt or acquittance of such depositor shall be a sufficient discharge to any such bank. 43 V., c. 25, s. 59.

Fraudulent
investment
not valid.

38. Nothing hereinbefore contained in reference to moneys deposited or investments by any married woman, shall, as against any creditor of the husband, give validity to any deposit or investment of moneys of the husband made in fraud of such creditors; and any money so deposited or invested may be followed as if this Act had not been passed. 43 V., c. 25, s. 60.

Debts of wife
before and
after mar-
riage.

39. A husband shall not, by reason of any marriage, be liable for the debts of his wife contracted before marriage, but the wife shall be liable to be sued therefor, and any property belonging to her for her separate use shall be liable to satisfy such debts as if she had continued unmarried; and a husband shall not be liable for any debts of his wife in respect of any employment or business in which she is engaged on her own behalf, or in respect of any of her own contracts. 43 V., c. 25, s. 61.

Suits by and
against a
married
woman.

40. A married woman may maintain an action in her own name for the recovery of any wages, earnings, money and property, declared by this Act or which is hereafter declared to be her separate property, and shall have, in her own name, the same remedies, both civil and criminal, against all persons whomsoever for the protection and security of such wages, earnings, money and property, and of any chattels or other her separate property, for her own use, as if such wages, earnings, money, chattels and property belonged to her as an unmarried woman; and any married woman may be sued or proceeded against separately from her husband in respect of any of her separate debts, engagements, contracts or torts, as if she were unmarried. 43 V., c. 25, s. 62.

ADMINISTRATION OF JUSTICE.

Supreme
court continu-
ed.

41. The Supreme Court of record of original and appellate jurisdiction now existing under the name of "The Supreme

Court of the North-West Territories" is hereby continued under the name aforesaid 49 V., c. 25, s. 4.

42. The Supreme Court shall consist of five puisné judges, who shall be appointed by the Governor in Council by letters patent under the Great Seal. 49 V., c. 25, s. 5. Constitution of court.

43. Any person may be appointed a judge of the court who is or has been a judge of a Superior Court of any Province of Canada, a stipendiary magistrate of the Territories, or a barrister or advocate of at least ten years' standing at the bar of any such Province, or of the Territories. 49 V., c. 25, s. 6. Who may be appointed judge.

44. No judge of the court shall hold any other office of emolument under the Government of Canada, or of any Province thereof, or of the Territories. 49 V., c. 25, s. 7, *part.* No other office of emolument to be held.

45. Each judge of the court shall reside at such place in the Territories as the Governor in Council, in the commission to such judge, or by Order in Council, directs. 49 V., c. 25, s. 8. Residence.

46. The judges of the court shall hold office during good behavior, but shall be removable by the Governor General, on address of the Senate and House of Commons of Canada. 49 V., c. 25, s. 9. Tenure of office.

47. Every judge shall, previously to entering upon the duties of his office as such judge, take an oath in the form following:— Oath to be taken.

" I, _____, do solemnly and sincerely promise and swear that I will duly and faithfully, and to the best of my skill and knowledge, execute the powers and trusts reposed in me as one of the judges of the Supreme Court of the North-West Territories. So help me God: " Form of oath.

2. Such oaths shall be administered by the Lieutenant Governor or by a judge of the court. 49 V., c. 25, ss. 12 and 13. How administered.

48. The court shall, within the Territories, and for the administration of the laws for the time being in force within the Territories, possess all such powers and authorities as by the law of England are incident to a superior court of civil and criminal jurisdiction; and shall have, use and exercise all the rights, incidents and privileges of a court of record and all other rights, incidents and privileges, as fully to all intents and purposes as the same were on the fifteenth day of July, one thousand eight hundred and seventy, used, exercised and enjoyed by any of Her Majesty's superior courts of common law, or by the Court of Chancery, or by the Court of Probate in England,—and shall hold pleas in all

and all manner of actions, causes and suits as well criminal as civil, real, personal and mixed,—and shall proceed in such actions, causes and suits by such process and course as are provided by law, and as tend with justice and despatch to determine the same,—and shall hear and determine all issues of law, and shall also hear and (with or without a jury as provided by law) determine all issues of fact joined in any such action, cause or suit, and give judgment thereon and award execution thereof in as full and as ample a manner as might at the said date be done in Her Majesty's Court of Queen's Bench, Common Bench, or in matters which regard the Queen's revenue (including the condemnation of contraband or smuggled goods) by the Court of Exchequer, or by the Court of Chancery or the Court of Probate in England. 49 V., c. 25, s. 14.

Sittings in banc.

49. The court shall sit in banc at the seat of government of the Territories at such time as the Lieutenant Governor in Council appoints: the senior judge present shall preside, and any three judges of the court shall constitute a quorum. 49 V., c. 25, s. 15.

Quorum.

Jurisdiction in banc.

50. The court sitting in banc shall hear and determine all applications for new trials, all questions or issues of law, all questions or points in civil or criminal cases reserved for the opinion of the court, all appeals or motions in the nature of appeals, all petitions and all other motions, matters or things whatsoever which are lawfully brought before it. 49 V., c. 25, s. 16.

Appeals.

Judicial districts.

51. The Governor in Council may, at any time, by proclamation divide the Territories into judicial districts, and give to each such district an appropriate name, and in like manner, from time to time, alter the limits and extent of such districts. 49 V., c. 25, s. 17.

Territorial jurisdiction of judge.

52. Every judge of the court shall have jurisdiction throughout the Territories, but shall usually exercise the same within the district to which he is assigned by the Governor in Council, and in all causes, matters and proceedings, other than such as are usually cognizable by a court sitting in banc and not by a single judge of such court, shall have and exercise all the powers, authorities and jurisdiction of the court. 49 V., c. 25, s. 18.

Powers of single judge.

53. Whenever, under any Act in force in the Territories, any power or authority is to be exercised, or anything is to be done by a judge of a court, such power or authority shall, in the Territories, be exercised or such thing shall be done by a judge of the Supreme Court, unless any other provision is made in that behalf by such Act. 48-49 V., c. 51, s. 9;—49 V., c. 25, s. 30.

- 54.** The judges of the Supreme Court shall have all the powers, authority and jurisdiction vested in the stipendiary magistrates of the Territories on the second day of June, one thousand eight hundred and eighty-six; and wherever in any Act of the Parliament of Canada relating to the Territories, the words "stipendiary magistrate" or "stipendiary magistrates" are used, the same shall mean a judge or the judges of the Supreme Court, as the case may be. 49 V., c. 25, s. 30. Judges to replace the former stipendiary magistrates.
- 55.** Sittings of the Supreme Court, which shall be presided over by a judge of the court, shall be held in each judicial district at such times and places as the Lieutenant Governor of the Territories appoints. 49 V., c. 25, s. 19. Sittings, where held.
- 56.** For each judicial district the Governor in Council may appoint a sheriff and a clerk of the court and may name the place at which such sheriff and clerk, respectively, shall reside and keep an office; and the clerk of the district within which the seat of Government of the Territories is situate, shall be registrar of the court sitting in banc. 49 V., c. 25, s. 20. Sheriffs and clerks.
- 57.** Each clerk of the court shall use such a seal for sealing processes issued out of the court in the district for which he is appointed as the Lieutenant Governor approves. 49 V., c. 25, s. 21. Seal of the court.
- 58.** Before entering on the duties of his office every sheriff appointed under the provisions of this Act shall give security by bond, or by guarantee of some guarantee company approved by the Governor in Council, in the sum of two thousand dollars, and every clerk shall give the like security in the sum of one thousand dollars. 49 V., c. 25, s. 22. Bond to be given by sheriff.
- 59.** Each sheriff shall be paid a yearly salary of five hundred dollars, and such fees as the Lieutenant Governor in Council prescribes. 49 V., c. 25, s. 23. Salary and fees of sheriff.
- 60.** Each clerk shall be paid such fees as the Lieutenant Governor in Council prescribes. 49 V., c. 25, s. 24. Fees of clerk.
- 61.** Any sheriff or clerk may, with the approval of the Lieutenant Governor, appoint a deputy. 49 V., c. 25, s. 25. Deputy sheriffs and clerks.
- 62.** Every sheriff and clerk shall be an officer of the Supreme Court generally, and not merely of the judges sitting or acting in his district, and shall obey the lawful orders of the said court and of the judges thereof, in whatever district such orders are made, provided anything is required to be done under them by the sheriff or clerk in his district. 49 V., c. 25, s. 26. Sheriffs and clerks to be officers of the court generally.

Disposal of
North-West
Mounted
Police Force.

63. The Lieutenant Governor may, subject to any orders made in that behalf, from time to time, by the Governor in Council, issue orders to the North-West Mounted Police force, in aid of the administration of civil and criminal justice, and for the general peace, order and good government of the Territories. 43 V., c. 25, s. 72.

Justices of the
peace.

64. The Lieutenant Governor may appoint justices of the peace for the Territories, who shall have jurisdiction as such throughout the same. 43 V., c. 25, s. 73.

ADMINISTRATION OF CRIMINAL LAW.

Procedure in
criminal
cases.

65. The procedure in criminal cases in the court shall, subject to any Act of the Parliament of Canada, conform as nearly as may be to the procedure existing in like cases in England, on the fifteenth day of July, in the year one thousand eight hundred and seventy; but no grand jury shall be summoned or sit in the Territories. 49 V., c. 25, s. 28.

No grand
jury.

Powers as to
certain
offences.

66. Every judge of the Supreme Court shall have and exercise the powers of a justice of the peace, or of any two justices of the peace, under any laws or ordinances in force in the Territories,—and may also hear and determine any charge against any person for any criminal offence alleged to have been committed in the Territories, or (subject to the provisions of section fourteen of the Act passed by the Parliament of Canada, in the forty-seventh year of Her Majesty's reign, and chaptered six) in any territory eastward of the Rocky Mountains wherein the boundary between the Province of British Columbia and the Territories has not been officially ascertained, when the accused is charged,—

Larceny, &c.

(a.) With having committed or attempted to commit larceny, embezzlement, or obtaining money or property by false pretences, or feloniously receiving stolen property, in any case in which the value of the whole property alleged to have been stolen, embezzled, obtained or received, does not, in the opinion of such judge, exceed two hundred dollars; or—

Aggravated
assault.

(b.) With having committed an aggravated assault, by unlawfully and maliciously inflicting upon any other person, either with or without a weapon or instrument, any grievous bodily harm, or by unlawfully and maliciously wounding any other person; or—

Assault on a
female, &c.

(c.) With having committed an assault upon any female whomsoever, or upon any male child whose age does not, in the opinion of the judge, exceed fourteen years; and when such assault, if upon a female, does not, in his opinion, amount to an assault with intent to commit a rape; or—

Escape from
custody.

(d.) With having escaped from lawful custody or committed prison breach, or assaulted, obstructed, molested or

hindered any judge, justice of the peace, commissioned officer of police, constable, bailiff or other peace officer or officer of customs or excise, or other officer, in the lawful performance of his duty, or with intent to prevent the performance thereof :

2. The charge shall be tried in a summary way, and without the intervention of a jury. 43 V., c. 25, s. 76, *part* ; ^{Summary trial.}
—49 V., c. 25, s. 30.

67. In all other criminal cases the judge and a justice of the peace, with the intervention of a jury of six, may try any charge against any person or persons for any crime, but in any such case the accused may, with his own consent, be tried by a judge, in a summary way, and without the intervention of a jury. 43 V., c. 25, s. 76, *part* ;—48-49 V., c. 51, s. 5 ;—49 V., c. 25, s. 30. ^{In other cases, trial by jury.}

68. The courts of the judge or judges and justices of the peace, as the case may be, sitting on any such trials, shall be open public courts. 43 V., c. 25, s. 76, *part* ;—49 V., c. 25, s. 30. ^{Trial to be in open court.}

69. The judge shall, upon every such trial, take, or cause to be taken down in writing, full notes of the evidence and other proceedings thereat ; and all persons tried as aforesaid shall be admitted, after the close of the case for the prosecution, to make full answer and defence by counsel, attorney or agent. 43 V., c. 25, s. 76, *part* ;—49 V., c. 25, s. 30. ^{Notes of evidence. Defence by counsel.}

70. When any person is convicted of a capital offence and is sentenced to death, the judge shall forward to the Minister of Justice full notes of the evidence, with his report upon the case ; and the execution shall be postponed, from time to time, by the judge, if found necessary, until such report is received and the pleasure of the Governor General thereon is communicated to the Lieutenant Governor. 43 V., c. 25, s. 76, *part* ;—49 V., c. 25, s. 30. ^{Sentence of death to be reported. Stay of execution.}

71. Persons required as jurors for a trial shall be summoned by a judge from among such male persons as he thinks suitable in that behalf ; and the jury required on such trial shall be called from among the persons so summoned as such jurors, and shall be sworn by the judge who presides at the trial. 43 V., c. 25, s. 76, *part* ;—49 V., c. 25, s. 30. ^{Summoning jurors.}

72. Any person arraigned for treason or felony may challenge, peremptorily and without cause, any number of jurors not exceeding six ; and every peremptory challenge beyond that number shall be void : ^{Peremptory challenges by accused.}

2. The Crown may peremptorily challenge any number of jurors not exceeding four : ^{By the Crown.}

Challenges
for cause.

3. Challenges for cause shall be the same as are provided for under "*The Act respecting procedure in criminal cases.*" 43 V., c. 25, s. 76, *part.*

If the list of
jurors is ex-
hausted.

Tales.

Fine for non-
attendance.

Witness fail-
ing to attend
guilty of con-
tempt.

Proceedings
in such case.

Fine and im-
prisonment.

Returns to
Lieutenant
Governor.

73. If, by reason of challenges or otherwise, the number of jurors summoned for the trial is exhausted, the judge shall direct some constable or other person to summon, by word of mouth, from among the bystanders or from the neighborhood, such number of persons as are necessary to make up a jury,—the persons so summoned being subject to challenge as those summoned by the judge in the first instance; and the like proceedings shall be repeated, if necessary, until a jury is obtained, competent to try the case; and any person summoned, as hereby provided, to serve as a juror, who makes default or refuses to serve as such juror, without lawful excuse to the satisfaction of the judge, may be fined by him a sum not exceeding ten dollars, and committed to prison until such fine is paid. 43 V., c. 25, s. 76, *part.*—49 V., c. 25, s. 30.

74. Any person duly summoned, whether on behalf of the prisoner or against him, to attend and give evidence on any such trial, shall be bound to attend on the day appointed for the same, and shall remain in attendance throughout the whole trial; and if he fails so to attend, he shall be deemed guilty of contempt of court, and may be proceeded against therefor. 43 V., c. 25, s. 76, *part.*

75. Upon proof, to the satisfaction of the judge, of the summoning of any witness who fails to attend, and upon such judge being satisfied that the presence of such witness before him is indispensable to the ends of justice, he may, by his warrant, cause the said witness to be apprehended and forthwith brought before him to give evidence and to answer for his contempt; and such witness may be detained on such warrant, with a view to secure his presence as a witness, or may be released on recognizance, with or without sureties, conditioned for his appearance to give evidence as therein mentioned, and to answer for his contempt; or the judge may, in a summary manner, examine and dispose of the charge of contempt against the said witness, who, if found guilty thereof, may be fined or imprisoned, or both,—such fine not to exceed one hundred dollars, and such imprisonment to be with or without hard labor, and not to exceed the term of ninety days. 43 V., c. 25, s. 76, *part.*—49 V., c. 25, s. 30.

76. Returns of all trials and proceedings, civil and criminal, shall be made to the Lieutenant Governor in such form and at such times as he directs. 43 V., c. 25, s. 76, *part.*

77. The Governor in Council may, from time to time, by proclamation, declare that the ten sections next preceding, or any of them, shall be repealed from and after the date named in such proclamation. 49 V., c. 25, s. 33, *part.*

Governor in Council may repeal ss. 67 to 76 inclusive by proclamation.

78. If imprisonment for any term not less than two years is awarded in any case, the convict may be ordered to be imprisoned in any gaol or penitentiary in the Territories, or to be conveyed to the penitentiary in the Province of Manitoba, on the warrant of the judge; and whenever any convict or accused person is ordered to be conveyed to the penitentiary in Manitoba, any constable or other person in whose charge he is to be so conveyed, may hold and convey him, or re-take him in case of an escape; and the warden of the penitentiary in Manitoba may detain and deal with him, in the said Province, as if such penitentiary was within the Territories, or as if the said convict or accused person had been ordered to be conveyed to such penitentiary by some competent court or authority in the said Province. 43 V., c. 25, s. 78;—49 V., c. 25, s. 30.

Where convict may be imprisoned.

Conveyance of prisoners.

Duties and powers of warden.

79. If it is impossible or inconvenient, in the absence or remoteness of any gaol or other place of confinement, to carry out any sentence of imprisonment, any judge, or justice of the peace, may sentence any person so convicted before him, to be placed and kept in the custody of the North-West Mounted Police force, with or without hard labor; and any police guard house or guard room in the Territories shall be a penitentiary, gaol, or place of confinement for the purposes of this Act. 43 V., c. 25, s. 79;—49 V., c. 25, s. 30.

Prisoner may be detained in custody of N. W. M. Police.

80. The Governor in Council may cause to be erected in any part or parts of the Territories any building or buildings, or enclosure or enclosures, for the purpose of a penitentiary, gaol or lock-up, for the confinement of prisoners charged with the commission of any offence, or sentenced to any punishment therein; and confinement or imprisonment therein shall be held lawful and valid, whether under sentence of imprisonment in a penitentiary, gaol or other place of confinement. 43 V., c. 25, s. 80.

Erection of places of detention.

81. In all cases in the Territories, when proceedings before justices of the peace are authorized to be summary, and when no time is specially limited for making any complaint or laying any information in the Act or law relating to the particular case, the complaint shall be made and the information shall be laid within twelve months from the time when the matter of the complaint or information arose. 43 V., c. 25, s. 84.

Limitation of time for proceedings.

CORONERS AND INQUESTS.

Who shall be coroners. **82.** The Indian Commissioner for the Territories, the judges of the Supreme Court, the commissioner and assistant commissioner of the North-West Mounted Police, and such other persons as the Lieutenant Governor, from time to time, appoints, shall be coroners in and for the Territories. 47 V., c. 23, s. 3 ;—49 V., c. 25, s. 30.

When inquests may be held. **83.** Except as hereinafter provided, no inquest shall be held upon the body of any deceased person by any coroner, unless it has been made to appear to such coroner that there is reason to believe that the deceased died from violence or unfair means, or by culpable or negligent conduct either of himself or of others, under such circumstances as require investigation, and not through mere accident or mischance. 43 V., c. 25, s. 82, *part*.

Deceased prisoners. **84.** Upon the death of any prisoner, the gaoler or officer in charge of the gaol wherein such prisoner dies shall immediately give notice to the nearest resident coroner, and such coroner shall proceed forthwith to hold an inquest upon the body. 43 V., c. 25, s. 82, *part*.

Number of jury. **85.** It shall not be necessary in any case that a coroner's jury shall exceed six persons, but in every case of an inquest six jurors must agree in order to render the verdict valid. 43 V., c. 25, s. 82, *part*.

Powers of coroners. **86.** Coroners shall have the same powers to summon witnesses and to punish them for disobeying a summons to appear or for refusing to be sworn or to give evidence, as are enjoyed by justices of the peace. 43 V., c. 25, s. 82, *part*.

Fees. **87.** The fees of coroners, jurors and witnesses attending criminal trials and inquests may be fixed, from time to time, by the Governor in Council, and paid in such manner as he directs. 43 V., c. 25, s. 83.

ADMINISTRATION OF CIVIL JUSTICE.

Civil jurisdiction of judge. **88.** Every judge of the Supreme Court shall have jurisdiction, power and authority to hold courts, whether established by ordinance of the Lieutenant Governor or not, at such times and places as he thinks proper, and at such courts, as sole judge, to hear all claims, disputes and demands whatsoever, except as herein provided, which are brought before him, and to determine any questions arising thereout, as well of fact as of law, in a summary manner ; and such courts shall be open public courts :

Trial by jury in certain cases. 2. Provided, that in cases where the claim, dispute or demand arises out of a tort, wrong or grievance, and in

which the amount claimed exceeds five hundred dollars, or if for a debt or on a contract in which the amount claimed exceeds one thousand dollars, or for the recovery of the possession of real property, if either party demands a jury, or in any such case in which the judge thinks fit so to direct, he may direct that all questions of fact therein shall be tried and determined by a sworn jury of six in number, summoned in the manner hereinbefore provided as to criminal trials :

3. Provided further, that in cases of disputed accounts, the judge may, in place of a trial by jury, direct the evidence to be taken by the clerk of any court, or by any other competent person ; which clerk or other person shall be sworn to take the same truly, and to reduce it to writing :

Reference of
disputed ac-
counts.

4. The judge may give judgment on the verdict of the jury or upon the evidence taken by the clerk or other person as aforesaid, or may order a new trial, when justice seems to require the same ; and in all cases a judge may give such judgment, and make such orders and decrees, interlocutory and final, as in such cases brought before him appear just and agreeable to equity and good conscience ; but no court or judge in the Territories shall have jurisdiction in respect of any action for a gambling debt, or for the price of any intoxicating liquor or intoxicant, or of any action by any person on any promissory note, bill of exchange, cheque, draft or other document or writing whatsoever, the consideration or any part of the consideration for which was a gambling debt or any intoxicating liquor or intoxicant. 47 V., c. 23, s. 4 ;—49 V., c. 25, s. 30.

Judgment.

No action for
gambling
debts or in-
toxicants.

89. Every judgment of the judge shall be pronounced in open court as soon as may be after the hearing of the case ; except that in any case where the judge is not prepared to pronounce judgment at the close of the trial, he may postpone judgment and deliver and enter the same subsequently, and such judgment shall be as effectual as if rendered in court at the trial. 43 V., c. 25, s. 86 ;—49 V., c. 25, s. 30.

Judgment,
how given.

90. The proceedings to carry into effect any such judgment, order or decree, whether interlocutory or final, shall be as prescribed by any ordinance of the Lieutenant Governor in Council ; or if no such ordinance is in force when any such judgment, order or decree is rendered, then in such manner as the judge who pronounced the same directs. 47 V., c. 23, s. 5 ;—49 V., c. 25, s. 30.

Execution of
judgment.

91. The Governor in Council may, from time to time by proclamation, declare that the three sections next preceding or any of them, shall be repealed from and after the date named in such proclamation. 49 V., c. 25, s. 33, *part*.

Governor in
Council may
repeal ss. 88
to 90 inclu-
sive by pro-
clamation.

PROHIBITION OF INTOXICANTS.

Intoxicants not to be manufactured, &c., without permission.

92. No intoxicating liquor or intoxicant shall be manufactured, compounded or made in the Territories, except by special permission of the Governor in Council; nor shall any intoxicating liquor or intoxicant be imported or brought into the Territories from any Province of Canada, or elsewhere, or be sold, exchanged, traded or bartered, or had in possession therein, except by special permission, in writing, of the Lieutenant Governor:

Customs and excise laws to apply.

2. Intoxicating liquors or intoxicants imported or brought from any place out of Canada into the Territories, by special permission, in writing, of the Lieutenant Governor, shall be subject to the customs and excise laws of Canada. 43 V., c. 25, s. 90, *part.*

Return of permissions.

93. The Lieutenant Governor shall make an annual return, up to the thirty-first day of December in each year, of the number of such permissions so given by him, and the quantity and nature of the intoxicating liquors and intoxicants in each case, to the Minister of the Interior, who shall lay the same before Parliament. 43 V., c. 25, s. 90, *part.*

Forfeiture of intoxicant.

94. If any such intoxicating liquor or intoxicant is manufactured or made in the Territories, or is imported or brought into the Territories, or is sold, exchanged, traded or bartered, in violation of the provisions of this Act, such liquor or intoxicant shall be forfeited, and may be seized by any officer of the customs or excise, or by any constable or other duly qualified person wheresoever found; and any judge of the Supreme Court, or justice of the peace, on complaint made before him, may, on the evidence of one credible witness, that the provisions of this Act have been violated in respect thereof, order such intoxicating liquor or intoxicant so seized to be forthwith destroyed; or if such liquor or intoxicant has not been seized, such judge or justice of the peace, on complaint as aforesaid, may issue a search warrant, as in cases of stolen goods, and upon the same being found, may cause them to be forthwith destroyed; and the still, machinery, keg, barrel, case, box, package or receptacle whence or in which any intoxicating liquor or intoxicant has been manufactured, imported or made, sold, exchanged, traded or bartered, and as well that in which the original supply was contained as the vessel wherein any portion of such original supply was supplied as aforesaid, and the remainder of the contents thereof, if such still, machinery, barrel, keg, case, box, package, receptacle or vessel aforesaid, respectively, can be identified, may be seized by any officer of the customs or excise or by any constable or other duly qualified person, wheresoever found within the Territories; and any judge of the Supreme Court, or justice of the peace,

Search warrant may be granted.

Still, machinery and receptacle may be seized.

may, on complaint before him, and on the evidence of one credible witness, that the provisions of this Act have been violated in respect thereof, declare such intoxicating liquor or intoxicant, still, machinery, vessel or receptacle forfeited, and cause the same to be forthwith destroyed; and the person in whose possession any of them are found, shall incur a penalty not exceeding two hundred dollars and not less than fifty dollars, with costs; and a moiety of such penalty shall belong to the informer, and the other moiety thereof shall belong to Her Majesty for the public uses of Canada. 43 V., c. 25, s. 90, *part*;—49 V., c. 25, s. 30.

And forfeited.

Penalty and application thereof.

95. Every person who manufactures, makes, compounds, imports, sells, exchanges, trades or barter any intoxicating liquor or intoxicant, except by special permission as aforesaid, or in whose possession or on whose premises such intoxicating liquor or intoxicant of any kind is or has been, shall incur a penalty not exceeding two hundred dollars and not less than fifty dollars,—a moiety of which penalty shall belong to the informer. 43 V., c. 25, s. 90, *part*.

Penalty for manufacturing, &c., without permission.

96. Every person who knowingly has in his possession any article, chattel, commodity or thing purchased, acquired, exchanged, traded or bartered, either wholly or in part, for any intoxicating liquor or intoxicant, shall, for each offence, incur a penalty not exceeding two hundred dollars and not less than fifty dollars,—a moiety of which penalty shall belong to the informer. 43 V., c. 25, s. 90, *part*.

Penalty for having articles exchanged for intoxicants in possession.

97. Every article, chattel, commodity or thing, in the purchase, acquisition, exchange, trade or barter of which the consideration, either wholly or in part, is any intoxicating liquor or intoxicant, shall be forfeited to Her Majesty, and shall be seized, as hereinbefore provided in respect to any receptacle of any intoxicating liquor or intoxicant. 43 V., c. 25, s. 90, *part*.

Forfeiture of things accessory to offence.

98. Every person who refuses or neglects to aid any constable, sub-constable, or other duly authorized person in the execution of any act or duty required under any of the six sections next preceding, or who knowingly refuses to give information, or gives false information in respect to any matter arising therefrom, shall incur a penalty not exceeding two hundred dollars and not less than fifty dollars,—a moiety of which penalty shall belong to the informer. 43 V., c. 25, s. 90, *part*.

Penalty for refusing to assist constable.

99. Every penalty incurred under any of the seven sections next preceding shall be recoverable, with costs, on summary conviction, on the evidence of one credible witness, before any judge of the Supreme Court or justice of the peace, who shall, on payment of such penalty and costs, pay the

Recovery of penalties.

Penalty for a subsequent offence.

informer his share thereof; and in case of non-payment of the penalty and costs immediately after conviction, the convicting judge or justice of the peace may, in his discretion, levy the same by distress and sale, or may commit the person who is so convicted and makes default to any common gaol or house of correction or lock-up house for a term not exceeding six months, with or without hard labor, unless the said penalty and costs are sooner paid; and upon conviction for a subsequent offence, the offender shall be liable to a penalty not exceeding four hundred dollars and not less than two hundred dollars, payable and recoverable as in this section provided, and, in the discretion of the convicting judge or justice of the peace, to imprisonment with or without hard labor in any common gaol or house of correction or lock-up house for a further term not exceeding six months. 47 V., c. 23, s. 8;—49 V., c. 25, s. 30.

Conviction, &c., not invalid for want of form.

100. No seizure, prosecution, conviction or commitment under this Act shall be invalid for want of form, so long as the same is according to the true intent and meaning of this Act. 43 V., c. 25, s. 90, *part*.

SALE OF ARMS AND AMMUNITION.

Interpretation.
"Improved arm."
"Ammunition"

101. In this section—

(a) The expression "improved arm" means and includes all arms except smooth bore shot guns;

(b) The expression "ammunition" means fixed ammunition or ball cartridge:

2. Every person who, in the Territories,—

Supplying arms and ammunition without a permit;—

(a.) Without the permission in writing (the proof of which shall be on him) of the Lieutenant Governor, or of a commissioner appointed by him to give such permission, has in his possession or sells, exchanges, trades, barter or gives to, or with any person, any improved arm or ammunition, or—

Or to unauthorized persons;

(b.) Having such permission, sells, exchanges, trades, barter or gives any such arm or ammunition to any person not lawfully authorized to possess the same,—

To be offences, and how punishable.

Shall, on summary conviction before a judge of the Supreme Court or two justices of the peace, be liable to a penalty not exceeding two hundred dollars, or to imprisonment for any term not exceeding six months, or to both:

Search for and seizure of arms and ammunition sold contrary to this section.

3. All arms and ammunition which are in the possession of any person, or which are sold, exchanged, traded, bartered or given to or with any person in violation of this section, shall be forfeited to the Crown, and may be seized by any constable or other peace officer; and any judge of the Supreme Court or justice of the peace may issue a search warrant to search for and seize the same, as in the case of stolen goods:

Regulations by Governor in Council.

4. The Governor in Council may, from time to time, make regulations respecting:—

- (a.) The granting of permission to sell, exchange, trade, barter, give or possess arms or ammunition; Permits for arms, &c.
- (b.) The fees to be taken in respect thereof; Fees.
- (c.) The returns to be made respecting permissions granted; and— Returns.
- (d.) The disposition to be made of forfeited arms and ammunition; Disposition.
5. The provisions of this section respecting the possession of arms and ammunition shall not apply to any officer or man of Her Majesty's forces, of the Militia force, or of the North-West Mounted Police force: Proviso.
6. The Governor in Council may, from time to time, declare by proclamation that upon and after a day therein named this section shall be in force in the Territories, or in any place or places therein in such proclamation designated; and upon and after such day but not before, the provisions of this section shall take effect and be in force accordingly: Section may be proclaimed in force at any place in N.W.T.
7. The Governor in Council may, in like manner, from time to time, declare this section to be no longer in force in any such place or places, and may again, from time to time, declare it to be in force therein: And proclamation may be revoked.
8. All courts, judges and justices of the peace shall take judicial notice of any such proclamation. 48-49 V., c. 51, s. 14;—49 V., c. 25, s. 30. To be judicially noticed.

APPEALS FROM JUSTICES OF THE PEACE.

102. The court of appeal from convictions and orders of justices of the peace in the Territories shall be a judge of the Supreme Court sitting without a jury; and the clerk of the peace or other proper officer mentioned in the "*Act respecting summary proceedings before justices of the peace.*" shall, in the Territories, mean the clerk of the Supreme Court of the judicial district within which such conviction takes place or such order is made. 48-49 V., c. 51, s. 7;—49 V., c. 25, ss. 30 and 34. Court of Appeal from justices of the peace.

LUNATICS.

103. Whenever, under any law or ordinance in force in the Territories, any insane person is kept in custody until the pleasure of the Lieutenant Governor is known, or until such person is discharged by law, the Lieutenant Governor may cause such person to be removed to and confined in any asylum or place of confinement, from time to time, designated for that purpose by the Governor in Council, and the superintendent or warden of such asylum or place of confinement shall receive such person and detain him therein until the pleasure of the Lieutenant Governor is known, or until such person is discharged by law: Removal of lunatics in custody, by order of Lt. Governor.

Removal of lunatics confined before date specified.

2. The Lieutenant Governor of the Province of Manitoba may cause any insane person who came from the Territories and who was confined in a temporary lunatic asylum on the twentieth day of July, one thousand eight hundred and eighty-five, to be removed to the Manitoba lunatic asylum; and the superintendent of the said asylum or the superintendent of such temporary lunatic asylum, as the case may be, shall detain every such person committed to his keeping until the pleasure of the Lieutenant Governor is known, or until such person is discharged by law. 48-49 V., c. 51, s. 10 and s. 12, *part*; O.C., 15th Sept., 1885.

Recapture of lunatics escaping from confinement.

104. If any insane person confined in such asylum or place of confinement under this Act, escapes therefrom, any of the officers or servants thereof, or any other person or persons, at the request of such officers or servants, or any of them, may, within forty-eight hours after such escape, if no warrant has been issued, and within one month after such escape, if a warrant in the form in the schedule to this Act has been issued by the superintendent or warden of such asylum or place of confinement in that behalf, retake such escaped person and return him thereto; and he shall remain in custody therein under the authority by virtue of which he was detained prior to such escape. 48-49 V., c. 51, s. 11.

Manitoba to be indemnified for care of lunatics from N.W.T.

105. The Minister of the Interior may, subject to the approval of the Governor in Council, make such arrangements with the Lieutenant Governor of Manitoba as seem reasonable, as to the compensation to be made by Canada to that Province for the care and maintenance of persons detained in the Manitoba lunatic asylum, or in such temporary asylum as aforesaid. 48-49 V., c. 51, s. 13; O.C., 15th Sept., 1885.

SALARIES OF OFFICERS.

Salaries of officers.

106. There shall be payable out of the Consolidated Revenue Fund of Canada, the following sums, annually, that is to say:—

To the Lieutenant Governor, not exceeding.....	\$7,000
To the members of Council, each, not exceeding.....	1,000
To the clerk of the Council, who shall also act as and perform the duties of secretary to the Lieutenant Governor, not exceeding.....	1,800

Travelling allowances.

Together with such sums of money as are, from time to time, fixed by the Governor in Council, in respect of travelling allowances for any of the officers above named. 43 V., c. 25, s. 89;—47 V., c. 23, s. 7;—49 V., c. 25, s. 32, *part*.

ROAD ALLOWANCES.

Control of road allowances.

107. All road allowances in townships now or hereafter surveyed and sub-divided in the Territories, and all road

allowances set out on block lines now or hereafter surveyed in the Territories, the plans of survey whereof have been duly approved, shall be subject to the direction, management and control of the Lieutenant Governor in Council, for the public use of the territories. 43 V., c. 25, s. 91, *part*.

108. Whenever the Governor in Council receives notice from the Lieutenant Governor that it is considered desirable that any particular thoroughfare or public travelled road or trail in the Territories, which existed as such prior to any regular surveys, should be continued as such, the Governor in Council may direct the same to be surveyed by a Dominion land surveyor, and thereafter may transfer the control of each such thoroughfare, public travelled road or trail, according to the plan and description thereof, to the Lieutenant Governor in Council, for the public uses of the Territories. 43 V., c. 25, s. 91, *part*.

Certain roads may be surveyed and transferred.

GENERAL PROVISIONS.

109. Whenever in any Act of the Parliament of Canada in force in the Territories, any officer is designated for carrying on any duty therein mentioned, and there is no such officer in the Territories, the Lieutenant Governor in Council may order by what other person or officer such duty shall be performed,—and anything done by such person or officer, under such order, shall be valid and lawful in the premises; or if it is in any such Act ordered that any document or thing shall be transmitted to any officer, court, territorial division or place, and there is then in the Territories no such officer, court or territorial division or place, the Lieutenant Governor in Council may order to what officer, court or place such transmission shall be made, or may dispense with the transmission thereof. 43 V., c. 25, s. 81.

Provision when there are no such officers as are designated in Act of Parliament.

110. Either the English or the French language may be used by any person in the debates of the Council or Legislative Assembly of the territories and in the proceedings before the courts; and both those languages shall be used in the records and journals of the said Council or Assembly; and all ordinances made under this Act shall be printed in both those languages. 43 V., c. 25, s. 94.

English or French language may be used.

111. Any copy of any proclamation or order made by the Governor in Council, or ordinance, proclamation or order made by the Lieutenant Governor in Council, or by the Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the North-West Territories, as the case may be, printed in the *Canada Gazette*, or purporting to be printed by the Queen's Printer for Canada, or by the printer to the Government of Manitoba at Winnipeg, or by the printer to the Government of the North-West Ter-

Certain printed copies of laws, &c., to be evidence.

ritories, shall be *prima facie* evidence of such proclamation or order, and of the fact that it is in force. 43 V., c. 25, s. 14.

APPLICATION OF ACTS TO TERRITORIES.

Application
of Acts of
Canada.

112. Every Act of the Parliament of Canada, except in so far as otherwise provided in any such Act, and except in so far as the same is, by its terms, applicable only to one or more of the Provinces of Canada, or in so far as any such Act is, for any reason, inapplicable to the Territories, shall, subject to the provisions of this Act, apply and be in force in the Territories:

Governor in
Council may
extend Acts
to the Ter-
ritories.

2. The Governor in Council may, by proclamation, from time to time, direct that any Act of the Parliament of Canada, or any part or parts thereof, or any one or more of the sections of any one or more of any such Acts not then in force in the Territories, shall be in force in the Territories generally, or in any part or parts thereof mentioned in such proclamation. 43 V., c. 25, ss. 13 and 96;—49 V., c. 25, s. 2.

SCHEDULE.

WARRANT TO RETAKE ESCAPED PATIENT.

Manitoba Lunatic Asylum (or as the case may be).

To _____ and all or any of
the peace officers, in the *County (or as the case may be)* of _____

Whereas, on the _____ day of _____ last
past, being within one month from the date hereof, A.B., an
insane person confined in the Manitoba Lunatic Asylum (*or*
as the case may be), of which I, _____ am
superintendent (*or* warden), did escape from the said asylum
(*or* as the case may be):

These are therefore to authorize and command you, or any
of you the said constables or peace officers, in Her Majesty's
name, at any time within one month from the date of the
said escape, to retake the said A.B., and safely convey him
to this asylum (*or* as the case may be) and deliver him into
my charge.

Given under my hand and seal this
day of _____

_____ in the year
at _____, in the county
aforesaid.

(Signature.) [L.S.]
Superintendent.

48-49 V., c. 51, sch.;—O.C. 15th Sept., 1885.



CHAPTER 51.

An Act respecting Real Property in the Territories. A.D. 1886.

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

SHORT TITLE.

1. This Act may be cited as "*The Territories Real Property Act.*" 49 V., c. 26, s. 1. Short title.

COMMENCEMENT.

2. This Act shall commence and take effect from and after the first day of January, one thousand eight hundred and eighty-seven. 49 V., c. 26, s. 2. Commencement of Act.

INTERPRETATION.

3. In this Act, and in all instruments purporting to be made or executed thereunder, unless the context otherwise requires, — Interpretation

(a.) The expression "Land" means land, messuages, tenements and hereditaments, corporeal and incorporeal, of every kind and description, whatever the estate or interest therein is, together with all paths, passages, ways, water-courses, liberties, privileges, easements, mines, minerals and quarries appertaining thereto, and all trees and timber thereon and thereunder lying or being, unless any such are specially excepted; "Land."

(b.) The expression "Owner" means any person or body corporate entitled to any freehold or other estate or interest in land at law or in equity, in possession, in futurity or expectancy; "Owner."

(c.) The expression "Transfer" means the passing of any estate or interest in land under this Act, whether for valuable consideration or otherwise; "Transfer."

(d.) The expression "Mortgage" means any charge on land created merely for securing a debt; "Mortgage."

(e.) The expression "Mortgagee" means the owner of a mortgage; "Mortgagee."

- “Mortgagor.” (f.) The expression “Mortgagor” means the owner or transferee of land, or of any estate or interest in land pledged as security for a debt ;
- “Encumbrance” (g.) The expression “Encumbrance” means any charge on land created for any purpose whatever, inclusive of mortgage, unless expressly distinguished ;
- “Encumbrancer.” (h.) The expression “Encumbrancer” means the owner of any land or of any estate or interest in land subject to any encumbrance ;
- “Encumbrancee.” (i.) The expression “Encumbrancee” means the owner of an encumbrance ;
- “Lunatic.” (j.) The expression “Lunatic” means any person found by any competent tribunal or commission *de lunatico inquirendo*, to be a lunatic ;
- “Person of unsound mind.” (k.) The expression “Person of unsound mind” means any person not an infant, who not having been found to be a lunatic, has been found on like inquiry to be incapable, from infirmity of mind, of managing his own affairs ;
- “Instrument” (l.) The expression “Instrument” means any grant, certificate of title, conveyance, assurance, deed, map, plan, will, probate or exemplification of will, or any other document in writing relating to the transfer or other dealing with land or evidencing title thereto ;
- “Register.” (m.) The expression “Register” means the register of titles to land to be kept in accordance with this Act ;
- “Registrar.” (n.) The expression “Registrar” means any person appointed under this Act as registrar of titles ;
- “Territories.” (o.) The expression “Territories” means the North-West Territories, the District of Keewatin and all other Territories of Canada ;
- “Court.” (p.) The expression “Court” means any court authorized to adjudicate in the Territories in civil matters in which the title to real estate is in question ;
- “Court of Appeal.” (q.) The expression “Court of Appeal” means the Court of Appeal herein constituted ;
- “Judge.” (r.) The expression “Judge” means any official authorized in the Territories to adjudicate in civil matters in which the title to real estate is in question ;
- “Transmission.” (s.) The expression “Transmission” applies to change of ownership consequent upon lunacy, levy under execution, order of court or other act of law, or in virtue of any settlement or any legal succession in case of intestacy ;
- “Grant.” (t.) The expression “Grant” means any grant of Crown land, whether in fee or for years, and whether direct from Her Majesty or pursuant to the provisions of any statute ;
- “Indorsed.” (u.) The expression “Indorsed” means anything written upon any instrument or other document, or in the margin thereof, or at the foot thereof ;
- “Possession.” (v.) The expression “Possession,” when applied to persons claiming title to land, means also alternatively the reception of the rents and profits thereof. 49 V., c. 26, s. 3.

PRELIMINARY.

4. From and after the commencement of this Act, all lands in the Territories shall be subject to the provisions hereof. 49 V., c. 26, s. 4. All lands in Territories subject to Act.

DESCENT, CONVEYANCE, ETC., OF REAL PROPERTY.

5. All lands in the Territories which, by common law, are regarded as real estate, shall be held to be chattels real, and shall go to the executor or administrator of any person or persons dying seized or possessed thereof, as personal estate now passes to the personal representatives. 49 V., c. 26, s. 5. All lands to be chattels real and go to executor, &c., of deceased.

6. Hereafter no words of limitation shall be necessary in any conveyance of any land in order to convey all or any title therein, but every deed or instrument conveying land shall operate as an absolute conveyance of all such right and title as the grantor has therein at the time of its execution, unless a contrary intention is expressed in such conveyance; but nothing herein contained shall preclude any conveyance from operating by way of estoppel; and hereafter the introduction of any words of limitation into any conveyance or devise of any land, shall have the like force and meaning, as the same words of limitation would have if used by way of limitation of any personal estate, and no other. 49 V., c. 26, s. 6. Effect of conveyance; words of limitation not required.

7. No devise shall be valid or effectual as against the personal representative of the testator, until the land affected thereby is conveyed to the devisee thereof, by the personal representative of the devisor, saving and excepting such devises as are made by the testator to his personal representative, either in his representative capacity or for his own use. 49 V., c. 26, s. 7. Effect of words of limitation.

8. No widow whose husband dies on or after the first day of January, one thousand eight hundred and eighty-seven, shall be entitled to dower in the real property of her deceased husband; but she shall have the same right in such real property as if it were personal property. 49 V., c. 26, s. 8. Devisee to take from personal representative.

9. No husband whose wife dies on or after the first day of January, one thousand eight hundred and eighty-seven, shall be entitled to any estate by the curtesy in the real property of his deceased wife; but he shall have the same right therein as a wife has in the personal property of her deceased husband. 49 V., c. 26, s. 9. Dower abolished.

Where land conveyed to a man and his wife.

10. Whenever land is conveyed to a man and his wife the grantees shall take according to the tenor of the deed, and they shall not take by entireties unless it is so expressed in the conveyance or transfer. 49 V., c. 26, s. 10.

Conveyances by husband to wife or vice versa.

11. A man may make a valid conveyance or transfer of his real estate to his wife, and a woman may make a valid conveyance or transfer of her real estate to her husband, without in either case, the intervention of a trustee. 49 V., c. 26, s. 11.

Estate tail abolished: fee simple substituted.

Fee simple not changeable into limited estate.

12. Any grant, devise or limitation, which heretofore would have created an estate tail, shall be construed to carry an estate in fee simple, or the greatest estate the grantor or devisor had in the land granted or conveyed; and no estate in fee simple shall be changed into any limited fee or fee-tail, but the land, whatever form of words is used in any instrument of transfer or transmission or dealing, shall, except as hereinafter otherwise provided, be and remain an absolute estate in the owner for the time being. 49 V., c. 26, s. 12.

Married woman to be as if feme sole.

13. A married woman shall, in respect of land acquired by her after the coming into force of this Act, have all the rights and be subject to all the liabilities of *feme sole*, and may alienate and, by will or otherwise, deal with land as if she were unmarried. 49 V., c. 26, s. 13.

Forfeiture by wife for adultery.

14. If a wife has left her husband, and has lived in adultery after leaving him, she shall take no part of the estate of her husband. 49 V., c. 26, s. 14.

And by husband.

15. If a husband has left his wife, and has lived in adultery after leaving her, he shall take no part of her estate. 49 V., c. 26, s. 14.

Illegitimate children inherit from mother.

16. Illegitimate children shall inherit from the mother as if they were legitimate, and through the mother if dead, any property or estate which she would, if living, have taken by purchase, gift, devise, or descent from any other person. 49 V., c. 26, s. 16.

And mother from such child.

17. When an illegitimate child dies intestate, without issue, the mother of such child shall inherit. 49 V., c. 26, s. 17.

REGISTRATION DISTRICTS.

Registration districts: Assiniboia, Alberta.

18. The provisional districts of Assiniboia and Alberta, as defined by an order of the Queen's Privy Council for Canada, dated the eighth day of May, one thousand eight hundred and eighty-two, shall, for the purposes of this Act, be land registration districts, to be known respectively as the

Assiniboia Land Registration District and the Alberta Land Registration District; and that portion of the provisional district of Saskatchewan lying eastward of the third principal meridian shall be a land registration district, to be known as the "East Saskatchewan Land Registration District;" and that portion of the said Saskatchewan provisional district lying westward of the said meridian shall also be a registration district, to be known as the "West Saskatchewan Land Registration District." 49 V., c. 26, s. 18.

East Saskatchewan.

West Saskatchewan.

19. The Governor in Council may, from time to time, by proclamation, as the settlement of the country and the exigencies of the public service require, constitute any other portion of the Territories a land registration district, and declare by what local name the same shall be known and designated. 49 V., c. 26, s. 19.

Provisions for further registration districts.

20. As soon after the passing of this Act as practicable, and whenever, at any subsequent period, a new registration district is established, the Governor in Council may provide in each registration district, at the public expense, and thereafter maintain in a proper state of repair, a building of stone or brick, to serve as the office of the Registrar, and as the place of deposit and preservation of the registers, duplicates, instruments and documents connected with the registration of titles, and shall fit up the said office with such fire-proof safes and other secure places as are necessary. 49 V., c. 26, s. 20.

Registration offices, &c., to be provided at public expense.

21. In each such registration district, at such place as the Governor in Council determines, there shall be an office, to be called the "Land Titles Office"; and the business of such office shall be conducted by an officer to be called the registrar, appointed by the Governor in Council, with such assistants and clerks as are necessary, and as the Governor in Council, from time to time, appoints. 49 V., c. 26, s. 21.

Land titles office, and appointment of registrars, assistants and clerks by Governor in Council.

22. The Governor in Council may, from time to time, appoint a deputy to any of the registrars aforesaid, to act in case of the death, illness or absence from his office of the registrar to whom he is deputy; and every deputy, during the time he so acts, shall have all the powers and privileges, and perform all the duties and be subject to all the responsibilities of the officer to whom he is deputy. 49 V., c. 26, s. 22.

Deputy registrars: appointment, powers and duties.

23. Every registrar of deeds appointed and acting in the Territories, when this Act comes into force, shall upon taking the oath and giving the security hereinafter mentioned, be *ex officio* a registrar under this Act, and shall hold office during pleasure; but thereafter no person shall be appointed

Existing registrars of deeds to be *ex officio* registrars: qualification of future appointees.

a registrar unless he is a barrister or advocate, of at least three years' standing in one of the Provinces of Canada. 49 V., c. 26, s. 23.

- Salaries.** **24.** The salaries of registrars, deputy registrars, and other necessary officers, and such incidental expenses of carrying this Act into effect as are sanctioned by the Governor in Council, shall be paid out of moneys provided by Parliament for that purpose. 49 V., c. 26, s. 24.
- Oath of office.** **25.** Every registrar and deputy registrar, before he enters upon the execution of his office, shall take, before some judge or stipendiary magistrate in the Territories, the oath of office in the form A in the schedule to this Act. 49 V., c. 26, s. 25.
- Registrar's bond.** **26.** Before any registrar or deputy registrar appointed under this Act is sworn into office, he, and two or more sufficient sureties, shall enter into a joint and several bond in duplicate under their hands and seals to Her Majesty, in a penal sum to be fixed at not less than one thousand dollars, for the true and faithful performance by the said registrar or deputy registrar, of his duty in respect of all things directed to be done by or required of him by this Act or any law in that behalf, and such bond shall be in the form B in the schedule to this Act, or to the like effect :
- Condition and form of bond.**
- Obligation of Guarantee Co. may be substituted. Governor in Council to approve.** **2.** The obligation to the like effect of any Guarantee Company approved of by the Governor in Council may be substituted for such bond :
- 3.** Such bond or guarantee shall be subject to the approval of the Governor in Council. 49 V., c. 26, s. 26.
- Sureties to justify.** **27.** The sureties in such bond and duplicate shall justify under oath in the form C in the schedule to this Act, and the execution by the registrar, or deputy registrar, and his sureties shall be verified by affidavit of a subscribing witness in the form D in the schedule to this Act, taken before a justice of the peace; and one of such duplicates, with the affidavits appended, shall be forthwith transmitted to the Secretary of State to be filed in his office and the other shall be filed in the office of the Lieutenant-Governor of the Territories. 49 V., c. 26, s. 27.
- Custody of bonds.**
- New bond to be given when required.** **28.** The registrar or deputy registrar shall, when required by the Secretary of State, execute a new bond in the form and to the effect provided in section twenty-six of this Act, or furnish such other security as is deemed expedient. 49 V., c. 26, s. 28.
- Seal of office.** **29.** Each registrar shall have a seal of office, approved by the Governor in Council, with which he shall seal all certificates of title and stamp all instruments which are presented to him for registration. 49 V., c. 26, s. 29.

30. Each registrar shall, when required, and upon the payment of the legal fees, furnish, attested by the seal of his office, exemplifications, copies and abstracts of any uncancelled instrument affecting land, which is deposited, filed, kept or registered in his office, and every such exemplification or certified copy shall be received as evidence in the same manner and with the same effect as if the original was produced. 49 V., c. 26, s. 30.

Registrar to furnish copies of uncancelled instruments.

Copies to be evidence.

31. No registrar, deputy registrar or clerk in any land titles office under this Act shall, directly or indirectly, act as the agent of any person investing money and taking securities on real estate within his registration district, nor shall such registrar, deputy registrar or clerk advise, for any fee or reward or otherwise, upon titles of land, nor practice as a conveyancer, nor shall he carry on or transact, within the registry office, any business or occupation whatever, other than his duties as such registrar, deputy or clerk. 49 V., c. 26., s. 31.

Registrars, &c., not to act as agents, &c.

Nor carry on other business in office.

32. The registrar shall not, nor shall any deputy registrar or any person acting under authority of the registrar, be liable to any action or proceeding for or in respect of any act *bonâ fide* done or omitted to be done in the exercise or supposed exercise of the powers given by this Act, or any order or general rule made in pursuance of this Act. 49 V., c. 26, s. 32.

Indemnity of registrars, &c., for acts *bonâ fide* under this Act.

33. The land titles office shall be kept open on all days except Sundays and legal holidays, between the hours of ten in the forenoon and four in the afternoon, during which time either the registrar or his deputy shall be in attendance. 49 V., c. 26, s. 33.

Office—days and hours.

REGISTRATION.

34. The registrar shall not register any instrument purporting to transfer, or otherwise to deal with or affect any land under the provisions of this Act, except in the manner herein provided, nor unless such instrument is in accordance with the provisions hereof; but any instrument substantially in conformity with the forms in the schedule to this Act, or an instrument of like nature, shall be sufficient: Provided, that the registrar shall have power to reject any instrument appearing to be unfit for registration. 49 V., c. 26, s. 34.

Form of instruments for registration.

Proviso.

35. The registrar shall not make any entry in the register of any notice of trusts, whether expressed, implied, or constructive. 49 V., c. 26, s. 35.

No notice of trust to be entered.

36. The registrar may require the owner of any land within his registration district desiring to transfer or other-

Registrar may require

- plan of land dealt with. wise to deal with the same under the provisions of this Act, to deposit with the registrar a map or plan of such land, with the several measurements marked thereon, certified by a licensed surveyor, and upon one of the following scales:—
- Scale of plan. If less than one acre. (a.) If the land, or the portion thereof proposed to be transferred or dealt with, is of less area than one acre, then such map or plan shall be on a scale not less than one inch to two chains;
- Over one acre and not more than five acres. (b.) If such land, or the portion thereof proposed to be transferred or dealt with, is of greater area than one acre, but not exceeding five acres, then such map or plan shall be on a scale not less than one inch to five chains;
- Over five but not more than eighty acres. (c.) If such land, or the portion thereof proposed to be transferred or dealt with, is of greater area than five acres, but not exceeding eighty acres, then such map or plan shall be on a scale not less than one inch to ten chains;
- Exceeding eighty acres. (d.) If such land, or the portion thereof proposed to be transferred or dealt with, is of greater area than eighty acres, then such map or plan shall be on a scale of one inch to twenty chains;
- Owner to attest plan. 2. Such owner shall sign the said plan and declare the accuracy of the same before the registrar or a justice of the peace:
- If owner does not comply. 3. If such owner neglects or refuses to comply with such requirements as aforesaid, it shall not be incumbent on the registrar to proceed with the registration of such transfer or dealing:
- Provision as to subsequent divisions. 4. Subsequent sub-divisions of the same land may be delineated upon a duplicate of the map or plan of the same so deposited, if such map is upon a sufficient scale, in accordance with the provisions herein contained; and the correctness of the delineation of each such sub-division shall be acknowledged in the manner prescribed for the case of the deposit of an original map:
- As to parts of legal sub-divisions. 5. Where parts of different legal sub-divisions are included in the same transfer, the map shall represent the whole of such legal sub-divisions, and shall indicate the location of the lands to be transferred: Provided always, that this shall not be necessary in the case of lots in a city, town or village, the plan of which has been registered.
- Registrar may administer oaths, &c. **37.** The registrar may administer any oath or take any affirmation or declaration in lieu of an oath from any one entitled by law to affirm or declare. 49 V., c. 26, s. 36.
- The register. **38.** The registrar shall keep a book or books, which shall be called "the register," and shall bind up therein duplicates of all certificates of titles to be issued as hereinafter provided for; and each certificate of title shall constitute a separate folio of such book, and the register shall record therein the particulars of all instruments, dealings, and other matters by
- How kept.

this Act required to be registered or entered in the register, and affecting the land included under such certificate of title. 49 V., c. 26, s. 38.

39. The registrar shall also keep a book or books which shall be called the "day-book," and in which shall be entered by a short description every instrument which is given in for registration, with the day, hour and minute of filing; and for purpose of priority between mortgagees, transferees and others, the time of filing shall be taken as the time of registration; and the registrar, in entering memorials upon the grants and certificates of titles embodied in the register, and in endorsing a memorial upon an instrument to be issued, shall take the time from the day-book as the time of registration. 49 V., c. 26, s. 39.

The day-book : its form and use.

Priority.

Time of filing to be noted on memorial.

40. Every grant shall be deemed and taken to be registered under the provisions and for the purposes of this Act, so soon as the same has been marked by the registrar with the folio and volume on and in which it is embodied in the register; and every transfer and other instrument purporting to transfer, or in any way to affect land under the provisions of this Act, shall be deemed to be so registered as soon as a memorial thereof, as hereinafter described, has been entered in the register upon the folio constituted by the existing grant or certificate of title of such land. 49 V., c. 26, s. 40.

Time for registration of grants.

And of transfers and other instruments.

41. Except as hereinafter otherwise provided, every instrument presented for registration shall, unless a Crown grant, be attested by a witness, and shall be registered in the order of time in which it is presented for that purpose; and instruments registered in respect of or affecting the same estate or interest shall, notwithstanding any express, implied or constructive notice, be entitled to priority the one over the other, according to the time of registration and not according to the date of execution; and the registrar, upon registration thereof, shall file the same in his office: and so soon as registered, every instrument in conformity with the provisions of this Act shall, for the purposes of this Act, be deemed and taken to be embodied in the register as part and parcel thereof, and such instrument, when so constructively embodied and stamped with the seal of the registrar, shall thereupon create, transfer, surrender or discharge, as the case may be, the estate or interest therein mentioned in the lands mentioned in the said instrument. 49 V., c. 26, s. 41.

Instruments for registration; how to be attested.

Order of registry and priority.

Effect of registration.

42. Every memorial entered in the register shall state the nature of the instrument to which it relates, the day, hour, and minute of the presentation of such instrument for registration, and the names of the parties thereto, and shall refer

Particulars required in memorials.

by number or symbol to such instrument, and shall be signed by the registrar. 49 V., c. 26, s. 42.

Memorials to be recorded on duplicate of instrument.

43. Whenever a memorial of any instrument has been entered in the register, the registrar shall, except in the case of transfer or other dealing endorsed upon any certificate or other instrument as herein provided, record the like memorial on the duplicate certificate or other instrument evidencing title to the land intended to be dealt with or in any way affected; and the registrar shall endorse on every instrument so registered a certificate of the day, hour and minute at which the said instrument was presented to be registered, and shall authenticate each such certificate by signing his name and affixing his seal thereto, and such certificate shall be received in all courts of law as conclusive evidence that such instrument has been duly registered. 49 V., c. 26, s. 43.

Certificate of time of registration.

Evidence of.

Registration of letters patent issued after Act in force.

44. Whenever any land is granted in the Territories by the Crown, the letters patent therefor, when issued, shall be forwarded from the office whence the same are issued to the registrar of the registration district in which the lands so granted are situated, and the registrar shall retain the letters patent in his office and bind the same, and a certificate of title, as provided by section fifty-four of this Act, with any necessary qualification, shall be granted to the patentee. 49 V., c. 26, s. 44.

And of estate in lands already patented.

45. The owner of any estate, or interest in any land, whether legal or equitable, letters patent for which have already issued from the Crown, may apply to have his title registered under the provisions of this Act. 49 V., c. 26, s. 45.

Application for registration: how made.

46. The application therefor shall be made in writing in the form E in the schedule to this Act, to the registrar of the registration district in which the land is situated, and shall be verified by the affidavit of the applicant, or some one on his behalf, accompanied by—

Documents required with it.

- (a.) All deeds in possession of the applicant, if any;
- (b.) A certificate showing all registrations affecting the title, down to the time when such application is filed, with copies of any registered documents, the originals or duplicates whereof he is unable to produce;
- (c.) A certificate from the sheriff showing that there is no execution in his hands against the applicant. 49 V., c. 26, s. 46.

If applicant is original grantee of Crown and no encumbrance,

47. Upon the filing of such application, if the applicant is the original grantee of the Crown of the land and no deed, mortgage or other encumbrance, or instrument, or caveat affecting the title appears to have been registered; or, if not

such original grantee, all the original title deeds are produced and no person other than the applicant is in actual occupation of the land in question, and no caveat has been registered,—and if, in every case where any other person is admitted to be interested in the land, whether as mortgagee or otherwise, such person is a consenting party to such application, the registrar, if he entertains no doubt as to the title of the applicant, shall, on payment of the fees prescribed, register the said land under this Act. 49 V., c. 26, s. 47.

or encumbrancer consents and title clear.

The registrar to register land.

48. If, upon the application being made as aforesaid, it appears that any person other than the applicant is interested in the said lands, whether as mortgagee or otherwise, who is not a party to the application, or in case any person other than the applicant is in possession of the lands in question, or in case a caveat has been registered against the said lands, or the registrar entertains any doubt as to the title of the applicant, he shall forthwith, having given the applicant a certificate of the filing of such application, transmit the application, with all evidence supplied, to the judge, to be dealt with as hereinafter mentioned. 49 V., c. 26, s. 48.

If title not clear, registrar to transmit application to the judge.

49. The judge shall examine, without delay, all titles which are submitted to him, and for such purpose shall hear all persons interested, or claiming to be interested, and shall hear and consider the claims as against the applicant, of any person who is in possession of the lands; and he shall have and exercise all the powers for compelling the attendance of persons and the production of documents, which usually appertain to courts of civil justice and the judges thereof in civil actions brought therein. 49 V., c. 26, s. 49.

Judge to examine titles submitted.

Powers of judge.

50. Any person having an adverse claim or a claim not recognized in the application for registration may, at any time before the judge has approved of the applicant's title, file with the registrar a short statement of his claim, verified by affidavit, and shall serve a copy thereof on the applicant, or his solicitor or agent. 49 V., c. 26, s. 50.

Adverse claims may be filed.

51. If any adverse claim is filed, the judge shall proceed to examine into and adjudicate thereon, and no certificate of title shall be granted until such adverse claim has been disposed of. 49 V., c. 26, s. 51.

Judge to examine.

52. In any case before him, the judge shall, if any person other than the applicant appears to be interested, and in any other case, may direct that notice of the application be published in some newspaper or newspapers in such form and for such period as the judge thinks expedient, and no

Judge to direct publication of notice of application.

order for registration shall be granted by him until after the expiration of at least four weeks from the first publication of such notice, if he has directed the same to be published. 49 V., c. 26, s. 52.

If applicant's title found satisfactory, judge to order certificate of title by registrar after four weeks, unless order appealed from.

53. The judge, if satisfied with the applicant's title, shall thereupon make an order directing the registrar, after the expiration of four weeks from the date thereof, unless in the meantime such order is appealed from, to register the same and issue to the applicant a certificate of title under this Act, which order, together with all documents and proofs submitted in the case, shall be transmitted to and retained by the registrar in his custody. 49 V., c. 26, s. 53.

After registration applicant to receive certificate of title from the registrar.

54. After registration, on application by the person entitled thereto, and payment of the prescribed fees, a certificate of title shall be granted by the registrar in the form F in the schedule to this Act signed by him, and sealed with the seal of his office, and a copy thereof shall be preserved by the registrar in his office, in the register; and the registrar shall indorse upon the certificate of title a memorial of every mortgage, encumbrance, lease, rent charge, term of years, or other dealing affecting the land, and such memorial shall be indorsed upon the duplicate in the possession of the owner, as well as upon the duplicate which is in the register. 49 V., c. 26, s. 54.

Duty of registrar to indorse memorials on certificate.

Certificate on subsequent transfer.

55. Upon any subsequent transfer of the land mentioned in any such certificate, the certificate of title to be issued to the transferee shall be issued by the registrar of the registration district where the land is situate, in the prescribed form. 49 V., c. 26, s. 55.

Registered owner or mortgagee to give his P.O. address and a receipt for certificate.

56. Every registered owner or mortgagee of any land or interest therein shall deliver to the registrar a memorandum in writing of some post office address within the Territories, to which it shall be sufficient to mail all notices that, under this Act, are required to be sent to such registered owner or mortgagee; and every registered owner and mortgagee shall from time to time in like manner notify the registrar of any change in his post office address; and every registered owner or transferee of any registered interest shall, if required by the registrar so to do, before the delivery of any certificate of title, sign a receipt therefor in his own handwriting, or otherwise furnish the registrar with his signature, so as to prevent personation, as far as possible. 49 V., c. 26, s. 56.

Every registration of ownership to be on a separate folio, and properly numbered.

57. Every registration of ownership shall be made on a separate folio of the register, and upon any transfer of ownership the register of the transferor's title shall be cancelled, and the title of the transferee shall thereupon be

entered upon a new folio ; and the registrar shall note upon the folio of the title of the transferrer the number of the folio of the transferee's title, and upon that of the transferee the number of the register of the transferrer, so that reference can be readily made from one to the other, as occasion requires. 49 V., c. 26, s. 57.

EFFECT OF REGISTRATION.

58. In every instrument charging, creating or transferring any estate or interest in land under the provisions of this Act, there shall be implied the following covenant by the person charging, creating or transferring such estate or interest, that is to say : That he will do such acts and execute such instruments as, in accordance with the provisions of this Act, are necessary to give effect to all covenants, conditions and purposes expressly set forth in such instrument, or by this Act declared to be implied against such person in instruments of a like nature. 49 V., c. 26, s. 58.

Certain covenants to be implied in instruments creating or transferring estate in lands.

59. No instrument, until registered under this Act, shall be effectual to pass any estate or interest in any land (except a leasehold interest for three years or for a less period), or render such land liable as security for the payment of money ; but upon the registration of any instrument in manner hereinbefore prescribed, the estate or interest specified in such instrument shall pass, or, as the case may be, the land shall become liable as security, in manner and subject to the covenants, conditions and contingencies set forth and specified in such instrument or by this Act declared to be implied in instruments of a like nature ; and if two or more instruments executed by the same owner, and purporting to transfer or encumber the same estate or interest in any land, are presented at the same time to the registrar for registration and indorsement, he shall register and indorse that instrument under which that person claims property, who presents to him the certificate of title of such land for that purpose. 49 V., c. 26, s. 59.

No instrument valid unless registered, except leasehold for three years or less.

Effect of registration.

Case of more than one instrument to the same effect presented together.

60. The registered owner of land or of any estate or interest in land, under the provisions of this Act, shall hold the same subject (in addition to the incidents implied by virtue of this Act) to such encumbrances, liens, estates or interests, as are notified on the folio of the register constituted by the certificate of title to such land, absolutely free from all other encumbrances, lien, estates or interests whatsoever,—except in case of fraud wherein he has participated or colluded, and except the estates or interests of all persons entitled to or interested in any portion of land that is, by wrong description of parcels or of boundaries, erroneously included in the certificate of title, lease or other instrument evidencing the title of such registered owner, and except

Registered owner's title to be subject to encumbrances noted in register, &c., but free from all others ; except as provided.

the estate or interest of an owner claiming the same land under a prior certificate of title registered under the provisions of this Act :

How date of priority shall be computed.

2. Such priority shall, in favor of any person in possession of land, be computed with reference to the grant or earliest certificate of title under which he or any person through whom he derives title, has held such possession, notwithstanding the surrender of such certificate, in exchange for a new certificate upon any transfer or dealing. 49 V., c. 26, s. 60.

Title of registered owner subject to certain implied qualifications.
Reservations in original grant.
Municipal charges, rates and assessments for not more than three years.

61. The land mentioned in any certificate of title granted under this Act shall, by implication, and without any special mention in the certificate of title, unless the contrary is expressly declared, be subject to,—

(a.) Any subsisting reservations contained in the original grant of the said land from the Crown ;

(b.) Any municipal charges, rates or assessments for the year current at the date of such certificate, or which are thereafter imposed on the said land, or which have theretofore been imposed for local improvements and which are not then due and payable, and any such charges, rates or assessments in respect of which the right of the municipality to have recourse against the land is not matured, not exceeding three years' charges, rates or assessments in the whole ;

Easements.

(c.) Any subsisting right of way or other easement, howsoever created upon, over or in respect of the said land ;

Leases for not more than three years.

(d.) Any subsisting lease or agreement for a lease for a period not exceeding three years, where there is actual occupation of the said land under the same ;

Registered judgments, &c.

(e.) Any decrees, orders or executions against or affecting the interest of the registered owner in such land, which have been registered and maintained in force against such registered owner ;

Highways.

(f.) All public highways embraced in the description of the lands included in any certificate ; and—

Statutory rights of appropriation.

(g.) Any right of appropriation which may, by statute, be vested in any person or body corporate. 49 V., c. 26, s. 61.

Certificate to be conclusive evidence of title.

62. Every certificate of title granted under this Act shall (except in case of fraud, wherein the registered owner has participated or colluded), so long as the same remains in force and uncanceled under this Act, be conclusive evidence at law and in equity as against Her Majesty and all persons whomsoever that the person named in such certificate is entitled to the land included in such certificate, for the estate or interest therein specified, subject to the exceptions and reservations mentioned in the next preceding section,—except so far as regards any portion of land, by wrong description of boundaries or parcels included in such certificate, and except as against any person claiming under any prior certificate of

Exceptions.

title granted under this Act in respect of the same land; and for the purpose of this section that person shall be deemed to claim under a prior certificate who is holder of, or whose claim is derived directly or indirectly from the person who was the holder of the earliest certificate granted, notwithstanding that such certificate has been surrendered and a new certificate granted upon any transfer or dealing. 49 V., c. 26, s. 62.

Who to be deemed claimant under prior certificate.

63. A purchaser or encumbrancee for valuable consideration shall not be affected by the omission to send any notice by this Act directed to be given or by the non-receipt thereof. 49 V., c. 26, s. 63.

As to omission or non-receipt of notices.

64. After the registration of the title to any land under the provisions of this Act, no instrument shall be effectual to pass any interest therein or to render such land liable as security for the payment of money as against any *bonâ fide* transferee of the said land under this Act, unless such instrument is executed in accordance with this Act, and is duly registered thereunder. 49 V., c. 26, s. 64.

Instruments must be executed according to this Act to be effectual.

TRANSFERS.

65. When land under the provisions of this Act, or any portion of such land, is intended to be transferred, or any right of way or other easement is intended to be created or transferred, the registered owner may execute a memorandum of transfer in the form G in the schedule to this Act, which memorandum shall, for description of the land intended to be dealt with, refer to the grant or certificate of title of such land, or shall give such description as is sufficient to identify the same, and shall contain an accurate statement of the estate, interest or easement intended to be transferred or created, and a memorandum of all leases, mortgages and other encumbrances to which the same are subject; and such transfer, if it is endorsed on the instrument evidencing the title of the transferrer, need not be executed in duplicate. 49 V., c. 26, s. 65.

Memorandum to be made and what it must contain.

66. Whenever any easement or any incorporeal right in or over any land under the provisions of this Act, is created for the purpose of being annexed to or used and enjoyed together with other land under the provisions of this Act, the registrar shall also enter a memorial of the instrument creating such easement or incorporeal right upon the folio of the register book constituted by the existing certificate of title of such other land. 49 V., c. 26, s. 66.

When easement is to be enjoyed with other land.

67. If the memorandum of transfer purports to transfer the transferrer's interest in the whole or part of the land

If the transfer is of an interest in the

whole or part of the land mentioned in the transfer.

mentioned in any grant or certificate of title, the transferrer shall deliver up the certificate of title of the said land, and the registrar shall, on payment of the prescribed fees, enter in the register and on the duplicate certificate of title, a memorandum cancelling the same, either wholly or partially, according as the memorandum of transfer purports to transfer the whole or part only of the interest of the transferrer in the land mentioned in such certificate of title, and setting forth the particulars of the transfer. 49 V., c. 26, s. 67.

Duty of registrar cancelling certificate.

Certificate of title to be given to transferee.

Cancelled memorandum or certificate to be retained.

68. The registrar, upon cancelling any certificate of title, either wholly or partially, pursuant to any such transfer, and receiving the prescribed fees, shall make out to the transferee a certificate of title to the land mentioned in such memorandum of transfer; and every such certificate of title shall refer, if practicable, to the original grant, of such land and to the instrument of transfer; and the registrar shall retain every memorandum of transfer and cancelled or partially cancelled certificate of title, and in the case of a partially cancelled certificate of title, shall return the duplicate to the grantee after the memorandum partially cancelling the same has been entered thereupon,—or may, whenever required thereto by the owner of an unsold portion of land included in any such partially cancelled grant or certificate of title, or by a registered transferee of such portion, or of any part thereof, or where such a course appears more expedient, make out to such owner or transferee a certificate of title for such portion or any part thereof, of which he is the owner or transferee, upon the delivery of the partially cancelled certificate of title to the registrar, to be cancelled and retained. 49 V., c. 26, s. 68.

Implied covenants by transferee of estate or interest subject to encumbrance.

69. In every instrument transferring an estate or interest in land under the provisions of this Act, subject to mortgage or encumbrance, there shall be implied the following covenant by the transferee, that is to say: That such transferee will pay the interest, annuity or rent charge secured by such mortgage or encumbrance, after the rate and at the time specified in the instrument creating the same, and will indemnify and keep harmless the transferrer from and against the principal sum or other moneys, secured by such instrument, and from and against all liability in respect of any of the covenants therein contained or under this Act implied, on the part of the transferrer. 49 V., c. 26, s. 69.

LEASES.

Form of lease for three years or more.

70. When any land under the provisions of this Act is intended to be leased or demised for a life or lives, or for a term of three or more years, the owner shall execute a lease in the form H in the schedule to this Act, and every such

instrument shall, for description of the land intended to be dealt with, refer to the certificate of title of the land, or shall give such other description as is necessary to identify such land; and a right for the lessee to purchase the land therein described may be stipulated in such instrument; and in case the lessee pays the purchase money stipulated, and otherwise observes his covenants expressed and implied in such instrument, the lessor shall be bound to execute a memorandum of transfer to such lessee of the said land, and to perform all necessary acts by this Act prescribed for the purpose of transferring the land to the purchaser: Provided always, that no lease of mortgaged or encumbered land shall be valid and binding against the mortgagee or encumbrancee, unless such mortgagee or encumbrancee has consented to such lease prior to the same being registered, or subsequently adopts the same. 49 V., c. 26, s. 70.

Right of purchase by lessee may be stipulated.

Obligation of lessor in such case.

Proviso: as to lease of land encumbered.

71. In every memorandum of lease, unless a contrary intention appears therein, there shall be implied the following covenants by the lessee, that is to say:—

Covenants implied against lessee.

(a.) That he will pay the rent thereby reserved at the times therein mentioned, and all rates and taxes which may be payable in respect of the demised property during the continuance of the lease;

Payment of rent and taxes.

(b.) That he will, at all times during the continuance of the said lease, keep and, at the termination thereof, yield up the demised property in good and tenantable repair, accidents and damage to buildings from fire, storm and tempest or other casualty, and reasonable wear and tear excepted. 49 V., c. 26, s. 71.

To keep in repair.

72. In every memorandum of lease, unless a different intention appears therein, there shall also be implied the following powers in the lessor, that is to say:—

Powers in favor of lessor.

(a.) That he may, by himself or his agents, enter upon the demised property and view the state of repair thereof, and may serve upon the lessee, or leave at his last or usual place of abode, or upon the demised premises, a notice in writing of any defect, requiring him within a reasonable time, to be therein mentioned, to repair the same, in so far as the tenant is bound to do so;

To inspect premises.

(b.) That in case the rent or any part thereof is in arrear for the space of two calendar months, or in case default is made in the fulfilment of any covenant, whether expressed or implied in such lease, on the part of the lessee, and is continued for the space of two calendar months, or in case the repairs required by such notice, as aforesaid, are not completed within the time therein specified, such lessor may enter upon and take possession of such demised premises. 49 V., c. 26, s. 72.

To re-enter on default to pay rent, &c.

73. In any such case the registrar, upon proof to his satisfaction of recovery of possession by a lessor, or as trans-

Duty of registrar in case of re-entry.

ferree by a legal proceeding, shall make an entry of the same in the register, and the estate of the lessee in such land shall thereupon determine, but without releasing the lessee from his liability in respect of the breach of any covenant in such lease expressed or implied; and the registrar shall cancel such lease, if delivered up to him for that purpose. 49 V., c. 26, s. 73.

Conditions implied in lease or mortgage under this Act.

74. Whenever, in any lease or mortgage made under this Act, the forms of words in column one of the form I in the said schedule to this Act, and distinguished by any number therein, are used, such lease or mortgage shall be taken to have the same effect, and be construed as if there had been inserted therein the form of words contained in column two of the said form and distinguished by the same number; and every such form shall be deemed a covenant by the covenantor with the covenantee and his transferees, binding the former and his heirs, executors, administrators and transferees; but it shall not be necessary in any such lease to insert any such number; and there may be introduced into or annexed to any of the forms in the first column any expressed exceptions from the same or expressed qualifications thereof respectively, and the like exceptions or qualifications shall be taken to be made from or in corresponding forms in the second column. 49 V., c. 26, s. 74.

Form may be varied.

Case of surrender effected otherwise than by operation of law.

75. Whenever any lease or demise which is required to be registered by this Act is intended to be surrendered, and the surrender thereof is effected otherwise than through the operation of a surrender in law, there shall be indorsed upon such lease or counterpart thereof the word "surrendered," with the date of such surrender, and such indorsement shall be signed by the lessee and the lessor as evidence of the acceptance thereof, and shall be attested by a witness; and the registrar shall thereupon enter in the register a memorial recording the date of such surrender, and shall likewise indorse upon the lease a memorandum recording the fact of such entry having been so made in the register; and upon such entry having been so made, the estate or interest of the lessee in such land shall vest in the lessor or in the person in whom, having regard to intervening circumstances, if any, the said land would have vested if no such lease had ever been executed; and production of such lease or counterpart bearing such indorsed memorandum shall be sufficient evidence that such lease has been so surrendered: Provided, that no lease subject to mortgage or encumbrance shall be surrendered without the consent of the mortgagee or encumbrancee. 49 V., c. 26, s. 75.

Registrar's duty in such case.

Indorsed memorandum to be evidence of surrender.

Proviso: mortgagee, &c., must consent.

MORTGAGES AND ENCUMBRANCES.

Forms of mortgages

76. Whenever any land or estate, or interest in land, subject to the provisions of this Act, is intended to be charged or

made security in favor of any mortgagee. the mortgagor shall execute a memorandum of mortgage in the form J in the schedule to this Act, or to the like effect; and whenever any such land is intended to be charged with or made security for the payment of an annuity, rent charge, or sum of money, in favor of any encumbrancee, the encumbrancer shall execute a memorandum of encumbrance in the form K in the schedule to this Act, or to the like effect; and every such instrument shall contain an accurate statement of the estate or interest intended to be mortgaged or encumbered, and shall, for description of the land intended to be dealt with, refer to the certificate of title on which such estate or interest is held, or shall give such other description as is necessary to identify such land, together with all mortgages or encumbrances affecting the same, if any. 49 V., c. 26, s. 76.

and encumbrances.

Estate or interest affected must be stated.

77. Mortgage and encumbrance under this Act shall have effect as security, but shall not operate as a transfer of the land thereby charged; and if default is made in payment of the principal sum, interest, annuity or rent-charge, or any part thereof thereby secured, or in the observance of any covenant expressed in any memorandum of mortgage or encumbrance registered under this Act, or that is herein declared to be implied in such instrument, and such default is continued for the space of one calendar month, or for such longer period of time as is expressly limited for that purpose in such instrument, the mortgagee or encumbrancee may give to the mortgagor or encumbrancer notice in writing to pay, within a time to be specified in such notice, the money then due or owing on such mortgage or encumbrance, or to observe the covenants therein expressed or implied, as the case may be, and that all competent rights and powers will be resorted to unless such default is remedied,—or where the mortgagor or encumbrancer cannot be found, may give such notice in that behalf to the mortgagor or encumbrancer in such manner as the judge, on summary application *ex parte*, directs. 49 V., c. 26, s. 77.

Mortgage, &c., not to be a transfer.

Notice in case of default by mortgagor to pay money secured, &c.

78. After such default in payment or in the observance of covenants continuing for the further space of one calendar month from the service of such notice, or for such period as to the judge seems meet, such mortgagee or encumbrancee is hereby authorized and empowered to sell the land so mortgaged or encumbered, or any part thereof, and all the estate or interest therein of the mortgagor or encumbrancer, and, either altogether or in lots, by public auction or by private contract, or by both such modes of sale, and subject to such conditions as he thinks fit, and to buy in and re-sell the same, without being liable for any losses occasioned thereby, and to make and execute all such instruments as are necessary for effecting the sale thereof; and all such

Power to mortgagee to sell, &c.

Receipts of mortgagee sufficient discharge.

Purchaser not bound to see to application of purchase money.

Application of purchase money

sales, contracts, matters and things hereby authorized shall be as valid and effectual as if the mortgagor or encumbrancer had made, done or executed the same : and the receipt or receipts in writing of the mortgagee or encumbrancee shall be a sufficient discharge to the purchaser of such land, estate, or interest, or of any portion thereof, for so much of his purchase-money as is thereby expressed to be received ; and no such purchaser shall be answerable for the loss, mis-application or non-application, or be obliged to see to the application of the purchase-money by him paid, nor shall he be concerned to inquire as to the fact of any default having been made or notice having been given as aforesaid ; and the purchase-money to arise from the sale of any such land, estate, or interest shall be applied : first, in payment of the expenses occasioned by such sale ; secondly, in payment of the moneys which are then due or owing to the mortgagee or encumbrancee ; thirdly, in payment of subsequent mortgages or encumbrances, if any, in the order of their priority ; and the surplus, if any, shall be paid to the mortgagor or encumbrancer, as the case may be. 49 V., c. 26, s. 78.

Registration to vest estate in purchaser.

Who shall be entitled to certificate of title.

79. Upon the registration of any memorandum or instrument of transfer executed by a mortgagee or encumbrancee, for the purpose of such sale as aforesaid, the estate or interest of the mortgagor or encumbrancer therein described as conveyed, shall pass to and vest in the purchaser, freed and discharged from all liability on account of such mortgage or encumbrance or of any mortgage or encumbrance registered subsequent thereto ; and the purchaser shall be entitled to receive a certificate for the same. 49 V., c. 26, s. 79.

Mortgagee may apply to judge for order of foreclosure after default and offer for sale.

Certificate of auctioneer employed to sell, &c.

80. When default for six calendar months has been made in the payment of the interest or principal sum secured by memorandum of mortgage, a registered mortgagee may make application in writing to the judge for an order for foreclosure ; and such application shall state that such default has been made as aforesaid.—and that the land, estate or interest mortgaged has been offered for sale at public auction after proper notice given to the mortgagor, as in this Act provided, and that the amount of the highest bid at such sale was not sufficient to satisfy the money secured by such mortgage, together with the expenses occasioned by such sale,—and that notice in writing of the intention of such mortgagee to make such application has been given to the mortgagor, either personally or by leaving the same with an adult at his usual or last known place of abode ; and such application shall be accompanied by a certificate of the licensed auctioneer by whom such land was put up for sale, and by such other proof of the matters stated by the application as the judge requires ; and the statements made in such

application shall be verified by the oath of the applicant.
49 V., c. 26, s. 80.

81. Upon receiving such application the judge shall cause notice to be published once in each of three successive weeks in a newspaper likely to give the best notice, offering such land for sale,—and shall, in such case, limit and appoint a time, not less than one month from the date of the last advertisement of such notice in such paper, upon or after which the judge may issue to such applicant an order for foreclosure, unless, in the interval, a sufficient amount has been realized by the sale of such land to satisfy the principal and interest moneys due and all expenses occasioned by such sale and proceedings; and every such order for foreclosure, under the hand of the judge and entered in the register, shall have the effect of vesting in the mortgagee all the estate and interest of the mortgagor in the land mentioned in such order, free from all right and equity of redemption on the part of the mortgagor or of any person claiming through or under him. 49 V., c. 26, s. 81.

Notice by
judge offering
land for sale.

Order for
foreclosure.

Entry of order
and its effect.

82. Upon the production of any memorandum of mortgage or encumbrance, having thereon an endorsement signed by the mortgagee or encumbrancee, and proved by the affidavit of an attesting witness, discharging the land from the whole or part of the principal sum or annuity secured, or discharging any part of the land comprised in such instrument from the whole of such principal sum or annuity, or upon proof being made to the satisfaction of the judge of the payment of all moneys due on any mortgage or encumbrance, the judge may direct the registrar to make, and the registrar shall thereupon make an entry in the register, noting that such mortgage or encumbrance is discharged wholly or partially, or that part of the land is discharged, as aforesaid, as the case requires; and upon such entry being so made, the land, or the estate or interest in, or the portion of the land mentioned or referred to in such indorsement as aforesaid, shall cease to be subject to or liable for such principal sum or annuity, or, as the case may be, for the part thereof noted in such entry as discharged. 49 V., c. 26, s. 82.

Registration,
discharge of
mortgage, &c.

Entry by
registrar.

Effect of
entry.

83. Upon proof of the death of the annuitant, or of the occurrence of the event or circumstance upon which, in accordance with the provisions of any memorandum of encumbrance, the annuity or sum of money thereby secured ceases to be payable, and upon proof that all arrears of the said annuity and interest or money have been paid, satisfied, or discharged, the registrar shall, upon the order of the judge, make an entry in the register book, noting that such annuity or sum of money is satisfied and discharged, and shall cancel such instrument; and upon such entry

Death of
annuitant or
cessation of
encumbrance.

Entry.

Its effect. being made, the land shall cease to be subject to or liable for such annuity or sum of money, and the registrar shall, in any or either such case as aforesaid, indorse on the grant, certificate of title, or other instrument evidencing the title of the mortgagor or encumbrancer to the land mortgaged or encumbered, a memorandum of the date on which such entry as aforesaid was made by him in the register book, whenever such grant, certificate of title or other instrument is presented to him for that purpose. 49 V., c. 26, s. 83.

Payment into chartered bank allowed on order of judge if no person in Territories to receive the money in discharge of mortgage.

84. If any mortgagor becomes entitled to pay off the mortgage money, and the registered mortgagee is absent from the Territories and there is no person authorized by registered power of attorney to give a receipt to the mortgagor for the mortgage money after the date appointed for the redemption of any mortgage, the judge, on application to him and proof of the facts and of the amount due for principal and interest upon such mortgage, may direct the payment into a chartered bank having a branch or agency in the district, or, if not in the district, in the Territories, of such mortgage money, with all arrears of interest then due thereon, to the credit of the mortgagee or other person entitled thereto; and thereupon the interest upon such mortgage shall cease to run or accrue:

Registration of discharge.

2. The registrar shall, upon presentation of the judge's order and of the receipt of the manager or agent of such bank for the amount of the said mortgage money and interest, make an entry in the register discharging such mortgage, stating the day, hour and minute on which such entry is made:

Entry to be valid discharge.

3. Such entry shall be a valid discharge of such mortgage and shall have the same force and effect as is hereinbefore given to a like entry when made upon production of the memorandum of mortgage with the receipt of the mortgagee:

Registrar to notify mortgagee.

4. The registrar shall, when such order and receipt are presented to him, send a notice of the fact to the mortgagee by letter addressed by mail to his last known place of abode:

Indorsement on certificate of title.

5. The registrar shall indorse on the certificate of title, or other instrument as aforesaid, and also on the memorandum of mortgage, whenever those instruments are brought to him for that purpose, the several particulars hereinbefore directed to be indorsed upon each of such instruments respectively:

Payment, full discharge.

6. After payment as aforesaid of any mortgage money and interest, the mortgagee entitled thereto shall not recover any further sum in respect of such mortgage than the amount so paid. 49 V., c. 26, s. 84.

Transfer of mortgages, &c.

85. Mortgages, encumbrances and leases may be transferred by a transfer executed in the form L in the schedule to this Act, and the transfer shall be registered in the

manner hereinbefore set forth ; and transferees shall have priority according to the date and time of registration :

2. Any mortgagee may transfer a part of the sum secured by the mortgage by a transfer executed in the form M in the schedule to this Act, and the part so transferred shall continue to be secured by the mortgage, and may be given priority over the remaining part, or may be deferred, or may continue to rank equally with it under the security of the original mortgage, as stated in the instrument of transfer ; and the registrar shall enter on the certificate of title a memorandum of the amount of the mortgage so transferred, the name of the transferee, and how the sum so transferred is to rank and shall notify the mortgagor of the facts. 49 V., c. 26, s. 85.

Transfer of part of sum secured by mortgage.

86. Upon the registration of any transfer of any mortgage, encumbrance or lease, the estate or interest of the transferrer, as set forth in such instrument, with all rights, powers and privileges thereto belonging or appertaining, shall pass to the transferee, and such transferee shall thereupon become subject to and liable for all and every the same requirements and liabilities to which he would have been subject and liable if named in such instrument. 49 V., c. 26, s. 86.

Effect of registration of transfers.

87. By virtue of every such transfer the right to sue upon any mortgage or other instrument, and to recover any debt, sum of money, annuity or damage thereunder (notwithstanding the same may be deemed or held to constitute a chose in action), and all interest at the time of such transfer in any such debt, sum of money, annuity or damages, shall be transferred so as to vest the same in law in the transferee thereof: Provided always, that nothing herein contained shall prevent any court of competent jurisdiction from giving effect to any trusts affecting the said debt, sum of money, annuity or damages, in case the said transferee shall hold the same as trustee for any other person. 49 V., c. 26, s. 87.

Rights of transferee.

Proviso: as to trusts.

88. In every memorandum of mortgage there shall be implied against the mortgagor remaining in possession, a covenant that he will repair and keep in repair all buildings or other improvements erected and made upon the land, and that the mortgagee may, at all convenient times, until such mortgage is redeemed, be at liberty, with or without surveyors or others, to enter into or upon such land to view and inspect the state of repair of such buildings or improvements. 49 V., c. 26, s. 88.

Implied covenant to repair by mortgagor remaining in possession.

POWERS OF ATTORNEY.

89. The registered proprietor of any land, estate or interest, may authorize and appoint any person to act for him or on his behalf in respect of the transfer or other dealing

Form of power of attorney.

with such land, estate, or interest in accordance with the provisions of this Act, by executing a power of attorney in any form heretofore in use for the like purpose, or in the form N in the schedule to this Act, or as near thereto as circumstances permit, and a duplicate or attested copy thereof shall be deposited with the registrar, who shall enter in the register a memorandum of the particulars therein contained and the date, hour and minute it is deposited with him; and until such power of attorney is revoked in the manner provided by the next following section, the right of the registered owner to effect a transfer or to otherwise deal with such land, estate or interest shall be suspended. 49 V., c. 26, s. 89.

Registration.

Power of owner suspended until revocation.

Revocation : how effected.

90. Any such power of attorney may be revoked by a revocation order in the form O in the schedule to this Act; and after the registration of any revocation of a power the registrar shall not give effect to any transfer or other instrument signed pursuant to such power, unless under any registration abstract outstanding at the time. 49 V., c. 26, s. 90.

TRANSMISSION.

Land of deceased owner to vest in personal representative, who shall be registered as owner.

How registered.

Executor to be deemed owner.

Title to relate back to death.

Duplicate certificate to be surrendered and cancelled.

91. Whenever the owner of any land dies, such land shall, subject to the provisions of this Act, vest in the personal representative of the deceased owner, who shall, before dealing with such lands, make application in writing to the registrar to be registered as owner, and shall produce to the registrar the probate of the will of the deceased owner, or letters of administration, or the order of the court authorizing him to administer the estate of the deceased owner, or an office copy of the said probate, letters of administration or order, as the case may be; and thereupon the registrar shall enter in the register a memorial of the date of the will and of the probate or of the letters of administration or order of the court as aforesaid, the date, hour and minute of the production of the same to him, the date of the death of such owner, when the same can be ascertained, with such other particulars as he deems necessary :

2. Upon such entry being made, the executor or administrator, as the case may be, shall be deemed to be the owner of such lands; and the registrar shall note the fact of such registration by memorandum under his hand on the probate of the will, letters of administration, order or other instrument as aforesaid :

3. The title of the executor or administrator to such land shall relate back and take effect as from the date of the death of the deceased owner :

4. The duplicate certificate of title granted to the deceased owner shall be delivered up to be cancelled or proved to have been lost, and the registrar shall issue to the executor or administrator a fresh certificate of title, stating therein

the fact that the new registered owner is the executor or administrator. 49 V., c. 26, s. 91.

92. Whenever any mortgage, encumbrance or lease affecting land registered under this Act is transmitted in consequence of the will or intestacy of the owner thereof, the probate of the will of the deceased owner, or letters of administration, or the order of the court authorizing a person as aforesaid to administer the estate of the deceased owner, accompanied by an application in writing from the executor or administrator, or such other person as aforesaid, claiming to be registered as owner in respect of such estate or interest, shall be produced to the registrar, who shall thereupon enter in the register and on the instrument evidencing title to the mortgage, encumbrance or lease transmitted, when the same can be produced, the date of the will and of the probate, or of the letters of administration, or order of the court as aforesaid, the date, hour and minute of the production of the same to him, the date of the death of such owner, when the same can be ascertained, with such other particulars as he deems necessary :

Mortgage, &c., transmitted by will or intestacy.

Registration of personal representative, as owner. How effected.

2. Upon such entry being made, the executor or administrator, or such other person, as the case may be, shall be deemed to be the owner of such mortgage, encumbrance or lease, and the registrar shall note the fact of such registration by memorandum under his hand on the letters of administration, probate or order as aforesaid. 49 V., c. 26, s. 92.

Effect thereof and duty of registrar.

93. Any person registered in place of a deceased owner, shall hold the land in respect of which he is registered upon the trusts and for the purposes to which the same is applicable by this Act or by law, and subject to any trusts and equities upon which the deceased owner held the same, but, for the purpose of any registered dealings with such land, he shall be deemed to be the absolute owner thereof :

If lands of deceased are subject to trusts.

2. Any person beneficially interested in any such lands or any estate or interest therein, may apply to a court or judge having jurisdiction, to have the same taken out of the hands of the trustee having charge by law of such property, and transferred to some other person or persons ; and the court or judge, upon reasonable cause being shown, shall name some suitable person or persons as owner of the lands, or the estate or interest in question, as the case may be ; and upon the person or persons named accepting the ownership and giving approved security for the due fulfilment of the trusts, the court or judge may order the registrar to cancel the certificate to the trustee, and to grant a new certificate to the person or persons so named :

As to persons beneficially interested.

Court may appoint a person to act as owner for the purposes of such trusts.

3. The registrar, upon the production of such order, shall cancel the certificate to the trustee, and shall enter in the register a memorandum of the appointment by order of the

Certificate to be cancelled and new one granted.

court or judge of such person or persons as owner in trust, and a certificate of title shall be issued to him or them. 49 V., c. 26, s. 93.

Duty of sheriff, &c., receiving process against land.

94. Every sheriff or other officer charged with the execution thereof, shall, after the delivery to him of any writ or other process affecting land, or lien, mortgage or encumbrance, or other interest therein, deliver a copy of every such writ or process so in his hands or that may thereafter be delivered to him, certified under his hand, together with a memorandum in writing of the lands intended to be charged thereby, to the registrar within whose district such lands are situate; and no land shall be bound by any such writ or other process, until such copy and memorandum have been so delivered; and from and after the delivery of a copy of any such writ or other process and memorandum to the registrar, the same shall operate as a caveat against the transfer by the owner of the land mentioned in such memorandum, or of any interest he has therein; and no transfer shall be made by him of such land or interest therein except subject to such writ or other process. 49 V., c. 26, s. 94.

Sheriff's memorandum to operate as a caveat.

Satisfaction of writ to be entered on register.

95. Upon production and delivery to the registrar of a certificate by the sheriff (under his seal of office) or other officer, of the satisfaction of or withdrawal from his hands of any such writ or process as aforesaid, he shall enter a memorandum to that effect on the register, and from thenceforth such writ or process shall be deemed to be satisfied. 49 V., c. 26, s. 95.

Sheriff's sale to require confirmation by a judge.

96. No sale by a sheriff or other officer as aforesaid, under process of law, of any land, shall be of any effect until the same has been confirmed by a judge; and upon the production to the registrar of a duly executed transfer of any land so sold, if an order of confirmation of such sale is indorsed on such transfer, the purchaser at such sale shall be entitled to be registered as the owner of the interest purchased by him at such sale, and to a certificate of title to the same. 49 V., c. 26, s. 96.

The application for such confirmation of sale, and how made.

97. The application for the confirmation of a sale made under any process of law, may be made by the sheriff or other officer making such sale, or by any person interested in such sale, on notice to the owner, unless the judge to whom such application is made, dispenses with such notice; and if the sale is confirmed the costs of confirmation shall be borne and paid out of the purchase-money, or as the judge directs; but in case such sale is not confirmed, the purchase-money paid by him shall be refunded to the purchaser; and the judge may make such order as to the costs of all parties to the sale and of the application for its confirmation as he thinks just. 49 V., c. 26, s. 97.

Costs.

If confirmation not adjudged.

98. When any land is sold under process of law, the registrar shall, upon the production to him of the transfer of the same in the form P in the schedule to this Act, with proof of the due execution thereof, and the order of confirmation of such sale, cause a notice to be mailed to the proper post office address of the person whose interest in such land has been sold,—and after the expiration of four weeks from the mailing of such notice shall register the purchaser as the owner of the interest in the said land so sold, and shall issue to him a certificate in the prescribed form and do all other things necessary for the registration of the vendee as registered owner of the interest in the land purchased by him, unless such registration is in the meantime stayed by the order of some court or judge having jurisdiction,—and in such case the registration shall not be made nor the certificate issued, except according to the order and direction of such court or judge, 49 V., c. 26, s. 98.

Notice of intended registration of sheriff's sale to be given by registrar.

Registration.

Certificate of registrar.

99. The registrar, upon the production of the register or other sufficient proof of the marriage of a female owner of any land, estate or interest, accompanied by a statement in writing, signed by her, shall enter on the register and also upon the certificate of title or other instrument evidencing the title of such female owner, when produced to him for that purpose, the name and description of her husband, the date of the marriage and where solemnized, and the date, hour and minute of the production to him of the register or other sufficient evidence of such marriage; and the registrar, upon application to that effect, and surrender of the existing certificate of title, shall deliver a new certificate of title, and perform such acts as, in accordance with the provisions of this Act, are necessary for the purpose of giving effect thereto. 49 V., c. 26, s. 99.

On proof of marriage of female owner, husband's name, &c., to be entered by registrar.

Surrender of existing certificate, and issue of new one on application.

CAVEATS.

100. Any person claiming to be interested under any will, settlement or trust deed, or any instrument of transfer or transmission, or under any unregistered instrument, or otherwise howsoever, in any land, may lodge a caveat with the registrar to the effect that no disposition of such land be made either absolutely, or in such manner and to such extent only as in such caveat is expressed, or until notice has been served on the caveator, or unless the instrument of disposition be expressed to be subject to the claim of the caveator, as claimed in such caveat, or to any lawful conditions expressed therein:

Who may lodge caveat, and for what purpose.

2. A caveat may be in the form Q in the schedule to this Act, and shall be verified by the oath of the caveator or his agent, and shall contain an address within the registration district at which notices may be served:

Form.

3. Upon the receipt of a caveat, the registrar shall make a memorandum thereon of the date, hour and minute of the

Registrar's duty on receipt.

receipt thereof, and shall enter a memorandum thereof in the register and shall forthwith send a notice of such caveat through the post office or otherwise to the person against whose title such caveat has been lodged :

Effect of caveat while in force.

4. So long as any caveat remains in force the registrar shall not enter in the register any memorandum of transfer or other instrument purporting to transfer or otherwise deal with or affect the land in respect to which such caveat is lodged :

Proceedings for setting it aside.

5. The owner or other person claiming the land may, by summons, call upon the caveator to attend before a court of competent jurisdiction or a judge thereof, to show cause why the said caveat should not be withdrawn ; and the said court or judge may, upon proof that such last-mentioned person has been summoned, and upon such evidence as the court or judge requires, make such order in the premises either *ex parte* or otherwise as to the said court or judge seems fit :

Caveat to lapse in one month unless proceedings taken.

6. After the expiration of one month from the receipt thereof, such caveat shall lapse, unless, within that time, proceedings in a court of competent jurisdiction have been taken to establish the caveator's title to the estate or interest specified in the caveat, and an injunction or order has been granted, restraining the registrar from issuing a certificate of title or otherwise dealing with the said land :

Power to withdraw caveat.

7. The caveator may, by notice in writing to the registrar, withdraw his caveat at any time ; but notwithstanding such withdrawal the court or judge may order the payment by the caveator of the costs of the caveatee incurred prior to such withdrawal :

Entry of withdrawal, &c.

8. An entry shall be made by the registrar in the register, of the withdrawal, lapse or removal of any caveat or of any order made by the court in connection therewith ; and, after such withdrawal, lapse or removal, it shall not be lawful for the same person or for any one on his behalf to lodge a further caveat in relation to the same matter :

Liability of person wrongfully entering caveat.

9. Any person lodging or continuing any caveat wrongfully and without reasonable cause, shall be liable to make compensation to any person who has sustained damage thereby, and such compensation may be recovered by proceedings at law if the caveator has withdrawn such caveat and no proceedings have been taken by the caveatee as herein provided ; but if proceedings have been taken by the caveatee, then such compensation shall be determined by the court or judge acting in the same proceedings :

Power of judge to prohibit transfer of land of persons under disability, or of land misdescribed in certificate &c.

10. The judge, on application for that purpose, on behalf of any person who is under the disability of infancy, lunacy, unsoundness of mind or absence from the Territories, may, by order directed to the registrar, prohibit the transfer or dealing with any land belonging to any such person, and the dealing with any land in any case in which it appears to him that an error has been made by misdescription of such land or otherwise in any certificate of title or other

instrument, or for the prevention of any other improper dealing. 49 V., c. 26, s. 100.

ATTESTATION OF INSTRUMENTS.

101. Powers of attorney and instruments requiring to be registered under this Act, other than grants from the Crown, orders in council, instruments under the seal of any corporation, orders of a court or a judge, or certificates of any judicial proceedings, attested as such, shall be witnessed by one person who shall attest the instrument in the usual legal form of attestation; and the witness so attesting the instrument shall appear before the registrar, deputy registrar or a judge, stipendiary magistrate, or notary public or a justice of the peace in or for the Territories, and make an affidavit in the form R in the schedule to this Act. 49 V., c. 26, s. 101.

How to be witnessed.

Oath of witness.

102. Instruments requiring to be registered under the provisions of this Act, executed without the limits of the Territories, shall be witnessed by some person who can write, and who shall make an affidavit in the form R in the schedule to this Act before one of the following persons:—

As to instruments executed out of Territories.

(a.) If made in any Province of Canada, before a judge of any court of record, any commissioner authorized to take affidavits in such Province for use in any court of record in the Territories, or before any notary public under his official seal; or—

In Canada.

(b.) If made in the United Kingdom, before a judge of any court of record, the mayor of any city or incorporated town under the common seal of such city or town, or a notary public under his official seal; or—

In the United Kingdom.

(c.) If made in any British colony or possession out of Canada, before a judge of any court of record, the mayor of any city or incorporated town under the common seal of such city or town, or notary public under his official seal; or

In a British colony.

(d.) If made in a foreign country, before the mayor of any city or town, certified under the common seal of any such city or town, or before the British consul, vice-consul or consular agent residing therein, or before any judge of any court of record or a notary public, under his official seal. 49 V., c. 26, s. 102.

In a foreign country.

EJECTMENT—ASSURANCE FUND, &c.

103. No action of ejectment or other action for the recovery of any land shall lie or be sustained against the registered owner, under this Act, for the estate or interest in respect to which he is so registered, except in any of the following cases, that is to say,—

Registered owner protected against ejectment; except in cases of—

- Mortgagor in default ; (a.) The case of a mortgagee as against a mortgagor in default ;
- Encumbrancer in default ; (b.) The case of an encumbrancee as against an encumbrancer in default ;
- Lessee in default ; (c.) The case of a lessor as against a lessee in default ;
- Fraud ; (d.) The case of a person deprived of any land by fraud as against the person registered as owner of such land through fraud, or as against a person deriving otherwise than as a transferee *bonâ fide* for value, from or through a person registered through fraud ;
- Misdescription ; (e.) The case of a person deprived of or claiming any land included in any grant or certificate of title of other land by misdescription of such other land or of its boundaries, as against the registered owner of such other land ;
- Double registration ; (f.) The case of a registered owner claiming under an instrument of title prior in date of registration under this Act, in any case in which two or more grants, or two or more certificates of title, or a grant and a certificate of title, are registered under this Act in respect to the same land :
- In other cases certificate to be absolute bar to action. 2. In any case, other than as aforesaid, the production of the certificate of title shall be an absolute bar and estoppel to any such action against the person named in such instrument as seized of, or as registered owner or lessee of the land therein described. 49 V., c. 26, s. 103.

Compensation of party deprived of land by fraud, error, &c., as to registration. **104.** Any person deprived of land or of any estate or interest in land in consequence of fraud, or by the registration of any other person as owner of such land, estate, or interest, or in consequence of any fraud, error, omission or misdescription in any certificate of title or in any entry or memorial in the register, may, in any case in which such lands have been included in two or more grants from the Crown, bring and prosecute an action at law for the recovery of damages against such person as the judge appoints,—and in any other case against the person upon whose application such erroneous registration was made, or who acquired title to the estate or interest in question through such fraud, error, omission, or misdescription : Provided always, that except in the case of fraud or error occasioned by any omission, misrepresentation, or misdescription in the application of such person to be registered as owner of such land, estate or interest, or in any instrument executed by him, such person shall, upon a transfer of such land *bonâ fide* for value, cease to be liable for the payment of any damages which, but for such transfer, might have been recovered from him under the provisions hereinbefore contained, and such damages, with costs of action, may, in such last-mentioned case, be recovered out of the land assurance fund, by action against the registrar as nominal defendant. 49 V., c. 26, s. 104.

Action for damages under direction of a judge.

Proviso : defendant not to be liable in damages unless guilty of fraud, &c.

Recovery thereof from assurance fund.

105. Nothing in this Act contained shall be so interpreted as to leave subject to action for recovery of damages as aforesaid, or to action of ejectment, or to deprivation of the estate or interest, in respect to which he is registered as owner, any purchaser or mortgagee *boná fide* for valuable consideration of land under this Act, on the plea that his vendor or mortgagor has been registered as owner through fraud or error, or has derived from or through a person registered as owner through fraud or error, except in the case of misdescription, as mentioned in section one hundred and three. 49 V., c. 26, s. 105.

Purchasers and mortgagees protected in such case.

Exception.

106. The land assurance fund shall be formed by the Minister of Finance and Receiver General, by deducting from the gross fees returned and paid in to him by the registrars, twenty per cent. of the fees so received for the purposes of this Act, and investing the same, together with all interest and profits accrued thereon from time to time, in Canadian Government securities. 49 V., c. 26, s. 106, *part*.

Assurance fund; how formed.

107. If the person against whom such action for damages is directed to be brought as aforesaid, is dead, or cannot be found within the Territories, an action for damages may be brought against the registrar as nominal defendant, for the purpose of recovering the amount of the said damages and costs against the assurance fund; and in any such case, if final judgment is recovered, and also in any case in which damages are awarded in any action as aforesaid, and the sheriff makes a return of *nulla bona*, or certifies that any portion thereof, with costs awarded, cannot be recovered from such person, the Minister of Finance and Receiver General, upon receipt of a certificate of the court before which the said action was tried, shall pay the amount of such damages and costs as are awarded, or the unrecovered balance thereof as the case may be, and shall charge the same to the account of the assurance fund hereinbefore named. 49 V., c. 26, s. 107.

If the defendant in action directed by judge is dead, action against registrar as nominal defendant.

Recovery of damages from assurance fund.

108. Any person sustaining loss or damage through any omission, mistake or misfeasance of the registrar, or any of his officers or clerks, in the execution of their respective duties under the provisions of this Act, and any person deprived of any land or of any estate or interest in land, by the registration of any other person as owner of such land, or by any error, omission or misdescription in any certificate of title, or in any entry or memorial in the register, and who, by the provisions of this Act, is barred from bringing an action of ejectment or other action for the recovery of such land, estate or interest, may, in any case in which the remedy by action for recovery of damages, as hereinbefore provided, is barred, bring an action against the registrar as nominal defendant, for recovery of damages; and if the

Action for damages may in certain cases be brought against registrar as nominal defendant.

Payment out of assurance fund.

plaintiff recovers final judgment against such nominal defendant, the court or judge before whom such action is tried, shall certify to the fact of such judgment and the amount of such damages and costs recovered, and the Minister of Finance and Receiver General shall pay the amount thereof to the person entitled on production of an exemplification or certified copy of the judgment rendered: Provided always, that notice in writing of every such action, and the cause thereof, shall be served upon the Attorney General of Canada, and also upon the registrar, three calendar months at least before the commencement of such action. 49 V., c. 26, s. 108.

Proviso: notice of action.

When nominal defendant shall have costs.

109. If, in any such action, judgment is given in favor of the nominal defendant, or the plaintiff discontinues or becomes non-suited, the plaintiff shall be liable to pay the full costs of defending such action; and the same, when taxed, shall be levied in the name of the nominal defendant, by the like process of execution as in ordinary civil cases. 49 V., c. 26, s. 109.

Limitation of action for damages against registrar or assurance fund.

110. No action for recovery of damages sustained through deprivation of land, or of any estate or interest in land, shall lie or be sustained against the registrar, or against the assurance fund, unless the same is commenced within the period of six years from the date of such deprivation: Provided nevertheless, that any person under the disability of infancy, lunacy or unsoundness of mind, may bring such action within six years from the date on which such disability ceases; and the plaintiff in any such action within six years from the date on which such disability ceased, and the plaintiff in any such action at whatever time it is brought, and the plaintiff in any action for the recovery of land, shall be non-suited in any case in which it appears to the satisfaction of the judge before whom such action is tried, that such plaintiff or the person through or under whom he claims title had notice by personal service, or otherwise was aware of such delay, and wilfully or collusively omitted to lodge a caveat or allowed such caveat to lapse. 49 V., c. 26, s. 110.

Proviso: in case of disability.

As to persons having notice and neglecting to file caveats.

Recovery of amount paid out of assurance fund.

111. Whenever any amount has been paid out of the assurance fund on account of any person, such amount may be recovered from him, or if dead, from the estate of such person, by action against his personal representatives, in the name of the registrar; and a certificate signed by the Minister of Finance and Receiver General of such payment out of the assurance fund, shall be sufficient proof of such debt; and whenever any amount has been paid out of the assurance fund on account of any person who has absconded, or who cannot be found within the Territories, and has left any real or personal estate within the same, the judge, upon the

If party liable is out of Territories.

application of the registrar, and upon the production of a certificate signed by the Minister of Finance and Receiver General that the amount has been paid in satisfaction of a judgment against the registrar as nominal defendant, may allow the registrar to sign judgment against such person forthwith for the amount so paid out of the assurance fund, together with the costs of the application; and such judgment shall be final, subject only to such right to have such judgment opened up, as may be provided in relation to ordinary procedure in the territory in which the real property is situate, in cases of judgment by default; and such judgment shall be signed in like manner as a final judgment by default in an adverse suit, and execution may issue immediately; and if such person has not left real or personal estate within the Territories sufficient to satisfy the amount for which execution has issued as aforesaid, the registrar may recover such amount, or the unrecovered balance thereof, by information against such person at any time thereafter in the Exchequer Court of Canada at the suit of the Attorney General of Canada. 49 V., c. 26, s. 111.

Judgment to be final. Exception.

If such party has not left property to satisfy the claim.

112. The assurance fund shall not, under any circumstances, be liable for compensation for any loss, damage or deprivation occasioned by the breach by a registered owner of any trust, whether express, implied or constructive; nor in any case in which the same land has been included in two or more grants from the Crown; nor shall the assurance fund be liable in any case in which such loss or deprivation has been occasioned by any land being included in the same certificate of title with other land, through misdescription of the boundaries or parcels of any land, unless, in the case last aforesaid, it is proved that the person liable for compensation and damages is dead, or has absconded from the Territories, or has been adjudged insolvent, or the sheriff has certified that he is not able to realize the full amount and costs awarded in any action for such compensation; and the said fund shall be liable for such amounts only as the sheriff fails to recover from the person liable as aforesaid. 49 V., c. 26, s. 112.

Assurance fund not liable in certain cases.

REMEDIAL PROCEEDINGS.

113. If any person is dissatisfied with any act, omission, refusal, decision, direction or order of the registrar, such person may require the registrar to set forth, in writing under his hand, the grounds of such act, omission, refusal, decision, direction, or order, and such person may then apply to the judge by petition, setting forth the grounds of his dissatisfaction; and the judge, having caused the registrar to be served with such petition, shall have jurisdiction to hear the said petition, and to make such order in the premises, and as to the costs of the parties appearing upon such

Appeal by a person dissatisfied with act or omission of registrar.

petition, as the circumstances of the case require. 49 V., c. 26, s. 113.

Registrar may refer doubtful points to judge.

114. Whenever a question arises with regard to the performance of any duty, or the exercise of any function by this Act conferred or imposed upon the registrar,—or whenever, in the exercise of any duty of the registrar, a question arises as to the true construction or legal validity or effect of any instrument, or as to the persons entitled, or as to the extent or nature of the estate, right or interest, power or authority of any person or class of persons, or as to the mode in which any entry ought to be made on the register or certificate of title, or as to any doubtful or uncertain right or interest stated, or claimed to be dealt with by the registrar, he may refer the same in the form S in the schedule to this Act, to the judge, who may allow any of the parties interested to appear before him and summon any others of such persons to appear and show cause, either personally or by counsel or attorney, in relation thereto; and the judge, having regard to the persons appearing before him, whether summoned or not, shall decide the question, or direct any proceedings to be instituted for that purpose, and direct such particular form of entry to be made on the register or certificate of title as under the circumstances appears to be just. 49 V., c. 26, s. 114.

Form of reference.

Proceedings before judge.

Power of registrar, in case of fraud or error, to demand delivery of instrument.

115. If it appears to the satisfaction of the registrar that any grant, certificate of title, or other instrument has been issued in error, or contains any misdescription of land, or boundaries,—or that any entry or indorsement has been made in error on any grant, certificate of title or other instrument,—or that any such grant, certificate, instrument, entry or indorsement has been fraudulently or wrongfully obtained,—or that any such grant, certificate or instrument is fraudulently or wrongfully retained, he may, by written demand, require the person to whom such grant, certificate or instrument has been so issued, or by whom it has been so obtained or is retained, to deliver up the same, for the purpose of being cancelled or corrected, as the case requires; and in case such person refuses or neglects to comply with such requisition, or cannot be found, the registrar may apply to the court or judge to issue a summons for such person to appear before him and show cause why such grant, certificate or other instrument should not be delivered up to be cancelled or corrected as aforesaid and if such person, when served with such summons, neglects or refuses to attend before such court or judge at the time therein appointed, the court or judge may issue a warrant authorizing and directing the person so summoned to be apprehended and brought before the said court or judge for examination. 49 V., c. 26, s. 115.

Intervention of judge or court to enforce registrar's demand.

116. Upon the appearance before the court or judge of any person summoned or brought up by virtue of a warrant as aforesaid, such court or judge may examine such person upon oath, and in case it appears right so to do, may order such person to deliver up such grant, certificate of title or other instrument as aforesaid; and upon refusal or neglect by such person to deliver up the same, pursuant to such order, or to be put under oath, or to be examined, or to answer any question touching the matter after being sworn, may commit such person to the nearest common gaol for any period not exceeding six months, unless such grant, certificate of title or other instrument is sooner delivered up, or sufficient explanation is made why the same cannot be done, and in such case, or in case such person has absconded so that summons cannot be served upon him as hereinbefore directed, such court or judge may direct the registrar to cancel or correct any certificate of title or other instrument, or any entry or memorial in the register relating to such land, and to substitute and issue such certificate of title or other instrument or make such entry as the circumstances of the case require, and the registrar shall obey such order. 49 V., c. 26, s. 116.

Examination
of persons be-
fore judge.

Power of
judge to
commit.

Cancellation
of certificate
by order of
judge, and
duty of regis-
trar.

117. In any proceeding respecting land or in respect of any transaction or contract relating thereto, or in respect of any instrument, caveat, memorial or other entry affecting land, the court or judge, by decree or order, may direct the registrar to cancel, correct, substitute or issue any certificate of title, or make any memorial or entry in the register, and otherwise to do every such act or make every such entry necessary to give effect to such decree or order. 49 V., c. 26, s. 117.

Further
powers of
direction by
court or
judge.

GENERAL PROVISIONS.

118. Upon the application of any owner of lands held under separate certificates of title, or under one certificate of title, and the delivering up of such certificate or certificates of title, the registrar may issue to such proprietor a single certificate of title for the whole of such land, or several certificates, each applying to a portion of such lands, in accordance with such application, and as far as the same may be done consistently with any regulation for the time being in force respecting the parcels of land that may be included in one certificate of title; and, upon issuing any such certificate of title, the registrar shall enter on the new certificate of title all the memorials to which the piece of land is at the time subject, and shall cancel the previous certificate of title of such land so delivered up, and shall endorse thereupon a memorandum, setting forth the occasion of such cancellation and referring to the certificate of title so issued. 49 V., c. 26, s. 118.

Registrar may
cancel sepa-
rate certifi-
cates to same
person and
issue one cer-
tificate for
whole land.

Provision in case of loss or destruction of certificate.

119. In the event of a certificate of title of land being lost or destroyed, the owner of such land, together with other persons, if any, having knowledge of the circumstances, may make a declaration, stating the facts of the case, the names and descriptions of the registered owners, and the particulars of all mortgages, encumbrances and other matters affecting such land and the title thereto, to the best of declarant's knowledge and belief; and the registrar, if satisfied of the truth of such declaration and the *bonâ fides* of the application, may issue to the owner of such land a provisional certificate of title of such land, which provisional certificate shall contain an exact copy of the original certificate of title bound up in the register, and of every memorandum and indorsement thereon, and shall also contain a statement why such provisional certificate is issued; and the registrar shall, at the same time, enter in the register notice of the issuing of such provisional certificate and the date thereof, and why it was issued; and such provisional certificate shall be available for all purposes and uses for which the grant or certificate of title so lost or destroyed would have been available, and as valid, to all intents, as such lost certificate: Provided always, that the registrar, before issuing such provisional certificate, shall give at least thirty days' notice of his intention so to do, in some newspaper published in the registration district, if there is one, and by posting such notice upon the door of the registry office, and in some other public place. 49 V., c. 26, s. 119.

Provisional certificate.

Entry in register.

Proviso: notice to be given by registrar.

Owner subdividing land to file map.

120. Any owner sub-dividing land for the purpose of selling the same in allotments, as a town plot, shall deposit with the registrar a map of such town plot,—which map shall exhibit distinctly all roads, streets, passages, thoroughfares, squares, or reserves, appropriated or set apart for public use, and also all allotments into which the said land is divided, and such allotments shall be marked with distinct numbers and symbols; and every such map shall be signed by the owner or his agent, and certified as accurate by a Dominion land surveyor before a registrar or a justice of the peace. 49 V., c. 26, s. 120.

Map to be signed and certified.

Implied covenants may be negatived or modified.

121. Every covenant and power declared to be implied in any instrument by virtue of this Act may be negatived or modified by express declaration in the instrument or indorsed thereon; and in any action for a supposed breach of any such covenant, the covenant alleged to be broken may be set forth, and it shall be lawful to allege that the party against whom such action is brought did so covenant, precisely in the same manner as if such covenant had been expressed in words in such memorandum of transfer or other instrument, any law or practice to the contrary notwithstanding; and every such implied covenant shall have the same force and effect, and be enforced in the same man-

Effect of such covenants.

ner as if it had been set out at length in such instrument ; and where any memorandum of transfer or other instrument in accordance with this Act, is executed by more parties than one, such covenants as are by this Act to be implied in instruments of a like nature, shall be construed to be several and not to bind the parties jointly. 49 V., c. 26, s. 121.

Covenants to be construed as several.

122. The owner of any land or of any lease, mortgage or charge, shall, on the application of any beneficiary or person interested therein, be bound to allow his name to be used by such beneficiary or person in any action, suit or proceeding, which it may be necessary or proper to bring or institute in the name of such owner, concerning such land, lease, mortgage or charge, or for the protection or benefit of the title vested in such owner, or of the interest of any such beneficiary or person ; but nevertheless such owner shall, in any case, be entitled to be indemnified in like manner as, if being a trustee, he would, before the passing of this Act, have been entitled to be indemnified in a similar case of his name being used in any such action, suit or proceeding by his *cestui que trust*. 49 V., c. 26, s. 122.

Owner to allow use of his name in certain cases.

But entitled to indemnity.

123. Whenever any person, who, if not under disability, might have made any application, given any consent, done any act, or been party to any proceeding under this Act, is a minor, idiot or lunatic, the guardian or committee of the estate, respectively, of such person may make such application, give such consent, do such act, and be party to such proceeding as such person if free from disability might have made, given, done and been party to, and shall otherwise represent such person for the purposes of this Act ; and whenever there is no guardian or committee of the estate of any such person aforesaid being infant, idiot or lunatic, or whenever any person, the committee of whose estate if he were idiot, or lunatic, would be authorized to act for and represent such person under this Act, is of unsound mind and incapable of managing his affairs, but has not been found an idiot or lunatic under inquisition, any court of competent jurisdiction or a judge thereof, may appoint a guardian of such person for the purpose of any proceedings under this Act, and from time to time change such guardian. And whenever such court or a judge thereof sees fit, it or he may appoint a person to act as the next friend of a married woman for the purpose of any proceeding under this Act, and from time to time remove or change such next friend. 49 V., c. 26, s. 123.

Guardian or committee may act for person under disability.

When there is no guardian or committee, court or judge may appoint and change from time to time.

As to next friend of married woman.

124. Whenever, in any action, suit or other proceeding affecting the title to land or other estate or interest therein, subject to the provisions of this Act, it becomes necessary to determine the fact whether the transferee, mortgagee or encumbrancee, or lessee, is a purchaser or transferee for valu-

How purchaser for valuable consideration shall be ascertained.

able consideration or not, any person who is a party to such action, suit or other proceeding, may give in evidence any transfer, mortgage, encumbrance, lease or other instrument affecting the title to such land, estate or interest in dispute, although the same is not referred to in the certificate of title, or has been cancelled by the registrar. 49 V., c. 26, s. 124.

Encumbrance prior to grant may be filed with registrar.

125. Any mortgage or other encumbrance created by any party rightfully in possession of land prior to the issue of the grant, may be filed in the office of the registrar, who shall, on registering such grant, enter in the register and endorse upon the certificate of the title before issuing the same to the applicant owner thereof a memorandum of such mortgage or encumbrance; and when so entered and indorsed, the said mortgage or encumbrance shall be as valid as if made subsequent to the issue of the grant; and if more than one mortgage or encumbrance are filed, they shall be registered in the order of time in which they have been filed in the office. 49 V., c. 26, s. 125.

Purchaser from registered owner not affected by notice, except in case of fraud.

126. Except in the case of fraud, no person, contracting or dealing with or taking or proposing to take a transfer from the registered owner of any registered estate or interest, shall be bound or concerned to inquire into or ascertain the circumstances in, or the consideration for which such registered owner, or any previous registered owner of the estate or interest in question is or was registered, or to see to the application of the purchase money or of any part thereof, nor shall he be affected by notice, direct, implied or constructive, of any trust or unregistered interest,—any rule of law or equity to the contrary notwithstanding; and the knowledge that any trust or unregistered interest is in existence, shall not of itself be imputed as fraud. 49 V., c. 26, s. 126.

Registered owner suing for specific performance of contract to purchase entitled to proceed.

127. In any suit for specific performance brought by a registered owner of any land under this Act, against a person who has contracted to purchase such land, not having notice of any fraud or other circumstances which, according to this Act, would affect the right of the vendor, the certificate of title of such registered owner shall be held conclusive evidence that such registered owner has a good and valid title to the land, for the estate or interest therein, mentioned or described, and shall entitle such registered owner to a decree for the specific performance of such contract 49 V., c. 26, s. 127.

Insertion of words "no survivorship."

128. Upon the transfer of any land, estate or interest under the provisions of this Act, to two or more persons as joint owners, to be held by them as trustees, it shall be lawful for the transferrer to insert in the memorandum of

transfer or other instrument the words "no survivorship;" and the registrar shall, in such case, include such words in the memorial of such instrument, to be entered by him in the register as hereinbefore directed; and shall also enter the said words upon any certificate of title issued to such joint owners pursuant to such memorandum of transfer; and any two or more persons registered as joint owners of any land, estate or interest, under this Act, held by them as trustees, may, by writing under their hand, authorize the registrar to enter the words "no survivorship" upon the certificate of title or other instrument evidencing their title to such estate or interest, and also upon the duplicate of such instrument in the register or filed in his office; and after such entry has been made and signed by the registrar in either such case as aforesaid, it shall not be lawful for any less number of joint proprietors than the number then registered to transfer or otherwise deal with the said land, estate or interest, without obtaining the sanction of a court or a judge thereof, by an order on motion or petition. 49 V., c. 26, s. 128.

Who may authorize such insertion.

Effect of entry in register; subject to order of court or judge.

129. Before making any such order as aforesaid, the court or judge shall, if it seems requisite, cause notice of intention so to do to be properly advertised, and in such cases appoint a period of time within which any person interested may show cause why such order should not be made; and thereupon the said court or judge may order the transfer of such land, estate or interest to any new owner or owners, solely or jointly with or in the place of any existing owner or owners, or may make such order in the premises as the court thinks just, for the protection of the persons beneficially interested in such land, estate or interest, or in the proceeds thereof; and upon such order being deposited with the registrar, he shall make such entry, and upon such entry being made, the person or persons named in such order shall be registered as owner or owners of such land, estate or interest. 49 V., c. 26, s. 129.

Notice before effect is given to order of court or judge.

Deposit of order and entry thereof.

130. Nothing contained in this Act shall take away or affect the jurisdiction of any competent court on the ground of actual fraud, or over contracts for the sale or other disposition of land, or over equitable interest therein. 49 V., c. 26, s. 130.

Jurisdiction of courts as to fraud, contract and equitable interests.

131. Whenever, in any grant or instrument under this Act, any mines or minerals are excepted from the grant or transfer, the registrar, on issuing a certificate of title, shall therein insert the words so used in the grant or instrument. 49 V., c. 26, s. 131.

As to exceptions of mines, &c., in grants.

132. The Governor in Council may, from time to time, provide the necessary books and forms, provide any addi-

Governor in Council to provide books,

forms, rules,
&c.

tional forms he deems necessary, and make such rules and regulations as are necessary to carry the provisions of this Act into effect; and may make such rules and regulations as to him appear necessary for giving effect to this Act, in cases unprovided for, according to its true intent and purpose. 49 V., c. 26, s. 132.

Governor in
Council to
establish fees.

133. All fees payable under this Act or in connection therewith shall be settled by tariff made, from time to time, by the Governor in Council:

Additional
fees on value
of real prop-
erty.

2. Together with the fees under this Act, which are from time to time fixed by the Governor in Council, there shall be paid one-fifth of one per cent. on the value of the real property registered, if such value amounts to or is less than five thousand dollars, and one-tenth of one per cent. on the additional value, when such value exceeds five thousand dollars:

How value
is to be
ascertained.

3. The value shall be ascertained by the oath or solemn affirmation of the applicant, owner or person acquiring such land: if the registrar is not satisfied as to the correctness of the value so affirmed or sworn to, he may require such applicant, owner or person acquiring such land to produce a certificate of such value, under the hand of a sworn valuator, appointed by a judge, which certificate shall be received as conclusive evidence of such value, for the purpose aforesaid. 49 V., c. 26, s. 133, *and* s. 106 *part*.

Fees to be paid
to registrar.

134. The registrar shall demand and receive the several fees so settled, and perform the duties for which fees are specified in this Act on payment thereof. 49 V., c. 26, s. 134.

He shall
keep account
of fees and pay
to Receiver-
General.

135. The registrar shall keep a correct account of all sums of money received by him in accordance with the provisions of this Act, and shall pay the same to the Minister of Finance and Receiver General, at such times and in such manner as are directed by the Governor in Council. 49 V., c. 26, s. 135.

In case of
death, pend-
ing proceed-
ings not to
abate; power
of judge in
such case.

136. Proceedings under this Act shall not abate or be suspended by any death, transmission or change of interest, but in any such event the judge may make such order for carrying on, discontinuing or suspending the proceedings, upon the application of any person interested, as under the circumstances he thinks just, and may for such purpose require the production of such evidence, and such notices to be given as he thinks necessary. 49 V., c. 26, s. 136.

Documents
under Act not
invalid for
informality.

137. No petition, order, affidavit, certificate, registration or other proceeding under this Act shall be invalid by reason of any informality or technical irregularity therein, or of any mistake not affecting the substantial justice of the proceedings. 49 V., c. 26, s. 137.

APPEAL.

138. Any person who feels aggrieved by any judgment or decision of the court or judge may appeal to the Court of Appeal, and, for the purposes of this Act, the several judges of the Supreme Court of the North-West Territories, and the several stipendiary magistrates of the other Territories of Canada sitting together are hereby constituted the Court of Appeal; and a majority of such judges and stipendiary magistrates shall form a quorum. Such Court of Appeal shall be presided over by the senior judge present or, in the absence of all the judges, by the senior stipendiary magistrate present, and shall sit at least once in each year at the seat of Government of the Territories for the purpose of hearing appeals from orders, judgments and decisions of the court or a judge under this Act; and such court shall have power, by rules and orders, to regulate the sittings of the court, the practice and proceedings on appeal and before it, including costs and payment thereof, and the enforcement of judgments of such court; and such judgment shall be certified by the presiding judge, and shall be final in all cases. 49 V., c. 26, s. 138;—49 V., c. 25, s. 30.

Judges and stipendiary magistrates to be Court of Appeal.

Quorum.

Sittings.

Powers to make rules.

Judgment final.

PENALTIES.

139. Every person who,—

(a.) Wilfully makes any false statement or declaration in any dealing in land under this Act, or—

(b.) Suppresses or conceals, or assists or joins in, or is privy to the suppressing, withholding or concealing from the registrar, court or judge, or either of them, any material document, fact or matter of information, or—

(c.) Wilfully makes any false statement in any declaration required under the authority of or made in pursuance of this Act, or—

(d.) Fraudulently procures or is privy to the fraudulent procurement of any certificate of title or instrument, or of any entry in the register, or—

(e.) Knowingly misleads or deceives the court, the judge, the registrar or any person hereinbefore authorized to require explanation or information in respect to any land or the title to any land under this Act, or in respect to which any dealing or transmission is proposed to be registered, or—

(f.) Is a party to or privy to any fraudulent act whatever in any matter connected with the working of this Act,—

Punishment of persons making wilfully false statements or guilty of fraud in matters relative to registration.

Shall, on conviction before a judge or stipendiary magistrate, without a jury, be liable to a penalty not exceeding five hundred dollars or to imprisonment, with or without hard labor, for any period less than two years. 49 V., c. 26, s. 139.

SCHEDULE.

FORM A.

FORM OF REGISTRAR'S OR DEPUTY REGISTRAR'S OATH OF OFFICE.

Territories of Canada. } I (*name and describe deponent*), hav-
District of , } ing been appointed to the office of
 To WIT: } registrar (*or deputy registrar*) in and
 for the (*name of registration district, &c.*), do swear (*or as the
 case may be*) that I will well, truly and faithfully perform
 and execute all duties required of me, relating to the said
 office, so long as I continue therein, and that I have not
 given, directly or indirectly, nor authorized any person to
 give, any money, gratuity or reward whatsoever for pro-
 curing the said office for me.

Sworn before me at , the }
 day of , A.D. 18 . }
 J.P., in and for the } (*Signature of Registrar
 or Deputy Registrar.*)
 said District. }

49 V., c. 26, sch. form A.

FORM B.

FORM OF BOND OF REGISTRAR OR DEPUTY REGISTRAR.

Territories of Canada, } Know all men by these presents
District of } that I (*insert name and addition of*
 To WIT: } *the principal*), of the of
 , in the Territories of the Domi-
 nion of Canada, hereinafter called "the principal" and we
 (*insert names and additions of the sureties*) of the
 of , in the of
 and , of
 the of , in the
 hereinafter called "the sureties", are respectively held and
 firmly bound unto our Sovereign Lady the Queen, her heirs
 and successors, in the respective penal sums following, that
 is to say: "The principal" in the sum of dollars
 of lawful money of Canada, and each of "the sureties" in a
 sum of dollars of like lawful money, to be paid
 to our said Sovereign Lady the Queen, her heirs and suc-
 cessors; for which said respective payments, well and faith-
 fully to be made, we jointly and severally, each for the
 other,—bind ourselves, and our respective heirs, executors
 and administrators, firmly by these presents, sealed with
 our respective seals.

Dated this _____ day of _____
 in the year of Our Lord one thousand eight hundred and _____
 and in the _____ year of Her Majesty's
 reign.

Whereas "the principal," having been appointed to the office or employment of _____ is required by law to give security to the Crown for the due performance of the duties appertaining thereto; and "the sureties" have consented to become his sureties for such his performance of the said duties; and this bond is given in pursuance of "*The Territories Real Property Act.*"

Now the condition of this obligation is, that if "the principal" faithfully discharges the duties of the said office and duly accounts for all moneys and property which may come into his custody by virtue of the said office, this obligation shall be void, otherwise the same shall remain in full force and effect.

Signed, sealed and delivered in }
 the presence of . } (*Signatures and Seals.*)

49 V., c. 26, sch. form B.

FORM C.

AFFIDAVIT OF JUSTIFICATION BY A SURETY.

Territories of Canada, } I, _____ one of the
District of } sureties in the foregoing bond
 To WIT: } named, make oath (*or affirm, as the*
 } *case may be*) and say as follows:—

1. I am seized and possessed to my own use of real (*or real and personal*) estate, in the _____ of _____ in Canada, of the actual value of _____ dollars, over and above all charges upon or encumbrances affecting the same.

2. My post office address is as follows: (*insert it*)

Sworn before me at the _____ of }
 in the _____ of }
 this _____ }
 day of _____, A.D. one thousand }
 eight hundred and eighty } (*Signature.*)
 J. P. for the said _____ }

49 V., c. 26, sch. form C.

FORM D.

AFFIDAVIT OF ATTESTATION.

Territories of Canada, } I,
District of } of the of , in the
 To WIT: } of ,
 on the of make oath and say, that I
 was personally present, and did see (one of or
as the case may be) the obligors in the above bond or writing
 obligatory named, duly execute the said instrument by
 signing, sealing, and, as (his act and deed or their respective
 acts and deeds, *as the case may be*), delivering the same; and
 that I am a subscribing witness to such execution.

Sworn before me, at the of ,
 in the of ,
 this day of , A.D. 18' . } (Signature.)
 J. P. for the said

A separate affidavit in this form will be made by a witness to the execution by each obligor, if the same person does not witness the execution by all of them.

49 V., c. 26, sch. form D.

FORM E.

APPLICATION TO BRING LAND UNDER THE OPERATION OF
"THE TERRITORIES REAL PROPERTY ACT."

To the registrar of registration district:
 I (*insert name and addition*), hereby apply to have the land hereinafter described brought under the operation of "*The Territories Real Property Act.*" And I declare:—

1. That I am the owner (or agent for , the owner) of an estate in fee simple in possession (or of an estate of freehold in possession for my life, or otherwise as the case may require) in ALL THAT piece of land, being (*here describe the land*).

2. That such land, including all buildings and other improvements thereon, is of the value of dollars, and no more.

3. That there are no documents or evidences of title affecting such land in my possession, or under my control, other than those included in the schedule hereto.

4. That I am not aware of any mortgage or encumbrance affecting the said land, or that any other person hath any estate or interest therein at law or in equity, in possession, remainder, reversion or expectancy (*if there be any add: other than as follows, and set the same forth*).

5. That the said land is now occupied (*if unoccupied, prefix un to occupied ; if occupied, add by whom, and state the name and addition of the occupant and the nature of his occupancy*).

6. That the names and addresses, so far as known to me, of the occupants of all lands contiguous to the said land, are as follows:—

7. That the names and addresses, so far as known to me, of the owners of all lands contiguous to the said land, are as follows:—

(*If the certificate of title is not to issue to the applicant, add*):
And I direct the certificate of title to be issued in the name of (*insert name and addition*).

Dated this day of , 18 .

Made and subscribed at , }
in the presence of . } (*Signature.*)

SCHEDULE OF DOCUMENTS REFERRED TO.

AFFIDAVIT.

Territories of Canada, } I, ,
District of , } of ,
To WIT: } make oath and say:—

1. That I am the applicant named in the application hereto annexed.

2. That the several statements contained in the said application are true, to the best of my knowledge and belief.

Sworn before me at the of
in the of , this ,
day of , A.D. 18 . } (*Signature.*)

J. P. for the said

49 V., c. 26, sch. form E.

FORM F.

CERTIFICATE OF OWNERSHIP.

CANADA—TERRITORIES,
DISTRICT.

REGISTRATION

This is to certify that A. B., of , is now the owner of an estate (*describe the estate*) of and in (*describe the property*), subject to the encumbrances, liens and interests notified by memorial underwritten or indorsed hereon, or which may hereafter be recorded in the register of title, and

subject to the exceptions and qualifications mentioned in the fifty-eighth section of "*The Territories Real Property Act.*"

In witness whereof I have hereunto subscribed my name and affixed my seal this day of , A.D. 18 .

If the title is possessory, say :

The title of A. B. is subject to the claims (if any) which can be enforced to the said land by reason of any defect in the title of (*name of the first registered owner*).

And if subject to a mortgage, say :

The title of A. B. is subject to mortgage, dated the day of , made by A. B. to W. B., to secure (*here state the amount secured, the rate of interest per cent. per annum, and the respective dates from which the principal and interest are secured*), payable as therein mentioned. (*If mortgage is discharged, say*): Discharged by certificate (*here state the distinguishing letter or number of the register and the number of the folio therein*).

And if subject to a lease, say :

The title of A. B. is subject to a lease, dated the day of , made by A. B. to Y. Z., for the term of years.

When the transfer is absolute, say :

This declaration is cancelled and a new declaration of title issued.

(*Signature.*)

49 V., c. 26, sch. form F.

FORM G.

TRANSFER.

I, A. B., being registered owner of an estate (*state the nature of estate*), subject, however, to such encumbrances, liens and interests as are notified by memorandum underwritten (*or indorsed hereon*), in all that certain tract of land containing acres, more or less, and being (part of) section, township , range , in the (*as the case may be*), (*here state rights of way, privileges, easements, if any, intended to be conveyed along with the land and if the land dealt with contains all included in the original grant, refer thereto for description of parcels and diagrams; otherwise set forth the boundaries and accompany the description by a diagram*), do hereby, in consideration of the sum of \$, paid to me by E. F., the receipt of which sum I hereby acknowledge, transfer to the said E. F., all my estate and interest in the said piece of land. (*When a lesser estate, then describe such lesser estate.*)

In witness whereof, I have hereunto subscribed my name this day of , 18 .

Signed on the day above named,)
by said A. B., in the presence } (*Signature*)
of G. A.

49 V., c. 26, sch. form G.

FORM H.

LEASE.

I, A. B., being registered as owner, subject, however, to such mortgages and encumbrances as are notified by memorandum underwritten (or endorsed hereon), of that piece of land (*describe it*), part of _____, section _____, township _____, range _____, containing _____ acres, more or less (*here state rights of way, privileges, easements, if any, intended to be conveyed along with the land, and if the land dealt with contains all included in the original grant or certificate of title or lease, refer thereto for description and diagram, otherwise set forth the boundaries by metes and bounds*) do hereby lease to E. F., of (*here insert description*), all the said lands, to be held by him, the said E. F., as tenant, for the space of _____ years, from (*here state the date and term*), at the yearly rental of \$ _____, payable (*here insert terms of payment of rent*), subject to the covenants and powers implied (*also set forth any special covenants or modifications of implied covenants*).

I, E. F., of (*here insert description*), do hereby accept this lease of the above described lands, to be held by me as tenant, and subject to the conditions, restrictions and covenants above set forth.

Dated this _____ day of _____.

Signed by above-named A. B., as lessor, and E. F., as lessee, this _____ day of _____, 188 _____, in presence of X. Y.	}	(<i>Signature of Lessor.</i>) (<i>Signature of Lessee.</i>)
--	---	--

(*Here insert memorandum of mortgages and encumbrances.*)

49 V., c. 26, sch. form H.

FORM I.

STATUTORY COVENANTS IMPLIED IN LEASE OR MORTGAGE.

COLUMN ONE.

1. Will not, without leave, assign or sublet.

2. Will fence.

COLUMN TWO.

1. The covenantor, his executors, administrators, or transferees, will not, during the said term, transfer, assign, or sublet the premises hereby leased, or any part thereof, or otherwise by any act or deed procure the said premises, or any part thereof, to be transferred or sublet, without the consent in writing of the lessor or his transferees first had and obtained.

2. The covenantor, his executors, administrators, or transferees, will, during the continuance of the said term, erect and put upon the boundaries of the said land, or on those boundaries on which no substantial fence now exists, a good and substantial fence.

3. Will cultivate.

3. The covenantor, his executors, administrators, or transferees, will, at all times during the said term, cultivate, use and manage in a proper husbandlike manner, all such parts of the land as are now or shall hereafter, with the consent in writing of the said lessor or his transferees, be broken up or converted into tillage, and will not impoverish or waste the same.

4. Will not cut timber.

4. The covenantor, his executors, administrators, or transferees, will not cut down, fell, injure or destroy any living timber or timber-like tree standing and being upon the said land, without the consent in writing of the said lessor or his transferees.

5. Will not carry on offensive trade.

5. The covenantor, his executors, administrators or transferees will not, at any time during the said term, use, exercise, or carry on, or permit or suffer to be used, exercised or carried on, in or upon the said premises, or any part thereof any noxious, noisome or offensive art, trade, business, occupation or calling; and no act, matter or thing whatsoever shall, at any time during the said term, be done in or upon the said premises, or any part thereof, which shall or may be or grow to the annoyance, nuisance, grievance, damage or any disturbance of the occupiers or owners of the adjoining lands and properties.

49 V., c. 26, sch. form I.

FORM J.

MEMORANDUM OF MORTGAGE.

I, A. B., being registered as owner of an estate (*here state nature of interest*), subject, however, to such encumbrances, liens and interests as are notified by memorandum underwritten (*or indorsed hereon*), of that piece of land (*description*), part of section , township , range , containing acres, be the same more or less (*here state rights of way, privileges, easements, if any, intended to be conveyed along with the land, and if the land dealt with contains all included in the original grants, refer thereto for description of parcels and diagrams; otherwise set forth the boundaries and accompany the description by a diagram*), in consideration of the sum of \$ lent to me by E. F., of (*here insert description*), the receipt of which sum I do hereby acknowledge, covenant with the said E. F.,—

Firstly. That I will pay to him, the said E. F., the above sum of \$, on the day of

Secondly. That I will pay interest on the said sum at the rate of % on the \$, in the year, by equal payments on the day of , and on the day of , in every year.

Thirdly. (*Here set forth special covenants, if any.*)

And for the better securing of the said E. F. the repayment, in manner aforesaid, of the principal sum and interest, I hereby mortgage to the said E. F. my estate and interest in the land above described.

In witness whereof, I have hereunto signed my name this
day of _____ 18 .

Signed by the above named }
A. B. as mortgagor this }
day of _____, in pre- } (*Signature of Mortgagor.*)
sence of G. H. }

(*Insert memorandum of mortgages and encumbrances.*)

For form of transfer of mortgage, see Form L.

49 V., c. 26, sch. form J.

FORM K.

MEMORANDUM OF ENCUMBRANCE.

I, A.B., being registered as owner of an estate (*state nature of estate*), subject, however, to such mortgages and encumbrances as are notified by memorandum underwritten (or endorsed hereon), of that piece of land of (*description*) part of section _____, township _____, range _____ containing _____ acres, more or less (*here state rights of way, privileges, easements, if any, intended to be conveyed along with the land, and if the land dealt with contains all included in the original grant or certificate of title, refer thereto for description of parcels and diagrams, otherwise set forth the boundaries and accompany the description by a diagram*), and desiring to render the said land available for the purpose of securing to and for the benefit of C.D., of (*description*) the (*sum of money, annuity or rent charge*) hereinafter mentioned: do hereby encumber the said land for the benefit of the said C.D., with the (*sum, annuity or rent-charge*) of _____, to be paid at the times and in the manner following, that is to say: (*here state the times appointed for the payment of the sum, annuity or rent charge intended to be secured, the interest, if any, and the events on which such sum, annuity or rent charge shall become and cease to be payable, also any special covenants or powers, and any modification of the powers or remedies given to an encumbrance by this Act*): And, subject as aforesaid, the said C. D. shall be entitled to all powers and remedies given to an encumbrancee by "The Territories Real Property Act."

In witness whereof I have hereunto }
signed my name this }
day of _____, in presence } (*Signature of Encum-*
of _____ } (*brancer.*)

(*Insert memorandum of mortgages and encumbrances.*)

49 V., c. 26, sch. form K.

FORM L.

(*Indorse memorandum of transfer of mortgage or encumbrance or lease.*)

TRANSFER OF MORTGAGE, ENCUMBRANCE, OR LEASE
BY INDORSEMENT.

I, the within mentioned C.D., in consideration of \$
this day paid to me by X.Y., of _____, the receipt of
which sum I do hereby acknowledge, hereby transfer to him
the mortgage (encumbrance or lease, as the case may be)
within written, together with all my rights, powers, title,
and interest therein.

In witness whereof, I have hereunto subscribed my name
this _____ day of _____, 18 _____.

C. D., *Transferrer.*
Accepted, X. Y., *Transferee.*

49 V., c. 26, sch. form L.

FORM M.

TRANSFER OF PART OF MORTGAGE OR ENCUMBRANCE
BY INDORSEMENT.

I, the within mentioned C. D., in consideration of \$
this day paid to me by X. Y., of _____, the receipt of
which sum I do hereby acknowledge, hereby transfer to him
\$ _____ of the mortgage (or encumbrance, as the case may
be) within written, together with all my rights, powers,
title, and interest therein, and the sum so transferred shall
be preferred (or deferred or rank equally, as the case may be)
to the remaining sum secured by the mortgage.

In witness whereof, I have hereunto subscribed my name
this _____ day of _____, 18 _____.

C. D., *Transferrer.*
Accepted, X. Y., *Transferee.*

49 V., c. 26, sch. form M.

FORM N.

POWER OF ATTORNEY.

I, A. B., being registered as owner of an estate (*here state
nature of the estate or interest*), subject, however, to such en-
cumbrances, liens and interests as are notified by memo-
randum underwritten (or endorsed hereon), in (*here refer to*

notified hereunder, do hereby, in consideration of the sum of _____ paid to me, as _____ aforesaid, by E. F. (*insert addition*) TRANSFER to the said E. F. all that piece of land (*here insert a sufficient description of the land, and refer to the debtor's certificate of title or grant*).

Dated the _____ day of _____ one thousand eight hundred and _____

(*Signature of Officer.*)

Mortgages and encumbrances referred to. (*State them.*)

49 V., c. 26, sch. form P 1.

FORM P 2.

TRANSFER OF LEASE, MORTGAGE, OR ENCUMBRANCE UNDER PROCESS OF LAW.

I, _____, of _____, the person appointed to execute the writ hereinafter mentioned (*or otherwise, as the case may be*), in pursuance of a writ of *feri facias*, tested the _____ day of _____ one thousand eight hundred and _____, and issued out of (*insert name of court*) a court of competent jurisdiction, in an action wherein _____ is the plaintiff and _____ the defendant, which said _____ is registered as the owner of a lease (mortgage or encumbrance, *as the case may be*) numbered _____ of (*or upon*) the land hereinafter described, subject to the mortgages or encumbrances notified hereunder, do hereby, in consideration of the sum of _____ paid to me as _____ aforesaid, by E. F. (*insert addition*) TRANSFER to the said E. F. the lease (mortgage or encumbrance) granted by _____ to and in favor of _____, dated the _____ day of _____, to, in and over (*here describe the land according to the description in the lease, mortgage or encumbrance, and refer to the registered instrument*).

Dated the _____ day of _____, one thousand eight hundred and _____

(*Signature of Officer.*)

Mortgages and encumbrances referred to. (*State them.*)

49 V., c. 26, sch. form P 2.

FORM P 3.

TRANSFER OF LAND UNDER DECREE OR ORDER OF A COURT OF COMPETENT JURISDICTION.

I (*insert name*), in pursuance of a decree (*or order*) of (*insert name of court*), a court of competent jurisdiction, dated _____

The registrar under section one hundred and fourteen of "*The Territories Real Property Act,*" hereby humbly refers the following matter to the court, to wit: (*Here state briefly the difficulty which has arisen.*)

The parties interested, so far as the registrar knows or has been informed, are: (*Here give the names.*)

(*Signature.*)

Registrar of Titles. [L.S.]

49 V., c. 26, sch. form S.

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 52.

An Act respecting Homestead Exemption Estates in A.D. 1886.
the Territories.

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

SHORT TITLE.

1. This Act may be cited as "*The Homestead Exemption Act.*" 41 V., c. 15, s. 14. Short title.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—
(a.) The expression "Territories" includes the North-West Territories of Canada, the District of Keewatin, and generally all the possessions of Canada not included within the limits of any Province; 41 V., c. 15, s. 13. Interpretation.
"Territories."

(b.) The expression "registrar" or "deputy registrar" means the registrar or deputy registrar of titles to lands for the place where the lands in question are situate. "Registrar."

REGISTRATION.

3. Any man who is the owner of an estate in fee simple, or for life, in land situate in the Territories, with a dwelling house thereon occupied by him, may register as a homestead an extent of such land not exceeding eighty acres, if in a rural locality, or the lot on which such dwelling house stands, if in an incorporated city, town or village, in the office for the registry of titles to lands for the place in which the land lies, clearly describing the property in the instrument for effecting such registration: Provided, that if the estate of such owner is only for life, it shall be so stated in such instrument, and in such case the exemptions hereinafter provided shall apply only to such estate, which shall be understood by the word "homestead" when used in this Act. 41 V., c. 15, s. 1. Who may register a homestead and of what extent.
Proviso: as to estate for life.

4. The homestead so registered shall, while the homestead registration continues under the provisions of this Act, be wholly exempt from seizure or sale under execution, Duration and amount of homestead exemption.

or under any Act respecting insolvency, for any debt of such owner contracted after such registration, if the value of the homestead does not, at the time of such registration, exceed two thousand dollars,—and if its value then exceeds that amount it shall be so exempt to that amount, except for the amount of any mortgage given to secure the purchase money of the property, or any debt to the Crown on the purchase thereof, or which is a lien thereon, or for the amount of any taxes due thereon. 41 V., c. 15, s. 2.

Exceptions.

Purchase money, &c.
Taxes.

How homestead in fee simple shall go, on decease of owner.

5. After the decease of the owner, the homestead, if it is held in fee simple and not alienated as hereinafter mentioned, shall, subject to the exceptions in the section next preceding, go to his widow for life, and if he leaves no widow, or after her decease, or if her right is forfeited under the next following section of this Act, to his minor child or children, for his, her or their use respectively, so long as they or any of them continue minors, and shall be exempt from liability for any debt contracted by any of them, except as aforesaid. 41 V., c. 15, s. 5.

Registration by married man and its effect.

Proviso: if wife is guilty of adultery and is separated.

Her right forfeited.

6. If the proprietor of any homestead is married, he may make an affidavit before the registrar or deputy registrar, or before some justice of the peace or commissioner for taking affidavits, in the form A in the schedule to this Act, and the registrar shall thereupon enter the wife's name upon the certificate of title to such homestead, and the wife shall thereupon become a joint owner of a life interest therein: Provided always, that if the wife has committed adultery and has separated from her husband, the registrar shall, upon the husband producing an exemplification of the judgment from the court having jurisdiction in an action of criminal conversation, of the fact of adultery having been proven, cancel the wife's name from the register and from the certificate of title; and after her name is so cancelled, she shall have no estate or interest in such homestead. 41 V., c. 15, s. 3.

In what manner only the homestead may be alienated or devised.

7. The homestead shall not be alienated by such owner, if he is a married man, unless the transfer is executed by his wife, joining with him, except her estate or interest has been forfeited; or if the wife is dead and there is a minor child of such owner, the homestead shall not be alienated by such owner without the express approval, in writing, of a stipendiary magistrate for the Territories, or of a judge of some court of record for the place where the homestead is situate, of the transfer thereof; and any devise thereof by such owner shall only take effect subject to the provisions hereinafter made. 41 V., c. 15, s. 4.

Provision in case of agreement with a

8. If any creditor, assignee in insolvency or other person representing the creditors of the registered owner of a home-

stead exempted from liability for the debt claimed, is of opinion that the homestead is of greater value than two thousand dollars, such owner, if he is married, may, with the written consent of his wife, agree upon a value with such creditor, assignee or representative of creditors, and upon the portion of the homestead which represents the excess of such value over two thousand dollars, and which can be conveniently set off and divided from the remainder,—and, in case of such agreement, such proportion only shall be sold in satisfaction as aforesaid: but if they do not agree upon such value and portion, the whole homestead shall be liable to be sold in satisfaction as aforesaid, upon payment of the sum of two thousand dollars by the creditor, assignee or person representing creditors to the registered owner, with the written consent of his wife, unless her estate has been forfeited,—or, if she does not give her consent, then into some Government savings bank, to be drawn out only on the written order of such owner and his wife, or of the survivor of them, and with the same exemptions from liability for debts as applied to the homestead:

creditor who thinks the homestead worth more than \$2,000.

If there is no such agreement.

2. Upon the death of the registered owner, the homestead, if held in fee simple, may be sold in satisfaction of his debts as aforesaid, subject to the rights of his widow and minor children or child therein. 41 V., c. 15, s. 6.

If the owner is dead.

9. The instrument by which the registrar is required to register a homestead shall be in the form B in the schedule to this Act, or to the like effect, and the truth of the statements therein made shall be declared to before a justice of the peace, who shall attest the same; and the allegations made in such instrument by the applicant for registration, shall be verified upon oath or solemn declaration by at least one credible witness, whose affidavit or declaration shall be appended to or indorsed upon the requisition for a homestead registration, and shall be in the form C in the schedule to this Act:

Application for registration and affidavit in support thereof.

2. Any wilfully false statement so declared to by the applicant for registration, or sworn or declared to by the witness, or any fraud committed for the purpose of obtaining such registration, shall make the registration void and of no effect. 41 V., c. 15, s. 7, *part*.

False statement or fraud to annul registration.

10. Whenever all the lands embraced in any certificate of title granted are registered as a homestead, the registrar shall make an entry in the register book and upon the certificate of title, in the words "*registered as a homestead*," giving the date, hour and minute when the application for registration was filed; and if the proprietor of any land exceeding eighty acres in extent registers a part of such

Entry of homestead right on certificate of registrar.

If the land extends to more than eighty acres. land as a homestead, a description of the part to be registered, with a diagram thereof, shall be entered in the register book and on the certificate of title. 41 V., c. 15, s. 8.

Right of widow when husband dies intestate. **11.** If the husband dies intestate, his widow may retain either her life estate in the homestead, or the share of her husband's property which descends to her by the law of the Territories relating thereto, but not both. 41 V., c. 15, s. 9.

And if the husband leaves a will. **12.** If the husband dies testate, his widow may take that share of her husband's estate to which she is entitled by descent,—or the property devised to her,—or her life estate in the homestead,—but not more than one of them; and if she elects to take by descent or by devise, she shall notify the registrar of the registration district in which the homestead lands are situate, in the form D in the schedule to this Act, or as near thereto as may be; and the registrar shall recall the certificate of title, and shall cancel the homestead estate registration upon the certificate of title and in the register book, giving the date, hour and minute of such cancellation. 41 V., c. 15, s. 10.

Homestead rights on wife's lands. **13.** All the provisions of this Act shall apply to lands of which a woman is the owner, and on which she resides; and the husband may acquire the same rights in the lands of the wife, by registration effected by her under this Act, as the wife acquires in the lands of the husband, by registration effected by him; and subject to the same conditions and rights of her minor child or children. 41 V., c. 15, s. 11.

Governor in Council may amend schedules. **14.** The Governor in Council may, from time to time, make such alterations in or additions to the schedules of this Act as the system of registration for the time being renders necessary; but any alterations or additions so made shall be published in the *Canada Gazette*. 41 V., c. 15, s. 12.

SCHEDULE OF FORMS.

FORM A.

AFFIDAVIT OR DECLARATION OF MARRIAGE.

I, A. B., of township _____, range _____, in the Territories or Province of _____, make oath (or solemn declaration) and say that I was married to C. D., at _____, on the _____ day of _____ A.D. 18____, who is now living, and who is _____ years of age.

A. B.

Sworn or declared before me.

E. F.

(*Legal additions.*)

On the _____ day of _____
in the year 18____.

FORM B.

REQUISITION TO REGISTER AS A HOMESTEAD.

To the Registrar of

Take notice that I hereby require you to register, as a homestead, under "*The Homestead Exemption Act*," the property hereinafter mentioned, of which I am the owner in fee simple (or for life)—that is to say:—(here describe the property clearly, its location, boundaries, extent, &c.) now occupied by me, and on which there is a dwelling-house in which I (or I and my wife H.B.) now reside; and I solemnly declare that the value of the said property (or of my life estate therein) does not, to the best of my knowledge and belief, exceed two thousand dollars.

In faith whereof I have signed this notice and have declared solemnly to the truth of the statements made therein,
at _____, in _____, this _____ day of _____ 18 .

A. B.

Declared to before me and signed }
by the said A.B., in my presence. }
C.D., of _____ &c. }
(Legal additions.)

On the _____ day of _____
in the year 18 .

FORM C.

AFFIDAVIT OR DECLARATION OF WITNESS TO REGISTRATION.

I, E.F., of township _____, range _____, make oath (or solemnly declare) and say:—That I know the above named A.B., that he (or she) is the person named as proprietor in the certificate of title to the said lands (or if the owner of a life estate, the person named in the encumbrance or in the transfer thereof, as the case may be); and that the value of the said property does not, to the best of my knowledge and belief, exceed two thousand dollars.

E. F.

Sworn (or declared) before me, and signed by the said E.F. in my presence.

C.D., of _____ &c.
(Legal additions.)

On the _____ day of _____
in the year 18 .

FORM D

APPLICATION TO HAVE HOMESTEAD CANCELLED.

To the Registrar of

Take notice that I, A.B., have elected, under the authority of "*The Homestead Exemption Act*," to take the property devised to me by my late husband, C.D., in his last will and testament, bearing date of (*here insert date of will—or the property which descends to me from my late husband who died—here insert date of husband's death*) in preference to my homestead estate in (*here describe the property clearly, its location, boundaries, &c.*)

In faith whereof I have signed this notice freely and without undue influence, on this day of ,
18 .

A. B.

Signed by the said A.B.,)
in my presence.)
C.D., of &c.)
(*Legal additions.*)

On the day of
in the year 18 .

41 V., c. 15, sch.

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 53.

An Act respecting the District of Keewatin.

A.D. 1886.

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

SHORT TITLE.

1. This Act may be cited as "*The Keewatin Act.*" Short title.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—
- (a.) The expression "District" means the District of Keewatin, as described in this Act; Interpretation.
"District."
 - (b.) The expression "Lieutenant Governor" means the Lieutenant Governor of the District of Keewatin; "Lieutenant Governor."
 - (c.) The expression "this Act" includes all Acts which apply to the 'District'; "This Act."
 - (d.) The expression "intoxicating liquor" means and includes all spirits, strong waters, spirituous liquors, wines, fermented or compounded liquors or intoxicating fluids; "Intoxicating liquor."
 - (e.) The expression "intoxicant" includes opium, or any preparation thereof, and any other intoxicating drug or substance, and tobacco or tea mixed, compounded or impregnated with opium, or with any other intoxicating drug, spirit or substance, and whether the same or any of them are liquid or solid. 38 V., c. 49, s. 74, *part*;—39 V., c. 21, s. 13. "Intoxicant."

BOUNDARIES.

3. All that portion of the North-West Territories of Canada which is bounded as follows, that is to say: beginning at the point of intersection of the northern boundary of the Province of Manitoba and the western shore of Lake Winnipeg; thence northerly, following the western shore of Lake Winnipeg and of the Nelson River to the point where the latter is intersected by the eighteenth correction line in the system of Dominion Lands Surveys; thence west along the said correction line to a point where the same would be intersected by a line drawn due north from the north end of the portage leading from the head of Lake Winnipegosis into Cedar Lake, known as the "Cedar" or "Mossy" portage; thence due north, to the northerly limits of Canada; thence easterly, following upon the said northerly

limits of Canada to the northerly extremity of Hudson's Bay; thence southerly, following upon the westerly shore of the said Hudson's Bay to the point where it would be intersected by a line drawn due north from a point where the westerly boundary of the Province of Ontario intersects the International boundary line dividing Canada from the United States; thence due south, to the said northerly boundary of the Province of Manitoba; thence westerly, along the said northerly boundary to the place of beginning—and which is now known as the District of Keewatin, shall continue to be a separate district of the North-West Territories of Canada, by the name of the District of Keewatin:

May be varied by Governor in Council.

2. Provided always, that the Governor in Council may, by proclamation published in the *Canada Gazette*, at any time when it appears to the public advantage so to do, detach any portion of the said District therefrom and re-annex it to that part of the North-West Territories of Canada not included in the said District; and the portion so detached shall then be subject to the same government and laws as that part of the North-West Territories of Canada to which it is re-annexed. 39 V., c. 21, s. 1;—40 V., c. 6, ss. 1 and 2, part;—Proclamation, 7th May, 1886.

GOVERNMENT.

Lieutenant Governor.

4. The Lieutenant Governor of the Province of Manitoba, or the person acting as such Lieutenant Governor, shall *ex-officio* be Lieutenant Governor of the District of Keewatin. 39 V., c. 21, s. 3.

Council and its powers.

5. The Governor in Council may constitute and appoint, by warrant under his sign manual, not more than ten and not less than five persons to be members of a Council to aid the Lieutenant Governor in the administration of the affairs of the District, and such Council shall have such powers as are, from time to time, conferred upon it by the Governor in Council. 39 V., c. 21, s. 4.

Certain powers may be conferred by the Governor in Council.

6. The Governor in Council may, subject to such restrictions and conditions as to him seem meet, authorize and empower the Lieutenant Governor, by and with the advice and consent of the Council appointed to aid him as aforesaid, to make provision for the administration of justice in the said District, and generally to make, ordain and establish all such laws, institutions and ordinances as he deems necessary for the peace, order and good government of Her Majesty's subjects and others therein, and, from time to time, to repeal, alter or amend the same in like manner; and any order of the Governor in Council, giving such authority to the Lieutenant Governor and his Council, shall be in force until repealed, altered or amended by the Governor in Council; but all such orders of the Governor in Council, and all laws and ordinances made by the Lieu-

Proviso.

tenant Governor, with the advice and consent of his Council, shall be subject to the provisions hereinafter made. 39 V., c. 21, s. 5.

7. Subject to the provisions of this Act, the Governor in Council may make laws for the peace, order and good government of the District, and of Her Majesty's subjects and others therein, in relation to all matters and subjects in relation to which the Lieutenant Governor and his Council are not then empowered to make laws, and for that purpose may either make new laws or extend and apply and declare applicable to the District, with such amendments and modifications as he deems necessary, any Act or Acts of the Parliament of Canada, not then in force in the District or any parts thereof, and, from time to time, amend or repeal any laws so made and make others in their stead:

Governor in Council may make certain laws.

2. The powers given in this Act to the Governor in Council, with respect to Acts of the Parliament of Canada, shall belong also to the Lieutenant Governor and his Council, with respect to the subjects and matters in relation to which they are empowered to make laws, and shall extend to the modification, amendment or repeal, as to the District, of any Act of the Parliament of Canada which applies to the District, and to the vesting in any judge or judges of any court or courts in Manitoba, the power of hearing and determining in that Province, either in the first instance or in appeal, (but according to the laws in force in the District), any civil or criminal suit or case arising therein; and the Lieutenant Governor may appoint justices of the peace and such other officers as are necessary for administering the laws in force in the District:

Power to modify certain Acts extended to the District.

3. No such law made either by the Governor in Council or by the Lieutenant Governor and his Council, shall,—

Restrictions as to such laws.

(a.) Be inconsistent with any provision of this Act or of any Act of the Parliament of Canada in force, referring to the said District; or—

(b.) Impose any tax or any duty of customs or excise, or any penalty exceeding one hundred dollars; or—

(c.) Alter or repeal the punishment provided in any Act in force in the District, for any offence; or—

(d.) Appropriate any public money, lands or property of Canada, without the authority of Parliament:

4. A copy of every such law made by the Lieutenant Governor and his Council shall be transmitted by mail to the Governor in Council, within ten days after the passing thereof, and any such law may be disallowed by the Governor in Council at any time within two years after its passing; a copy of every law so made by the Governor in Council, and of every law so made by the Lieutenant Governor and his Council, shall be laid before both Houses of Parliament as soon as conveniently may be after the making and passing thereof. 39 V., c. 21, ss. 6 and 7, part.

Copies to be transmitted to the Governor in Council.

And laid before Parliament.

WILLS.

8. Every person may devise, bequeath or dispose of, by will, executed in manner hereinafter mentioned, all real property and personal property to which he is entitled, either at law or in equity, at the time of his death, and which, if not so devised, bequeathed or disposed of, would devolve upon his heir at law, or upon his executor or administrator. 38 V., c. 49, s. 38.

9. No will made by any person under the age of twenty-one years shall be valid. 38 V., c. 49, s. 39.

10. No will shall be valid unless it is in writing, and executed in manner hereinafter mentioned, that is to say: it shall be signed at the foot or end thereof by the testator, or by some other person in his presence, and by his direction; and such signature shall be made or acknowledged by the testator in the presence of two or more witnesses, present at the same time; and such witnesses shall attest and shall subscribe the will in the presence of the testator—but no form of attestation shall be necessary. 38 V., c. 49, s. 40.

11. Every will executed in manner hereinbefore required, shall be valid without any other publication thereof. 38 V., c. 49, s. 41.

12. If any person who attests the execution of a will is, at the time of the execution thereof, or at any time afterwards, incompetent to be admitted as a witness to prove the execution thereof, such will shall not, on that account, be invalid. 38 V., c. 49, s. 42.

13. No person shall, on account of his being an executor of a will, be incompetent to be admitted as a witness to prove the execution of such will, or as a witness to prove the validity or invalidity thereof. 38 V., c. 49, s. 43.

14. If any person attests the execution of any will, to whom, or to whose wife or husband, any beneficial devise or legacy affecting any real or personal property, other than a charge for payment of a debt, is thereby given—such devise or legacy shall, so far only as concerns such person attesting the execution of such will, or the wife or husband of such person, or any person claiming under such person, wife or husband, be null and void; and such person so attesting shall be admitted to prove the execution of such will, or the validity or invalidity of such will, notwithstanding such devise or legacy. 38 V., c. 49, s. 44.

15. No will or codicil, or any part thereof, shall be re-
voked, otherwise than by marriage or by another will or
codicil executed in manner hereinbefore required,—or by
some writing declaring an intention to revoke the same,
and executed in the manner in which a will is hereinbefore
required to be executed,—or by the burning, tearing or other-
wise destroying the same, by the testator, or by some person
in his presence and by his direction, with the intention of
revoking the same. 38 V., c. 49, s. 45.

Revocation of
wills and
codicils.

16. Every will shall be construed, with reference to the
real and personal property comprised in it, to speak and take
effect as if it had been executed immediately before the
death of the testator, unless a contrary intention appears by
the will. 38 V., c. 49, s. 46.

How wills
shall be con-
strued.

17. If any real property is devised to any person without
any words of limitation, such devise shall be construed to
pass the fee simple, or other the whole estate or interest
which the testator had power to dispose of by will, in such
real property, unless a contrary intention appears by the will.
38 V., c. 49, s. 47.

When no
limitation, fee
simple to
pass.

MARRIED WOMEN.

18. All the wages and personal earnings of a married
woman, and any acquisitions therefrom, and all proceeds or
profits from any occupation or trade which she carries on
separately from her husband, or derived from any literary,
artistic or scientific skill, and all investments of such wages,
earnings, moneys or property, shall be free from the debts
or dispositions of the husband, and shall be held and en-
joyed by such married woman, and disposed of without her
husband's consent, as fully as if she were a *feme sole*; and
no order for protection shall be necessary in respect of any
such earnings or acquisitions; and the possession, whether
actual or constructive, of the husband, of any personal
property of any married woman, shall not render the same
liable for his debt. 38 V., c. 49, s. 49.

Earnings of
married
woman to be
her own.

No order for
protection
necessary.

19. A married woman may make deposits of money in
her own name in any savings or other bank, and withdraw
the same by her own cheque; and any receipt or acquittance
of such depositor shall be a sufficient discharge to any such
bank. 38 V., c. 49, s. 50.

Deposits in
banks.

20. Nothing hereinbefore contained in reference to moneys
deposited, or investments by any married woman, shall, as
against any creditor of the husband, give validity to any
deposit or investment of moneys of the husband made in
fraud of such creditors; and any money so deposited or in-
vested may be followed as if this Act had not passed. 38 V.,
c. 49, s. 51.

Fraudulent
investment
invalid.

Liabilities for debts contracted before marriage.

21. A husband shall not, by reason of any marriage, be liable for the debts of his wife contracted before marriage ; but the wife shall be liable to be sued therefor, and any property belonging to her for her separate use shall be liable to satisfy such debts as if she had continued unmarried ; and a husband shall not be liable for any debts of his wife in respect of any employment or business in which she is engaged on her own behalf, or in respect of any of her own contracts. 38 V., c. 49, s. 52.

Suits by and against a married woman.

22. A married woman may maintain an action in her own name for the recovery of any wages, earnings, money or property declared by this Act, or which is hereafter declared to be her separate property, and shall have, in her own name, the same remedies, both civil and criminal, against all persons whomsoever for the protection and security of such wages, earnings, money and property, and of any chattels or other her separate property, for her own use, as if such wages, earnings, money, chattels and property belonged to her as an unmarried woman ; and any married woman may be sued or proceeded against, separately from her husband, in respect of any of her separate debts, engagements, contracts or torts, as if she were unmarried. 38 V., c. 49, s. 53.

ADMINISTRATION OF JUSTICE.

Appointment of justices of the peace, &c.

23. The Lieutenant Governor may appoint justices of the peace and such other officers as are necessary for the administration of the laws in force in the District. 39 V., c. 21, s. 7, *part*.

Stipendiary magistrates.

24. The Governor in Council may, from time to time, appoint, by commission under the Great Seal, one or more fit and proper persons as stipendiary magistrates within the District, who shall reside at such places as are prescribed by the Governor in Council ; and the Governor in Council shall assign to any such stipendiary magistrate a yearly salary, not exceeding three thousand dollars, together with his actual travelling expenses. 36 V., c. 35, s. 1.

Their powers.

25. Every such stipendiary magistrate shall hold office during pleasure,—and shall have and exercise within the District, or within such limited portion of the same as is prescribed by the Governor in Council, the powers appertaining to any justice of the peace, or to any two justices of the peace, under any laws or ordinances which are, from time to time, in force in the District. 36 V., c. 35, s. 2.

As to criminal matters.

26. Any such stipendiary magistrate shall have power to hear and determine, in a summary way and without the intervention of a jury, any charge against any person for

having committed in the District any of the offences following, that is to say:—

(a.) Simple larceny, larceny from the person, embezzlement, or obtaining money or property by false pretences, or feloniously receiving stolen property, in any case in which the value of the whole property alleged to have been stolen, embezzled, obtained or received, does not, in the opinion of such stipendiary magistrate, exceed one hundred dollars; or—

Larceny, &c

(b.) Attempting to commit larceny from the person, or simple larceny; or—

Attempt to commit larceny.

(c.) Aggravated assault, by unlawfully and maliciously inflicting upon any other person, either with or without a weapon or instrument, any grievous bodily harm, or by unlawfully and maliciously wounding any other person; or—

Aggravated assault.

(d.) Assault upon any female whomsoever, or upon any male child whose age does not, in the opinion of the magistrate, exceed fourteen years, where such assault, if upon a female, does not, in his opinion, amount to an assault with intent to commit a rape; or—

Assault on a female, &c.

(e.) Assaulting, obstructing, molesting or hindering any stipendiary magistrate, justice of the peace, commissioner or superintendent of police, a policeman, constable or bailiff, or officer of customs or excise, or other officer, in the lawful performance of his duty, or with intent to prevent the performance thereof:

Assaulting, &c., officers.

2. Upon any such conviction by a stipendiary magistrate, the person so convicted may be sentenced to such punishment as the magistrate thinks fit, by imprisonment for any term less than two years, in any gaol or place of confinement, with or without hard labor, or by fine, or by both fine and imprisonment. 36 V., c. 35, s. 3.

Punishment.

27. When the maximum punishment for a crime which cannot be tried in a summary way under the section next preceding, or under any provision of the criminal law, does not exceed seven years' imprisonment, any such stipendiary magistrate—if the accused assents thereto—may try, in a summary way and without the intervention of a jury, any charge against any person or persons for any such crime; but if the accused does not so consent, the trial shall be had as provided in the next following sub-section:

Trial without jury in certain cases.

2. When the maximum punishment for a crime, other than punishment by death, exceeds seven years' imprisonment, any such stipendiary magistrate and a justice of the peace, with the intervention of a jury of six, may try any charge against any person or persons for any such crime:

Trial by jury of six.

3. When the punishment for a crime is death, any such stipendiary magistrate and two justices of the peace, with the intervention of a jury of six, may try any charge against any person or persons for any such crime:

When the crime is capital.

4. The procedure upon trials under the two sub-sections next preceding shall, as far as possible, be similar to the

Procedure in such cases.

procedure upon summary trials ; but the stipendiary magistrate shall, upon every such trial, take, or cause to be taken, in writing, full notes of the evidence and other proceedings thereat and all persons tried under the said sub-sections, shall be admitted, after the close of the case for the prosecution, to make full answer and defence by counsel learned in the law :

Death sentence to be reported.

5. When any person is convicted of a capital offence, and is sentenced to death, the stipendiary magistrate shall forward to the Minister of Justice full notes of the evidence, with his report upon the case, and the execution shall be stayed until such report is received and the pleasure of the Governor General thereon is communicated to the Lieutenant Governor :

Stay of execution.

Summoning jurors.

6. In default of any ordinance in that behalf made under this section, persons required as jurors for a trial under sub-sections two and three hereof, shall be summoned by a stipendiary magistrate from among such male persons as he thinks suitable in that behalf ; and the jury required on such trials shall be called from among the persons so summoned as such jurors, and shall be sworn by the stipendiary magistrate who presides at the trial :

Peremptory challenges by prisoner.

7. Any person arraigned for treason or felony may challenge, peremptorily and without cause, any number of jurors not exceeding six :

Void beyond six.

(a.) Every peremptory challenge beyond the number so allowed shall be void ;

By the Crown.

(b.) The Crown may peremptorily challenge any number of jurors not exceeding six ;

Challenges for cause.

(c.) Challenges for cause shall be the same as provided for under the "*Act respecting procedure in criminal cases*" ;

If list of jurors is exhausted.

(d.) If, from challenge or otherwise, the number of jurors summoned for the trial is exhausted, the stipendiary magistrate shall direct some constable or other person to summon, by word of mouth, from among the bystanders or from the neighborhood, such number of persons as are necessary to make up a jury,—the persons so summoned being subject to challenge as those summoned by the magistrate in the first instance ; and the like proceedings shall be repeated, if necessary, until a jury is obtained, competent to try the case ; and any person summoned, as herein provided, to serve as a juror, and who makes default or refuses to serve as such without lawful excuse to the satisfaction of the magistrate, may be fined by him a sum not exceeding ten dollars, and committed to prison until such fine is paid :

Tales.

Fine for non-attendance.

When imprisonment for two years or more is awarded.

8. If imprisonment in gaol for a term of not less than two years, or in the penitentiary, is awarded in any case, the prisoner may be ordered to be imprisoned in the District or to be conveyed to the penitentiary in the Province of Manitoba ; in which latter case he shall undergo such punishment therein as if convicted in the Province of

Manitoba, and shall be so conveyed by any constable or constables, and received and detained therein by the authorities of the penitentiary on the warrant of the stipendiary magistrate :

9. The Lieutenant Governor in Council may, from time to time, make any ordinance in respect to the mode of calling juries, and when, and by whom, and how they may be summoned or taken, and in respect of all matters relating to the same ; but no grand jury shall be called in the District :

Jury laws may be made.

No grand jury.

10. Returns of all trials and proceedings, in criminal matters, shall be made to the Lieutenant Governor, in such form and at such times as he directs. 40 V., c. 7, s. 7, *part*, and s. 12, *part*.

Returns to be made.

28. Every judge of the Supreme Court of the North-West Territories, shall have the same power and authority for trying offences in the District as if he had been appointed a stipendiary magistrate under this Act. 40 V., c. 7, s. 12, *part* ; —49 V., c. 25, s. 30.

Powers of Stipendiary Magistrates for N. W. T.

29. Any two stipendiary magistrates sitting together as a court, shall have power and authority to hear and determine within the District, in a summary way and without the intervention of any grand or petty jury, any charge against any person for an offence alleged to have been committed within the District, and the maximum punishment for which does not exceed seven years' imprisonment ; and such court shall be a court of record ; and if imprisonment in a penitentiary is awarded in any such case, the court may cause the prisoner to be conveyed to the penitentiary in the Province of Manitoba ; and he shall undergo such punishment therein as if convicted in the Province of Manitoba. 36 V., c. 35, s. 4, *part*.

Powers of two stipendiary magistrates sitting together.

30. Any judge of the Court of Queen's Bench of the Province of Manitoba shall have the same power and authority for trying offences in the District as, under this Act, a stipendiary magistrate or two stipendiary magistrates, or a stipendiary magistrate and two justices of the peace have in the District, and the provisions herein made as to trials shall, so far as applicable, apply to trials before such judge sitting in the District ; but no such judge shall proceed to any such trial unless requested by the Governor in Council so to do. 40 V., c. 7, s. 12, *part*.

Powers of certain judges.

31. Any judge of the Court of Queen's Bench of the Province of Manitoba, or any justice of the peace, or any stipendiary magistrate, shall have power and authority to commit and cause to be conveyed to gaol in the Province of Manitoba, for trial by the said Court of Queen's Bench, according to the laws of criminal procedure in force in

Certain offenders may be sent to Manitoba for trial.

And may be
tried and
punished
there.

the said Province, any person at any time charged with the commission of any offence against any of the laws or ordinances in force in the District, punishable by death or by imprisonment in the penitentiary; and the said Court of Queen's Bench, and any judge thereof, shall have power and authority to try any person arraigned before the said court on any such charge; and the jury laws and laws of criminal procedure in force in the said Province shall apply to any such trial; except that the punishment to be awarded, upon the conviction of any such person, shall be according to the laws in force in the District; and the sentence may be carried into effect in a penitentiary or other place of confinement in the said Province, as if the same was in the District. 36 V., c. 35, s. 5.

Conveyance
of prisoners.

32. Whenever, under this Act, any prisoner or accused person is ordered to be conveyed to gaol or to the penitentiary in Manitoba, any constable or other person in whose charge he is to be so conveyed shall have the same power to hold and convey him, or to re-take him in case of an escape, and the gaoler or warden of the penitentiary in Manitoba shall have the same power to detain and deal with him, in the said Province, as if it was within the District, or as if the said prisoner or accused person had been ordered to be conveyed to such gaol or penitentiary by some competent court or authority in the said Province. 36 V., c. 35, s. 6.

Custody by
N. W. M.
police where
there is no
gaol.

33. When it is impossible or inconvenient, on account of the absence or remoteness of any gaol or other place of confinement, to carry out any sentence of imprisonment, any judge of the Court of Queen's Bench of Manitoba, or any two stipendiary magistrates sitting together as a court, or any stipendiary magistrate or justice of the peace, may sentence such person, so convicted before him or them, to be placed and kept in the custody of the North-West Mounted Police force, with or without hard labor—the nature and extent of which shall be determined by the judge or stipendiary magistrates, or stipendiary magistrate or justice of the peace, by or before whom such person was convicted. 36 V., c. 35, s. 7.

Places of
detention may
be erected.

34. The Governor in Council may cause to be erected in any part or parts of the District, any building or buildings, or enclosure or enclosures, for the purposes of the gaol or lock-up, for the confinement of prisoners charged with the commission of any offence or sentenced to any punishment therein; and confinement or imprisonment therein shall be lawful and valid. 36 V., c. 35, s. 8.

PROHIBITION OF INTOXICANTS.

No intoxi-
cant to be
manufac-

35. No intoxicating liquor or other intoxicant shall be manufactured or made in the said District, except by special

permission of the Governor in Council,—nor shall any intoxicating liquor or intoxicant be imported or brought into the District from any Province of Canada, or elsewhere, or be sold, exchanged, traded or bartered, except by special permission, in writing, of the Lieutenant Governor. 38 V., c. 49, s. 74, *part*.

tured, &c.,
without per-
mission.

36. Intoxicating liquors and intoxicants imported or brought from any place out of Canada into the District, by special permission, in writing, of the Lieutenant Governor, shall be subject to the customs and excise laws of Canada. 40 V., c. 7, s. 9, *part*.

Customs and
excise laws
to apply.

37. If any such intoxicating liquor or intoxicant is manufactured or made in the District, or imported or brought into the same, or is sold, exchanged, traded or bartered, in violation of this Act, it shall be forfeited, and may be seized by any officer of the customs or excise, or by any constable or other duly qualified person wheresoever found; and, on complaint made before him, any judge, stipendiary magistrate or justice of the peace, may, on the evidence of one credible witness that any of the provisions of this Act have been violated in respect thereof, order the said intoxicating liquor or intoxicant so seized to be forthwith destroyed; or if the same has not been seized, such judge, stipendiary magistrate or justice of the peace, on complaint as aforesaid, may issue a search warrant, as in cases of stolen goods under the "*Act respecting procedure in Criminal Cases*," and when the same is found, may cause it to be forthwith destroyed; and the still, machinery, keg, barrel, case, box, package or receptacle whence or in which any intoxicating liquor or intoxicant has been manufactured, imported or made, sold, exchanged, traded or bartered, and as well that in which the original supply was contained as the vessel wherein any portion of such original supply was supplied as aforesaid, and the remainder of the contents thereof, if such still, machinery, barrel, keg, case, box, package, receptacle or vessel aforesaid, respectively, can be identified, may be seized by any officer of the customs or excise, or by any constable or other duly qualified person, wheresoever found within the District; and, on complaint before any judge, stipendiary magistrate or justice of the peace, he may, on the evidence of any credible witness that any of the provisions of this Act have been violated in respect thereof, declare such intoxicating liquor or intoxicant, still, machinery, vessel or receptacle forfeited, and cause the same to be forthwith destroyed: and the person in whose possession any of them is found shall incur a penalty not exceeding one hundred dollars, and not less than fifty dollars, and the costs of prosecution; and a moiety of such penalty shall belong to the informer, and the other moiety

Forfeiture of
intoxicant
unlawfully
manufactured, &c.

Search war-
rant may be
issued.

Intoxicant,
still, ma-
chinery and
receptacle
may be seized.

Penalty and
application
thereof.

shall belong to Her Majesty for the public uses of Canada. 38 V., c. 49, s. 74, *part.*

Penalty for manufacturing, &c.

38. Every person who manufactures, makes, imports, sells, exchanges, trades or barter any intoxicating liquor or intoxicant, except by special permission as aforesaid, or in whose possession or on whose premises such intoxicating liquor or intoxicant of any kind is found, shall incur a penalty not exceeding two hundred dollars and not less than fifty dollars,—a moiety of which penalty shall belong to the informer. 38 V., c. 49, s. 74, *part.*

Penalty for having articles exchanged for in toxicants in possession.

39. Every person who knowingly has in his possession any article, chattel, commodity or thing purchased, acquired, exchanged, traded or bartered, either wholly or in part, for any intoxicating liquor or intoxicant, shall, for each offence, incur a penalty not exceeding two hundred dollars and not less than fifty dollars,—a moiety of which penalty shall belong to the informer. 38 V., c. 49, s. 74, *part.*

Forfeiture of things accessory to offence.

40. Every article, chattel, commodity or thing, in the purchase, acquisition, exchange, trade or barter of which the consideration, either wholly or in part, is any intoxicating liquor or intoxicant, shall be forfeited to Her Majesty, and shall be seized as hereinbefore provided in respect to any receptacle of any intoxicating liquor or intoxicant. 38 V., c. 49, s. 74, *part.*

Penalty for refusing to assist officer, &c.

41. Every person who refuses or neglects to aid any constable, sub-constable or other duly authorized person, in the execution of any act or duty required under any of the six sections next preceding, or who knowingly refuses to give information, or gives false information in respect to any matter arising therefrom, shall incur a penalty not exceeding two hundred dollars and not less than fifty dollars,—a moiety of which penalty shall belong to the informer. 38 V., c. 49, s. 74, *part.*

Recovery of penalties.

42. Every penalty incurred under any of the seven sections next preceding shall be recoverable, with costs of prosecution, by summary conviction, on the evidence of one credible witness, before any judge, stipendiary magistrate or justice of the peace having jurisdiction in the District; and such judge, stipendiary magistrate or justice of the peace shall, on payment of the penalty, pay the informer his share thereof; and in case of non-payment of the penalty and costs immediately after conviction, the convicting judge, magistrate or justice may, in his discretion, levy the same by distress and sale, or commit the person so convicted and making default in payment of the said penalty and costs to any common gaol or house of correction or lock-up house within the District, for a term not exceeding six

Imprisonment in default of payment.

months, unless the said penalty and costs are sooner paid; and upon conviction for a subsequent offence, the offender shall be liable to a penalty not exceeding four hundred dollars and not less than two hundred dollars, and, in the discretion of the convicting judge, magistrate or justice, to imprisonment for a term not exceeding six months. 38 V., c. 49, s. 74, *part*.

Penalty for subsequent offence.

43. No seizure, prosecution, conviction or commitment under this Act shall be invalid for want of form, so long as the same is according to the true intent and meaning of this Act. 38 V., c. 49, s. 74, *part*.

Want of form not to invalidate.

INSANE PERSONS.

44. The Lieutenant Governor of the Province of Manitoba may cause any insane person who came from the District and who was confined in a temporary lunatic asylum on the twentieth day of July, one thousand eight hundred and eighty-five, to be removed to the Manitoba lunatic asylum; and the superintendent of the said asylum or the superintendent of such temporary lunatic asylum, as the case may be, shall detain every such person committed to his keeping until the pleasure of the Lieutenant Governor is known, or until such person is discharged by law. 48-49 V., c. 51, s. 12, *part*. O. C. 15th Sept., 1885.

Removal and confinement of lunatics.

GENERAL PROVISIONS.

45. Whenever in any Act of the Parliament of Canada in force in the District, any officer is designated for carrying out any duty therein mentioned, and there is no such officer in the District, the Lieutenant Governor in Council may order by what other person or officer such duty shall be performed; and anything done by such person or officer, under such order, shall be valid and legal in the premises; or if it is, in any such Act, ordered that any document or thing shall be transmitted to any officer, court, territorial division or place, and there is in the District no such officer, court or territorial division or place, then the Lieutenant Governor in Council may order to what officer, court or place such transmission shall be made, or may dispense with the transmission thereof. 36 V., c. 35, s. 9.

Provision when there are no such officers as are designated in Act of Parliament.

46. Any copy of any law made by the Governor in Council, or by the Lieutenant Governor and his Council, printed in the *Canada Gazette*, or by the Queen's Printer, or the printer to the Government of Manitoba, at Winnipeg, shall be *primâ facie* evidence of such law and of its being in force. 39 V., c. 21, s. 7, *part*.

Evidence of laws.

Application of
Acts of Par-
liament to the
District.

47. Every Act of the Parliament of Canada, except in so far as otherwise provided in any such Act, and except in so far as the same is by its terms applicable only to one or more of the Provinces of Canada, or in so far as any such Act is for any reason inapplicable to the District, shall, subject to the provisions of this Act, apply and be in force in the District. 39 V., c. 21, s. 11, *part.*

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 54.

An Act respecting Public Lands.

A.D. 1886.

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

SHORT TITLE.

1. This Act may be cited as "*The Dominion Lands Act.*" Short title. 46 V., c. 17, s. 1, part.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—
- (a.) The expression "Minister" means the Minister of the Interior; Interpretation. "Minister."
- (b.) The expression "Surveyor General" means the officer of the Department of the Interior who bears that designation, or the chief clerk performing his duties for the time being; "Surveyor General."
- (c.) The expression "agent" or "officer" means any person or officer employed in connection with the administration and management, sale or settlement of Dominion lands; the expression "local agent" means the agent for Dominion lands employed as aforesaid, with respect to the lands in question; and the expression "land office" means the office of any such agent; "Agent" or "Officer." "Local Agent."
- (d.) The expression "Dominion Land Surveyor" means a surveyor duly authorized, under the provisions of this Act, to survey Dominion lands; "Dominion Land Surveyor."
- (e.) The expression "Crown Timber Agent" means the local officer appointed to collect dues and to perform such other duties as are assigned to such officer, in respect to the timber on Dominion lands; "Crown Timber agent."
- (f.) The expression "clause" means a section of this Act, or of any Act herein cited, distinguished by a separate number; and the expression "sub-clause" means a sub-division of any clause distinguished by a separate number or letter in smaller type; "Clause." "Sub-clause."
- (g.) The expression "Dominion Lands" means any lands to which this Act applies; "Dominion Lands."
- (h.) The expression "pre-emption entry" means the entering on the books of a local agent of a preferential claim to entry. "Pre-emption entry."

acquire by purchase, in connection with a homestead entry, and on becoming entitled to a patent for the homestead, a quarter section, or a part of a quarter section of land adjoining such homestead; and the expression "pre-emption right" means the right of obtaining a patent for such quarter section, or part of a quarter section, on the said condition and on payment of the price fixed by the Governor in Council at the time of entry in the class of lands in which such pre-emption is comprised, in respect of land subject to pre-emption entry. 46 V., c. 17, s. 1, *part.*

APPLICATION OF ACT.

Application of Act.

3. Except as provided by any other Act of the Parliament of Canada, this Act applies exclusively to the public lands included in Manitoba and the several territories of Canada. 46 V., c. 17, s. 1, *part.*

As to lands still under Indian title.

4. None of the provisions of this Act shall apply to territory the Indian title to which is not extinguished. 46 V., c. 17, s. 3.

ADMINISTRATION.

Administration and management. How effected.

5. The Minister shall have the administration and management of the Dominion lands; and such administration and management shall be effected through a branch of the Department of the Interior, which shall be known and designated as "*The Dominion Lands Office.*" 46 V., c. 17, s. 2, *part.*

Governor in Council may appoint certain officers.

Their powers and duties.

6. The Governor in Council may appoint an officer who shall be styled "The Commissioner of Dominion Lands," an officer who shall be styled "The Inspector of Dominion Lands Agencies," and an officer who shall be styled "The Superintendent of Mines," and such officers shall respectively have the powers, not inconsistent with the provisions of this Act, and perform the duties that are, from time to time, conferred upon and assigned to them by order of the Governor in Council:

Dominion Lands Board may be established.

Composition and powers.

2. The Governor in Council may also establish a "Dominion Lands Board" to investigate and settle all disputed questions arising out of the duties imposed upon the commissioner of Dominion lands, the inspector of Dominion lands agencies, and the superintendent of mines, and all other matters connected with the administration of the Dominion lands system in Manitoba and the North-West Territories; and such Dominion lands board shall be composed of such persons, and shall have such powers and authority, not inconsistent with this Act, and shall perform such duties as the Governor in Council, from time to time, directs. 49 V., c. 27, s. 2, *part.*

7. No person employed in or under the Department of the Interior shall purchase any Dominion lands except under authority of the Governor in Council, or shall locate military or bounty land warrants, or land scrip, or act as agent of any other person in such behalf; and no person so employed shall disclose to any person, except his superior officer, any discovery made by him or by any other officer of the Department of the Interior, or any other information in his possession in relation to Dominion lands, until such discovery or information has been reported to the Minister of the Interior, and his permission for such disclosure has been obtained;

Employees of department not to purchase Dominion lands;

Or give information without permission of Minister.

2. Every person employed in the outside service of the Dominion lands branch of the Department of the Interior, who has not already done so, and every extra clerk employed in the said branch, who has not already done so, shall, and every person or extra clerk who is hereafter so employed, shall, before any salary is paid to him, take and subscribe the oath of allegiance, and also the oath of office prescribed by clause fifty-seven of "The Civil Service Act." 46 V., c. 17, s. 2, part;—49 V., c. 27, s. 2, part.

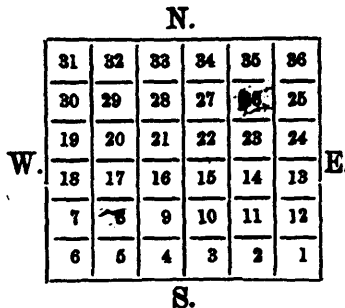
Employees in outside service of Dominion lands branch and extra clerks to take oaths of allegiance and office.

SURVEYS.

8. The Dominion lands shall be laid off in quadrilateral townships, each containing thirty-six sections of as nearly one mile square as the convergence of meridians permits, with such road allowances between sections, and of such width, as the Governor in Council prescribes;

System of survey. Townships.

2. The sections shall be bounded and numbered as shown by the following diagram :—



46 V., c. 17, s. 4.

9. The lines bounding townships on the east and west sides shall be meridians; and those on the north and south sides shall be chords to parallels of latitude. 46 V., c. 17, s. 5.

Lines bounding townships.

10. The townships shall be numbered, in regular order, northerly from the international boundary, or forty-ninth parallel of latitude, and shall lie in ranges numbered, in

How townships shall be numbered from principal meridian.

- Manitoba, east and west from a certain meridian line run in the year one thousand eight hundred and sixty-nine, styled the "principal meridian," drawn northerly from the forty-ninth parallel of north latitude at a point ten miles, or thereabouts, westerly from Pembina; and in ranges numbered from such other initial meridians throughout the North-West Territories as the Minister, in his direction of the land surveys, orders to be established:
- From other meridians.**
- Designation of meridians.** 2. Such meridians shall be styled the second, the third, the fourth meridian, and so on, according to their order in number westward from the principal meridian. 46 V., c. 17, s. 6.
- Width on base lines.** 11. Townships shall be given their prescribed width on the base lines hereinafter mentioned; and the meridians between townships shall be drawn across such bases, northward and southward, to the depth of two townships therefrom, that is to say, to the correction lines hereinafter mentioned. 46 V., c. 17, s. 7.
- Base lines of townships.** 12. The said forty-ninth parallel, or International boundary, shall be the first base line, or that for townships numbered one; the second base line shall be between townships four and five; the third between townships eight and nine; the fourth between townships twelve and thirteen; the fifth between townships sixteen and seventeen; and so on, northerly, in regular succession. 46 V., c. 17, s. 8.
- Correction lines.** 13. The correction lines, or those upon which the jog resulting from the convergence of meridians shall be allowed, shall be as follows, that is to say: on the line between townships two and three, on that between six and seven, on that between ten and eleven, and so on, that is to say: they will be those lines running east and west between townships and midway between the bases. 46 V., c. 17, s. 9.
- Divisions of a section.** 14. Each section shall be divided into quarter sections of one hundred and sixty acres, more or less, subject to the provisions hereinafter made. 46 V., c. 17, s. 10.
- Allowances for deficiency or surplus.** 15. In the survey of a township, the deficiency or surplus, resulting from convergence of meridians, shall be allowed in the range of quarter sections adjoining the west boundary of the township, and the north and south error in closing on the correction lines from the north or south shall be allowed in the ranges of quarter sections adjoining, and north or south respectively of the said correction lines; but the Governor in Council may order such deficiency or surplus, and such north and south error, or either of them, to be equally distributed among all the quarter sections involved. 46 V., c. 17, s. 11.
- Proviso.**

16. The dimensions and area of irregular quarter sections shall, in all cases, be returned by the surveyor at their actual measurements and contents. 46 V., c. 17, s. 12. Irregular quarter sections.

17. Every given portion of country proposed to be laid out for settlement shall, before it is sub-divided into townships and sections, be laid out into blocks of four townships each, by projecting the base and correction lines, and east and west meridian boundaries of each block: Blocks of four townships to be first laid out.

2. On such lines, at the time of the survey, all township, section and quarter section corners shall be marked, and such corners shall govern, respectively, in the subsequent sub-division of the block. 46 V., c. 17, s. 13. Corners to be marked.

18. Except as hereinafter provided, only a single row of posts or monuments, to indicate the corners of townships or sections, shall be placed on any survey line thereof; such posts or monuments shall, on north and south lines, be placed in the west limit of the road allowances, and on the east and west lines, in the south limit of road allowances, and in all cases shall fix and govern the position of the boundary corner between the adjoining townships, sections, or quarter sections, on the opposite side of the road allowance: Posts and monuments at corners.

2. In the case of township, section and quarter section corners on correction lines, posts or monuments shall, in all cases, be planted and marked independently for the townships on either side; those for the townships north of the line, in the north limit of the road allowance, and those for the townships south of the line, in the south limit. 46 V., c. 17, s. 14. As to corners on correction lines.

19. The township sub-division surveys of Dominion lands, according to the system above described, shall be performed under contract at a certain rate per township, per mile, or per acre, fixed, from time to time, by the Governor in Council, or by competitive tender, as the Governor in Council, from time to time, directs: Surveys to be given out by contract or tender.

2. In special cases, where circumstances render it advisable to effect otherwise the survey of a township or townships, the Governor in Council may order the same to be done. 46 V., c. 17, s. 15. Exception.

20. To facilitate the description for letters patent of less than a quarter section, every section shall be supposed to be divided into quarter quarter sections, or forty acres, and such quarter quarter sections shall be numbered as shown in the following diagram, which is intended to show such sub-divisions of a section, which shall be styled legal sub-divisions: Legal sub-division of townships.

N.

	13	14	15	16	
W.	12	11	10	9	E.
	5	6	7	8	
	4	3	2	1	

S.

Areas to be more or less.

2. The area of any legal sub-division as above set forth shall, in letters patent, be held to be mole d shall, in each case, be represented by the exact quantity as given to such sub-division in the original survey. 46 V., c. 17, s. 16.

As to laying out and describing lands in certain sections

21. Nothing in this Act shall be construed to prevent the lands upon the Red and Assiniboine Rivers, surrendered by the Indians to the late Earl of Selkirk, from being laid out in such manner as is necessary in order to carry out the provisions of section two of the "*Act respecting certain claims to lands in the Province of Manitoba*," or to prevent fractional sections or lands bordering on any river, or lake, or other water course, or on a public road, from being laid out and divided into lots of any certain frontage or depth, in such manner as appears desirable, or to prevent the sub-division of sections or other legal sub-divisions into wood lots as hereinafter provided, or the describing of the said lands upon the Red and Assiniboine Rivers, or such sub-divisions of fractional sections or lands bordering as above, or other lots, or wood lots, for patent, by numbers according to a plan of record, or by metes and bounds, or by both, as seems expedient. 46 V., c. 17, s. 17.

DISPOSAL OF DOMINION LANDS.

Lands Reserved by the Hudson's Bay Company.

Certain sections and parts of sections in certain townships to be Hudson's Bay Company's lands.

22. In every fifth township in the territory surrendered to the Crown by the Hudson's Bay Company, and described and designated as the "fertile belt," that is to say: in those townships numbered five, ten, fifteen, twenty, twenty-five, thirty, thirty-five, forty, forty-five, fifty, and so on in regular succession northerly from the International boundary, the whole of sections numbers eight and twenty-six, and in each and every of the other townships, the whole of section number eight, and the south half and north-west quarter of section number twenty-six, except in the cases hereinafter provided for, shall be known and designated as the lands of the said company:

Company's lands in fractional townships.

2. The company's one-twentieth of the lands in fractional townships shall be satisfied out of one or other or both, as the case may be, of the sections numbers eight and twenty-six as above, in such fractional townships, and the allotment thereof shall be effected by the Minister and

the said company, or by some person duly authorized by them respectively :

3. If, when the survey of a township is effected, the sections so allotted, or any of them, or any portion of them, are found to have been *bond fide* settled on under the authority of any Order in Council, or of this Act, the company may, if it foregoes its right to the sections settled upon as aforesaid, or any one or more of such sections, select a quantity of land equal to that so settled on, and in lieu thereof, from any lands then unoccupied :

Company may select lands in lieu of any found settled upon by authority.

4. When the sections and parts of sections above mentioned, are situate in any township withdrawn from settlement and sale, and held as timber lands under the provisions hereinafter contained, the same shall form no part of the timber limit or limits included in such township, but shall be the property of the company :

Company's lands not to be included in timber limits.

5. One-twentieth of the revenue derived from timber limits granted in unsurveyed territory within the fertile belt, as hereinafter provided, shall, so long as the townships comprised in the same remain unsurveyed, be annually paid and accounted for to the company ; but such one-twentieth shall cease or be diminished in proportion as the townships comprised in such limits, or any of them, are surveyed ; and in such case the company shall receive their one-twentieth interest in the lands in such townships in sections eight and twenty-six, as hereinbefore provided :

Company to have one-twentieth of revenue from timber limits in unsurveyed lands in fertile belt.

6. If the said sections, or either of them, when surveyed as aforesaid, prove to have been denuded of timber by the lessee, to the extent of one-half or more, the company shall not be bound to accept such section or sections so denuded, and shall be entitled to select a section or sections of an equal extent, in lieu thereof, from any unoccupied lands in the township :

As to lands found denuded of timber.

7. As townships are surveyed, and the respective surveys thereof are confirmed, or as townships or parts of townships are set apart and reserved from sale as timber lands, the Governor of the company shall be duly notified thereof by the Minister, and thereupon this Act shall operate to pass the title in fee simple in the sections or three-quarter parts of sections to which the company is entitled under this clause, as aforesaid, and to vest the same in the company, without the issue of a patent for such lands ; and as regards the lands set apart by allotment, and those selected to satisfy the one-twentieth in townships other than the above, as provided in sub-clauses two and three of this clause, returns thereof shall be made in due course by the local agent or agents, to the Dominion lands office, and patents shall issue for the same accordingly. 46 V., c. 17, s. 18.

Title to lands to pass to company without patent in certain cases.

Issue of patents in other cases.

School Lands.

23. Sections eleven and twenty-nine in every surveyed township throughout the extent of the Dominion lands, are

Sections 11 and 29 in each

township set apart ; hereby set apart as an endowment for purposes of education, and shall be designated school lands ; and they are hereby withdrawn from the operation of the clauses of this Act, which relate to the sale of Dominion lands and to homestead rights therein ; and no right to purchase or to obtain homestead entry shall be recognized in connection with the said sections, or any part of them. 46 V., c. 17, s. 19.

And withdrawn from sale or homestead entry.

How to be administered. **24.** The school lands shall be administered by the Minister under the direction of the Governor in Council. 46 V., c. 17, s. 20, *part.*

Sale to be by public auction, and upset price.

25. All sales of school lands shall be at public auction, and an upset price shall be fixed, from time to time, by the Governor in Council ; but in no case shall such lands be put up at an upset price less than the fair value of corresponding unoccupied lands in the township in which such lands are situate :

Terms of payment. 2. The terms of sale of school lands shall be at least one-fifth in cash at the time of sale, and the remainder in four equal successive annual instalments, with interest at the rate of six per cent. per annum, which shall be paid with each instalment on the balance of purchase money, from time to time, remaining unpaid :

Investment of purchase moneys, and disposal of interest thereon. 3. All moneys, from time to time, realized from the sale of school lands shall be invested in securities of Canada, to form a school fund, and the interest arising therefrom, after deducting the cost of management, shall be paid annually to the Government of the Province or Territory within which such lands are situated, towards the support of public schools therein ; and the moneys so paid shall be distributed for that purpose by the Government of such Province or Territory in such manner as it deems expedient. 46 V., c. 17, s. 20, *part.*

Military Bounty Land Scrip.

Warrants instead of scrip for military services. **26.** In all cases in which land scrip has been earned, or is hereafter given by Canada, for military services, warrants therefor shall be granted in favor of the persons entitled thereto, by the Minister of Militia and Defence ; and such warrants shall be recorded in the Department of the Interior :

May be given in payment for lands. 2. Such warrants shall be received at the value shown upon their face, in payment for any Dominion lands open for sale ; but no greater area in any township than twenty per cent. of the land, exclusive of school and Hudson's Bay Company's lands, shall be open for entry by military bounty warrants :

Proviso. 3. When warrants are accepted as purchase money, any deficiency shall be payable in cash ; but if any payment by warrant or by amount in warrants, is in excess of the

amount of the purchase money, the excess shall not be returned by the Crown. 46 V., c. 17, s. 21.

27. Assignments of military bounty warrants, or of the expectancy of the same, shall not be recognized; but the warrants shall, similarly to other land scrip, be considered payable to bearer; the warrantees shall be at all risk of their loss, and no warrant shall be duplicated: Assignments not allowed, but warrants to be payable to bearer.

2. If any person entitled to a military bounty warrant dies before it is issued, the warrant shall issue in favor of the legal representative or representatives of such deceased person. 46 V., c. 17, s. 22. And to pass to legal representatives.

28. All free grants of land made under an order of the Governor in Council, dated the twenty-fifth day of April, one thousand eight hundred and seventy-one, by which it was declared that the officers and soldiers of the first or Ontario, and the second or Quebec battalion of rifles, then stationed in Manitoba, whether in the service or in depot companies, and not dismissed therefrom, should be entitled to a free grant, without actual residence, of one quarter section, are hereby confirmed, and the Minister of Militia and Defence shall issue the necessary warrants therefor accordingly: Grants under Order in Council of 25th April, 1871, confirmed.

2. Every assignment of his interest by a person so entitled, duly made and attested, and having the certificate of discharge, in the case of non-commissioned officers or private soldiers attached thereto, and filed in the Dominion lands office before the issue of the warrant, shall be held to transfer in each case the interest of the person so entitled in the warrant when issued—which latter, in every such case, shall be attached, after registry, to the assignment on file, and held for delivery to the person entitled thereto, or for location. 46 V., c. 17, s. 23. Assignments of grants under such Order, attested as herein mentioned, recognized.

Sale of Dominion Lands.

29. Dominion lands, as the surveys thereof are duly made and confirmed, shall, except as otherwise hereinafter provided, be open for purchase, at such prices, and on such terms and conditions as are fixed, from time to time, by the Governor in Council; but no purchase shall be permitted at a less price than one dollar per acre: As to sale of surveyed lands. Proviso.

2. Except in special cases in which the Governor in Council otherwise orders, no sale to one person shall exceed a section, or six hundred and forty acres: N more than 640 acres to one person.

3. Sales shall be restricted, when the Governor in Council deems it expedient, to the odd-numbered sections in each township: May be restricted.

4. Such unoccupied lands as the Minister deems expedient, from time to time, may, when he so orders, be withdrawn from ordinary sale and settlement, and sold at public auction to the highest bidder,—an upset price being fixed for the same: Sale by auction in certain cases.

As to water powers, &c.

5. Every legal sub-division or other portion of Dominion lands, which includes a water power, harbor or stone quarry, shall be reserved from ordinary sale, and shall be disposed of in such manner, and on such terms and conditions, as are fixed by the Governor in Council, on the report of the Minister. 46 V., c. 17, s. 24.

Town Plots, &c.

Minister may reserve tracts for town plots, &c. ;

30. The Minister may withdraw from sale or homestead entry any tract or tracts of land, and may lay the same out into town or village lots; and the lots so laid out shall be sold, either by private sale and for such price as the Minister sees fit, or at public auction,—an upset price being fixed for the same :

And arrange with any railway company as to sale of such lands.

2. When the lands withdrawn from sale or homestead entry, to be laid out into town or village lots, are adjacent to lands to which any railway company is entitled, the Minister may arrange with such company that the lands so withdrawn, and such lands of the company in the town or village as are agreed upon, shall be sold on joint account and on such terms as appear just and equitable; and the lands so withdrawn may be granted to the company or to such person as the Government and the company agree upon for the purposes of such sale :

Grant in such case.

Conveyance from grantee

3. A deed from the grantee to the purchaser of any lands so withdrawn and sold, shall give the latter a good and valid title, free from all charges, incumbrances and trusts not expressed in the deed of conveyance executed by the grantee. 46 V., c. 17, s. 25.

Governor in Council may set apart lands for other public purposes.

31. The Governor in Council may set apart and appropriate such Dominion lands as he deems expedient, for the sites of market places, gaols, court houses, places of public worship, burying grounds, schools, benevolent institutions and squares, and for other similar public purposes, and, at any time before the issue of letters patent therefor, may alter or revoke such appropriation, as he deems expedient; and he may make free grants, for the purposes aforesaid, of the lands so appropriated, the trusts and uses to which they are to be subject being expressed in the letters patent. 46 V., c. 17, s. 26.

Homestead.

Entry for homestead rights; area limited.

32. Every person who is the sole head of a family, and every male who has attained the age of eighteen years, who makes application in the form A in the schedule to this Act, shall be entitled to obtain homestead entry for any quantity of land not exceeding one quarter section, which is of the class of land open, under the provisions of this Act, to homestead entry :

2. Such person may also, in connection with such homestead entry, obtain at the same time, but not at a later date, a pre-emption entry for an adjoining unoccupied quarter section, or part of a quarter section, of land of the said class :

Pre-emption entry therewith.

3. The entry for a homestead and for its attached pre-emption, if any, shall entitle the recipient to take, occupy and cultivate the land entered for, and to hold possession of the same to the exclusion of any other person or persons whomsoever, and to bring and maintain actions for trespass committed on the said land ; the title to the land shall remain in the Crown until the issue of the patent therefor, and the land shall not be liable to be taken in execution before the issue of the patent :

Effect of such homestead and pre-emption entry.

Exemption from execution.

4. The privilege of homestead and pre-emption entry shall only apply to surveyed agricultural lands ; no person shall be entitled to such entry for land valuable for its timber, or for hay land, or for land on which there is a stone or marble quarry, or coal or other mineral having commercial value, or whereon there is any water power which may serve to drive machinery, or for land which, by reason of its position, such as being the shore of an important harbor, bridge site or canal site, or being either an actual or prospective railway terminus or station, it is in the public interest to withhold from such entry. 46 V., c. 17, s. 27.

To apply only to agricultural and surveyed lands.

33. Whenever the survey of any township has been finally confirmed and such township opened for homestead entry, any person who has *bonâ fide* settled and made improvements before such confirmed survey on land in such township, shall have a prior right to obtain homestead entry for the land so settled on, if such right is exercised within three months after the land is open for settlement, and if such land has not been reserved or the right to homestead entry is not excepted under the provisions of this Act :

As to rights of persons who have settled on lands before survey.

2. No homestead entry shall be granted to any other person in respect of such land until three months after notice in writing has been given by the local agent to such *bonâ fide* settler that such land is open for settlement. 46 V., c. 17, s. 28.

As to homestead entry thereafter.

34. Every person applying for homestead entry shall appear and make affidavit before the local agent, or, in his absence, the senior clerk performing his duties, according to the form B, C, or D in the schedule to this Act, as the circumstances of the case require ; and upon filing such affidavit with such local agent, or senior clerk, and on payment to him of an office fee of ten dollars, such person shall receive a receipt from the local agent, or senior clerk, according to the form E in the schedule to this Act ; and such receipt

Affidavit to be made by applicant for homestead entry.

Fee.

shall be a certificate of entry and shall be authority to the person obtaining it to take possession of the land described in it :

Further fee on pre-emption entry.

2. If a person who obtains homestead entry applies for and obtains at the same time a pre-emption entry, he shall pay to the local agent, or senior clerk, a further office fee of ten dollars, and shall receive therefor from him a receipt in like form, and having like effect to that prescribed for homestead entry :

How entries are to be made on behalf of another person.

3. The Minister of the Interior or the Dominion Lands Board, upon requisition, may authorize any person named therein to make a homestead entry or homestead and pre-emption entries, on behalf of any person signing such requisition and desiring to obtain such entry or entries :

Application in such case.

4. The person so authorized shall, in order to obtain such entry or entries, make application in the form F in the schedule to this Act, on behalf of each of those whom he represents, and shall make an affidavit before the local agent, or, in his absence, the senior clerk performing his duties, according to the form G, H or J, in the schedule to this Act, as the circumstances of the case require ; and shall pay for each homestead entry, and for each pre-emption entry, the office fee of ten dollars hereinbefore prescribed for such entry. 49 V., c. 27, s. 4.

Fees.

Investigation in case of dispute between persons claiming entry for the same land.

35. If a dispute arises between persons claiming the right to homestead entry for the same land, the local agent, or any person thereto authorized by the Minister, shall make investigation and obtain evidence respecting the facts ; and his report thereon, together with the evidence taken, shall be referred to the Minister for decision, or to the Dominion lands board, or Commissioner of Dominion Lands, or such person as is appointed by the Governor in Council to consider and decide in cases of such disputes :

First settler entitled to entry, unless contrary to public interest.

2. When two or more persons have settled upon and seek to obtain homestead entry for the same land, the one who settled first thereon shall be entitled to such entry, if the land is of the class open to homestead entry, and if it is not in the opinion of the Minister otherwise inexpedient, in the public interest, to entertain any application therefor :

Provision in case contending parties have made valuable improvements.

3. When contending applicants have made valuable improvements on the land in dispute, the Minister may, if the application to acquire the land by homestead entry is entertained by him, order a division thereof in such manner as shall preserve to each of the parties to the dispute, as far as practicable, his improvements ; and the Minister may, at his discretion, direct that the difference between the extent of the land so allotted to each of them and a quarter section shall be made up from unoccupied land adjoining, if there is any such of the class open to homestead entry. 46 V., c. 17, s. 30.

36. Every person who has obtained homestead entry shall be allowed a period of six months from its date within which to perfect the entry, by taking, in his own person, possession of the land and beginning continuous residence thereon and cultivation thereof; and if the entry is not perfected within that period, it shall be void, and the land shall be open to entry by another person, or to other disposition under this Act by the Minister:

Delay for perfecting entry limited.

2. Provided, that every person who obtains entry on or after the first of September in any year, and whose term for perfecting the same expires before the first day of June following, shall be allowed an extension of time to the latter date within which to perfect his entry:

Proviso: as to entry obtained after 1st September.

3. Provided further, that in the case of immigrants from elsewhere than the North American continent, the Governor in Council may extend the time for the perfecting of entry to twelve months from the date thereof. 46 V., c. 17, s. 31.

Proviso: in case of immigrants from places out of N. America.

37. If a number of homestead settlers, embracing at least twenty families, with a view to greater convenience in the establishment of schools and churches, and to the attainment of social advantages of like character, ask to be allowed to settle together in a hamlet or village, the Minister may, in his discretion, vary or dispense with the foregoing requirements as to residence, but not as to the cultivation of each separate quarter section entered as a homestead. 46 V., c. 17, s. 32.

Case of immigrants forming a hamlet or village.

38. At the expiration of three years from the date of his perfecting his homestead entry, the settler, or in case of his death, his legal representatives, upon proving, to the satisfaction of the local agent, or, in his absence, the senior clerk performing his duties, that he or they, or some of them have resided upon and cultivated the land during the said term of three years, shall be entitled to a patent for the land, if such proof is accepted by the Commissioner of Dominion lands, or the land board; but the patent therefor shall not issue to any person who is not a subject of Her Majesty by birth or naturalization:

When and on what conditions a settler may obtain his patent.

2. In the case of a settler who obtains homestead entry for land occupied by him previous to survey thereof, in the manner hereinbefore mentioned, residence upon and cultivation of the land for the three years next preceding the application for patent shall, for the purpose of the issue of patent, be held equivalent to that prescribed in the foregoing sub-clause, if such residence and cultivation are otherwise in conformity with the provisions of this Act:

Must be a subject of Her Majesty.

Case of settler obtaining entry before survey.

3. Every person who proves that he has resided on the land for which he has homestead entry for twelve months from the date of his perfecting his entry therefor, and that he has brought under cultivation at least thirty acres there-

Or residing 12 months and performing other duties before the end of three years

of, may, before the expiration of the three years defined in sub-clause one of this clause, obtain a patent by paying the Government price at the time for the land :

Proof of residence and cultivation in such case.

4. Proof of residence, erection of a habitable house and cultivation, required by this clause, shall be made by the claimant by affidavit, and shall be corroborated by the evidence on oath of two disinterested witnesses, resident in the vicinity of the land to which their evidence relates, and shall be subject to acceptance as sufficient by the Commissioner of Dominion lands or the land board ; and such affidavit shall be sworn, and such evidence given, before the local agent, or, in his absence, the senior clerk performing his duties. or some other person named for that purpose by the Minister :

Right of settler who has also obtained pre-emption entry and pays the price.

5. If, in connection with the homestead entry, the settler has heretofore obtained, or hereafter obtains, a pre-emption entry, in accordance with the provisions of this Act, he shall, on becoming entitled to a patent for his homestead, be also entitled to a patent for the land included in such pre-emption entry, on payment of the price fixed, in accordance with the provisions of this Act, by the Governor in Council ; but such pre-emption right, if not exercised and payment made within six months after the settler becomes entitled to claim a patent under his homestead entry, shall be forfeited, and such pre-emption shall not thereafter be open to homestead entry without the consent of the Minister :

Proviso.

Other conditions on which a patent may be obtained.

6. In addition to the cases hereinbefore mentioned, any person claiming a patent under a homestead entry, or under a homestead and pre-emption entry, shall be entitled thereto, upon proving—

House.

(a.) That he has erected upon his homestead a habitable house, and has *bonâ fide* resided therein for not less than three months next prior to the date of his application for his patent ;

Residence.

(b.) That for the period between the time within which, by clause thirty-six of this Act, it is provided that a person who has obtained a homestead entry shall perfect his entry, and the commencement of his said three months' residence upon his homestead, he has been *bonâ fide* resident within a radius of two miles from his homestead quarter section ;

Breaking land.

(c.) That within the first year after the date of his homestead entry he broke and prepared for crop not less than ten acres of his homestead quarter section ;

The same.

(d.) That within the second year he cropped the said ten acres and broke and prepared for crop not less than fifteen acres in addition, making not less than twenty-five acres ;

The same.

(e.) That within the third year after the date of his homestead entry he cropped the said twenty-five acres and broke and prepared for crop not less than fifteen acres in addition, making in all not less than twenty-five acres of the said homestead cropped, and fifteen acres in addition broken and

prepared for crop, within three years of the date of perfecting his homestead entry;

And the residence described in this sub-clause shall be sufficiently fulfilled if the applicant has not been absent from his residence for more than six months in any one year :

7. Any person claiming a patent under a homestead entry or under a homestead and pre-emption entry shall also be entitled thereto upon proving to the satisfaction of the Commissioner of Dominion Lands or the Dominion Lands Board,—

(a.) That he perfected his homestead entry by commencing the cultivation of the homestead within six months from the date of his homestead entry, or if the entry was obtained on or after the first day of September in any year, before the first day of June following;

(b.) That within the first year after the date of his homestead entry he broke and prepared for crop not less than five acres of his homestead quarter section;

(c.) That within the second year he cropped the said five acres, and broke and prepared for crop not less than ten acres in addition, making not less than fifteen acres in all;

(d.) That he erected a habitable house upon his homestead before the expiration of the second year after his homestead entry, and has *bonâ fide* resided therein and has cultivated the land for three years next prior to the date of his application for his patent;

(e.) That at the commencement of the third year after the date of his homestead entry, or previously, he commenced the residence on his homestead required by the next preceding paragraph of this sub-clause :

8. Every person who has obtained a homestead entry, and who purposes to apply for a patent for such homestead, shall give six months' notice in writing to the Commissioner of Dominion Lands of his intention to make such application, and shall produce evidence to the officer who is authorized to receive the application, that such notice has been duly given. 46 V., c. 17, s. 33;—47 V., c. 25, ss. 2 and 3.;—49 V., c. 27, ss. 5 and 6.

39. If it is proved to the satisfaction of the Minister that a settler has not resided upon and cultivated his homestead, except as herein provided for, at least six months in any one year, the right to the land shall be forfeited, and the entry therefor shall be cancelled; and the settler so forfeiting his entry shall not be eligible to obtain another entry except in special cases, in the discretion of the Minister. 46 V., c. 17, s. 34, *part*.

40. In cases of illness, vouched for by sufficient evidence, or in the cases of immigrant settlers returning to their

native land to bring their families to their homesteads, or in other special cases, the Minister may, in his discretion, grant an extension of time during which such settler may be absent from his homestead, without prejudice to his right therein; but the time so granted shall not be reckoned as residence. 46 V., c. 17, s. 34, *part*.

Sale of homestead of which entry is cancelled.

41. Every homestead, the entry of which has been cancelled, may, in the discretion of the Minister, be held for sale of the land with the improvements, if any—or of the improvements only, in connection with homestead entry thereof—to a person other than the person whose entry is cancelled. 46 V., c. 17, s. 35.

Assignments before patent to be void.

42. Every assignment or transfer of homestead or pre-emption right, or any part thereof, and every agreement to assign or transfer any homestead or pre-emption right, or any part thereof, after patent obtained, made or entered into before the issue of the patent, shall be null and void; and the person so assigning or transferring, or making an agreement to assign or transfer, shall forfeit his homestead and pre-emption right, and shall not be permitted to make

Forfeiture.

Proviso: in case of recommendation for patent by local agent.

another homestead entry: Provided, that a person whose homestead or homestead and pre-emption have been recommended for patent by the local agent, and who has received from such agent a certificate to that effect, in the form K in the schedule to this Act, countersigned by the Commissioner of Dominion Lands, or, in his absence, by a member of the Dominion Lands Board, may legally dispose of and convey, assign or transfer his right and title therein. 46 V., c. 17, s. 36;—49 V., c. 27, s. 7.

Condition on which a patentee may obtain another homestead entry.

43. No person who has obtained a homestead patent or a certificate countersigned by the Commissioner of Dominion Lands, or a member of the Dominion Lands Board, as in the next preceding clause mentioned, shall be entitled to obtain another homestead entry: •

As to certificates received before 2nd June, 1886.

2. Nothing contained in this clause shall take away the right of any person who, before the second day of June, one thousand eight hundred and eighty-six, had received such certificate or recommendation for a patent. 49 V., c. 17, s. 8.

Minister to sanction plans for advancing money to settlers.

44. If any person or company is desirous of assisting by advances in money intending settlers to place themselves on homestead lands in Manitoba or the North-West Territories, and of securing such advances, such person or company may make application to the Minister, stating the plan or project intended to be acted upon, the steps to be taken in furtherance thereof, and the amount to be advanced to such settlers; and the Minister may sanction and authorize such plan or project, or refuse his sanction and authority thereto:

2. If such plan or project is so sanctioned, and such person or company thereupon places any settler upon a homestead, a statement of the expense incurred by such person or company in paying the actual *bonâ fide* cost of the passage and of providing for the subsistence of such settler and his family, of erecting buildings on his homestead (to which purpose at least one-half of the advance made shall be devoted) and of providing horses, cattle, farm implements and seed grain for him, together with an amount in money sufficient to cover the interest on the amount advanced for a time to be agreed upon, to enable such settler to obtain a return from the cultivation of such homestead, shall be furnished to him, and upon his approval thereof, shall be submitted with proper vouchers in support thereof to the local agent, who shall examine and verify the same both by such vouchers and by an examination of such settler, and of such person or company, or their representative,—and shall certify the result of such verification by a writing upon such statement signed by him; and thereupon such settler may make and execute an acknowledgment in writing of the amount so advanced to him, and may by such writing create a charge upon such homestead for the amount of such advance, not exceeding the sum of six hundred dollars, and for the interest thereon, at a rate not exceeding eight per cent. per annum :

Particulars to be furnished to the settler.

And verified by local agent.

Settler may create a charge on homestead for advances.

3. Such acknowledgment and charge shall be in the form L in the schedule to this Act, and a duplicate thereof shall be deposited with the local agent, and thereafter the holder of such charge shall have the right to enforce payment of the amount so advanced and of the interest thereon by ordinary legal proceedings: Provided always, that the time to be fixed for the payment of the first instalment of interest upon such advance shall not be earlier than the first day of November in any year, nor shall it be within less than two years from the establishment of such settler upon such homestead; and provided also, that such settler shall not be bound to pay the capital of such advance or any part thereof within a less period than five years from the date of his establishment upon such homestead :

Form.

Holder's rights.

Payment of interest.

Payment of capital.

4. Upon such acknowledgment and charge being duly executed and duly registered in the registry office for the registration district in which such homestead is situated, the same shall constitute and be and remain a first charge upon such homestead after the issue of the patent or certificate of patent for such homestead, until duly satisfied and extinguished according to law :

Registration.

5. If such settler has not performed the conditions of settlement required to entitle him to a patent for such homestead within the time and in the manner provided by this Act, and has thereby forfeited his right to obtain a patent, the holder of the charge created thereon may apply to the Minister for a patent of such homestead, and, upon establishing

Provision in case the settler forfeits his right to a patent

Right may pass to holder of charge.

Duties of holder in such case.

the facts to the satisfaction of the Minister shall receive a patent in his name therefor; and such patentee shall be bound to place a *bond fide* settler on such homestead by the sale thereof to such settler or otherwise within two years from the date of such patent, and in default of so doing within the said period shall be bound and obliged on demand to sell the said homestead, to any person willing to become a *bond fide* settler thereon, for such sum of money as is sufficient to pay the amount of such charge and interest, and the expenses incurred by the patentee in obtaining such patent and in retaining the homestead, on pain, in case of refusal, of an absolute forfeiture of the said property and of all claims thereon and of the patent or other title thereto. But if the settler has acquired a right to receive a patent for the land so charged and does not apply for the issue of the same, the holder of such charge may obtain such patent, or certificate for patent, in the name of the person entitled to receive the same or of his legal representatives, and thereafter the said charge shall become a statutory mortgage on such homestead. 49 V., c. 27, s. 9, *part*.

Provision when right to patent has been acquired.

Certain enactments to apply to such charges.

45. Clause seven of the "*Act respecting Interest*" shall apply to all charges created under the next preceding clause of this Act. 49 V., c. 27, s. 9, *part*.

Discontinuance of Pre-emptions.

Pre-emption to be discontinued after 1st January, 1890.

46. The privilege of pre-emption, in connection with a homestead entry, shall be discontinued from and after the first day of January, in the year one thousand eight hundred and ninety. 49 V., c. 27, s. 10.

Mining and Mining Lands.

Mineral and coal lands to be disposed of under Order in Council.

47. Lands containing coal or other minerals, whether in surveyed or unsurveyed territory, shall not be subject to the provisions of this Act respecting sale or homestead entry, but shall be disposed of in such manner and on such terms and conditions as are, from time to time, fixed by the Governor in Council, by regulations made in that behalf. 46 V., c. 17, s. 42.

Gold or silver mines not to pass by grant of land containing them.

48. No grant from the Crown of lands in freehold or for any less estate, shall be deemed to have conveyed or to convey the gold or silver mines therein, unless the same are expressly conveyed in such grant. 46 V., c. 17, s. 43.

Rights of discoverers of minerals.

49. Every discoverer of minerals upon surveyed or unsurveyed lands, or his assigns and associates, who had applied for a grant of such lands before the passing of the Act passed in the forty-third year of Her Majesty's reign, chapter twenty-six, shall be held to have the same rights as if that Act had not been passed. 46 V., c. 17, s. 44.

Grazing Lands.

50. The Governor in Council may, from time to time, grant leases of unoccupied Dominion lands for grazing purposes, to any person, for such term of years, and at such rent, in each case, as is deemed expedient; and every such lease shall contain a condition by which the Governor in Council may authorize the Minister, at any time during the term of the lease, to give the lessee notice of cancellation thereof, and at the end of two years from the service of such notice, such lease shall cease and determine. 46 V., c. 17, s. 40.

Special provisions as to lease of grazing lands.
Condition for cancellation of lease.

Hay Lands.

51. A settler in the vicinity of unoccupied hay lands may obtain a lease for an area thereof not exceeding a quarter quarter section, or forty acres, for such term and at such rent as the Minister deems expedient; but such lease shall not operate to prevent, at any time during its term, the sale or settlement of the land; and in the case of such sale or settlement, the lessee shall be paid by the purchaser or settler, for fencing or other improvement made, such sum as the local agent determines; and the lessee shall be allowed to remove any hay he has cut. 46 V., c. 17, s. 41.

Lease of hay lands.
Proviso.
In case of sale or settlement.

PATENTS.

52. A Deputy Governor may be appointed by the Governor General, who shall have the power, in the absence of or under instructions of the Governor General, to sign letters patent of Dominion lands; and the signature of such Deputy Governor to such patents shall have the same force and virtue as if such patents were signed by the Governor General. 46 V., c. 17, s. 70, *part*.

Deputy Governor for signing patents.

53. Every patent for land shall be prepared in the Department of the Interior, and shall be signed by the Minister or the deputy of the Minister of the Interior, or by some other person thereunto specially authorized by the Governor in Council, and when so signed shall be registered by an officer specially appointed for that purpose by the Registrar General, and then transmitted to the Secretary of State of Canada, by whom, or by the Under Secretary of State, the same shall be countersigned, and the Great Seal of Canada thereto caused to be affixed: Provided, that every patent for land shall be signed by the Governor General or Deputy Governor, as hereinbefore provided. 46 V., c. 17, s. 70, *part*.

Patents and leases, &c., to be prepared in Department of Interior.
To be signed by Governor General or Deputy.

54. Whenever, through error in survey or in the books or plans of a Dominion lands office, any grant of land is found deficient, the Minister may order a free grant, equal in value, at the time such land was granted or sold, to the

Remedy in case of deficiency of quantity mentioned in patent.

ascertained deficiency ; or he may order the purchase money of so much land as is deficient, with interest thereon at the rate of six per centum per annum, from the time of the purchase thereof, to be paid back to the purchaser ; but no claim respecting any such deficiency shall be entertained unless it is made within five years from the date of the patent, and unless the deficiency is equal to one-tenth of the whole quantity described in the patent as being contained in the lot or parcel of land granted. 46 V., c. 17, s. 71.

Limitation of time for claim.

55. Whenever a patent has been issued to, or in the name of, a wrong person, or contains any clerical error, misnomer or wrong or defective description of the land thereby intended to be granted, or there is in such patent an omission of the conditions of the grant, the Minister may, there being no adverse claim, direct the defective patent to be cancelled and a correct one to be issued in its stead— which corrected patent shall relate back to the date of the one so cancelled and have the same effect as if issued at the date of such cancelled patent. 46 V., c. 17, s. 72.

Remedy in case of grants or patents inconsistent with each other.

56. In all cases in which, through error, grants or letters patent have issued for the same land, inconsistent with each other, and in all cases of sales or appropriations of the same land, inconsistent with each other, the Minister may order a new grant, to the person thereby deprived, of land of value equal to that of the original grant, at the time the same was granted, or may, in case of sale, cause repayment to be made of the purchase-money, with interest ; or when the land has passed from the original purchaser, or has been improved before the discovery of the error, or when the original grant was a free grant, the Minister may assign land, or grant such amount of scrip for the purchase of Dominion lands as to him seems just and equitable under the circumstances ; but no claim under this clause shall be entertained unless it is preferred within one year after the discovery of the error. 46 V., c. 17, s. 73.

Limitation of time for claim.

Provision in case of patents issued through fraud, &c.

57. Whenever patents, leases or other instruments respecting lands have issued through fraud, or in error or improvidence, any court having competent jurisdiction in cases respecting real property in the Province or Territory where such lands are situate, may, upon action, bill or plaint respecting such lands, and upon hearing the parties interested, or upon default of the said parties after such notice of proceeding as the said court orders, decree or adjudge such patent, lease or other instrument to be void ; and upon the registry of such decree or adjudication in the office of the Registrar General of Canada, such patent, lease or other instrument shall be void. 46 V., c. 17, s. 74.

Avoidance on registry of decree.

Remedy in case of refusal to deliver up

58. When any settler, purchaser or other person refuses or neglects to deliver up possession of any land after for-

feiture of the same under the provisions of this Act, or when-
 ever any person is wrongfully in possession of Dominion
 land and refuses to vacate or abandon possession of the
 same, the Minister may apply to a judge of any court of
 competent jurisdiction in cases respecting real property
 in the Province or Territory in which the land is situ-
 ate, for an order in the form of a writ of ejectment or of
habere facias possessionem; and the said judge, upon proof
 to his satisfaction that such land was so forfeited and should
 properly revert to the Crown, or is wrongfully in possession
 of such person, shall grant an order upon the settler or
 person in possession to deliver up the same to the Minister,
 or to the person by him authorized to receive such posses-
 sion; and such order shall have the same force as a writ of
habere facias possessionem, and the sheriff shall execute the
 same in like manner as he would execute the said writ in
 an action of ejectment or a petitory action. 46 V., c. 17, s. 75.

possession
 of forfeited
 land, or to va-
 cate land
 wrongfully
 held.

Order to
 sheriff to give
 possession.

ASSIGNMENTS.

59. The Minister shall cause to be kept, in the Depart-
 ment of the Interior, books for registering, at the option of
 the persons interested, assignments of any rights to Dominion
 lands which are assignable under this Act, upon proof to his
 satisfaction that such assignments are in conformity with
 this Act; and every assignment so registered shall be valid
 against any other assignment unregistered or subsequently
 registered; but any assignment to be registered shall be
 unconditional, and all conditions on which the right de-
 pends shall be performed, or dispensed with by the Minister,
 before the assignment is registered. 46 V., c. 17, s. 76.

Assignments
 of Dominion
 lands to be
 registered.

Condition of
 registration.

60. On any application for a patent by the legal repre-
 sentative of a person who died entitled to such patent, the
 Minister may receive proof of the facts in such manner as
 he sees fit to require; and upon being satisfied that the
 claim has been justly established, may allow the same and
 cause a patent to be issued accordingly. 46 V., c. 17, s. 77.

Patent to
 legal repre-
 sentative of
 party dying
 entitled
 thereto.

TOWNSHIP PLANS AND PATENT LISTS.

61. The Minister shall transmit to the registrar of every
 county and registration district or division in Manitoba
 and the North-West Territories, as early as possible in each
 year, a certified copy of the map of each township in such
 county, district or division, surveyed in the year next
 preceding, together with a certified list of the lands in such
 county, district or division, patented during such year.
 46 V., c. 17, s. 78.

Minister to
 transmit cer-
 tain infor-
 mation to regis-
 trars.

LAND SCRIP.

62. The Governor in Council may, if he deems it
 expedient so to do, satisfy any claim to a grant of Dominion

Authority to
 issue scrip.

lands, respecting which no provision is otherwise made by law, by an issue of scrip redeemable only by its receipt in payment for such land. 46 V., c. 17, s. 80.

TIMBER AND TIMBER LANDS.

Wood for Settlers.

Minister may set apart land for wood lots.

63. The Minister may direct that in the sub-division of townships, which consist partly of prairie and partly of timber land, the timber lands shall be divided into wood lots of not more than twenty and not less than ten acres each, in such manner as to afford, as far as practicable, one such wood lot to each quarter section prairie farm :

As to quarter sections having wood on them.

2. If a quarter section is found to contain timber land which does not exceed in extent twenty-five acres, such timber land shall be appurtenant to such quarter section and shall not be divided into wood lots :

Assignment of wood lot to each homestead.

3. Out of any wood lots set apart under the first sub-clause of this clause, the local agent shall, on application, apportion a wood lot to each settler on a homestead quarter section not having on it more than ten acres of woodland ; and such wood lot shall be paid for by the applicant at the price for wood lots fixed at the time by the Minister, and shall be entered in the books of the local agent and be given by him, in his returns, as appertaining to such homestead quarter section ; and on the homestead claimant fulfilling all the requirements of this Act in that behalf, but not otherwise, a patent shall issue to him for such wood lot :

Price to be paid by settler.

Provided always, that any person to whom a wood lot was apportioned in connection with a homestead, under the provisions of sub-clause five of clause forty-six of "The Dominion Lands Act of 1872," having duly fulfilled the conditions of such homestead grant, shall receive a patent for such wood lot as a free grant, as provided in the said sub-clause, notwithstanding the repeal of the said sub-clause by the Act thirty-seventh Victoria, chapter nineteen : Provided further, that the cancellation of a homestead entry shall carry with it the cancellation of the entry of the wood lot apportioned thereto, and also the forfeiture of the purchase money of such wood lot :

Proviso : free grants in certain cases.

Proviso : if homestead entry is cancelled.

As to sale of timber to saw-mills, &c., before patent.

4. Any holder of a homestead entry who, previously to the issue of the patent, sells any of the timber on either his homestead or pre-emption quarter section, or on the appurtenant wood lot, to saw-mill proprietors or to any other than settlers for their own private use, without having previously obtained permission so to do from the Minister, is guilty of a trespass and may be prosecuted therefor before a justice of the peace ; and, upon conviction thereof, shall be liable to a penalty not exceeding one hundred dollars or to imprisonment for a term not exceeding six months, or to both penalty and imprisonment, in the discretion of the court ; and further, such person shall forfeit his

Punishment for so doing.

homestead and pre-emption rights, and the timber so sold shall be subject to seizure and confiscation in the manner hereinafter provided. 46 V., c. 17, s. 45.

Timber Berths.

64. In the twenty-five clauses next following, the expression "timber" means all wood and all products thereof. 46 V., c. 17, s. 46. "Timber" defined.

65. The Governor in Council may, from time to time, declare districts of territory to be timber districts; and no lease of a timber berth shall be granted except within timber districts so set apart. 46 V., c. 17, s. 47. Timber districts.

66. The Minister may set apart any tract of land in any timber district, and may cause the same to be divided into timber berths not exceeding in area fifty square miles each, and the same shall be reserved from sale and settlement; and, under such regulations as are made by the Governor in Council respecting the ground rents, royalties or other dues which shall be paid in connection therewith, leases of the right to cut timber on such berths may be granted as hereinafter provided. 46 V., c. 17, s. 48. Division of such districts into timber berths by Minister. Regulations respecting grant of such berths.

67. The Governor in Council may, from time to time, order that leases of the right to, cut timber on certain timber berths defined in the order shall be offered at public auction at an upset bonus fixed in the order, and awarded to the person bidding, in each case, the highest bonus therefor,—such bonus to be paid in cash at the time of sale: Sale of leases of such berths; conditions thereof.

2. The Governor in Council may also authorize the lease of the right to cut timber on any timber berth to any person who is the sole applicant for such lease,—the bonus to be paid by such applicant to be fixed in the order authorizing the lease to him, and to be paid in cash at the time of its issue: Lease to sole applicant.

3. When one or more persons apply for the right to cut timber upon the same berth, the Governor in Council may authorize the Minister to invite tenders from the applicants or the public; and the person tendering the highest cash bonus therefor, shall be entitled to the lease. 46 V., c. 17, s. 49. When there is more than one applicant for a berth.

68. Leases of timber berths shall be for a term not exceeding one year; and the lessee of a timber berth shall not be held to have any claim whatever to a renewal of his lease unless such renewal is provided for in the Order in Council authorizing it, or embodied in the conditions of sale or tender, as the case may be, under which it was obtained: Duration of leases; and as to renewal.

No renewal
in certain
cases.

2. No lease shall be renewed in any case in which the lessee has failed to pay any ground rent, royalty or other dues in connection therewith. 46 V., c. 17, s. 50.

Form and
effect of
lease.

69. The lease shall describe the lands upon which the timber may be cut, and shall, during its continuance, vest in the lessee all rights of property whatsoever in all trees, timber, wood or other products of wood, cut within the limits of the leasehold, whether such trees, timber and wood or products are cut by his authority or by any person without his consent; and such lease shall entitle the lessee to seize, in replevin, revendication or otherwise, as his property, such timber where the same is found in the possession of any unauthorized person, and also to bring any action or suit against any person unlawfully in possession of any such timber, and to prosecute all persons cutting timber in trespass upon his lease, to conviction and punishment, and to recover damages, if any; and all proceedings pending at the expiration of any such lease may be continued and completed as if the lease had not expired. 46 V., c. 17, s. 51.

Rights of
lessee to the
timber, and
enforcement
thereof.

Further con-
ditions of
lease.

70. The lease shall, in addition to such other provisions as are in the Order in Council granting it, or in the conditions of sale or tender under which it was obtained, contain provisions binding the lessee,—

Erection of
saw-mills, &c.

(a.) To erect, in connection with the berth leased, and to have in operation within a time prescribed in the lease, a saw mill or mills, of capacity to cut in twenty-four hours a thousand feet, board measure, for every two and a-half square miles of the area leased, or to establish such other manufactory of wood goods as the Minister accepts as equivalent thereto;

Payment of
ground rent
and royalty.

(b.) To pay in advance, in addition to the bonus, an annual ground rent of five dollars for each square mile; and further, to pay in cash, at each time of his making the return prescribed in sub-clause (d) of this clause, a royalty of five per cent. on his sales of the products of the berth, as shown by such return;

Accounts to
be kept.

(c.) To keep correct books of account of his business, and to submit the same for the inspection of any authorized agent of the Minister, whenever required;

Returns to be
made at stated
periods.

(d.) To make, monthly or at such other intervals of time as they are required of him by regulations made under this Act or by the minister, returns sworn to by him or by his agent or employee cognizant of the facts, declaring the quantities taken from the berth, and those sold, of all timber or products of wood, in whatsoever form the same are sold or otherwise disposed of by him during such month or other period, and the amount received by him therefor;

Preventing
waste.

(e.) To prevent any unnecessary waste of timber in the process of cutting it, and to prevent, when it can be avoided, the destruction of growing trees which have not

yet attained a size fitting them to be used for merchantable timber;

(f.) To exercise strict and constant supervision to prevent the origin and spread of fire. 46 V., c. 17, s: 52. Precautions against fire.

71. If, in consequence of any incorrectness in survey or other error or cause whatsoever, a lease is found to comprise lands included in another lease of prior date, or any lands sold, granted, leased or lawfully set apart for any other purpose under this Act, the later lease shall be void in so far as it interferes with any previous lease, sale, grant or setting apart. 46 V., c. 17, s. 53. As to cases of error in survey, &c.

72. Every lease of a timber berth shall be subject to the right of the Crown to deal, in accordance with the provisions of this Act and the regulations made under it by the Governor in Council, with any and all coal and other minerals found within the limits of the berth leased; and the Crown shall have the right, in dealing, as above provided, with any coal or other minerals in lands leased as timber limits, to authorize the persons to whom such coal or other minerals are granted, to take possession of and occupy such extent of the land so leased as is necessary to work such coal or other minerals, and to open necessary roads through any such timber berth—paying the lessee of the berth the value of any and all timber necessarily cut in making such roads or in working the mines, and the provisions of this clause shall operate retrospectively, that is to say: they shall apply to all leases of timber berths heretofore granted under any Act respecting Dominion lands, as if they had been contained in such Act when it was passed. 46 V., c. 17, s. 54. Reservation of right of Government as to coal and minerals; And for roads to the same. Retrospective effect of this clause.

73. Every lease shall be subject to forfeiture for violation of any one of the conditions to which it is subject, or for any fraudulent return; and in such case the Minister may, without any action, suit or other proceeding and without compensation to the lessee, cancel the same and make a new lease or disposition of the limit described therein to any other person, at any time during the term of the lease so cancelled: but the Minister may, if he sees fit, refrain from cancelling such lease for non-payment of dues, and may enforce payment of such dues in the manner by this Act provided. 46 V., c. 17, s. 55. Forfeiture of lease for violation of conditions. Proviso.

74. All ground rents, royalties or other dues on timber cut within the limits of any timber berth, which are not paid at the time when they become due, shall bear interest at the rate of six per cent. per annum until paid, and shall be a lien on any timber cut within such limits; and in case of such non-payment—whether, in consequence thereof, the lease of the berth has or has not been cancelled—the Crown

Seizure and
sale of timber

timber agent or other person authorized thereto may, with the sanction of the Minister, seize so much of the timber cut on such berth as will, in his opinion, be sufficient to secure the payment of such rent or royalty, and all interest and expenses of seizure and sale, and may detain the same as security for the payment thereof; and if payment is not made within three months after such seizure, he may, with the sanction of the Minister, sell such timber by public auction,—and, after deducting the sum due to the Crown, the interest thereon and expenses aforesaid, he shall pay over the balance, if any, to the lessee, if the timber was in his possession at the time of seizure, or if it was not, to the person who had possession thereof at that time. 46 V., c. 17, s. 56.

Timber liable
for dues when-
ever found.

75. All timber cut under lease shall be liable for the payment of the Crown dues thereon, whenever and wherever the said timber, or any part of it, is found, whether it is or is not converted into deals, boards or any other manufacture of wood; and all officers or agents employed in the collection of such dues may follow all such timber and may seize and detain the same wherever it is found, until the dues thereon are paid or secured, as provided in the next preceding clause. 46 V., c. 17, s. 57.

Enforcement
of payment
in case of
removal out
of Canada.

76. If the payment of the Crown dues on any timber has been evaded by any lessee or other person, by the removal of such timber or products out of Canada, or otherwise, the amount of dues so evaded and any expenses incurred by the Crown in enforcing payment of the said dues under this Act, may be added to the dues remaining to be collected on any other timber cut on any timber berth by the lessee or by his authority, and may be levied and collected or secured on such timber, together with such last-mentioned dues, in the manner hereinbefore provided; or the amount due to the Crown, of which payment has been evaded, may be recovered by action or suit in the name of the Minister or his agent, in any court of competent jurisdiction. 46 V., c. 17, s. 58.

Bonds or notes
may be taken
without affect-
ing lien.

77. The Minister may take or authorize the taking of bonds or promissory notes for any money due to the Crown, as aforesaid, or in his discretion, for double the amount of any dues, penalties and costs incurred or to be incurred, and may, if it is under seizure, then release any timber upon which the same would be leviable; but the taking of such bonds or notes shall not affect the right of the Crown to enforce payment of such money, and the debt shall be a lien on any timber cut on the same or on any other berth, by the lessee or by his authority, if the sums for which such bonds or notes are given are not paid when due. 46 V., c. 17, s. 59.

Forest Parks.

78. The Governor in Council may, from time to time, for the preservation of forest trees on the crests and slopes of the Rocky Mountains, and for the proper maintenance throughout the year of the volume of water in the rivers and streams which have their sources in such mountains and traverse the North-West Territories, reserve from sale, lease or license, such portions of the land in the North-West Territories, on, adjacent to, or in the vicinity of the Rocky Mountains, as to him it appears expedient so to reserve, and may define the limits or boundaries of such reserves; and may set aside and appropriate such lands for a forest park, or forest parks, as he deems expedient, and may appoint officers for the preservation of such reserves and forest parks:

2. Statements showing such reserves and appropriations, with the necessary maps, shall be laid before Parliament within fifteen days after the commencement of the session next after such reserves or appropriations have been made:

3. Every one who wilfully cuts down, breaks, barks, roots up, removes or destroys, or causes to be cut down, broken, barked, rooted up, removed or destroyed, any tree, sapling, shrub, underwood or timber, growing in and upon any such reserve or forest park, shall, for every such offence, incur a penalty not exceeding one hundred dollars and not less than ten dollars, which shall be recoverable, with costs, in a summary manner, before a judge of the Supreme Court of the North-West Territories, a stipendiary magistrate, commissioner of police, or any two justices of the peace, under the "*Act respecting summary proceedings before Justices of the Peace;*" and in default of immediate payment of such penalty, and of the costs of prosecution, the offender may be imprisoned for any term not exceeding three months. 47 V., c. 25, s. 5.

Preservation of forest trees and maintenance of rainfall.

Forest parks.

Returns to Parliament.

Penalty for destroying trees.

Summary proceedings.

Liability of persons cutting timber without authority.

79. If any person, without authority, cuts, or employs or induces any other person to cut or assist in cutting any timber of any kind on Dominion lands, or removes or carries away, or employs or induces or assists any other person to remove or carry away any timber of any kind so cut, he shall not acquire any right to such timber or any claim for remuneration for cutting the same, preparing the same for market or conveying the same to or towards market; and when the timber has been removed out of the reach of the Crown timber officers, or it is otherwise found impossible to seize it, he shall, in addition to the loss of his labor and disbursements, incur a penalty not exceeding three dollars for each tree which, or any part of which, he is proved to have cut or carried away, or assisted to cut or carry away;

Penalty for cutting timber on Dominion lands without authority.

Additional penalty for removal out of reach of officers.

Burden of proof, &c.

and such sum shall be recoverable, with costs, at the suit and in the name of the Crown, in any court having jurisdiction in civil matters to the amount of the penalty: and in all cases the burden of proof of authority to cut and take the timber shall lie on the person charged; and the averment of the person seizing or prosecuting, that he is duly employed under the authority of this Act, shall be sufficient proof thereof, unless the defendant proves the contrary. 46 V., c. 17, s. 60.

Seizure of timber on affidavit before a J. P.

80. Whenever any Crown timber officer or agent receives satisfactory information, supported by affidavit, made before a justice of the peace or before any other competent officer or person, that any timber has been cut without authority on Dominion lands, or if any Crown timber officer or agent, from other sources of information or his own knowledge, is aware that any timber has been cut without authority on any such lands, he may seize or cause to be seized, in Her Majesty's name, the timber so reported or known to be cut, wherever it is found, and place the same under proper custody, until the matter is decided by competent authority. 46 V., c. 17, s. 61, *part.*

Provision if the timber has been mixed with other timber.

81. If the timber, reported or known to have been cut without authority, has been made up with other timber into a crib, dram or raft, or in any other manner has, at any mill or elsewhere, been so mixed up with other timber as to render it impossible or very difficult to distinguish the timber so cut without authority from the other timber, the whole shall be held to have been cut without authority and shall be liable to seizure and forfeiture accordingly, unless the holder separates, to the satisfaction of the Crown timber agent, the timber cut without authority from the other. 46 V., c. 17, s. 61, *part.*

In absence of satisfactory explanation timber may be seized as cut without authority.

82. Whenever any Crown timber agent or other officer or agent of the Minister is in doubt as to whether any timber has or has not been cut without authority, or is or is not liable to Crown dues on the whole or any part thereof, he may inquire of the person or persons in possession or in charge of such timber, as to when and where the same was cut; and if no satisfactory explanation, on oath or otherwise, as he requires, is given to him, he may seize and detain such timber until proof is made to the satisfaction of the Minister or of such Crown timber agent or officer, that such timber was not cut without authority, and is not liable, either in whole or in part, to Crown dues of any kind; and if such proof is not made within thirty days after such seizure, such timber may be dealt with as timber cut without authority, or on which the Crown dues have not been paid, according to the circumstances of the case; and the dues thereon may be recovered as hereinbefore provided. 46 V., c. 17, s. 62.

Recovery of dues.

83. If any timber, or any product thereof, is seized under the provisions of this Act by any Crown timber agent or officer, he may allow such timber or product thereof to be removed and disposed of, on receiving sufficient security, by bond or otherwise to his satisfaction, for the full value thereof or, in his discretion, for payment of double the amount of all dues, penalties and costs incurred or imposed thereon, as the case may be. 46 V., c. 17, s. 63.

Release of timber on security being given.

84. All timber seized under this Act on behalf of the Crown, as being forfeited, shall be deemed to be condemned, unless the owner thereof or the person from whom it was seized, within one month from the day of the seizure, gives notice to the seizing officer or to the Crown timber agent or officer under whose authority the seizure was made, that he intends to contest the seizure; and if, within fifteen days thereafter, the claimant has not instituted proceedings before a court of competent jurisdiction to contest the seizure, or, if the decision of the court is against him, or if the claimant fails duly to prosecute such proceedings, in the opinion of the judge before whom such case is tried (who may for that cause dismiss the suit on the expiration of three months from the date on which it was instituted—anything to the contrary hereinbefore enacted notwithstanding), the timber may be confiscated and may, after thirty days' notice posted up at the place where the same is confiscated, be sold, by order of the Minister, for the benefit of the Crown :

Timber seized to be deemed condemned and forfeited in default of owner claiming within one month.

Confiscation and sale in case of default to contest seizure.

2. The Minister may, if he sees cause for so doing, instead of confiscating timber cut without authority on Dominion lands, impose a penalty which, in addition to all costs incurred, shall be levied on such timber; and, in default of payment of the whole on demand, he may, after a notice of fifteen days, sell such timber by public auction, and may, in his discretion, retain the whole proceeds of such sale, or the amount of the penalty and costs only. 46 V., c. 17, s. 64.

Minister may impose a fine instead of confiscation in certain cases, &c.

Sale in default of payment.

85. Whenever any timber is seized for non-payment of Crown dues, or for any cause of forfeiture, or any prosecution is instituted for any penalty or forfeiture under this Act, and any question arises whether the said dues have been paid on such timber, or whether the said timber was cut on other than any part of the Dominion lands aforesaid, the burden of proving payment, or of proving on what land the said timber was cut, shall lie on the owner or claimant of such timber, and not on the officer who seizes the same or the person instituting such prosecution. 46 V., c. 17, s. 65.

Burden of proof to lie on the claimant.

86. Any officer or person seizing timber in the discharge of his duty under this Act may, in the name of the Crown,

Officer seizing may call in assistance.

call in any assistance necessary for securing and protecting the timber so seized. 46 V., c. 17, s. 66, *part.*

Slides, &c.

Right to slides, &c., not to pass by sales or grants of land unless expressly mentioned.

87. No sale or grant of any Dominion lands shall give or convey any right or title to any slide, dam, pier or boom, or other work previously constructed on such land, or on any stream passing through or beside it, for the purpose of facilitating the descent of timber or saw-logs, unless it is expressly mentioned in the letters patent or other documents establishing such sale or grant, that such slide, dam, pier or boom, or other work, is intended to be thereby sold or granted. 46 V., c. 17, s. 68, *part.*

Free use of slides, &c., not affected.

88. The free use of slides, dams, piers, booms and other works on streams, to facilitate the descent of lumber and saw-logs, and the right of access thereto for the purpose of using the same and keeping them in repair, shall not, in any way, be interrupted or obstructed by or in virtue of any sale or grant of Dominion lands made subsequently to the construction of such works. 46 V., c. 17, s. 68, *part.*

Free use of streams and lakes and access thereto, not affected.

89. The free use, for the floating of saw-logs or other timber, of all streams and lakes necessary for the descent thereof from Dominion lands, and the right of access to such streams and lakes, and of passing and repassing on or beside the land on either side, and wherever necessary for such use thereof, and over all existing or necessary portage roads past any rapids or falls, or connecting such streams or lakes, and over such roads as, owing to natural obstacles, are necessary for taking out timber from Dominion lands, and the right of constructing slides where necessary, shall continue uninterrupted and shall not be affected or obstructed by or in virtue of any sale or grant of such lands. 46 V., c. 17, s. 69.

POWERS OF THE GOVERNOR IN COUNCIL.

Power of Governor as to Indian reserves.

90. The Governor in Council may—

(a.) Withdraw from the operation of this Act, subject to existing rights as defined or created thereunder, such lands as have been or are reserved for Indians;

Lands required for railways.

(b.) Reserve from general sale and settlement, Dominion lands to such an extent as is required to aid in the construction of railways in Manitoba or in the Territories owned by Canada, and provide for the disposal of the lands so reserved, notwithstanding anything contained in this Act, in such manner, at such price and on such terms as are deemed expedient;

Free grant for railway to Hudson's Bay.

(c.) Make a free grant of land, not exceeding in extent six thousand four hundred acres for each mile of railway within Manitoba, and not exceeding in extent twelve thou-

sand eight hundred acres for each mile in the North-West Territories, in aid of the construction of a railway from some point on the Canadian Pacific Railway to Hudson's Bay ;

(d.) Grant to the promoters of works undertaken with a view of draining and reclaiming swamp lands, for the purpose of encouraging such works, remuneration in the way of grants of the lands so reclaimed, or of such portions thereof as are deemed fair and reasonable ;

Encouragement of drainage, &c.

(e.) Grant land—not in any case exceeding in extent one section and one half section—to any person who will establish and keep in operation thereon, for a term of not less than five years, a school of instruction in practical farming and all matters pertaining thereto, having, during that period, an average attendance of thirty pupils, and otherwise meeting the approval of the Minister ;

Schools of instruction in agriculture.

(f.) Grant lands, in satisfaction of any claims existing in connection with the extinguishment of the Indian title, preferred by half-breeds resident in the North-West Territories, outside of the limits of Manitoba, previous to the fifteenth day of July, one thousand eight hundred and seventy, to such persons, to such extent, and on such terms and conditions as are deemed expedient ;

Claims arising out of Indian title.

(g.) Investigate and adjust claims preferred to Dominion lands situate outside of the Province of Manitoba, alleged to have been taken up and settled on previous to the fifteenth day of July, one thousand eight hundred and seventy, and grant to persons satisfactorily establishing undisturbed occupation of any such lands, prior to the said date, and being, by their own residence or that of their servants, tenants or agents, or of those through whom they claim, in actual peaceable possession thereof at the said date, so much land in satisfaction of such claims as is considered fair and reasonable, but not exceeding in any case one quarter section, unless there has been cultivation of more than that area ;

Certain claims to lands outside of Manitoba prior to 15th of July, 1870.

(h.) Make such orders as are deemed necessary, from time to time, to carry out the provisions of this Act according to their true intent, or to meet any cases which arise, and for which no provision is made in this Act ; and further make and declare any regulations which are considered necessary to give the provisions in this clause contained full effect ; and, from time to time, alter or revoke any order or orders or any regulations made in respect of the said provisions, and make others in their stead ;

For carrying out the provisions of this Act.

(i.) Impose penalties not exceeding two hundred dollars, or not exceeding three months imprisonment, for violation of any regulations under this Act ;

Penalties for violation.

(j.) Provide that any statement or return required to be made by such regulations, shall be verified on oath. 46 V., c. 17, s. 81, *part* ;—47 V., c. 25, s. 6.

Statement under oath.

91. Every order or regulation made by the Governor in Council, in virtue of the provisions of the next preceding

Such orders must be pub-

lished in *Canada Gazette*.

And laid before Parliament.

clause, or of any other clause of this Act, shall, unless otherwise specially provided in this Act, have force and effect only after the same has been published for four successive weeks in the *Canada Gazette*; and all such orders or regulations shall be laid before both Houses of Parliament, within the first fifteen days of the session next after the date thereof. 46 V., c. 17, s. 81, *part*.

Fees for copies of maps, &c.

92. The Governor in Council may establish a tariff of fees to be charged by the Minister for all copies of maps, township plans, field notes and other records, and also for registering assignments; and all fees received under such tariff shall form part of the revenue from Dominion lands. 46 V., c. 17, s. 125.

GENERAL PROVISIONS.

Certified copies of certain documents to be evidence.

93. Copies of any records, documents, plans, books or papers, belonging to or deposited in the Dominion lands office, attested under the signature of the Minister of the Interior, or of the secretary of the Department of the Interior, or of the Surveyor General, or of any chief clerk or officer authorized thereto, and of plans or documents in any Dominion lands or surveys office in Manitoba or the North-West Territories, attested under the signature of the commissioner of Dominion lands, the secretary of the Dominion Lands Board, or other officer in charge of such office, shall be competent evidence in all cases in which the original records, documents, books, plans or papers would be evidence. 49 V., c. 27, s. 2, *part*.

As to lithographed copies, &c.

94. Lithographed or other copies of maps or plans purporting to be issued or published by the Dominion lands office of the Department of the Interior, and to have a lithographed or copied signature of the Minister of the Interior or of the Surveyor General thereto attached, shall be received in all courts and proceedings as *prima facie* evidence of the originals, and of the contents thereof. 49 V., c. 27, s. 2, *part*.

Before whom affidavits, &c., may be made.

95. All affidavits, oaths, solemn declarations or affirmations required to be taken or made under this Act, except as herein otherwise provided, may be taken before the judge or clerk of any county or circuit court, or any justice of the peace, or any commissioner for taking affidavits, or any notary public, or any Dominion lands agent or officer, or any person specially authorized to take such affidavits by this Act or by the Minister. 46 V., c. 17, s. 82.

Certain boards and officers may summon and

96. The Dominion lands board, or any member thereof, and any person specially authorized to that effect by the Governor in Council, may summon before them or him,

any person, by subpœna issued by them or him, examine such person under oath, and compel the production of papers and writings before them or him,—and, if any person duly summoned neglects or refuses to appear at the time and place specified in the subpœna, legally served upon him, or refuses to give evidence or to produce the papers or writings demanded of him, may, by warrant, under their or his hands or hand, cause such person, so neglecting or refusing, to be taken into custody and to be imprisoned in the nearest common gaol, as for contempt of court, for a term not exceeding fourteen days. 46 V., c. 17, s. 83 ;—49 V., c. 27, s. 11.

examine persons on oath.

Punishment for contempt.

97. Every receipt or certificate of entry or sale issued by an agent of Dominion lands shall, unless such entry or sale has been revoked or cancelled by the Minister, entitle the person to whom the same was granted, to maintain actions or suits against any wrong-doer or trespasser on the lands to which such receipt or certificate relates, as effectually as he could do under a patent of such land from the Crown. 46 V., c. 17, s. 85.

Entry receipt, &c., to give right to maintain suits.

98. The Minister, with the approval of the Governor in Council, may, whenever he deems it necessary so to do, vary any of the forms in the schedule to this Act from form A to form K, both inclusive,—or he may, from time to time, with the like approval, cause to be adopted such other forms to the like effect as he considers applicable to any special case or class of cases. 49 V., c. 27, s. 3.

Forms A to K in schedule may be varied by the Minister.

SURVEYORS AND SURVEYS.

99. No person shall act as surveyor of Dominion lands unless he was, before the fourteenth day of April, one thousand eight hundred and seventy-two, duly qualified by certificate, diploma or commission, to survey the Crown lands in some one of the Provinces of Canada, or has become qualified under the provisions hereinafter set forth. 46 V., c. 17, s. 87, *part.*

Qualifications required of Dominion surveyors.

100. Persons qualified under the provisions of this Act shall be styled "*Dominion Land Surveyors*," or "*Dominion Topographical Surveyors*," as the case may be. 46 V., c. 17, s. 87, *part.*

Official style of surveyors.

Board of Examiners.

101. There shall be a Board of Examiners for the examination of candidates for commissions as Dominion land surveyors, or as articulated pupils, which shall consist of the Surveyor General and eight other competent persons appointed, from time to time, by Order in Council; and the meetings of the board shall commence on the second Monday in the months of February and August in each year, and at such

Board to consist of Surveyor General and eight colleagues.

Meetings.

other times as the Minister directs,— due notice thereof being given in the *Canada Gazette*; and the place of meeting shall be at the city of Ottawa, or such other place as is from time to time fixed by the Minister :

Members
to be sworn.

2. Every member of the board shall take an oath of office, according to the form M, in the schedule to this Act, which shall be administered by a judge of any one of the superior courts in any Province of Canada, or a judge of the Supreme Court of Canada, and such judge is hereby authorized and required to administer such oath :

Quorum.

3. Three members of the board shall form a quorum :

Secretary.

4. The board shall, from time to time, appoint a fit and proper person to be secretary thereof, who shall keep a record of its proceedings :

Examination
by a member
of the Board.

5. The Minister may cause examinations of candidates for commissions as Dominion land surveyors, or as articted pupils, to be held at such times and places as he directs, by one of the members of the board; but such examinations shall be subject to the rules and regulations made by the board in that behalf, and shall have no effect unless they are conducted in accordance with such rules and regulations, and are subsequently approved by the board. 49 V., c. 27, s. 12, *part.*

Examination
for articles
as pupils.

102. No person shall be admitted as an articted pupil with any Dominion land surveyor, unless he has previously passed an examination before the Board of Examiners, or before one of the members thereof, as to his penmanship and orthography, and also as to his knowledge of arithmetic, algebra, including quadratic equations, plane geometry, plane trigonometry, spherical trigonometry as far as the solution of triangles, the mensuration of superficies, and the use of logarithms, and has obtained a certificate of such examination, and of his proficiency, from such board. 49 V., c. 27, s. 12, *part.*

Notice by ap-
plicants to
secretary.

103. Applicants for such examination, previously to being articted, shall give notice to the secretary of the board of their desire to present themselves for examination; whereupon that officer shall instruct them as to the manner in which they must proceed. 46 V., c. 17, s. 90.

Conditions
precedent to
examination
for admission.

104. No pupil shall be entitled to be examined before the board, or before one of the members thereof, for admission as a Dominion land surveyor, unless he has previously served regularly and faithfully for and during the period of three successive years, under articles in writing, in the form N, in the schedule to this Act, duly executed before two witnesses, as pupil of a Dominion land surveyor, and unless he produces an affidavit from such surveyor in the form O, in the schedule to this Act, together with his own affidavit in

the form P in the schedule to this Act, that he has so served; or if for some good and valid reason such affidavits cannot be produced, unless he produces such evidence of the service as the board requires; and such three years' service shall include at least twelve months' actual practice in the field. 49 V., c. 27, s. 13.

105. Whenever the pupil of a Dominion land surveyor is, at the time of his entering into articles in writing, in compliance with the provisions of the next preceding clause, a person of twenty-one years of age, the said form N may be altered to suit the case, by leaving out so much as relates to the father or other person, by whose consent and approbation the pupil enters into articles, by making the pupil take upon himself the obligation in the said form imposed on such father or other person, by stating that the consideration money has been paid by the pupil, and by otherwise so varying the form as to suit the circumstances of the case. 46 V., c. 17, s. 91, *part*.

Alteration of form N when the pupil is an adult.

106. Any Dominion land surveyor may, by an instrument in writing, transfer a pupil, with his own consent, to any other Dominion land surveyor, with whom such pupil may serve the remainder of his term; but such pupil shall not be entitled to examination unless he produces the affidavits of both surveyors in the form O in the schedule to this Act or, in default thereof, such evidence as is required by clause one hundred and four of this Act. 49 V., c. 27, s. 14.

Transfer of a pupil.

107. If any Dominion land surveyor dies, or leaves Canada, or is suspended or dismissed, his pupil may complete his term under articles, as aforesaid, with any other Dominion land surveyor. 46 V., c. 17, s. 93.

Completion of term with another surveyor.

108. Articled pupils shall transmit to the secretary of the board, within three months of the date of their articles, a duplicate thereof, together with a fee of two dollars for receiving and filing the same; and the secretary shall acknowledge the receipt of such papers and shall carefully file and keep the same with the records of the board. 46 V., c. 17, s. 94.

Duplicate of articles to be transmitted to secretary.

109. Every person who, subsequently to the fourteenth day of April, one thousand eight hundred and seventy-two, was or becomes duly qualified by certificate, diploma or commission, to survey lands in any Province of Canada and who, in order to become so qualified, has served a term under articles to a surveyor, similar to the term prescribed by this Act, and has passed an examination in the subjects prescribed by clauses one hundred and two and one hundred and thirteen of this Act, before the board of examiners of such Province, shall be entitled to obtain a commission as Domin-

As to admission of persons commissioned as surveyor of lands in any Province.

Proviso :
Board to judge
of require-
ments of quali-
fication in
such Province

Proviso for
reciprocity as
to such ad-
mission.

ion land surveyor without being subjected to any examination other than with respect to the system of survey of Dominion lands ; but it shall rest with the board of examiners to decide whether the qualifications required of a surveyor of Crown lands in such Province are sufficiently similar to those set forth in the said clauses to entitle him, under the foregoing provisions, to such commission ; and before any such commission as Dominion land surveyor is granted, it shall be shown that such Province has reciprocated the privilege hereby granted, by granting to Dominion land surveyors, on their application, and without subjecting them to an examination, except with respect to a knowledge of the survey laws of such Province, diplomas, certificates or commissions, as the case may be, as surveyors of lands within such Province. 49 V., c 27, s. 15, *part*.

Surveyors in
Her Majesty's
dominions,
other than
Canada, may
be admitted
on certain
conditions.

110. Every person who shows, to the satisfaction of the board of examiners, that he has been duly admitted as a surveyor of lands in any part of Her Majesty's dominions other than the Provinces of Canada to which the provisions of the next preceding clause relate, and that he has had at least two years' practice either as a surveyor or as a pupil to a surveyor, (of which practice at least six months has been in the field), shall be entitled to a commission on passing an examination in the subjects set forth in clauses one hundred and two and one hundred and thirteen of this Act, and on his producing an affidavit from a Dominion land surveyor in the form O, in the schedule to this Act, that such person has, in addition to the service aforesaid, served for one year with him, including at least six months' actual practice with him in the field. 49 V., c. 27, s. 15, *part*.

Graduates of
Royal Military
College
and of certain
other colleges
may be admitted
on certain
conditions.

111. Every graduate in surveying of the Royal Military College of Canada, and every person who has followed a regular course of study in all the branches of education required by this Act for admission as a Dominion land surveyor, through the regular sessions, for at least two years in any college or university where a complete course of theoretical and practical instruction in surveying is organized, and who has thereupon received from such college or university a diploma as civil engineer, shall be exempt from serving three years as aforesaid. and shall be entitled to examination after one year's service under articles with a Dominion land surveyor, (at least six months of which service has been in the field), on producing the affidavit required by the next preceding clause as to such service ; but it shall rest with the board to decide whether the course of instruction in such college or university is that required by this clause. 49 V., c. 27, s. 15, *part*.

Notice to
secretary.

112. Every person who desires to be examined before the board shall give due notice thereof in writing to the

secretary at least one month previous to the meeting of the board, and shall, with such notice, transmit the fee herein- Fee after prescribed. 46 V., c. 17, s. 98.

113. No person shall, unless he is thereto entitled under any other clause of this Act, receive a commission from the board authorizing him to practise as a Dominion land surveyor, unless he has complied with the foregoing provisions of this Act, nor until he has attained the full age of twenty-one years and has passed a satisfactory examination before the board or before a member thereof as hereinbefore provided on the following subjects, that is to say: plane and solid geometry; spherical trigonometry, so far as it includes solution of triangles; the use of logarithms; measurement of areas, including their calculation by latitude and departure, and the dividing or laying off land; a knowledge of the elements of practical astronomy and the solution of the following elementary problems:—

Examination for admission as surveyor.

In mathematics.

(a.) To ascertain the latitude of a place from an observation of a meridian altitude of the sun or of a star;

In practical astronomy.

(b.) To obtain the local time and the azimuth from an observed altitude of the sun or a star;

(c.) From an observed azimuth of a circumpolar star, when at its greatest elongation from the meridian, to ascertain the direction of the latter:

He shall be practically familiar with surveying operations and capable of intelligently reporting thereon, and be conversant with the keeping of field notes, their plotting and representation on plans of survey, in a style of draughtsmanship satisfactory to the board, the describing of land by metes and bounds for title, and with the adjustments and methods of use of ordinary surveying instruments; and shall also be perfectly conversant with the system of survey as embodied in this Act, and with the manual of standing instructions and regulations published by the authority of the minister, from time to time, for the guidance of Dominion land surveyors. 49 V., c. 37, s. 16.

Surveying operations and use of instruments.

System of Dominion surveys.

114. The board may examine any candidate on oath,—which oath may be administered by any one of the examiners,—as to his actual practice in the field, and with regard to his instruments. 46 V., c. 17, s. 100.

Examination may be on oath as to practice.

115. Every person who passes the examination prescribed by this Act, and every person who is entitled to receive a commission under clause one hundred and nine of this Act, shall receive a commission from the board in accordance with the form Q in the schedule to this Act, constituting him a Dominion land surveyor, and shall, jointly and severally with two sufficient sureties to the satisfaction of the board, enter into a bond in the sum of one thousand dollars to Her Majesty, Her heirs and successors, conditioned for the due

Successful candidates to receive commissions and give security.

and faithful performance of the duties of his office, and shall take and subscribe before a judge of any one of the superior courts in any Province of Canada—who is hereby authorized and required to administer such oaths—or before the board—any member of which may administer the same—the oath of allegiance, and an oath in the form following:—

Form of oath.

“ I, _____, do solemnly swear (or affirm as the case may be) that I will faithfully discharge the duties of a Dominion land surveyor according to law, without favor, affection or partiality. So help me God :”

Commission subject to above formalities.

2. Until the above formalities have been complied with the said commission of Dominion land surveyor shall have no effect :

Deposit of oaths.

3. The said oaths of allegiance and of office shall be deposited in the Dominion lands office :

Deposit of bond.

4. The said bond shall be deposited and kept in the manner prescribed by law with regard to the bonds given for the like purposes by other public officers of Canada, and shall be subject to the same provisions, and shall inure to the benefit of any person who sustains damage by breach of any condition thereof :

Registration of commission.

5. The commission shall be registered in the office of the Registrar General of Canada. 46 V., c. 17, s. 101 ;—49 V., c. 27, s. 17.

Voluntary examination in higher branches of study.

116. Every Dominion land surveyor who has previously given the notice prescribed in clause one hundred and twelve of this Act, may be examined as to his knowledge of the following subjects relating to the higher branches of surveying, qualifying him, (in addition to the performance of the duties declared by this Act to be within the competence of Dominion land surveyors), for the prosecution of extensive governing or topographic surveys or those of geographic exploration, that is to say :—

Mathematics

- (a.) Algebra ;
- (b.) Plane and spherical trigonometry ;
- (c.) The plane co-ordinate geometry of the point, straight line, circle and ellipse, and the transformation of co-ordinates ;
- (d.) The geometrical theory of limits, and the determination of the form, magnitude and radius of curvature of any plane section of a spheroid of revolution ;
- (e.) Differential calculus as far as Taylor's and McLaurin's theorems, with its practical application ;
- (f.) Methods of trigonometrical surveying, of observing the angles and calculating the sides of large triangles on the earth's surface, and of obtaining the differences of latitude and longitude of points in a series of such triangles, regard being had to the effect of the figure of the earth ;
- (g.) The theory of the projections and developments used in the delineation of spherical surfaces ;

- (h.) The portion of the theory of practical astronomy which relates to the determination of the geographic position of points on the earth's surface and the directions of lines on the same; Practical astronomy.
- (i.) The use of the method of least squares in combining direct and indirect observations, the solution of simple equations of condition and the determination of the probable and the mean error; Determination of errors
- (j.) The theory of the Dominion lands system of survey, the methods of surveying blocks and township outlines and of making tract, micrometer and exploratory surveys; Dominion lands survey system.
- (k.) The theory and use of the instruments used in connection with the foregoing, and also of the ordinary meteorological instruments; Theory and use of instruments.
- (l.) Elementary mineralogy and geology, so far as respects a knowledge of the more common characters by which the mineral bodies that enter largely into the composition of rocks are distinguished, with their general properties and conditions of occurrence; the ores of the common metals and the classification of rocks; and the geology of North America, so far as to be able to give an intelligent outline of the leading geological features of Canada; Mineralogy and geology.
- (m.) Methods of trigonometrical levelling, of measurement of heights by barometer or by the temperature of boiling water, and the use of the pendulum in determining the compression of the earth; Geology of North America.
- (n.) The instruments and methods used in determining the magnetic declination, inclination and intensity. 49 V., c. 27, s. 18. Levelling.
- (n.) The instruments and methods used in determining the magnetic declination, inclination and intensity. 49 V., c. 27, s. 18. Magnetic declination, &c.

117. Persons who pass the above mentioned examination in the higher branches of surveying, shall receive a certificate to that effect from the board, and shall be designated Dominion topographical surveyors. 46 V., c. 17, s. 103. Designation of those passing such examination.

118. The following fees shall be paid under the provisions of this Act:— Tariff of fees.

(a.) To the secretary of the board, by each pupil, on giving notice of his desire for examination preliminary to being articulated, one dollar; On giving notice, preliminary examination.

(b.) To the secretary of the board, as the fee due on such examination, ten dollars, and a further sum of two dollars for the certificate; On examination.

(c.) To the secretary of the board, by each pupil, at the time of transmitting to such secretary the indentures or articles of such pupil, two dollars; On transmitting articles.

(d.) To the secretary of the board, by each candidate for either the ordinary or the higher examination for a commission, with his notice thereof, two dollars; On giving notice, final examination.

(e.) To the secretary of the board, by each applicant obtaining a commission, as his fee thereon, two dollars; On obtaining commission.

On admission. (f.) To the secretary of the board as an admission fee by any candidate receiving a commission, twenty dollars,—but such amount, as also the ten dollars required to be paid under sub-clause (b) of this clause, shall be paid to the Minister of Finance and Receiver General to the credit of Dominion lands;

Application of certain fees.

On commission as Dominion topographical surveyor. (g.) To the secretary of the board by each applicant who obtains a commission as Dominion topographical surveyor, as his fee thereon, two dollars;

For testing standards of length.

(h.) To the secretary of the board for testing a surveyor's standard of length, two dollars. 46 V., c. 17, s. 104;—49 V., c. 27, s. 19.

Allowances to members of the board.

119. Every member of the board who attends at the meetings thereof, and the secretary and every member who holds an examination as provided by clause one hundred and one, shall receive five dollars for each day's sitting, and the actual travelling and living expenses incurred by such member, and consequent upon such attendance,—and the Minister shall pay such sums; but no member of the board, if he has to travel more than one hundred miles in order to be present at the meeting, shall receive any allowance for travelling expenses for attending such meeting, unless such member was previously specially notified to attend the same by the secretary. 49 V., c. 27, s. 20, *part.*

Proviso.

Board may suspend or dismiss negligent or corrupt surveyor.

120. The board may, in its discretion, suspend or dismiss from the practice of his profession, any Dominion land or topographical surveyor whom it finds guilty of gross negligence or corruption in the execution of the duties of his office; but the board shall not suspend or dismiss such surveyor without having previously summoned him to appear in order to be heard in his defence, nor without having heard the evidence offered both in support of the complaint and on behalf of such surveyor; and, if, after being summoned as aforesaid, the surveyor does not appear, the board may appoint a fit and proper person to present the evidence on behalf of the surveyor. 49 V., c. 27, s. 20, *part.*

Surveyor or some one on his behalf, to be heard.

Surveyors to add to their returns of survey an affidavit of the faithful and correct execution thereof.

121. The Surveyor General shall require every Dominion land or topographical surveyor, in addition to the oath by this Act required to be administered to him on receiving his commission as such, to take and subscribe an oath, or make and subscribe an affirmation, on the return of his surveys of Dominion lands, that the same have been faithfully and correctly executed according to law and the instructions of the Surveyor General; and if it is proved, on satisfactory evidence, before any court of competent jurisdiction, that such surveys, or any part thereof, have not been so executed, the Attorney General of Canada shall, upon the application of the Surveyor General, immediately institute a suit upon the bond of such surveyor; and the institution of such

If statement is false, proceedings to be instituted on the bond.

suit shall operate as a lien on any property owned or held by such surveyor, or his sureties, at the time the suit is instituted. 46 V., c. 17, s. 107, *part*.

Effect of such suit.

122. Every Dominion land surveyor shall keep exact and regular journals and field notes of all his surveys of Dominion lands, and shall file them in the order of time in which the surveys have been performed, and he shall give copies thereof to all persons concerned, when required so to do; and for so doing he shall be paid the sum of one dollar for each copy, if the number of words therein does not exceed four hundred—but if the number of words therein exceeds four hundred, he shall be paid ten cents additional for every hundred words over and above four hundred words. 46 V., c. 17, s. 123.

Surveyors to keep journals and field notes and to furnish copies.

123. Every Dominion land surveyor summoned to attend any court, civil or criminal, for the purpose of giving evidence in his professional capacity as a surveyor, shall be allowed five dollars for each day he so attends, in addition to his reasonable travelling and living expenses, to be taxed and paid in the manner by law provided, with regard to the payment of witnesses attending such court. 46 V., c. 17, s. 124.

Allowance to surveyor for attendance as witness.

Chain Bearers.

124. Every chain bearer employed in the survey of Dominion lands shall, before he commences his chaining or measuring, take an oath or affirmation that he will discharge such duty with exactness, according to the best of his judgment and ability, and render a true account of his chaining or measuring to the surveyor by whom he has been appointed to such duty; and any Dominion land surveyor may administer such oath or affirmation. 46 V., c. 17, s. 108.

Chain bearer to be sworn.

Standard of Measure.

125. The measure of length used in the surveys of Dominion lands shall be the English measure of length; and every Dominion land surveyor shall be in possession of a subsidiary standard thereof—which subsidiary standard, tested and stamped as correct by the Department of Inland Revenue, shall be furnished to him by the secretary of the board on payment of a fee of eight dollars therefor; and all Dominion land surveyors shall, from time to time, regulate and verify, by such standard, the length of their chains and other instruments for measuring; and the said standard measure shall be returned to the secretary of the board as often as it requires to be tested again:

Standard to be English measure of length.

Measuring instruments to be regulated thereby. Testing subsidiary standards.

2. Every surveyor who is found performing his duties without being in possession of the standard measure which, by this clause, he is required to have, shall be liable to be

Penalty for surveyor without standard.

suspended for a period not exceeding twelve months. 49 V., c. 27, s. 21.

Renewal of Lost Corners and Obliterated Lines.

- 126.** Whenever a Dominion land surveyor is employed to run any dividing line or limit between sections or other legal sub-divisions, and the mound, post or monument erected, marked or planted in the original survey, to define the corner of such section or other legal sub-division, cannot be found, he shall obtain the best evidence that the nature of the case admits of, respecting such corner mound, post or monument; but if the position of the same cannot be satisfactorily so ascertained, he shall proceed as follows:—
- Provision where the original mound or post is lost.** (a.) If the lost corner mound, post or monument is that of a township corner, he shall report the circumstances of the case to the Surveyor General, who shall instruct him how to proceed;
- If a township corner.** (b.) If the lost corner mound, post or monument is on one of the outlines of a township, he shall join, by a straight line, the nearest undisputed section or quarter section corners on such outline, and divide such straight line into such number of sections or quarter sections or other legal sub-divisions as the same contained in the original survey,—giving to each an equal breadth;
- If on one of the outlines of a township.** (c.) If, in re-establishing the east or west boundary of a township, one of the nearest undisputed corners is on a correction line, every quarter section shall be made exactly forty chains, and the deficiency or surplus, as the case may be, shall be left in the quarter section adjoining the correction line;
- As to correction lines.** (d.) If, in re-establishing the north or south boundary of a township surveyed under the first system of survey, one of the nearest undisputed corners is the western corner of the township, every quarter section shall be made exactly forty chains, and the deficiency or surplus, as the case may be, shall be left in the western quarter section;
- Where a deficiency shall be left.** (e.) When the position of the township corner is also lost, it shall be re-established as aforesaid, previously to re-establishing the outline of the township;
- Township corner to be re-established.** (f.) When the lost corner is in the interior of a township, on the limit of a meridian road allowance, the surveyor shall connect the two nearest undisputed corners on such limit by a straight line, and divide the distance into such number of sections or other legal sub-divisions as the same contained in the original survey, giving to each an equal breadth;
- When the lost corner is in the interior of a township.** (g.) If one of the nearest undisputed corners is on a correction line, he shall make each quarter section exactly forty chains and leave the deficiency or surplus, as the case may be, in the quarter section adjoining the correction line;
- When nearest undisputed corner is on a correction line.**

(h.) When the nearest undisputed corners on the said limit of a meridian road allowance are in different townships, the outline between such townships shall be re-established previous to re-establishing the meridian ;

When nearest undisputed corners are in different townships.

(i.) When the lost corner is that of a quarter section on a line running east and west, the surveyor shall join, by a straight line, the opposite section corners on the meridians on each side, and give to each quarter section an equal breadth ;

When of a quarter section on a line running east to west.

(j.) If, in townships surveyed under the first system of survey, the lost corner is in the western row of sections of a township, the first quarter section shall be made exactly forty chains, and the deficiency or surplus, as the case may be, shall be left in the western quarter section ;

When in western row under first system of survey.

(k.) When the position of one of the corners on the meridians is also lost, such meridian shall be re-established previously to re-establishing the east and west line ;

When meridian shall be re-established.

(l.) Whenever a surveyor erects, plants or places a mound, post or monument as aforesaid, to renew a lost or obliterated corner, he shall duly take into account any allowance for road or roads ; and the corner, or division or limit so established, shall be the true corner, or division or limit of such section or other legal sub-division. 46 V., c. 17, s. 110.

Allowance for road to be considered.

Effect of such survey.

Survey of Legal Sub-divisions.

127. When, in the survey of legal sub-divisions, it is necessary for a Dominion land surveyor to establish the division line between two sections, he shall effect this by connecting, by a straight line, the opposite original section corners, if they exist, and if not, by similarly connecting the points established in renewal thereof, in accordance with the next preceding clause, giving, in either case, the quarter sections involved an equal breadth :

Method of proceeding in laying out a half or quarter section or other legal sub-division.

2. In laying out a half section or a quarter section he shall connect the opposite quarter section posts by straight lines :

Half or quarter section.

3. In laying out other and minor legal sub-divisions he shall give to every such sub-division its proportionate share of frontage and interior breadth, and connect the resulting terminal points by a straight line :

Other sub-divisions.

4. The lines or limits so drawn on the ground in the manner above prescribed shall, in the respective cases, be the true lines or limits of such section, half section or other legal sub-division, whether the same correspond or do not correspond with the area expressed in the respective patents for such lands. 46 V., c. 17, s. 111.

Lines drawn to be true limits.

Division Lines in Fractional Sections.

128. The dividing lines or limits between legal sub-divisions, in fractional sections, shall be drawn from the

Dividing lines to be drawn from original corners.

original corners (or the points representing such corners, as defined on the ground, in accordance with the provisions of this Act), in the section line intended as the front of the lot:

Northerly and southerly lines.

2. Northerly or southerly lines shall be drawn due north or due south:

Easterly and westerly lines.

3. Easterly or westerly lines shall be drawn at an angle with the meridian equal to the mean of the angles formed with the same meridian by the lines which are the northern and the southern boundaries respectively of the section. 46 V., c. 17, s. 112.

Original Boundary Lines.

Boundaries under this Act are to be deemed the true ones

129. All boundary lines of townships, sections or legal sub-divisions, towns or villages, and all boundary lines of blocks, gores and commons, all section lines and governing points, all limits of lots surveyed, as defined by mounds, posts or monuments, erected, placed or planted at the angles of any townships, towns, villages, sections or other legal sub-divisions, blocks, gores, commons and lots or parcels of land, under the authority of this Act or of the Governor in Council, shall be the true and unalterable boundaries of such townships, towns and villages, sections or other legal sub-divisions, blocks, gores, commons and lots or parcels of land respectively, whether the same, upon admeasurement, are or are not found to contain the exact area or dimensions mentioned or expressed in any patent, grant or other instrument in respect of any such township, town, village, section or other legal sub-division, block, gore, common, lot or parcel of land. 46 V., c. 17, s. 113.

Townships and other legal sub-divisions to comprise all the space within their boundaries.

130. Every township, section or other legal sub-division, town, village, block, gore, common, lot or parcel of land, shall consist of the whole width included between the several mounds, posts, monuments or boundaries respectively, so erected, marked, placed or planted as aforesaid, at the several angles thereof, and no more or less—any quantity or measure expressed in the original grant or patent thereof notwithstanding. 46 V., c. 17, s. 114.

As to aliquot parts of townships, &c.

131. Every patent, grant or instrument purporting to be for any aliquot part of any section, or other legal sub-division, block, gore, common, lot or parcel of land, shall be construed to be a grant of such aliquot part of the quantity the same contains on the ground, whether such quantity is more or less than that expressed in such patent, grant or instrument. 46 V., c. 17, s. 115.

Road allowances in towns, &c., to be public highways.

132. In every town and village in Manitoba or the North-West Territories, surveyed and laid out under the provisions of this Act, all allowances for any road, street, lane, lot or

common, laid out in the original survey of such town or village, shall be public highways and commons; and all mounds, posts or monuments, placed or planted in the original survey of such town or village, to designate or define any allowance for a road, street, lane, lot or common, shall be the true and unalterable boundaries of such road, street, lane, lot or common; and all Dominion land surveyors employed to make surveys in such town or village, shall follow and pursue the same rules and regulations in respect of such surveys as are, by law, required of them when employed to make surveys in townships. 46 V., c. 17, s. 116.

Evidence before Surveyors.

133. Every Dominion land surveyor acting in that capacity, may examine witnesses on oath, with respect to all matters relating to the settlement, occupation or possession of Dominion lands, and to the survey of lands, and for better ascertaining the original corner or limits of any township, section or other legal sub-division, lot or tract of land, and may administer such oath or oaths to every person whom he examines in relation to such matters. 46 V., c. 17, s. 117.

Surveyors may examine witnesses on oath.

134. Whenever any Dominion land surveyor is in doubt as to the true corner, boundary or limit of any township, section, lot or tract of land which he is employed to survey, and has reason to believe that any person is possessed of any important information touching such corner, boundary or limit, or of any writing, plan or document tending to establish the true position of such corner, boundary or limit, and if such person does not willingly appear before, and be examined by such surveyor, or does not willingly produce to him such writing, plan or document, such surveyor may apply to any justice of the peace for an ordinary subpœna *ad testificandum*, or a *subpœna duces tecum*, as the case requires, accompanying such application by an affidavit or solemn declaration made before such justice of the peace, of the facts on which the application is founded; and such justice may issue a subpœna accordingly, commanding such person to appear before the surveyor at a time and place mentioned in the subpœna, and, if the case requires it, to bring with him any writing, plan or document mentioned or referred to therein:

How surveyors shall proceed to ascertain boundaries when doubtful.

Subpœna may be issued,

2. Such subpœna shall be served on the person named therein by delivering a copy thereof to him, or by leaving the same for him with some adult person of his family at his residence, exhibiting to him or such adult person the original:

How served.

3. If the person required in such subpœna to appear, after being paid his reasonable expenses, or having the same tendered to him, refuses or neglects to appear before

Penalty for disobeying it.

the surveyor at the place and time appointed in the subpoena, or to produce the writing, plan or document, if any, therein mentioned or referred to, or to give such evidence and information as he possesses touching the boundary or limit in question, a warrant by the justice for the arrest of such person may be issued, and he shall be liable to a penalty not exceeding one hundred dollars, or to imprisonment for a term not exceeding ninety days, or to both, in the discretion of such justice. 46 V., c. 17, s. 118.

Evidence taken by surveyor to be reduced to writing and signed.

135. All evidence taken by a Dominion land surveyor, as aforesaid, shall be reduced to writing and shall be read over to the person giving the same, and shall be signed by such person; or if he cannot write, he shall acknowledge the same as correct before two witnesses, who shall sign the same, as shall also the Dominion land surveyor; and such evidence shall, and any document or plan prepared and sworn to as correct before a justice of the peace, by any Dominion land surveyor, with reference to any survey by him performed, may be filed and kept at the registry office of the place in which the lands to which the same relate are situate, subject to be produced thereafter in evidence in court. 46 V., c. 17, s. 119.

Power to enter upon private lands.

136. Any Dominion land surveyor, when engaged in the performance of his duties as such, may pass over, measure along and ascertain the bearings of any township or section line, or other governing line, and for such purposes may pass over the lands of any person whomsoever, doing no actual damage to the property of such person. 46 V., c. 17, s. 120.

Offences.

Penalty for molesting surveyor in discharge of his duty.

137. Every person who, in any part of the Dominion lands, interrupts, molests or hinders any Dominion land surveyor while in the discharge of his duty as a surveyor, is guilty of a misdemeanor, and liable to a penalty not exceeding twenty dollars or to imprisonment for a term not exceeding two months, or to both, in the discretion of the court. 46 V., c. 17, s. 121.

Penalty for pulling down or destroying land marks placed by surveyor on original survey.

138. Every person who, knowingly and wilfully, pulls down, defaces, alters or removes any mound, post or monument erected, planted or placed in any original survey under the provisions of this Act, or under the authority of the Governor in Council, is guilty of felony, and shall be liable to imprisonment for any term not exceeding seven years:

And for pulling down or destroying other land marks so placed.

2. Every person who, knowingly and wilfully, defaces, alters or removes any other mound or land-mark, post or monument placed by any Dominion land surveyor to mark any limit, boundary or angle of any township, sec-

tion or other legal sub-division, lot or parcel of land in Manitoba or the North-West Territories, is guilty of a misdemeanor, and liable to a penalty not exceeding one hundred dollars or to imprisonment for a term not exceeding three months, or to both, in the discretion of the court. 46 V., c. 17, s. 122, *part*.

139. Nothing in this Act shall extend to prevent Dominion land surveyors, in their operations, from taking up posts or other boundary marks when necessary, after which they shall carefully replace them as they were before. 46 V., c. 17, s. 122, *part*. As to examining posts.

SCHEDULE.

FORM A.

APPLICATION FOR A HOMESTEAD ENTRY.

I, _____ of _____, do hereby apply for a homestead entry, under the provisions of "*The Dominion Lands Act*," for the _____ quarter section of section number _____ of the _____ township, in the _____ range of the _____ meridian.

46 V., c. 17, sch. form A.

FORM B.

AFFIDAVIT in support of claim for homestead entry by a person who has *bonâ fide* settled and made improvements upon land in advance of survey.

I, A. B., do solemnly swear (*or affirm, as the case may be*) that I am over eighteen years of age; that to the best of my knowledge and belief the land in respect of which my application is made is of the class open for homestead and pre-emption entry; that I became resident upon and began to cultivate the said land on the _____ day of _____, 18____, before the same was surveyed; that I have resided upon and cultivated the said land continuously ever since; that there is no other person residing or having improvements upon it, and that this application is made for my exclusive use and benefit, with the intention of residing upon and cultivating the said land, and not directly or indirectly for the use or benefit of any other person or persons whomsoever; and that I have not heretofore obtained an entry for a homestead on Dominion lands.

Subscribed and sworn }
to, this _____ day } (Signature.)
of _____ 18____, before me }

Local Agent.

46 V., c. 17, sch. form B.

FORM E.

I certify that I have received from _____ the sum of ten dollars, being the office fee for homestead entry (or pre-emption entry in connection with homestead entry, as the case may be), for (describe the land), and that the said _____ is, in consequence of such entry and payment, vested with the rights conferred in such cases by the provisions of "The Dominion Lands Act," respecting homestead rights.

Local Agent.

(Place—Date).

46 V., c. 17, sch. form F.

 FORM F.

APPLICATION FOR A HOMESTEAD ENTRY BY AN AGENT.

I, A. B., do hereby apply on behalf of _____ of _____ for homestead entry under the provisions of "The Dominion Lands Act," for the _____ quarter section of section number _____ of the _____ township, in the _____ range of the _____ meridian.

46 V., c. 17, sch. form G.

 FORM G.

AFFIDAVIT by an agent in support of a claim for homestead entry on behalf of a person who has *bonâ fide* settled and made improvements upon land in advance of survey.

I, A. B., do solemnly swear (or affirm, as the case may be) that _____, for whom I am acting herein as agent, is over eighteen years of age; that to the best of my knowledge and belief the land in respect of which the application is made is of the class open for homestead and pre-emption entry; that the said _____ became resident upon and began to cultivate the said land on the _____ day of _____, 18____, before the same was surveyed; that he has resided upon and cultivated the said land in conformity with the requirements of the homestead provisions of the Dominion lands law ever since; that there is no other person residing on, or claiming, or having improvements upon it, and that this application is made for his exclusive use and benefit, with the intention of his residing upon and cultivating the said land, and

not directly or indirectly for the use or benefit of any other person or persons whomsoever, and that he has not heretofore obtained an entry for a homestead on Dominion lands.

Subscribed and sworn }
to, this day } (*Signature.*)
of 18 , before me }
Local Agent.

46 V., c. 17, sch. form H.

FORM H.

AFFIDAVIT by an agent in support of claim for homestead entry on behalf of a person who has not previously settled on the land.

I, A. B., do solemnly swear (*or affirm, as the case may be*) that of , for whom I am acting herein as agent, is over eighteen years of age; that to the best of my knowledge and belief the land in respect of which the application is made is of the class open for homestead and pre-emption entry; that there is no person residing upon the said land, nor are there any improvements thereon, and that the application is made for the exclusive use and benefit of the said with the intention of his residing upon and cultivating the said land, and not directly or indirectly for the use or benefit of any other person or persons whomsoever, and that he has not heretofore obtained an entry for a homestead on Dominion lands.

Subscribed and sworn }
to, this day } (*Signature.*)
of 18 , before me }
Local Agent.

46 V., c. 17, sch. form J.

FORM J.

AFFIDAVIT by an agent in support of a claim for homestead entry on behalf of a person who has previously obtained and has forfeited his homestead entry, but is permitted by the Minister of the Interior to obtain another homestead entry.

I, A. B., do solemnly swear (*or affirm, as the case may be*) that , for whom I am acting herein as agent, is over eighteen years of age; that to the best of my knowledge and belief the land in respect of which application is

made is of the class open for homestead and pre-emption entry; that there is no person residing on the said land, nor are there any improvements thereon; that he obtained homestead entry on the _____ day of _____ 18____, for the _____ quarter section of section _____ township _____ range _____ of the _____ meridian, but forfeited the same; that by an order of the Minister of the Interior, which I now produce, he has been permitted to make application for and receive another homestead entry, and that this application is made for his exclusive use and benefit, with the intention of his residing upon and cultivating the land applied for, and not directly or indirectly for the use or benefit of any other person or persons whomsoever.

Subscribed and sworn)
 to, this _____ day) (Signature.)
 of _____ 18____, before me)

Local Agent.

46 V., c. 17, sch. form K.

FORM K.

I certify that _____, who is the holder of a homestead entry (or homestead and pre-emption entry, as the case may be) for (describe the land), has complied with the provisions of the law required to be conformed to in order to entitle him to receive a patent for such land, and that I have recommended the issue of such patent.

Local Agent.

{Place—Date .}
 Countersigned:

*Commissioner of Dominion Lands,
 or Member of the Dominion Lands Board.*

46 V., c. 17, sch. form M.

FORM L.

ACKNOWLEDGMENT AND CHARGE.

I, the undersigned, A.B., holding as a homestead the _____ quarter section _____ township _____, range _____ of _____ meridian, hereby acknowledge to have received from C.D. as an advance, under the provisions of "The Dominion Lands Act," in aid of my establishment upon the said homestead, the sum of _____ dollars, as shown by the statement thereof, as hereto annexed, certified by the

his executors, administrators and assigns, that the said E. F. shall well and faithfully, and diligently, according to the best and utmost of his power, serve the said A. B. as his pupil in the practice or profession of a Dominion land surveyor, which he, the said A. B., now followeth, and shall abide and continue with him from the day of the date hereof, for and during and unto the full end of the said term of three years :

And that he, the said E. F., shall not, at any time during such term, cancel, obliterate, injure, spoil, destroy, waste, embezzle, spend or make away with any of the books, papers, writings, documents, maps, plans, drawings, field notes, moneys, chattels or other property of the said A. B., his executors, administrators or assigns, or of any of his employers ; and that in case the said E. F. shall act contrary to the last mentioned covenant, or if the said A. B., his executors, administrators or assigns, shall sustain or suffer any loss or damage by the misbehavior, neglect or improper conduct of the said E. F., the said C. D., his heirs, executors, or administrators, will indemnify the said A. B., his executors, administrators or assigns, and make good and reimburse him or them the amount or value thereof :

And further, that the said E. F. shall, at all times, keep the secrets of the said A. B., in all matters relating to the said business and profession, and will, at all times during the said term, be just, true and faithful to the said A. B., in all matters and things, and, from time to time, pay all moneys which he shall receive of or belonging to or by order of the said A. B. into his hands, and make and give true and fair accounts of all his acts, and doings whatsoever in the said business and profession, without fraud or delay, when and so often as he shall thereto be required ; and will readily and cheerfully obey and execute his lawful and reasonable commands, and shall not depart or absent himself from the service or employ of the said A. B. at any time during the said term, without his consent first had and obtained, and shall, from time to time, and at all times during the said term, conduct himself with all due diligence and with honesty and sobriety :

And the said E. F. doth hereby, for himself, covenant with the said A. B., his executors, administrators and assigns, that he, the said E. F., will truly, honestly and diligently serve the said A. B. at all times, for and during the said term, as a faithful pupil ought to do, in all things whatsoever in the manner above specified :

In consideration whereof, and of _____ of lawful money by the said C. D. to the said A. B. paid at or before the sealing and delivery of these presents (the receipt whereof is hereby acknowledged), the said A. B., for himself, his heirs, executors and administrators, doth covenant with the said C. D., his heirs, executors and administrators, that the said A. B. will accept and take the said E. F. as his pupil,

and that he, the said A. B., will, by the best ways and means he may or can, and to the utmost of his skill and knowledge, teach and instruct, or cause to be taught and instructed, the said E. F. in the course of study prescribed by clause one hundred and thirteen of "*The Dominion Lands Act*," in practical surveying operations, and in the use of instruments, and generally in the art, practice and profession of a Dominion land surveyor, which he, the said A. B., now doth, and shall, at all times during the said term, use and practice, and also will provide the said E. F. with all the necessary and reasonable expenses incurred in transacting or performing the business of the said A. B., and also will, at the expiration of the said term, make the affidavit of service required by section one hundred and four of "*The Dominion Lands Act*" and use his best means and endeavors, at the request, cost and charges of the said C. D. and E. F., or either of them, to cause and procure him, the said E. F., to be examined before the Board of Examiners of candidates for commissions as Dominion land surveyors: Provided the said E. F. shall have well, faithfully and diligently served his said intended pupilage :

And for the true performance of all and every the covenants and agreements aforesaid, according to the true intent and meaning thereof, each of them, the said A. B. and C. D., doth bind himself, his heirs, executors and administrators, unto the other, his heirs, executors, administrators and assigns, in the penal sum of five hundred dollars, firmly by these presents :

IN WITNESS WHEREOF, the parties aforesaid have hereunto set their hands and seals, the day and year first above written.

A. B. (Seal.)
C. D. (Seal.)
E. F. (Seal.)

Signed, sealed and delivered
in the presence of

G. H.,
J. K.

46 V., c. 17, sch. form O.

FORM O.

AFFIDAVIT BY THE SURVEYOR

I, A. B., of _____, Dominion land surveyor, do solemnly swear that E. F. has served regularly and faithfully as my pupil from the _____ day of _____ 18____ to the _____ day of _____ 18____. That he has been engaged with me in the field on the following surveys, that is to say :

From the day of to the day
of , on the survey of at ;
From the day of to the day
of , on the survey of at
, and that the said E. F. has always conducted
himself with all due diligence, honesty and sobriety on the
said service.

Sworn before me }

49 V., c. 27, s. 22, *part.*

FORM P.

AFFIDAVIT BY THE PUPIL.

I, E. F., of , do solemnly swear that I have
attained the full age of twenty-one years; that I have served
regularly and faithfully with A. B., Dominion land surveyor,
as his pupil, from the day of 18 ,
to the day of 18 ; that I have been
engaged with him in the field between the following dates
on the following surveys, that is to say:

From the day of to the day of ,
on the survey of at ;

From the day of to the day of ,
on the survey of at .

Sworn before me }

49 V., c. 27, s. 22, *part.*

FORM Q.

COMMISSION AS DOMINION LAND SURVEYOR.

This is to certify to all whom it may concern, that A. B.,
of hath duly passed his examination before the
Board of Examiners, and hath been found duly qualified to
fill the office and perform the duties of Dominion land sur-
veyor, he having complied with all the requirements of the
law in that behalf: Wherefore he, the said A. B., is hereby
duly admitted to the said office, and commissioned for the
discharge of the duties thereof, and is by law authorized to
practice as a surveyor of Dominion lands.

IN WITNESS WHEREOF, we, the President and Secretary of
the said Board, have signed this commission, at
on this day of one thousand eight
hundred and

C. D.,
Surveyor General.
E. F.,
Secretary.

46 V., c. 17, sch. form P.



CHAPTER 55.

An Act respecting Ordnance and Admiralty Lands. A.D. 1886.

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

1. All the lands mentioned in the schedule to this Act, Lands vested in Her Majesty for Canada. by whatever mode of conveyance the same have been acquired or taken, whether in fee, for life, for years or otherwise, and all the appurtenances thereof, are and shall be and continue absolutely vested in Her Majesty for the purposes of Canada, and shall be subject to the provisions of the laws relating to public lands, so far as they are applicable to the same, and shall be held, used, alienated and dealt with accordingly; subject, nevertheless, to any sales, agreements, leases or agreements to lease, heretofore lawfully entered into respecting the same. C. S. C., c. 24, s. 2, *part*;—40 V., c. 8, s. 1;—42 V., c. 33, s. 1.

2. Nothing in this Act shall affect any right of any person Rights saved. claiming any of the said lands. C. S. C., c. 24, s. 3;—40 V., c. 8, s. 2;—42 V., c. 33, s. 2.

3. The said lands shall be divided by the Governor in Lands divided into two classes. Council into two classes, to be denominated respectively, Class one and Class two:

2. Lands in either class, may, from time to time, be placed Change of class. or replaced in the other class by the Governor in Council. C. S. C., c. 24, s. 1, *part*;—40 V., c. 8, s. 3;—42 V., c. 33, s. 3.

4. Class one shall consist of such parts of the said lands as Class one. are, from time to time, placed in that class, by order of the Governor in Council:

2. Lands in class one shall be retained by the Government Lands for defence. of Canada for the defence of Canada:

3. Such of the lands in class one as it is deemed necessary How occupied. by the Governor in Council to occupy for the defence of Canada in time of peace, may be so occupied by such force as is lawfully directed by the Governor in Council:

4. Such of the lands in class one as it is not deemed necessary so to occupy, may be leased or otherwise used, as the How dealt with if not required. Governor in Council thinks best for the advantage of Canada. C. S. C., c. 24, s. 1, *part*, and s. 4;—40 V., c. 8, s. 4;—42 V., c. 33, s. 4.

Class two. 5. Class two shall consist of such parts of the said lands as are not in class one :

How to be dealt with. 2. Lands in class two may be sold, leased or otherwise used as the Governor in Council, from time to time, thinks meet, and shall, as respects sales, registration of assignments and cancellation and annulling of sales and patents, be administered in accordance with the provisions of "*The Dominion Lands Act*" so far as the same are applicable : Provided always, that such sales shall only be made at public auction, except in the case of lands sold to the Government of a Province for provincial purposes ; but no such sale shall prejudice the right acquired by any person :

Proviso : sales to be by auction.

Proviso : as to lands on which improvements are made.

3. Provided always, that when any portions of the said lands are in the actual occupation of any person with the assent of the Crown, and improvements thereon have been made, such improvements shall be paid for at a fair valuation before exposing the land to competition ; or the Crown may, by private contract, sell the portion of land so occupied to the person in possession without resorting to public auction. C. S. C., c. 24, s. 1, *part* ;—40 V., c. 8, s. 5 ;—42 V., c. 33, s. 5.

Application of proceeds.

6. The moneys arising from the sale or lease of any of the said lands shall be paid over to the Minister of Finance and Receiver General, and shall form part of the Consolidated Revenue Fund of Canada ; and a separate account shall be kept thereof. C. S. C., c. 24, s. 5 ;—40 V., c. 8, s. 6 ;—42 V., c. 33, s. 6.

Annuities to certain pensioners.

7. The Governor in Council may authorize the payment out of the Consolidated Revenue Fund, of a life annuity not exceeding four pounds sterling, per annum, to each pensioner located upon the Ordnance Lands mentioned in the schedule to this Act, situate at Toronto, London and Niagara, in consideration of the transfer of the said lands to Canada, and in lieu of all claims of the said pensioners thereon : Provided the number of such pensioners does not exceed five hundred. C. S. C., c. 24, s. 6.

The same.

8. The Governor in Council, in consideration of the transfer of the said lands situate at Penetanguishene, Amherstburg and Fort Erie, may authorize the payment of a like annuity out of the said fund to each of the pensioners located thereon, and of such further sum for his actual improvements, as he is entitled to according to the conditions of his location, such annuity and sum to be in lieu of all his claims upon such land : Provided the number of such pensioners does not exceed two hundred, and that the sum paid to any such pensioner for improvements does not exceed the amount regulated by such conditions. C. S. C., c. 24, s. 7.

How to be paid and accounted for.

9. The said annuities and sums shall be a charge upon the said Consolidated Revenue Fund, and shall be paid and accounted for in like manner as other sums charged thereon. C. S. C., c. 24, s. 8.

SCHEDULE.

MILITARY PROPERTIES in Canada transferred to the Government of the late Province of Canada.

SITUATION.	Approximate Quantity of Land.			Description of Buildings or Military Works.
	A.	R.	P.	
Témiscouata.....	11	2	10	Stockaded Barrack.
Three-Rivers.....	3	2	9	Barrack and Fuel Yard.
Sorel.....	45,220	...	...	Seigneurie, Domain and other appurtenances.
Montreal.....	...	...	...	Old Barracks.—Parcel of land for <i>étie de jonc</i> at Longueuil.
Laprairie.....	42	1	8	Barracks for Cavalry, Artillery and Infantry.
St. Johns.....	176	...	...	Infantry Barracks and Old Fort.
Isle-aux-Noix and Sorel River.....	295	...	...	Fort Lennox and Reserve.
Chambly.....	157	1	22	Old Fort, Barracks for Cavalry, Artillery and Infantry, with Barrack Master's house, &c.
Chateauguay.....	5	...	1	Blockhouse.
Cascades.....	9	...	12	Wood Yard, Common and Canal.
Cedars.....	...	2	23	Storehouse and Wharf.
Coteau-du-Lac.....	15	3	39	Fort.
Cornwall.....	1	...	...	Fuel Yard.
Prescott.....	74	...	...	Fort Wellington.
Grant's Island, Brockville.....	...	2	32	Blockhouse.
	180	3	4	Lot 23 or Herchmer Farm.
	11	2	10	Gore between lots 23 and 24.
	11	1	31	} Parts of lot 24.
	15	...	...
	6	2	8	
	...	2	...	Lots 19, 21 and 22, Place d'Armes.
	...	2	16	Lots 23, 24 and 25, do. do.
Kingston.....	4	...	8	Late Commandant's Quarter, and lots 286, 382 and 413.
	3	1	5	Old Tannery.
	44	3	17	Ferguson Property.
	110	...	...	Horse Shoe Island.
	1	...	...	Snake Island.
	100	...	...	Kingston Mills Reserve, &c.
Cape Vesey, Prince Edward County..	1260	...	...	Reserve.
Green Point, Bay of Quinte.....	100	...	...	Do.
				Old Fort, New Barracks.
Toronto.....	502	2	1	Hospital, Bathurst Street Barracks.
				Commissariat Quarters, Stores.
				Guard house and Victoria Square.
Hamilton.....	178	...	...	Reserve, Burlington Heights.
Short Hills Farm.....	200	...	...	Lots 5 and 6 Con. Pelham.
Niagara.....	444	2	4	Reserve, Barracks and Hospital.
Queenston.....	130	...	...	Reserve.—All, except that sold to the Purchasers of the Hamilton Estate.
Lyons Creek.....	3	1	...	Reserve.
Chippawa.....	19	3	27	Barrack and Store.
Navy Island.....	...	...	...	Reserve.
Fort Erie.....	1000	...	...	Do.
Port Maitland.....	426	...	...	Do.
Turkey Point.....	592	...	...	Do.
London.....	74	...	...	Artillery and Infantry Barracks.
Chatham.....	11	3	8	Infantry Barrack.
Rond Eau.....	500	...	...	Reserve.

MILITARY PROPERTIES in Canada transferred to the Government of the late Province of Canada.

SITUATION.	Approximate Quantity of Land.			Description of Buildings or Military Works.
	A.	R.	P.	
Amherstburg.....	523	...	...	Fort, Block and Picket Houses.
Boisblanc Island.....				
Fighting Island.....				
Windsor.....	4	...	...	Infantry Barrack.
Port Edward, Sarnia.....	...	...	...	Reserve.—Except land sold to Contractors for the Grand Trunk Railway.
Owen Sound.....	51	...	...	Reserve.
Nottawasaga Bay.....	66	...	...	Do.
Penetanguishene.....	5396	2	15	Reserve and Barracks—Except that under license of occupation to Major Ingall.
St. Joseph.....	450	...	...	Reserve.
St. Mary's Island.....	170	...	...	Do.
Rideau and Ottawa Canals.....	...	...	...	City of Ottawa Barracks, Blockhouses and Adjuncts of the Canals.

C. S. C., c. 24, 2nd schedule ;—23 V., c. 22, s. 1.

WAR DEPARTMENT property transferred to the Government of the
Dominion of Canada.

Local Name of the Property, &c.	Origin of the Title.	Contents (nearly).		
		A.	R.	P.
NIAGARA.				
Fort Mississauga and land attached...	Partly by Crown reservation in 1784 or 1796, and partly by exchange with Mr. Crooks	66	2	14
KINGSTON.				
Land at the Little Catarqui.....	Purchased by Imperial Government in 1812	142	1	31
Murney Tower and Redoubt, land, &c	Crown reservation and partly by deed of exchange.....	6	3	13
Market Battery and enclosure.....	Crown reservation and partly by deed of exchange	1	2	39
Shoal Tower and submerged land in front of Market Battery	Granted by Order in Council, 18th Nov., 1845, and 26th June, 1846, but no letters patent issued.....	11	1	16
Tête de Pont Barracks, stables, &c....	By right of conquest, and military appropriation; the site of Fort Frontenac and works attached.....	12	0	10
		12	3	3½
Fuel yards, Nos. 1, 2, barrack office and lot 19, Place d'Armes, on site of works of old Fort Frontenac.....	By patent—Provincial Government in exchange for other lots, 28th January, 1861.....	4	3	31
Fuel yard, No. 3, on site of advanced work of old Fort Frontenac	Held by military occupation since the conquest. No written title yet found...	1	2	14
Artillery Park, with barracks, stables &c., workshops, &c., &c., attached.	Crown reservation as delineated on a plan of Kingston in the Crown Lands Department, signed by Alex. Aitken, D.P.S., but no date.	0	3	8
The water lot, being a portion of Catarqui Bay, north-east of the city	Crown reservation as delineated on a plan of Kingston in the Crown Lands Department, signed by Alex. Aitken, D.P.S., but no date.	5	2	25
Military Burial Ground, Section G, in Catarqui Cemetery	By letters patent from the Crown to the Hon. Board of Ordnance, on condition the navigation of the river should not be obstructed, nor the rights of private individuals be interfered with, dated 22nd Nov., 1845.....	71	0	0
Point Frederick Naval Reserve, dock-yard, &c.....	Deed of Donation from the Trustees to the War Department, dated 31st January, 1865.....	2	0	14
	Crown Reserve, set apart by letters dated 11th September, 1783, and 22nd May, 1785, by General Haldimand and Lieut. Governor Hamilton.....	57	0	0

NAVAL RESERVE transferred to the Government of the Dominion of Canada.

Local Name of the Property, &c.	Origin of the Title.	Contents (nearly).		
		A.	R.	P.
KINGSTON.—Continued.				
Reserves situate near the city of Kingston, to wit:—So much of Point Frederick, in the township of Pittsburg, in the County of Frontenac, in the possession of the Naval Authorities at Kingston on the fifth day of December in the year 1859, and included between a fence or fences on the south side of the road leading from the east end of the Catarqui Bridge to the village of Barriefield, and another fence at the south-west end of the Naval Yard, separating it from the Tower on the extremity of Point Frederick; and also Point Frederick, the inlets designated as Haldimand Cove and Hamilton Cove.				
Fort Frederick—Glacis and land attached at Point Frederick.....	Crown Reserve as above quoted	8	2	0
Fort Henry and advanced battery, with ordnance store, buildings, hospital and accessories, &c. Known also as "Barriefield Common"	' do do dated 11th September, 1783, and 22nd May, 1785 ...	556	0	0
Cedar Island Tower and Glacis.....	do do do	23	0	0
Pittsburgh, western addition of lot No. 20, Barriefield.....	Purchased from Robert McDonald and wife, 6th July, 1844.....	125	2	1
Pittsburgh, western addition of lot No. 21, Barriefield.....	Acquired from Robert David Cartwright, and Harriet his wife, by deed of exchange, 20th March, 1840.....	102	0	0
Pittsburgh, western addition, front part of lot No. 16, on the River Catarqui, north of Barriefield.....	Purchased by the Admiralty from Richard O'Connor, Captain, R.N., represented by his Attorney, J. B. Marks, R.N., 23rd August, 1819	4	2	0

WAR DEPARTMENT property transferred to the Government of the
Dominion of Canada.

Local Name of the Property, &c.	Origin of the Title.	Contents (nearly).		
		A.	R.	P.
QUEBEC CITY AND DISTRICT.				
Exercising Ground, Plains of Abraham.....	Leasehold from the Ursuline Nuns, 99 years from 1st May, 1802	71	3	1
No. 3, Tower Field, N.W. of the Grand Allée, Plains of Abraham.....	Leasehold from the Nuns of the Hotel Dieu, 99 years from 1st May, 1790; space covered by the Tower is freehold.	37	0	12
No. 4, Tower Field, N.W. of St. John's Road.....	Leasehold from the Nuns of the Hotel Dieu; 99 years from 1st May, 1790, including a freehold strip of 0a. 1r. 0½p...	18	1	24½
Land surrounding Nos. 1 & 2, Towers, S.E. side of the Grand Allée, Plains of Abraham.....	Acquired by purchase from the Ursuline Nuns, 15th June, 1811, Joseph Planté, N.P., Quebec.....	7	2	20
Land S.E. of the Grand Allée to the Cime du Cap and between Nos. 1 & 2 Towers property, and counter-scarp of the Citadel and Works adjacent.....	The greater part acquired by purchase from various individuals, and partly by conquest of the old French Works, &c., an annual ground rent of £1 17s. 0d. is payable on part of this land to the Fief de Villeray.....	100	0	0
The Esplanade, Town Works—Glacis, cricketfield, ditches, ravelin, &c., in front, lying between St. Louis and St. John's Gates.....	Acquired partly by conquest and partly by purchase from various individuals (Cricketfield, 5a. 3r. 22p.).....	24	2	35
Citadel—Glacis and Town Works, as far as St. Louis Gate, Engineer Yard, &c.	Chiefly by right of conquest and military appropriation	45	0	0
Town Works, Artillery Barracks, Glacis, &c., between St. John's Gate, Palace Gate and St. Valier Street.....	Chiefly by conquest and military appropriation. Lots in St. Valier Street, purchased in 1846-7	13	3	2
Mount Carmel, a commanding eminence, and site of the Windmill Redoubt, or Cavalier, formerly a portion of the defences of Quebec...	Acquired by purchase, 25th Nov., 1780. J. Pinguët, N.P.	0	2	0
Officers' Barracks, Garrison Hospital, &c., fronting on St. Louis Street, and in rear by St. Geneviève Street	By purchase, 5th April, 1811.....	1	2	0
Commissariat Premises, opposite old Court House, on St. Louis Street, and in rear by Mount Carmel St....	Acquired by purchase, 11th August, 1815.	0	2	30
Jesuit Barracks, with other buildings and land attached, fronting on St. Anne Street, and Upper Town Market Square.....	By right of conquest and military appropriation, occupied as Infantry Barracks, &c.	5	1	10

WAR DEPARTMENT property transferred to the Government of the Dominion of Canada.

Local Name of the Property, &c.	Origin of the Title.	Contents (nearly).		
		A.	R.	P.
QUEBEC CITY AND DISTRICT.—<i>Con.</i>				
The Town Works, along the top of the Cape (Cime du Cap), between the King's Bastion of the Citadel and Prescott Gate, Mountain Hill, including site of old Fort St. Louis, Governor's Garden, &c.....	Part of the Crown Domain by conquest and military appropriation, with small portions at either end acquired by purchase in 1781, and about 1827-29	5	1	0
Near Grand Battery, east end of St. George's Street, Magazine F. and Ordnance Stores, &c.....	By right of conquest and military appropriation	0	0	12
Magazine E., Hotel Dieu, on Rampart Street, between Palace and Hope Gates	Acquired by purchase, 17th June, 1809....	0	1	22
The defences along the Ramparts between Prescott Gate, Grand Battery, Hope Gate and Palace Gate (Upper Town).....	By right of conquest and military appropriation, including Rampart Street and cliff underneath, (contents never given)			
Inclined Plane, Wharf and land to the Cime du Cap (top of the cliff) on Champlain Street, S.E. of the Citadel.....	Acquired by purchase, 24th Sept., 1781, afterwards used in connection with the Citadel.....	2	2	0
Queen's Wharf premises, and small lot opposite, on Cul de Sac Street .	Formerly a part of the defences of Quebec, site of a battery. Acquired by right of conquest, &c.....	1	3	8
Land at the foot of the Cliff in La Canoterie and St. Charles Streets, as a Glacis in front of the Town Works	Acquired by purchase in 1846-7, to prevent buildings against the defences.....	2	3	0
Commissariat Fuel Yard, &c., on Palace Harbor, St. Roch's.....	Part of the Intendant's Palace property, held by conquest	4	3	28
SEIGNIORY OF NEUVILLE, COUNTY PORTNEUF.				
A strong defensive position, on the right bank of the River Jacques Cartier, about thirty miles above Quebec.....	Acquired by purchase from the Seigneur, 26th June, 1818	38	0	3
SEIGNIORY OF LAUZON, POINT LEVIS.				
Point Levis; Forts Nos. 1, 2, 3, Seignior of Lauzon, County of Levis, District of Quebec.....	<i>Freehold.</i> Lands acquired by purchase in 1865, 1866, 1867 and 1868, under the provisions of the Consolidated Statutes of Canada, chapter 36. J. Greaves Clapham, N.P., Quebec.....	12	2	37

WAR DEPARTMENT property transferred to the Government of the Dominion of Canada

Local Name of the Property, &c.	Origin of the Title.	Contents (nearly).					
		A.	R.	P.			
SEIGNIOIRY OF LAUZON, POINT LEVIS—Con.							
Point Levis; Forts Nos. 1, 2, 3, Seigniory of Lauzon, County of Levis, District of Quebec, to prevent erection of buildings near the rear line or covered way, between Nos. 2 and 3 forts.....	<i>Copyhold.</i> Assignment of clearance rights acquired in 1867 and 1868; a servitude in perpetuity. J. Greaves Clapham, N. P., Quebec.	69	1	35			
MONTREAL CITY.							
Quebec Gate and Artillery Barracks, cavalry stables, fuel yard, commissariat store buildings, and the beach in front—all on Water street.	Principally by right of conquest and military appropriation; a few perches only purchased in 1834.....	8	0	36			
Garrison hospital, surgeons' headquarters, land and other buildings attached.....	Acquired by purchase in 1836, and by deed of exchange, 19th September, 1870	1	0	26			
North-west side of Dalhousie Square, building lots, side of Old Citadel Hill.....	By deed of purchase, 25th May, 1838.....	0	0	25			
Champ de Mars or parade ground for the troops.....	Held since the conquest in 1760, as a part of the old fortifications, fronting on Craig Street.....	4	1	28			
Military burial ground on the Papi-neau Road.....	By purchase, 30th December, 1814.....	1	1	24			
St. Helen's Island.....	By deed of exchange, 8th April, 1818, (being in the St. Lawrence River, and lying contiguous).	123	3	20			
Ile Ronde.....					28	1	10
Ile aux Fraises.....								1	2	19

ADMIRALTY LANDS or Naval Reserves transferred to the Government of the Dominion of Canada.

Local Name of the Property, &c.	Origin of the Title.	Contents (nearly).		
		A.	R.	P.
ONTARIO.		<i>Naval Reserves.</i>		
County of Haldimand.....	Grand River.....	219	0	0
	Barbet Point.....	48	2	32
	Mohawk Bay.....	20	0	0
do Simcoe.....	Reserve, Townships Tiny and Tay, south-east side Penetanguishene Harbor.....	389	0	0
	Reserve, east branch of Holland River, in town plot at Gwillimbury; lots 49, 50, 51 and 52, West side of Meadow Street	4	0	0
	Reserve Lot 13, in the Township of Vespra, 11th concession.....	200	0	0
do Essex.....	Reserves at Point Pelee, in the Township of Mersea.....	3000	0	0
Lake Huron.....	Lot 1, in 1st and 2nd concessions of the Island St. Joseph, with broken point to south of same.....	500	0	0
	South-half lot 6, in the 9th concession in Milford Haven.....	106	0	0

LANDS, &C., of the War Department, transferred to the Government of the Dominion of Canada.

Local Name of the Property, &c.	Origin of the Title.	Contents (nearly).		
		A.	R.	P.
QUEBEC.		<i>Naval Reserves.</i>		
<i>Montreal.</i>				
The Hochelaga Barracks and Military Prison.....		2	3	8½
Logan's Farm.....		121	3	12
Farm at Longueuil.....		190	0	14
<i>Sorel.</i>				
Government Farm and Cottage east of the Richelieu, being lots 26, 27, and 28 by survey of Hayden, P.L.S., April, 1867; leased to Parsons as containing.....		116*	0	0

*116 English Acres=137½ Arpents, 30½ Perches, French.

LANDS, &c., of the War Department, transferred to the Government of the Dominion of Canada.

Local Name of the Property, &c.	Origin of the Title.	Contents (nearly).		
		A.	R.	P.
<p>QUEBEC.—Continued.</p> <p>Sorel.—Continued.</p> <p>The Military Reserve or Domain, south-east of the Town of Sorel, and lying between the town and lot 25. Quantity unknown. Part under lease and part patented. Shown on plan signed W. Hamilton, Colonel, Commanding Royal Engineers, 2nd August, 1870. (Colored pink).....</p> <p>The Barracks and divers lots of land, being a Military Reserve at the mouth of the Richelieu, on the eastern shore, held on lease, as shown in pink on plan signed Hamilton, Col. C.R.E., 2nd August, 1870. Quantity unknown. Called also Reserve South of Victoria Street by said plan</p> <p>Land lying on the west shore of the River Richelieu, on the point at its mouth, bounded on the south by the Chemin de Ligne à la Grand Rivière, and round its front and sides by the Richelieu and St. Lawrence Rivers, from the eastern to the western extremities of the said "Chemin de Ligne" as shown on plan by Hayden, P.L.S., April, 1867; and in pink on plan by W. Hamilton, Col. C.R.E., 2nd August, 1870. Quantities not given.....</p> <p>Isle aux Cochons and part of Isle St. Ignace. Contents not given. Shown in pink on plan by Hamilton, Col. C.R.E., 2nd August, 1870.....</p> <p>Isle Ronde</p> <p>Isle de Grace</p> <p>Isle aux Corbeaux.....</p> <p>St. Luc, County of St. John's</p>	<p><i>Naval Reserves.</i></p> <p>River St. Lawrence</p> <p>do</p> <p>do</p>			
		20	0	0

40 V., c. 8, schedule.

LANDS, &c., of the War Department, transferred to the Government of the Dominion of Canada.

NEW BRUNSWICK.

Local Name of the Property, &c.	Origin of the Title.	Contents (nearly).		
		A.	R.	P.
ST. JOHN AND VICINITY.				
Fort Howe, Portland, and land attached.....	Acquired by deed of exchange, 9th June, 1789 (place of deposit of the deed unknown). Registry Office, Book B., page 170, No. 317	(Revised.) 16	0	0
Carleton, Martello Tower and Old Block House properties, and the site of Old Fort Point.....	Acquired partly by purchase in 1827 and partly by undisputed military occupation. Act of Provincial Legislature, 1st May, 1856.....	(Approximate) 5	3	37
Carleton, Reserve Z	Marked "Reserve Z," in City Plan	(Not given).		
Carleton, Negro Point Battery and land attached, commanding harbor	Purchased by the Provincial Government in 1864 and made over to the Imperial Government, 15th December, 1864, under certificate of the Solicitor General of New Brunswick	7	0	28
Red Head Battery, east side of entrance into harbor	Purchased by the Provincial Government in 1864 and made over to the Imperial Government, 15th December, 1864, under certificate of the Solicitor General of New Brunswick	8	1	3
Partridge Island Battery, barracks, &c., with Queen's Wharf and right of way to battery, &c.....	Works of defence erected by virtue of a reservation in the City charter. The free use of a landing place and roadway were also conceded to the War Department, 19th July, 1859, by the Board of Health	0	2	8
ST. JOHN.				
"Lower Cove Grounds," Dorchester, and other Batteries, Infantry and Artillery Barracks, with accessories, &c.	<i>Common Lands.</i>			
	By reservation in City Charter, the Crown had the right to erect barracks, works of defence, &c., commencing about 1794; <i>vide</i> also agreement with the Corporation of St. John, dated 16th January, 1858, original in Common Clerk's Office.	26	0	25
FREDERICTON CITY.				
Property known as the "Stone Barracks" (Infantry) and accessories attached complete. Also Officers' Barracks, &c., between Queen St. and River St. John, County York...	Originally a military reserve, and under certain deeds of exchange between the War Department and the City Corporation, 1866. <i>See also</i> Provincial Acts, 9 Vic., c. 73, and 28 Vic., c. 61.....	8	0	3
Artillery Park Barracks, and several other buildings accessories thereto, on George and Regent Streets, County York	No record furnished how this property came into possession of the War Department.....	1	2	26

LANDS, &c., of the War Department, transferred to the Government of the Dominion of Canada.

NEW BRUNSWICK.—Continued.

Local Name of the Property, &c.	Origin of the Title.	Contents (nearly).		
		A.	B.	P.
ST. ANDREWS AND VICINITY.				
West Battery Block-house, &c., &c., County Charlotte.....	Reserved for military purposes in the Campbell grant, 11th October, 1823	2	0	3½
Joe's Point Block-house, near River Ste. Croix, County Charlotte.....	Reserved for military purposes in the Campbell grant, 11th October, 1823....	21	0	0
Simpson Reserve on River Ste. Croix, County Charlotte.....	No record of title furnished by Imperial Government.....	22	1	12
Fort Tipperary, Barracks and acces- sories. Tompkin's Hill, County Charlotte.....	Acquired by exchange and deed of con- veyance, 11th March, 1815, and Legisla- tive Act, 7th March, 1814.....	9	1	34
OROMOCTO OR THREE TREE CREEK.				
County Sunbury.....	Reserved for military purposes. No date furnished as to the precise time.....	200	0	0
BEAVER HARBOR.				
East of L'Etang, County Charlotte, near St. Andrew's.....	Reserved for military purposes in 1784....	8	0	0
(Reserve) POMEROY BRIDGE.				
Magaguadavic River, County Char- lotte.....	Reserved or acquired for military purposes. Title dated 14th July, 1837. Place of deposit unknown.....	6	2	0
PRESQU'ILE (Original Record.)				
River St. John, County Charlotte.....	Reserved for military purposes, in the Wakefield grant, 20th June, 1809. Lieut. Governor's warrant of survey, dated 22nd Oct., 1827, in the Provincial Sur- veyor General's Office.....	676	0	0
GRAND FALLS.				
River St. John, County of Victoria or Carleton.....	Reserved for military purposes, as shown on plan in the Surveyor-General's Office since 1800. Provincial grant to the Ordnance dated 23rd April, 1845.	Total by sche- dule. 1,548 1 0 Total by title deed. 1871 3 0		
LITTLE FALLS.				
Madawaska River, County of Mada- waska.....	For site of Block-house, &c. By deed of sale from Joseph Hébert, to the Ord- nance, dated 22nd August, 1843. No. 9,549, Louis Panet, N.P., Quebec.....	By Survey. 20 3 23 By title deed. 24 3 0		

LANDS, &c., of the War Department, transferred to the Government of the Dominion of Canada.

NEW BRUNSWICK.—*Concluded.*

Local Name of the Property, &c.	Origin of the Title.	Contents (nearly).		
		A.	R.	P.
DALHOUSIE.				
Bay Chaleurs, County Restigouche...	Provincial grant as a military reserve, 7th August, 1838.....	18	0	0
(Reserve) FORT CUMBERLAND.				
N. E. Shore, Bay of Fundy, County Westmoreland.....	Site of a defensive post, captured from French in June, 1755, known at that time as "Fort Beauséjour".....	72	0	0
		2,658	1	2½

NOVA SCOTIA.

Local Name of the Property, &c.	Origin of the Title.	Contents (nearly).		
		A.	R.	P.
Shelburne Harbor, Navy and Commissary Islands.....	Under Order in Council, 26th June, 1874, and by deed of conveyance from the Admiralty, dated 28th November, 1874...	27	3	0

42 V., c. 33, schedule.

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CHAPTER 56.

An Act respecting certain Public Lands in British Columbia. A.D. 1886.

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

1. The lands granted to Her Majesty, represented by the Government of Canada, in pursuance of the eleventh section of the terms of Union, by the Act of the Legislature of the Province of British Columbia, number eleven, of one thousand eight hundred and eighty, intituled "*An Act to authorize the grant of certain public lands on the mainland of British Columbia, to the Government of the Dominion of Canada, for Canadian Pacific Railway purposes,*" as amended by the Act of the said Legislature, number fourteen, passed in the session held in the years one thousand eight hundred and eighty-three and one thousand eight hundred and eighty-four, intituled "*An Act relating to the Island Railway, the Graving Dock and Railway Lands of the Province,*" shall be placed upon the market at the earliest date possible, and shall be offered for sale on liberal terms to actual settlers :
Lands granted by British Columbia for railway purposes to be offered for sale.
2. The said lands shall be open for entry to *bonâ fide* settlers in such lots and at such prices as the Governor in Council determines :
And open for sale.
3. Every person who squatted on any of the said lands prior to the nineteenth day of December, one thousand eight hundred and eighty-three, and who has made substantial improvements thereon, shall have a prior right of purchasing the lands so improved, at the rates charged to settlers generally :
Rights of squatters thereon.
4. The Governor in Council may, from time to time, regulate the manner in which, and the terms and conditions on which, the said lands shall be surveyed, laid out, administered, dealt with and disposed of; but regulations respecting the sale, leasing or other disposition of such lands shall not come into force until they are published in the *Canada Gazette*.
Regulations by Order in Council.
5. The Governor in Council may declare that the jurisdiction of the Dominion Lands Board appointed under the provisions of "*The Dominion Lands Act*" shall extend to all public lands in the Province of British Columbia which are
Governor in Council may give Dominion Lands Board jurisdiction.

Powers of Board in such case.

the property of Canada, and for the administration of which provision is made by this Act; and thereupon the Dominion Lands Board shall, as respects such lands, have the like powers and perform the like duties as are conferred upon and assigned to them in relation to public lands of Canada, for the administration of which provision is made by "*The Dominion Lands Act.*" 47 V., c. 6, s. 11, *part*;—49 V., c. 28, s. 1.

Lands in Peace River district to be under Dominion Lands Act.

2. The three and one-half million acres of lands in that portion of the Peace River district of British Columbia, lying east of the Rocky Mountains, and adjoining the North-West Territories of Canada, granted to Her Majesty, as represented by the Government of Canada, by the said Act, number fourteen, passed in the session held in the years one thousand eight hundred and eighty-three and one thousand eight hundred and eighty-four, intituled "*An Act relating to the Island Railway, the Graving Dock and Railway Lands of the Province,*" and to be located by the said Government in one rectangular block, shall be held to be Dominion lands within the meaning of "*The Dominion Lands Act.*" 47 V., c. 6, s. 12.

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CHAPTER 57.

An Act respecting Experimental Farm Stations.

A.D. 1886.

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

1. This Act may be cited as "*The Experimental Farm Station Act.*" 49 V., c. 23, s. 1. Short title.

2. In this Act unless the context otherwise requires,—
(a.) The expression "the Minister" means the Minister of Agriculture; Interpretation. "Minister."
(b.) The expression "farm station" means an experimental farm station established under the provisions of this Act. "Farm station."
49 V., c. 23, s. 2.

3. The Governor in Council may establish, first, a farm station for the Provinces of Ontario and Quebec jointly; secondly, one for the Provinces of Nova Scotia, New Brunswick and Prince Edward Island jointly; thirdly, one for the Province of Manitoba; fourthly, one for the North-West Territories of Canada. and fifthly, one for the Province of British Columbia; and the farm station for the Provinces of Ontario and Quebec jointly shall be the principal or central station. Governor in Council may establish farm stations.
49 V., c. 23, s. 3. Principal station.

4. The Governor in Council may, for the purpose of establishing such farm stations, acquire by purchase an extent of land, not exceeding five hundred acres, in the vicinity of the seat of Government, for the central farm station, and an extent of land, not exceeding three hundred acres, in either of the Provinces of Nova Scotia, New Brunswick or Prince Edward Island, and a like extent of land in the Province of British Columbia, for the farm stations secondly and fifthly mentioned in the next preceding section; and the Governor in Council may, for the like purpose, set apart in Manitoba and in the North-West Territories of Canada such tracts of unoccupied available public lands, which are the property of Canada, as are necessary for the farm stations thirdly and fourthly mentioned in the next preceding section; but the tract of public land so set apart shall not, in each case, exceed one section : Extent of land to be acquired and locality thereof.
Land to be set apart in Manitoba and N.W.T.

Land for tree-planting and timber growing to be set apart in Man., B.C. and N.W.T.

2. The Governor in Council may also set apart in the Province of Manitoba, and in that portion of the Province of British Columbia known as the Railway Belt, in each a tract or tracts not exceeding ten sections, and in each of the four provisional districts of the North-West Territories defined by order of the Governor in Council, and known as Assiniboia, Alberta, Saskatchewan and Athabasca, a tract or tracts not exceeding ten sections, for the purpose of tree-planting and timber growing:

Chapter 39 to apply to such lands.

3. For the acquiring of lands for the purposes of this Act, all the powers respecting the acquiring and taking possession of land conferred by "*The Expropriation Act*," are hereby conferred upon the Minister; and all the provisions of the said Act respecting the compensation to be awarded for lands acquired thereunder shall apply to lands acquired under the provisions of this Act. 49 V., c., 23, s. 4.

Management of farm stations.

5. The said farm stations shall be under the control and direction of the Minister, subject to such regulations as are, from time to time, made by the Governor in Council; and the Governor in Council may appoint a director and such officers and employees as are necessary for each farm station. 49 V., c. 23, s. 5.

Salaries and expenses.

6. The Governor in Council may fix the rate of remuneration of the director and officers and employees at each farm station, and such remuneration, and all expenses incurred in carrying this Act into effect, shall be paid out of such moneys as are provided by Parliament for that purpose. 49 V., c. 23, s. 6.

Duties of officers.

7. Such officers of each farm station as are charged with such duty by the Minister shall,—

Stock breeding.

(a.) Conduct researches and verify experiments designed to test the relative value, for all purposes, of different breeds of stock, and their adaptability to the varying climatic or other conditions which prevail in the several Provinces and in the North-West Territories;

Butter and cheese.

(b.) Examine into the economic questions involved in the production of butter and cheese;

Cereals, grasses, fruits, vegetables, plants and trees.

(c.) Test the merits, hardiness and adaptability of new or untried varieties of wheat or other cereals, and of field crops, grasses and forage-plants, fruits, vegetables, plants and trees, and disseminate among persons engaged in farming, gardening or fruit growing, upon such conditions as are prescribed by the Minister, samples of the surplus of such products as are considered to be specially worthy of introduction;

Fertilizers.

(d.) Analyze fertilizers, whether natural or artificial, and conduct experiments with such fertilizers, in order to test their comparative value as applied to crops of different kinds;

- (e.) Examine into the composition and digestibility of Foods for domestic animals ;
- (f.) Conduct experiments in the planting of trees for timber and for shelter ; Tree-planting.
- (g.) Examine into the diseases to which cultivated plants and trees are subject, and also into the ravages of destructive insects, and ascertain and test the most useful preventives and remedies to be used in each case ; Diseases of plants. Destructive insects.
- (h.) Investigate the diseases to which domestic animals are subject ; Diseases of animals.
- (i.) Ascertain the vitality and purity of agricultural seeds ; Seeds.
and—
- (j.) Conduct any other experiments and researches bearing upon the agricultural industry of Canada, which are approved by the Minister. 49 V., c. 23, s. 7. Researches generally.

8. The officer in charge, or such other officer at each farm station as the Minister designates, shall, for the purpose of making the results of the work done thereat immediately useful, prepare and transmit through the director to the Minister, for publication, at least once in every three months, a bulletin or report of progress. 49 V., c. 23, s. 8. Quarterly reports to be made.

9. Such bulletins or reports, and all samples of grain, and of such plants and other products as are designated by the Minister, which are distributed for experiment and trial, may be transmitted in the mails of Canada subject to such regulations as to parcel postage as are prescribed by the Postmaster General. 49 V., c. 23, s. 9. Transmission of certain matters by mail.

10. The officer in charge of each farm station shall prepare and transmit through the director to the Minister, on or before the thirty-first day of December in each year, a full and detailed report of the work accomplished, and of the revenue and expenditure at such farm station, which report shall be laid before both Houses of Parliament within the first twenty-one days of each session. 49 V., c. 23, s. 10. Annual report for Parliament.



CHAPTER 58.

An Act respecting the Census.

A.D. 1886.

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

1. This Act may be cited as "*The Census Act.*" 42 V., Short title. c. 21, s. 40.

2. In this Act, unless the context otherwise requires, the expression "house" includes all ships, vessels, dwellings or places of abode of any kind. 42 V., c. 21, s. 26. Interpretation.

3. A census shall be taken in the year one thousand eight hundred and ninety-one, and in every tenth year thereafter, at the beginning of the year one thousand eight hundred and ninety-one, and at the beginning of every tenth year thereafter, respectively. 42 V., c. 21, s. 1. Census, when to be taken.

4. The details of information, the forms to be used, and procedure to be followed for the obtaining thereof, and the period at which, and the dates with reference to which, the census shall be taken,—whether generally, or for any specified localities, requiring to be exceptionally dealt with in any of these respects,—shall be such as the Governor in Council, by proclamation, directs. 42 V., c. 21, s. 2. Proclamation by Governor in Council, what it shall regulate.

5. Each census shall be so taken as to ascertain, with the utmost possible accuracy, in regard to the various territorial divisions of the country,—their population and the classification thereof, as regards age, sex, social condition, religion, education, race, occupation and otherwise,—the houses and other buildings therein, and their classification as dwellings, inhabited, uninhabited, under construction and otherwise,—the occupied land therein, and the condition thereof, as town, village, country, cultivated, uncultivated and otherwise,—the produce, state and resources of the agricultural, fishing, lumbering, mining, mechanical, manufacturing, trading and other industries thereof,—the municipal, educational, charitable and other institutions thereof,—and whatsoever other matters are specified in the forms and instructions to be issued, as is hereinafter provided. 42 V., c. 21, s. 3. Census, how to be taken. Details required. Other matters.

Forms and instructions.

6. The Minister of Agriculture shall cause all forms, and also all instructions which he deems requisite in respect of each census, to be duly prepared, printed and issued, for use by the persons employed in the taking thereof. 42 V., c. 21, s. 4.

Division of country into census districts, by proclamation

7. The Governor in Council, by proclamation, shall divide the country into census districts, and each census district into sub-districts, to correspond respectively, as nearly as may be, with the electoral divisions and sub-divisions for the time being, and in territories not so defined or so situated as to admit of adhering to circumscriptions already established, into special divisions and sub-divisions for the purpose of the census. 42 V., c. 21, s. 5.

Appointment of census officers and commissioners.

8. The Governor in Council shall appoint census officers' census commissioners, and other employees who are necessary for the taking of each census, with such relative powers and duties and such emoluments as are laid down for each census by Order in Council. 42 V., c. 21, s. 6.

Appointment of enumerators.

9. There shall be appointed, by or under the authority of the Minister of Agriculture, in such manner and subject to such rules in that behalf as are laid down by Order in Council, one or more enumerators for every census sub-district; and whenever more enumerators than one are appointed, the powers and duties of such enumerators shall be such as the Minister of Agriculture assigns to each, whether territorially or otherwise. 42 V., c. 21, s. 7.

Duty of census officers and commissioners.

10. The census officers and commissioners shall be intrusted, under direction and instruction of the Minister of Agriculture, with the superintendence of the work assigned to the enumerators, and shall see that all those under their superintendence thoroughly understand the manner in which the duties required of them are to be performed, and use due diligence in the performance thereof. 42 V., c. 21, s. 8.

Duties of enumerators

11. Every enumerator, by visiting every house and by careful personal inquiry, shall ascertain, in detail, with the utmost possible accuracy, all the statistical information with which he is required to deal, and no other, and shall make an exact record thereof, and attest the same under oath, and shall see that such attested record is duly delivered to the census commissioner under whose superintendence he is placed,—the whole, in all respects, as by the forms and instructions issued to him is required. 42 V., c. 21, s. 9.

Duties of census commissioner.

12. The census commissioner shall examine all such records, and satisfy himself how far each enumerator has performed the duties required of him, and shall note all apparent defects and inaccuracies in such records, and require the several enumerators concerned therewith to assist him

in respect thereof, and with their assistance shall correct the same so far as is found requisite and possible,—noting always whether such corrections are concurred in by them or not, and shall make return, attested under oath, of his doings in the premises, and shall transmit the same, together with all the records in question to the Minister of Agriculture,—the whole, in all respects, as by the forms and instructions issued to him is required. 42 V., c. 21, s. 10.

13. The Minister of Agriculture shall cause all such returns and records to be examined and any defects or inaccuracies discoverable therein to be corrected so far as possible, and shall obtain, so far as possible, by such ways and means as are deemed convenient, any statistical information requisite for the due completion of the census, which cannot be or is not obtained with the required fullness and accuracy by means of such returns and records, and shall cause to be prepared, with all practicable despatch, abstracts and tabular statements showing the results of the census as fully and accurately as possible. 42 V., c. 21, s. 11.

Duties of
Minister of
Agriculture.

14. Every officer, census commissioner, enumerator, and other person employed in the execution of this Act, before entering on his duties, shall take and subscribe an oath binding him to the faithful and exact discharge of such duties,—which oath shall be in such form, taken before such person, and returned and recorded in such manner, as the Governor in Council prescribes. 42 V., c. 21, s. 12.

Every person
employed in
the execution
of this Act to
take an oath
of office.

15. Every officer, census commissioner, enumerator or other person employed in the execution of this Act, who makes wilful default in any matter required of him by this Act, or wilfully makes any false declaration touching any such matter, is guilty of a misdemeanor. 42 V., c. 21, s. 13.

Wilful neg-
lect of duty a
misdemeanor.

16. Every person who has the custody or charge of any Provincial, municipal or other public records or documents, or of any records or documents of any corporation, from which information sought in respect of the census can be obtained, or which would aid in the completion or correction thereof, shall grant to any census officer, commissioner, enumerator or other person deputed for that purpose by the Minister of Agriculture, reasonable access thereto for the obtaining of such information therefrom; and every such person who wilfully or without lawful excuse refuses or neglects to grant such access, and every person who wilfully hinders or seeks to prevent or obstruct such access, or otherwise in any way wilfully obstructs or seeks to obstruct any person employed in the execution of this Act, is guilty of a misdemeanor. 42 V., c. 21, s. 14.

Custodians
of public re-
cords to grant
access
thereto.

17. Every person who wilfully, or without lawful excuse, refuses or neglects to fill up, to the best of his knowledge

Penalty for
refusal or
neglect to fill

up schedule,
&c.

and belief, any schedule which he has been required to fill up by any enumerator or other person employed in the execution of this Act, or refuses or neglects to sign and deliver up or otherwise return the same when and as required, or makes, signs, delivers or returns, or causes to be made, signed, delivered or returned, any wilfully false answer or statement as to any matter specified in such schedule,—shall incur a penalty not exceeding forty dollars and not less than one dollar. 42 V., c. 21, s. 15.

Penalty for
refusal or
neglect to
answer any
question, &c.

18. Every person who, without lawful excuse, refuses or neglects to answer, or who wilfully answers falsely, any question requisite for obtaining any information sought in respect of the census or pertinent thereto, which has been asked of him by any enumerator or other person employed in the execution of this Act, shall, for every such refusal or neglect or wilfully false answer, incur a penalty not exceeding twenty dollars and not less than five dollars. 42 V., c. 21, s. 16.

Recovery of
penalties.

19. The penalties hereinbefore imposed may be recovered in a summary manner at the suit of any officer, census commissioner, enumerator or other person employed in the execution of this Act, before any justice of the peace having jurisdiction in the place where the offence has been committed, on the oath of the prosecutor or of one credible witness; and a moiety thereof shall belong to the Crown for the public uses of Canada, and the other moiety to the prosecutor, unless he has been examined as a witness to prove the offence, in which case the whole shall belong to the Crown for the uses aforesaid. 42 V., c. 21, s. 17.

Minister of
Agriculture
may direct
inquiry to be
made under
oath.

20. Whenever the Minister of Agriculture deems it convenient, he may, by special letter of instruction, direct any officer, census commissioner or other person employed in the execution of this Act, to make inquiry under oath, as to any matter connected with the taking of the census, or the ascertaining or correction of any supposed defect or inaccuracy therein; and such officer, census commissioner or other person shall then have the same power as is vested in any court of justice, of summoning any person, of enforcing his attendance, and of requiring and compelling him to give evidence on oath, whether orally or in writing, and to produce such documents and things as such officer, census commissioner or other person deems requisite to the full investigation of such matter or matters. 42 V., c. 21, s. 18.

Effect of such
direction.

What shall be
prima facie
evidence of
appointment
or removal of,
or instruction
to census
officers, &c.

21. Any letter purporting to be signed by the Minister of Agriculture, or by the deputy of the Minister of Agriculture, or by any other person thereunto authorized by the Governor in Council, and notifying any appointment or removal of, or setting forth any instructions to, any person employed in the exe-

cution of this Act,—and any letter signed by any officer, census commissioner or other person thereunto duly authorized, notifying any appointment or removal of, or setting forth any instructions to any person so employed under the superintendence of the signer thereof,—shall be, respectively, *primâ facie* evidence of such appointment, removal or instructions, and that such letter was signed and addressed as it purports to be. 42 V., c. 21, s. 19.

22. Any document or paper, written or printed, purporting to be a form authorized for use in the taking of the census, or to set forth any instructions relative thereto, which is produced by any person employed in the execution of this Act, as being such form, or as setting forth such instructions, shall be presumed to have been supplied by the proper authority to the person so producing the same, and shall be *primâ facie* evidence of all instructions therein set forth. 42 V., c. 21, s. 20.

Presumption as to documents produced by a person employed in the execution of this Act.

23. The leaving, by an enumerator, at any house or part of a house, of any schedule purporting to be issued under this Act, and having thereon a notice requiring that the same be filled up and signed within a stated delay by the occupant of such house or part of a house, or in his absence by some other member of the family, shall, as against such occupant, be a sufficient requirement so to fill up and sign such schedule, though such occupant is not named in such notice, or personally served therewith. 42 V., c. 21, s. 21.

What shall be a sufficient requirement, as against occupant of house.

24. The Minister of Agriculture shall cause to be prepared one or more tables, setting forth the rates of allowances or remuneration for the several census commissioners and enumerators employed in the execution of this Act,—which rates shall not exceed, in the aggregate, a total amount of three dollars for each day of proved effective service for any enumerator, or of four dollars for each day of like service for any census commissioner; and the same, when approved by the Governor in Council, shall be laid before Parliament within the first fifteen days of the session then next ensuing. 42 V., c. 21, s. 22.

Remuneration of persons employed under this Act.

Maximum rate.

25. Such allowances or remuneration shall be paid to the several persons entitled thereto, in such manner as the Governor in Council directs; but shall not be payable until the services required of the person receiving the same have been faithfully and entirely performed. 42 V., c. 21, s. 23.

Allowances, &c., how and when to be paid.

26. Such allowances and remuneration, and all expenses incurred in carrying this Act into effect, shall be paid out of such moneys as are provided by Parliament for that purpose. 42 V., c. 21, s. 24.

And out of what moneys to be paid.

Civil Service
Acts not to
apply.

27. Appointments, employments or service under this Act shall not be subject to the statutory requirements affecting the Civil Service. 42 V., c. 21, s. 27.

Report to be
laid before
Parliament.

28. A full report of all things done under this Act, and an account of all moneys expended under the authority thereof, shall be laid before Parliament by the Minister of Agriculture within the first fifteen days of the then next session thereof, and of each session thereafter, until such time as all things required to be done under this Act in each decennial period have been fully completed. 42 V., c. 21, s. 25.

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CHAPTER 59.

An Act respecting Statistics.

A. D. 1886.

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

1. The Minister of Agriculture shall, from time to time, subject to the approval of the Governor in Council, make such rules and regulations, and prescribe such forms as appear necessary and expedient for the purpose of collecting, abstracting, tabulating and publishing vital, agricultural, commercial, criminal and other statistics ; and such rules, regulations and forms, when assented to by the Governor in Council and published in the *Canada Gazette*, shall have the force of law. 42 V., c. 21, s. 28.

Minister of Agriculture to make rules &c., for collecting, &c., vital and other statistics.

2. The Minister of Agriculture shall, whenever the said rules, regulations and forms have been assented to and published in the *Canada Gazette*, and the arrangements contemplated by section four of this Act have been consummated, proceed to collect the said vital, agricultural, commercial, criminal and other statistics, in such ways and manner as are found most practicable ; and thereafter, when and so often as it seems to the said Minister that the statistics collected are of sufficient value and authenticity to render their publication advantageous, he shall cause the same to be published in such form and mode as the Governor in Council prescribes. 42 V., c. 21, s. 29.

Duty of Minister of Agriculture under such rules and section four.

3. The Governor in Council, on a report of the Minister of Agriculture as to the fitness of the persons to be appointed, may, from time to time, appoint such officers, clerks and other employees as are necessary for the purposes of this Act ; and such officers, clerks and employees shall hold office during pleasure. The Governor in Council may also appoint temporary clerks or employees for an indefinite period,—the term of whose service shall cease and determine upon notice given to them by the Minister of Agriculture, when such portion of the statistical labors for which they were so engaged, and for which they were employed, is terminated. 42 V., c. 21, s. 30.

Governor in Council may appoint necessary officials.

Tenure of office of persons appointed.

When a system of collection of statistics is in force in any Province.

4. Whenever, in any Province or Territory, any system is established or any means exist of collecting vital, agricultural, commercial, criminal or other statistics, the Minister of Agriculture may be authorized by the Governor in Council to arrange with the Lieutenant Governor in Council of such Province or Territory, or with the organization so possessed of such system, for the collection and transmission of such information as is required by schedules prepared by the Minister of Agriculture, and approved by the Governor in Council, for the procuring of such vital, agricultural, commercial, criminal and other statistics. 42 V., c. 21, s. 31.

Minister of Agriculture may call upon public officers for copies of papers, &c.

5. The Minister of Agriculture may, in collecting statistics, in the manner provided by this Act, call upon any and all public officers to furnish to him copies of papers and documents and such information as lie respectively in the power of such officers to furnish, with or without compensation for so doing, as is regulated, from time to time, by the Governor in Council. 42 V., c. 21, s. 32.

Information may be abstracted and tabulated.

6. The Minister of Agriculture may cause to be abstracted and tabulated in a concise form, for easy reference, such information on various subjects susceptible of being represented by figures, as is contained in the departmental or other public reports and documents. 42 V., c. 21, s. 33.

Special statistical investigations may be made.

7. The Governor in Council may authorize the Minister of Agriculture to cause special statistical investigations, as regards subjects, localities or otherwise, to be made in the manner and by the means prescribed in such authorization of the Governor in Council. 42 V., c. 21, s. 34.

Minister of Agriculture to correct errors, &c.

8. The Minister of Agriculture shall cause all statistical information obtained to be examined, and any omissions, defects or inaccuracies discoverable therein, to be supplemented and corrected as far as practicable. 42 V., c. 21, s. 35.

Penalty for wilfully giving false information, &c.

9. Every one who wilfully gives false information or practises any deception in furnishing information provided for by this Act, shall, on summary conviction before two justices of the peace, be liable to a penalty not exceeding one hundred dollars. 42 V., c. 21, s. 36.

Further duties of Minister of Agriculture

10. Copies of the rules and regulations made and reports of the proceedings had under this Act shall be included in the annual report of the Minister of Agriculture. 42 V., c. 21, s. 37, *part*.

Publication of abstracts.

11. The Minister of Agriculture shall cause the information collected by virtue of this Act, and under the rules and regulations hereinbefore provided, to be compiled and tabulated, and the abstracts then made to be published at as

early a date after the reception of the information as the nature and magnitude of the work and the force of the staff provided for it allow; he may also cause to be added to such returns, such proportions, ratios and other statistical deductions as are drawn from the information obtained by virtue of this Act. 42 V., c. 21, s. 37, *part*.

Proportions
and ratios.

12. The respective salaries of officers, clerks and other employees, appointed by virtue of this Act, the fees or compensations to be paid for obtaining information as provided by sections four and five of this Act, and the office and other contingent expenses necessary for the purposes of this Act, shall be fixed by the Governor in Council, and shall be paid out of any moneys provided by Parliament for that purpose. 42 V., c. 21, s. 38.

Salaries, &c.,
how to be
fixed, and out
of what
moneys to
be paid.

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CHAPTER 60.

An Act respecting Criminal Statistics.

A. D. 1886.

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

1. In this Act, unless the context otherwise requires, the expression "Judge" includes any Recorder, District, Stipendiary or other Magistrate or other functionary presiding over any court or tribunal administering criminal justice. 39 V., c. 13, s. 9. Interpretation.

2. The clerk, and if there is no clerk, the officer performing like duties, and if there is no such officer, the judge of every court administering criminal justice, and the warden of every penitentiary or reformatory, and the sheriff of every district, shall, before the end of October in each year, fill up and transmit to the Minister of Agriculture,—or in case the branch of the subject of statistics and the registration thereof to which this Act relates is, by the Governor in Council, assigned to any other Minister, then to such other Minister,—such schedules for the year ending the thirtieth day of September preceding, relative, in the case of the clerk, officer or judge, to the criminal business transacted in the court, and in the cases of the warden or sheriff, to the prisoners committed to the penitentiary, reformatory or gaol, as he receives, from time to time, from the said Minister. 39 V., c. 13, s. 1. Schedules of criminal statistics to be furnished by certain functionaries.

3. Every person required to transmit any such schedules, shall, from day to day, make and keep entries and records of the particulars to be comprised in such schedules. 39 V., c. 13, s. 3. Records to be kept.

4. The Minister of Agriculture, or such other Minister as aforesaid, shall cause to be paid out of any moneys which are provided by Parliament for that purpose, to any clerk, officer, warden of a reformatory or sheriff, filling up and transmitting such schedules, the sum of one dollar,—and the further sum of five cents for each case comprised in such schedules. 39 V., c. 13, s. 4, *part.* Remuneration to persons furnishing statistics.

• Every officer required by the "*Act respecting summary proceedings before Justices of the Peace*," to transmit to the Certain returns to be transmitted.

Minister of Finance and Receiver General true copies of returns made by justices of the peace under the said Act, shall, before the end of October in each year, transmit to the Minister of Agriculture, or such other Minister as aforesaid, true copies of all such returns for the year ending the thirtieth day of September next preceding. 39 V., c. 13, s. 2.

Payment for such returns.

6. The Minister of Agriculture, or such other Minister as aforesaid, shall cause to be paid out of any moneys which are provided by Parliament for that purpose, to any officer transmitting the returns required under the next preceding section of this Act, the sum of one dollar. 39 V., c. 13, s. 4, *part*.

As to Provincial gaols and reformatories.

7. Whenever in any Province a system of collecting statistics relative to the prisoners committed to the provincial gaols or reformatories is established, the Governor in Council may arrange with the Lieutenant Governor in Council of such Province for the collection and transmission through such Lieutenant Governor of any part of the information to be embraced in the schedules authorized under this Act; and in case of such arrangements, the Minister of Agriculture, or such other Minister as aforesaid, may cause to be paid out of any moneys which are provided by Parliament for that purpose, to the treasurer of such Province instead of to the sheriffs, wardens or other officers as aforesaid, such sum as is agreed on, not exceeding the amounts which would otherwise be payable, for like services, to the sheriffs, wardens or other officers as aforesaid. 39 V., c. 13, s. 4, *part*.

Payment in such case.

8. Every one who neglects or refuses to fill up and transmit any schedule, or to transmit any return required under this Act, or wilfully makes a false, partial or incorrect schedule or return, shall incur a penalty of eighty dollars, recoverable, with costs, by any person who sues for the same in any court of record in the Province in which such return should have been made or is made, or in the Exchequer Court of Canada,—a moiety whereof shall be paid to the person suing, and the other moiety to the Minister of Finance and Receiver General, to and for the public uses of Canada. 39 V., c. 13, s. 5.

Penalty for neglect to comply with this Act.

Statistics of exercise of prerogative of mercy.

9. The Secretary of State shall, before the end of October in each year, cause to be filled up and transmitted to the Minister of Agriculture, or such other Minister as aforesaid, such schedules for the year ending the thirtieth day of September next preceding, relative to the cases in which the prerogative of mercy has been exercised, as he, from time to time, receives from the Minister of Agriculture, or such other Minister as aforesaid. 39 V., c. 13, s. 6.

Forms of schedules.

10. All schedules transmitted under this Act shall be according to forms, from time to time, approved by the

Governor in Council, and published in the *Canada Gazette*.
39 V., c. 13, s. 7.

11. The statistics collected by the Minister of Agriculture, or such other Minister as aforesaid, under this Act, shall be abstracted and registered, and the results thereof shall be printed and published in an annual report. 39 V., c. 13, s. 8. Statistics to be abstracted and printed.

12. This Act shall remain in force and effect until the same is declared to be no longer in force by a proclamation of the Governor in Council, stating that provision has been made for the collection of criminal statistics in accordance with the requirements of the "*Act respecting Statistics*," and from and after the issue of such proclamation, this Act shall cease to have force and effect. 42 V., c. 21, s. 39, *part*. Duration of Act.

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CHAPTER 61.

An Act respecting Patents of Invention.

A D. 1886.

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

SHORT TITLE.

1. This Act may be cited as "*The Patent Act.*" 35 V., c. 26, Short title. s. 53.

INTERPRETATION.

- 2.** In this Act, unless the context otherwise requires,—
- (a.) The expression "the Minister" means the Minister of Agriculture; Interpretation.
"Minister."
 - (b.) The expression "Commissioner" means the Commissioner of Patents, and the expression "Deputy Commissioner" means the Deputy Commissioner of Patents; "Commissioner."
"Deputy Commissioner."
 - (c.) The expression "invention" means any new and useful art, machine, manufacture or composition of matter, or any new and useful improvement in any art, machine, manufacture or composition of matter; "Invention."
 - (d.) The expression "legal representatives" includes heirs, executors, administrators and assigns or other legal representatives. "Legal representatives."

PATENT OFFICE AND APPOINTMENT OF OFFICERS.

- 3.** There shall be attached to the Department of Agriculture, as a branch thereof, an office which shall be called the Patent Office; and the Minister of Agriculture for the time being shall be the Commissioner of Patents. 35 V., c. 26, s. 1, *part.* Patent Office constituted.
- 4.** The commissioner shall receive all applications, fees, papers, documents and models for patents, and shall perform and do all acts and things requisite for the granting and issuing of patents of invention; and he shall have the charge and custody of the books, records, papers, models, machines and other things belonging to the Patent Office. 35 V., c. 26, s. 1, *part.* Duties of the commissioner.

Deputy and officers.

5. The deputy of the Minister of Agriculture shall be the Deputy Commissioner of Patents, and the Governor in Council may, from time to time, appoint such officers and clerks under the Deputy Commissioner as are necessary for the purposes of this Act, and such officers and clerks shall hold office during pleasure. 35 V., c. 26, s. 4, *part.*

Seal.

6. The commissioner shall cause a seal to be made for the purposes of this Act, and may cause to be sealed therewith every patent and other instrument and copy thereof issuing from the Patent Office. 35 V., c. 26, s. 2, *part.*

APPLICATIONS FOR PATENTS.

Who may obtain patents.

7. Any person who has invented any new and useful art, machine, manufacture or composition of matter, or any new and useful improvement in any art, machine, manufacture or composition of matter, which was not known or used by any other person before his invention thereof, and which has not been in public use or on sale with the consent or allowance of the inventor thereof, for more than one year previously to his application for patent therefor in Canada, may, on a petition to that effect, presented to the commissioner, and on compliance with the other requirements of this Act, obtain a patent granting to such person an exclusive property in such invention :

What may not be patented.

2. No patent shall issue for an invention which has an illicit object in view, or for any mere scientific principle or abstract theorem. 35 V., c. 26, s. 6, *part.*

As to inventions for which foreign patents have been taken out.

8. No inventor shall be entitled to a patent for his invention if a patent therefor, in any other country, has been in existence in such country for more than twelve months prior to the application for such patent in Canada ; and if, during such twelve months, any person has commenced to manufacture in Canada the invention for which such patent is afterwards obtained, such person shall continue to have the right to manufacture and sell such article, notwithstanding such patent ; and under any circumstances, if a foreign patent exists, the Canadian patent shall expire at the earliest date at which any foreign patent for the same invention expires. 35 V., c. 26, s. 7.

Expiry of patent in such cases.

Improvements may be patented.

9. Any person who has invented any improvement on any patented invention, may obtain a patent for such improvement ; but he shall not thereby obtain the right of vending or using the original invention, nor shall the patent for the original invention confer the right of vending or using the patented improvement. 35 V., c. 26, s. 9.

Oath to be made by inventor.

10. Every inventor shall, before a patent can be obtained, make oath, or, when entitled by law to make an affir-

mation instead of an oath, shall make an affirmation, that he verily believes that he is the inventor of the invention for which the patent is asked, and that the several allegations in the petition contained are respectively true and correct :

2. In the event of the inventor being dead, such oath or affirmation shall be made by the applicant, and shall state that he verily believes that the person whose assignee or legal representative he is, was the inventor of the invention for which the patent is solicited, and that the several allegations in the petition contained are respectively true and correct :

Or by the applicant if the inventor is dead.

3. Such oath or affirmation may be made before any justice of the peace in Canada ; but if the inventor or the applicant is not at the time in Canada, the oath or affirmation may be made before any Minister plenipotentiary, *chargé d'affaires*, consul, vice-consul or consular agent, holding commission under the Government of the United Kingdom, or before any judge of a court of record or a public notary, or the mayor or other chief magistrate of any city, borough or town corporate in the country in which the applicant is at the time he makes such oath or affirmation. 35 V., c. 26, s. 11 ;—36 V., c. 44, s. 3.

Before whom oath may be made.

11. The applicant for a patent shall, for the purposes of this Act, elect his domicile at some known and specified place in Canada and shall mention the same in his petition for a patent. 35 V., c. 26, s. 12.

Domicile.

12. The applicant shall, in his petition for a patent, insert the title or name of the invention, and shall, with the petition, send in a specification in duplicate of the invention. 35 V., c. 26, s. 13.

Particulars required in application.

13. The specification shall correctly and fully describe the mode or modes of operating the invention, as contemplated by the inventor ; and shall state clearly and distinctly the contrivances and things which he claims as new and for the use of which he claims an exclusive property and privilege :

What the specification shall show.

2. Such specification shall bear the name of the place where, and the date when it is made, and shall be signed by the inventor, if he is alive, and if not, by the applicant, and by two witnesses to such signature of the inventor or applicant :

Place and date.

3. In the case of a machine the specification shall fully explain the principle and the several modes in which it is intended to apply and work out the same :

In the case of a machine.

4. In the case of a machine, or in any other case in which the invention admits of illustration by means of drawings, the applicant shall also, with his application, send in drawings in duplicate, showing clearly all parts of the invention ;

Drawings to be furnished in certain cases.

and each drawing shall bear the signature of the inventor, if he is alive, and if not of the applicant, or of the attorney of such inventor or applicant, and shall have written references corresponding with the specification; but the commissioner may require further drawings or dispense with any of them, as he sees fit:

Drawings,
how disposed
of.

5. One duplicate of the specification and of the drawings, if there are drawings, shall be annexed to the patent, of which it shall form an essential part, and the other duplicate shall remain deposited in the Patent Office:

Certain mat-
ters may be
dispensed
with.

6. The commissioner may, in his discretion, dispense with the duplicate specification and drawing, and in lieu thereof cause copies of the specification and drawing, in print or otherwise, to be attached to the patent, of which they shall form an essential part. 35 V., c. 26, s. 14;—36 V., c. 44, s. 4.

Working
model to be
delivered.

14. The applicant shall deliver to the commissioner, unless the same is specially dispensed with for some good reason, a neat working model of his invention, on a convenient scale, exhibiting its several parts in due proportion, whenever the invention admits of such model; and shall deliver to the commissioner specimens of the ingredients, and of the composition of matter, sufficient in quantity for the purpose of experiment, whenever the invention is a composition of matter,—if such ingredients and composition are not of an explosive character or otherwise dangerous, in which case they shall be furnished only when specially required by the commissioner, and then with such precautions as are prescribed in the requisition therefor. 35 V., c. 26, s. 15.

Or specimens
of ingredients.

Case of with-
drawal.

15. In the case of withdrawal of any application for a patent, a fresh application, as if no proceeding had taken place in the matter, shall be necessary to revive the claim. 35 V., c. 26, s. 38, *part*.

REFUSAL TO GRANT PATENTS.

Commis-
sioner may ob-
ject to grant a
patent in cer-
tain cases.

16. The commissioner may object to grant a patent in any of the following cases:—

(a.) When he is of opinion that the alleged invention is not patentable in law;

(b.) When it appears to him that the invention is already in the possession of the public, with the consent or allowance of the inventor;

(c.) When it appears to him that there is no novelty in the invention;

(d.) When it appears to him that the invention has been described in a book or other printed publication before the date of the application, or is otherwise in the possession of the public;

(e.) When it appears to him that the invention has already been patented in Canada or elsewhere, if the case

is one within the eighth section of this Act, unless the commissioner has doubts as to whether the patentee or the applicant is the first inventor. 35 V., c. 26, s. 40.

17. Whenever the commissioner objects to grant a patent as aforesaid, he shall notify the applicant to that effect and shall state the ground or reason therefor, with sufficient detail to enable the applicant to answer, if he can, the objection of the commissioner. 35 V., c. 26, s. 41.

Applicant to be notified.

18. Every applicant who has failed to obtain a patent by reason of the objection of the commissioner, as aforesaid, may, at any time within six months after notice thereof has been addressed to him or his agent, appeal from the decision of the commissioner to the Governor in Council. 35 V., c. 26, s. 42.

Appeal to Governor in Council.

CONFLICTING APPLICATIONS.

19. In case of conflicting applications for any patent, the same shall be submitted to the arbitration of three skilled persons, two of whom shall be chosen by the applicants, one by each, and the third of whom shall be chosen by the commissioner or by the deputy commissioner or by the person appointed to perform the duty of that officer; and the decision or award of such arbitrators, or of any two of them, delivered to the commissioner in writing, and subscribed by them or any two of them, shall be final, as far as concerns the granting of the patent:

Arbitration in case of conflicting applications.

2. If either of the applicants refuses or fails to choose an arbitrator, when required so to do by the commissioner, and if there are only two such applicants, the patent shall issue to the opposing applicant:

Failure to appoint arbitrator.

3. If there are more than two conflicting applications, and if the persons applying do not all unite in appointing three arbitrators, the commissioner or the deputy commissioner or person appointed to perform the duty of that officer, may appoint the three arbitrators for the purposes aforesaid:

In certain cases commissioner may appoint.

4. The arbitrators so named shall subscribe and take, before a judge of any court of record in Canada, an oath in the form following, that is to say:—

Arbitrators to be sworn.

“I, the undersigned (A.B.), being duly appointed an arbitrator under the authority of ‘*The Patent Act*,’ do hereby solemnly swear (or affirm, as the case may be), that I will well and truly perform the duty of such arbitrator on the conflicting applications of (C.D. and E.F.) submitted to me:”

Form of oath.

5. The arbitrators, or any one of them, when so sworn, may summon before them any applicant or other person, and may require him to give evidence on oath, orally or in writing (or on solemn affirmation, if such applicant or person is entitled to affirm in civil cases), and to produce such documents and things as such arbitrators deem requisite to

Powers of the arbitrators.

the full investigation of the matters into which they are appointed to examine, and they shall have the same power to enforce the attendance of such applicants and other persons, and to compel them to give evidence, as is vested in any court of justice in civil cases, in the Province in which the arbitration is held: but no such applicant or person shall be compelled to answer any question, by his answer to which he might render himself liable to a criminal prosecution:

PROVISO.

Their remuneration.

6. The fees for the services of such arbitrators shall be a matter of agreement between the arbitrators and the applicants, and shall be paid by the applicants who name them, respectively, except those of the arbitrator or arbitrators named by the commissioner, which shall be paid by the applicants jointly. 35 V., c. 26, s. 43, *part*.

GRANT AND DURATION OF PATENTS.

What the patent shall contain and confer.

20. Every patent granted under this Act shall contain the title or name of the invention, with a reference to the specification, and shall grant to the patentee and his legal representatives, for the term therein mentioned, from the granting of the same, the exclusive right, privilege and liberty of making, constructing and using, and vending to others to be used, the said invention, subject to adjudication in respect thereof before any court of competent jurisdiction:

Joint applications.

2. In cases of joint applications, the patents shall be granted in the names of all the applicants. 35 V., c. 26, s. 10, *part*, and s. 16;—36 V., c. 44, s. 5.

Form of issue.

21. Every patent shall be issued under the seal of the Patent Office and the signature of the commissioner or of some other member of the Queen's Privy Council for Canada, acting for him, and when duly registered, shall be good, and shall avail the grantee and his legal representatives for the term mentioned in the patent:

Patent may be referred to the Minister of Justice.

2. The commissioner may require that any patent, before it is signed by the commissioner or by any other member of the Queen's Privy Council for Canada, acting for him, and before the seal hereinbefore mentioned is affixed to it, shall be examined by the Minister of Justice; and if such examination is so required, the Minister of Justice shall, accordingly, examine it, and if he finds it conformable to law, he shall certify accordingly, and such patent may then be signed, and the seal affixed thereto. 35 V., c. 26, s. 6, *part*, and s. 18.

Duration of patent.

22. The term limited for the duration of every patent of invention issued by the Patent Office shall be fifteen years; but at the time of the application therefor it shall be at the option of the applicant to pay the full fee required for the term of fifteen years, or the partial fee required for the term

of five years, or the partial fee required for the term of ten years :

2. If a partial fee only is paid, the proportion of the fee paid shall be stated in the patent, and the patent shall, notwithstanding anything therein or in this Act contained, cease at the end of the term for which the partial fee has been paid, unless at or before the expiration of the said term the holder of the patent pays the fee required for the further term of five or ten years, and obtains from the Patent Office a certificate of such payment in the form which is, from time to time, adopted,—which certificate shall be attached to and refer to the patent, and shall be under the signature of the commissioner, or the signature of any other member of the Queen's Privy Council for Canada acting for him :

If partial fee only is paid.

3. If such second payment, together with the first payment, makes up only the fee required for ten years, then the patent shall, notwithstanding anything therein or in this Act contained, cease at the end of the term of ten years, unless at or before the expiration of such term the holder thereof pays the further fee required for the remaining five years, making up the full term of fifteen years, and obtains a like certificate in respect thereof. 46 V., c. 19, s. 1, *part.*

Effect of second and of further payment.

RE-ISSUE OF PATENTS.

23. Whenever any patent is deemed defective or inoperative by reason of insufficient description or specification, or by reason of the patentee claiming more than he had a right to claim as new, but at the same time it appears that the error arose from inadvertence, accident or mistake, without any fraudulent or deceptive intention, the commissioner may, upon the surrender of such patent and the payment of the further fee hereinafter provided, cause a new patent, in accordance with an amended description and specification made by such patentee, to be issued to him for the same invention for any part or for the whole of the then unexpired residue of the term for which the original patent was, or might have been granted :

In certain cases new patent or amended specification may be issued

2. In the event of the death of the original patentee or of his having assigned the patent, a like right shall vest in his assignee or his legal representatives :

Death or assignment.

3. Such new patent, and the amended description and specification, shall have the same effect in law, on the trial of any action thereafter commenced for any cause subsequently accruing, as if the same had been originally filed in such corrected form before the issue of the original patent :

Effect of new patent.

4. The commissioner may entertain separate applications, and cause patents to be issued for distinct and separate parts of the invention patented, upon payment of the fee for a re-issue for each of such re-issued patents. 35 V., c. 26, s. 19 ;—38 V., c. 14, s. 1.

Separate patents for separate parts of invention.

DISCLAIMERS.

Patentee may disclaim anything included in patent by mistake.

24. Whenever, by any mistake, accident or inadvertence, and without any wilful intent to defraud or mislead the public, a patentee has made his specification too broad, claiming more than that of which he or the person through whom he claims was the first inventor,—or has, in the specification, claimed that he or the person through whom he claims was the first inventor of any material or substantial part of the invention patented, of which he was not the first inventor, and to which he had no lawful right—the patentee may, on payment of the fee hereinafter provided, make disclaimer of such parts as he does not claim to hold by virtue of the patent or the assignment thereof:

Form and attestation of disclaimer.

2. Such disclaimer shall be in writing, and in duplicate, and shall be attested in the manner hereinbefore prescribed in respect of an application for a patent; one copy thereof shall be filed and recorded in the office of the commissioner, and the other copy thereof shall be attached to the patent and made a part thereof by reference, and such disclaimer shall thereafter be taken and considered as part of the original specification:

Not to affect pending suits.

3. Such disclaimer shall not affect any action pending at the time of its being made, except in so far as relates to the question of unreasonable neglect or delay in making it:

In case of death of patentee.

4. In case of the death of the original patentee, or of his having assigned the patent, a like right shall vest in his legal representatives, any of whom may make disclaimer:

Effect of disclaimer.

5. The patent shall thereafter be deemed good and valid for so much of the invention as is truly the invention of the disclaimant, and is not disclaimed, if it is a material and substantial part of the invention, and is definitely distinguished from other parts claimed without right; and the disclaimant shall be entitled to maintain an action or suit in respect of such part accordingly. 35 V., c. 26, s. 20.

ASSIGNMENTS.

When representatives may obtain the patent.

25. The patent may be granted to any person to whom the inventor, entitled under this Act to obtain a patent, has assigned or bequeathed the right of obtaining the same, or in default of such assignment or bequest, to the legal representatives of the deceased inventor. 35 V., c. 26, s. 8;—36 V., c. 44, s. 2.

Patents to be assignable.

26. Every patent issued for an invention shall be assignable in law, either as to the whole interest or as to any part thereof, by any instrument in writing; but such assignment, and every grant and conveyance of any exclusive right to make and use and to grant to others the right to make and use the invention patented, within and throughout Canada or any part thereof, shall be registered in the Patent Office

Registration.

in the manner, from time to time, prescribed by the commissioner for such registration ; and every assignment affecting a patent for invention shall be null and void against any subsequent assignee, unless such instrument is registered as hereinbefore prescribed, before the registration of the instrument under which such subsequent assignee claims. 35 V., c. 26, s. 22.

Assignment null if not registered.

27. In cases of joint applications or grants, every assignment from one or more of the applicants or patentees to the other or others, or to any other person, shall be registered in like manner as other assignments. 35 V., c. 26, s. 10, *part*.

Assignment in case of joint application, &c.

IMPEACHMENT AND OTHER LEGAL PROCEEDINGS IN RESPECT OF PATENTS.

28. A patent shall be void, if any material allegation in the petition or declaration of the applicant hereinbefore mentioned in respect of such patent is untrue, or if the specifications and drawings contain more or less than is necessary for obtaining the end for which they purport to be made, when such omission or addition is wilfully made for the purpose of misleading ; but if it appears to the court that such omission or addition was an involuntary error, and if it is proved that the patentee is entitled to the remainder of his patent *pro tanto*, the court shall render a judgment in accordance with the facts, and shall determine as to costs, and the patent shall be held valid for such part of the invention described, as the patentee is so found entitled to ; and two office copies of such judgment shall be furnished to the Patent Office by the patentee, one of which shall be registered and remain of record in the office, and the other of which shall be attached to the patent, and made a part of it by a reference thereto. 35 V., c. 26, s. 27.

Patent to be void in certain cases, or valid only for part.

Copies of judgment to be sent to Patent Office.

29. Every person who, without the consent in writing of the patentee, makes, constructs or puts in practice any invention for which a patent has been obtained under this Act or any previous Act, or who procures such invention from any person not authorized by the patentee or his legal representatives to make or use it, and who uses it, shall be liable to the patentee or his legal representatives in an action of damages for so doing ; and the judgment shall be enforced, and the damages and costs that are adjudged shall be recoverable, in like manner as in other cases in the court in which the action is brought. 35 V., c. 26, s. 23.

Remedy for infringement of patent.

30. Any action for the infringement of a patent may be brought in any court of record having jurisdiction, to the amount of the damages claimed, in the Province in which the infringement is alleged to have taken place, and which is also that one of the said courts which holds its sittings

Action for infringement of patent.

nearest to the place of residence or of business of the defendant; and such court shall decide the case and determine as to costs. 35 V., c. 26, s. 24, *part.*

Injunction may issue.

31. In any action for the infringement of a patent, the court, if sitting, or any judge thereof if the court is not sitting, may, on the application of the plaintiff or defendant respectively, make such order for an injunction, restraining the opposite party from further use, manufacture or sale of the subject matter of the patent, and for his punishment in the event of disobedience of such order, or for inspection or account, and respecting the same and the proceedings in the action, as the court or judge sees fit; but, from such order, an appeal shall lie under the same circumstances, and to the same court, as from other judgments or orders of the court in which the order is made. 35 V., c. 26, s. 24, *part.*

Appeal.

Court may discriminate in certain cases.

32. Whenever the plaintiff, in any such action, fails to sustain his action, because his specification and claim embrace more than that of which he was the first inventor, and it appears that the defendant used or infringed any part of the invention justly and truly specified and claimed as new, the court may discriminate,—and the judgment may be rendered accordingly. 35 V., c. 26, s. 25.

Defence in actions for infringement.

33. The defendant, in any such action, may plead specially as matter of defence, any fact or default which, by this Act, or by law, renders the patent void; and the court shall take cognizance of that special pleading and of the facts connected therewith, and shall decide the case accordingly. 35 V., c. 26, s. 26.

Proceedings for impeachment of patent.

34. Any person who desires to impeach any patent issued under this Act, may obtain a sealed and certified copy of the patent and of the petition, affidavit, specification and drawings thereunto relating, and may have the same filed in the office of the prothonotary or clerk of the Superior Court for Lower Canada in Quebec, or of any of the divisions of the High Court of Justice for Ontario, or of the Supreme Court in Nova Scotia, or of the Supreme Court in New Brunswick, or of the Supreme Court of Judicature in Prince Edward Island, or of the Supreme Court in British Columbia, or of the Court of Queen's Bench in Manitoba or of the Supreme Court in the North-West Territories, according to the domicile elected by the patentee, as aforesaid,—which courts, respectively, shall adjudicate on the matter and decide as to costs; and if the domicile elected by the patentee is in the District of Keewatin, the Court of Queen's Bench of Manitoba shall have jurisdiction until there is a superior court in such District, after which such superior court shall have jurisdiction:

2. The patent and documents aforesaid shall then be held *Scire facias* as of record in such courts respectively, so that a writ of *scire facias*, under the seal of the court, grounded upon such record, may issue for the repeal of the patent, for cause as aforesaid, if, upon proceedings had upon the writ in accordance with the meaning of this Act, the patent is adjudged to be void. 35 V., c. 26, s. 29;—37 V., c. 44, s. 1;—38 V., c. 14, s. 8;—49 V., c. 25, s. 14.

35. A certificate of the judgment avoiding any patent shall, at the request of any person filing it to make it of record in the Patent Office, be entered on the margin of the enrolment of the patent in the Patent Office, and the patent shall thereupon be and be held to have been void and of no effect, unless the judgment is reversed on appeal as herein-after provided. 35 V., c. 26, s. 30.

36. The judgment declaring or refusing to declare any patent void shall be subject to appeal to any court having appellate jurisdiction in other cases decided by the court by which the judgment declaring or refusing to declare such patent void, was rendered. 35 V., c. 26, s. 31.

FORFEITURE OF PATENTS.

37. Every patent granted, under this Act, shall be subject and be expressed to be subject to the condition that such patent and all the rights and privileges thereby granted shall cease and determine, and that the patent shall be null and void at the end of two years from the date thereof, unless the patentee or his legal representatives, within that period, commence, and, after such commencement, continuously carry on in Canada the construction or manufacture of the invention patented, in such manner that any person desiring to use it may obtain it, or cause it to be made for him, at a reasonable price, at some manufactory or establishment for making or constructing it in Canada,—and that such patent shall be void if, after the expiration of twelve months from the granting thereof, the patentee or his legal representatives or his assignee for the whole or a part of his interest in the patent imports or causes to be imported into Canada, the invention for which the patent is granted; and if any dispute arises as to whether a patent has or has not become null and void under the provisions of this section, such dispute shall be decided by the Minister or the deputy of the Minister of Agriculture, whose decision in the matter shall be final:

2. Whenever a patentee has been unable to carry on the construction or manufacture of his invention within the two years hereinbefore mentioned, the commissioner may, at any time not more than three months before the expiration of that term, grant to the patentee an extension of the term

of two years on his proving to the satisfaction of the commissioner that he was, for reasons beyond his control, prevented from complying with the above condition :

Term for im-
portation may
be extended.

3. The commissioner may grant to the patentee, or to his legal representatives or assignee for the whole or any part of the patent, an extension for a further term not exceeding one year, beyond the twelve months limited by this section, during which he may import or cause to be imported into Canada the invention for which the patent is granted, if the patentee or his legal representatives, or assignee for the whole or any part of the patent, show cause, satisfactory to the commissioner, to warrant the granting of such extension ; but no extension shall be granted unless application is made to the commissioner at some time within three months before the expiry of the twelve months aforesaid, or of any extension thereof. 35 V., c. 26, s. 28 ;—38 V., c. 14, s. 2 ;—45 V., c. 22, s. 1.

Proviso.

CAVEATS.

Intending ap-
plicant for
patent may
file a caveat.

38. Any intending applicant for a patent who has not yet perfected his invention and is in fear of being despoiled of his idea, may file, in the Patent Office, a description of his invention so far, with or without plans, at his own will ; and the commissioner, on payment of the fee in this Act prescribed, shall cause the said document, which shall be called a caveat, to be preserved in secrecy, with the exception of delivering copies of the same whenever required by the said applicant or by any judicial tribunal,—but the secrecy of the document shall cease when the applicant obtains a patent for his invention :

Notice of ap-
plication by
another to be
sent to person
filing caveat.

2. If application is made by any other person for a patent for any invention with which such caveat may, in any respect, interfere, the commissioner shall forthwith give notice, by mail, of such application, to the person who has filed such caveat, and such person shall, within three months after the date of mailing the notice, if he wishes to avail himself of the caveat, file his petition and take the other steps necessary on an application for a patent, and if, in the opinion of the commissioner, the applications are conflicting, like proceedings may be had in all respects as are by this Act provided in the case of conflicting applications :

Duration
of caveat.

3. Unless the person filing a *caveat* makes application within one year from the filing thereof for a patent, the commissioner shall be relieved from the obligation of giving notice, and the caveat shall then remain as a simple matter of proof as to novelty or priority of invention, if required. 35 V., c. 26, s. 39.

PATENT FEES.

Tariff of fees.

39. The following fees shall be payable before an application for any of the purposes herein mentioned shall be received by the commissioner, that is to say :—

Full fee for 15 years.....	\$60 00
Partial fee for 10 years.....	40 00
Partial fee for 5 years.....	20 00
Fee for further term of 10 years.....	40 00
Fee for further term of 5 years.....	20 00
On lodging a caveat.....	5 00
On asking to register a judgment <i>pro tanto</i> .	4 00
On asking to register an assignment.....	2 00
On asking to attach a disclaimer to a patent	2 00
On asking for a copy of patent with specification	4 00
On petition to re-issue a patent after surrender, and on petition to extend a former patent to the whole of Canada for every unexpired year of the duration of the provincial or sub-patent, the fee shall be at the rate of.....	4 00

On office copies of documents, not above mentioned, the following charges shall be made:—

For every single or first folio of certified copy	\$ 0 50
For every subsequent hundred words (fractions from and under fifty not being counted, and over fifty being counted for one hundred).....	0 25

35 V., c. 26, s. 34.

40. For every copy of drawings, the person applying shall pay such sum as the commissioner considers a fair remuneration for the time and labor expended thereon by any officer of the Patent Office or of the department or person employed to perform such service. 35 V., c. 26, s. 35. For copies of drawings.

41. The said fees shall be in full of all services performed under this Act, in any such case, by the commissioner or any person employed in the Patent Office. 35 V., c. 26, s. 36 Fees to be in full for all services.

42. All fees received under this Act shall be paid over to the Minister of Finance and Receiver General, and shall form part of the Consolidated Revenue Fund of Canada, except such sums as are paid for copies of drawings when made by persons not receiving salaries in the Patent Office. 35 V., c. 26, s. 37. Application of fees. Exception.

43. No person shall be exempt from the payment of any fee or charge payable in respect of any services performed for such person under this Act; and no fee, when paid, shall be returned to the person who paid it, except,—

(a.) When the invention is not susceptible of being patented; or—

(b.) When the petition for a patent is withdrawn :

And in every such case the commissioner may return the fee paid less the sum of ten dollars. 35 V., c. 26, s. 38..

GENERAL PROVISIONS.

Government
may use
patented in-
vention.

44. The Government of Canada may, at any time, use any patented invention, paying to the patentee such sum as the commissioner reports to be a reasonable compensation for the use thereof. 35 V., c. 26, s. 21.

As to use of
patented in-
vention in
foreign
vessels.

45. No patent shall extend to prevent the use of any invention in any foreign ship or vessel, if such invention is not so used for the manufacture of any goods to be vended within or exported from Canada. 35 V., c. 26, s. 47.

Patent not to
affect a pre-
vious pur-
chaser.

46. Every person who, before the issuing of a patent, has purchased, constructed or acquired any invention for which a patent is afterwards obtained under this Act, shall have the right of using and vending to others the specific article, machine, manufacture or composition of matter patented and so purchased, constructed or acquired before the issue of the patent therefor, without being liable to the patentee or his legal representatives for so doing : but the patent shall not, as regards other persons, be held invalid by reason of such purchase, construction or acquisition or use of the invention, by the person first aforesaid or by those to whom he has sold the same, unless the same was purchased, constructed, acquired or used, with the consent or allowance of the inventor thereof, for a longer period than one year before the application for a patent therefor—making the invention one which had become public and in public use. 35 V., c. 26, s. 48.

Proviso : as to
other persons.

Inspection by
the public.

47. All specifications, drawings, models, disclaimers, judgments and other papers, except caveats, shall be open to the inspection of the public at the Patent Office, under such regulations as are adopted in that behalf. 35 V., c. 26, s. 44.

As to clerical
errors.

48. Clerical errors which occur in the framing or copying of any instrument in the Patent Office shall not be construed as invalidating the same, but when discovered they may be corrected under the authority of the commissioner. 35 V., c. 26, s. 45.

Destroyed
patent may
be replaced.

49. If any patent is destroyed or lost, another patent of the like tenor, date and effect may be issued in lieu thereof, upon the person who applies therefor paying the fees hereinbefore prescribed for office copies of documents. 35 V., c. 26, s. 46.

Seal of Patent
Office to be
evidence.

50. Every court, judge and person whomsoever shall take notice of the seal of the Patent Office and shall receive the

impressions thereof in evidence, in like manner as the impressions of the Great Seal are received in evidence, and shall also take notice of and receive in evidence, without further proof and without production of the originals, all copies or extracts certified under the seal of the Patent Office to be copies of or extracts from documents deposited in such office. 35 V., c. 26, s. 2, *part*.

51. No officer or employee of the Patent Office shall buy, sell or acquire or traffic in any invention or patent, or in any right to a patent; and every such purchase and sale, and every assignment or transfer thereof by or to any officer or employee, as aforesaid, shall be null and void, but this provision shall not apply to any original inventor, or to any acquisition by bequest. 35 V., c. 26, s. 4, *part*.

Officers of Patent Office not to deal in patents.

52. The commissioner may, from time to time, subject to the approval of the Governor in Council, make such rules and regulations, and prescribe such forms, as appear to him necessary and expedient for the purposes of this Act,—and notice thereof shall be given in the *Canada Gazette*; and all documents, executed in conformity with the same and accepted by the commissioner, shall be held valid, so far as relates to proceedings in the Patent Office. 35 V., c. 26, s. 3.

Regulations may be made and forms prescribed.

53. The commissioner shall cause a report to be prepared annually and laid before Parliament of the proceedings under this Act, and shall, from time to time, and at least once in each year, publish a list of all patents granted, and may, with the approval of the Governor in Council, cause such specifications and drawings as are deemed of interest, or essential parts thereof, to be printed, from time to time, for distribution or sale. 35 V., c. 26, s. 5;—36 V., c. 44, s. 1.

Annual report for Parliament.

OFFENCES AND PENALTIES.

54. Every patentee under this Act shall stamp or engrave on each patented article sold or offered for sale by him the year of the date of the patent applying to such article, thus: "Patented, 1886," or as the case may be; or when, from the nature of the article, this cannot be done, then by affixing to it, or to every package wherein one or more of such articles is or are enclosed, a label marked with a like notice; and any such patentee selling or offering for sale any such patented article not so marked, or not enclosed in a package so marked, shall be liable to a penalty not exceeding one hundred dollars, and in default of the payment of such penalty, to imprisonment for a term not exceeding two months. 38 V., c. 14, s. 3.

Patented articles to be stamped or marked.

Penalty for default.

55. Every person who writes, paints, prints, moulds, casts, carves, engraves, stamps or otherwise marks upon

Falsely marking an article as patented, a misdemeanor.

anything made or sold by him, and for the sole making or selling of which he is not the patentee, the name or any imitation of the name of any patentee for the sole making or selling of such thing, without the consent of such patentee,—or who, without the consent of the patentee, writes, paints, prints, moulds, casts, carves, engraves, stamps or otherwise marks upon anything not purchased from the patentee, the words, “patent,” “letters patent,” “Queen’s patent,” “patented,” or any word or words of like import, with the intent of counterfeiting or imitating the stamp, mark, or device of the patentee, or of deceiving the public and inducing them to believe that the thing in question was made or sold by or with the consent of the patentee or his legal representatives; or who offers for sale as patented any article not patented in Canada, for the purpose of deceiving the public, is guilty of a misdemeanor, and liable to a fine not exceeding two hundred dollars, or to imprisonment for a term not exceeding three months, or to both. 35 V., c. 26, s. 50.

Punishment.

Making certain false entries on copies, a misdemeanor.

56. Every person who wilfully makes or causes to be made any false entry in any register or book, or any false or altered copy of any document relating to the purposes of this Act, or who produces or tenders any such false or altered document in evidence, knowing the same to be such, is guilty of a misdemeanor, and shall be liable to be punished by fine and imprisonment accordingly. 35 V., c. 26, s. 51.

PATENTS ISSUED UNDER FORMER ACTS.

Certain existing patents to remain in force.

57. Every patent issued under any Act of the Parliament of Canada, or of the legislature of the late Province of Canada, or of the legislature of any Province now forming part of Canada, shall remain in force for the same term and for the same extent of territory as if the Acts under which they were issued had not been repealed, but subject to the provisions of this Act in so far as the same are applicable to them :

Extension of such patent.

2. The commissioner may, upon the application of the patentee named in any such patent, who is the inventor of the subject matter of the patent, if the subject matter of the patent has not been known or used, and has not, with the consent of the patentee, been on sale in any of the other Provinces of Canada, issue, on payment of the proper fees in that behalf, a patent under this Act, extending such Provincial patent over the whole of Canada, for the remainder of the term mentioned in the Provincial patent. 35 V., c. 26, s. 32;—38 V., c. 14, s. 6.

Duration of certain patents.

58. Every patent heretofore issued by the Patent Office in respect of which the fee required for the whole or for any

unexpired portion of the term of fifteen years, has been duly paid according to the provisions of the law under which such patent was issued in that behalf, has been and shall be deemed to, have been issued for the term of fifteen years, subject, in case a partial fee only has been paid, to its ceasing on the same conditions on which patents hereafter issued are to cease under the operation of this Act. 46 V., c. 19, s. 1, *part.*

59. Every patent issued prior to the eighth day of April, one thousand eight hundred and seventy-five, under the Acts respecting patents then in force in Canada, shall extend over the Province of Prince Edward Island for the remainder of the term mentioned therein. 38 V., c. 14, s. 4, *part.*

Extension to
Prince Ed-
ward Island.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 62.

An Act respecting Copyright.

A. D. 1886.

NOTE—The original Act is chaptered 88 of the Statutes of 1875, although there is another Act passed in the same year also chaptered 88.

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

SHORT TITLE.

1. This Act may be cited as "*The Copyright Act.*" 38 V., Short title. c. 88, s. 31.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—

(a.) The expression "the Minister" means the Minister of Agriculture; Interpretation.
"Minister."

(b.) The expression "the Department" means the Department of Agriculture; "Department."

(c.) The expression "legal representatives" includes heirs, executors, administrators and assigns, or other legal representatives. "Legal representatives."

REGISTERS OF COPYRIGHTS.

3. The Minister of Agriculture shall cause to be kept, at the Department of Agriculture, books to be called the "Registers of copyrights," in which proprietors of literary, scientific and artistic works or compositions, may have the same registered in accordance with the provisions of this Act. 38 V., c. 88, s. 1. Minister of Agriculture to keep registers of copyrights.

SUBJECTS OF COPYRIGHT AND CONDITIONS TO BE COMPLIED WITH.

4. Any person domiciled in Canada or in any part of the British possessions, or any citizen of any country which has an International copyright treaty with the United Kingdom, who is the author of any book, map, chart or musical composition, or of any original painting, drawing, statue, sculpture or photograph, or who invents, designs, etches, engraves or causes to be engraved, etched or made from his Who may obtain copyrights.

own design, any print or engraving, and the legal representatives of such person or citizen, shall have the sole and exclusive right and liberty of printing, reprinting, publishing, reproducing and vending such literary, scientific or artistic works or compositions, in whole or in part, and of allowing translations to be printed or reprinted and sold, of such literary works from one language into other languages, for the term of twenty-eight years, from the time of recording the copyright thereof in the manner hereinafter directed. 38 V., c. 88, s. 4, *part.*

Translations.

Term of copyright.

Condition for obtaining copyright.

Proviso.

Exception as to immoral works, &c.

5. The condition for obtaining such copyright shall be that the said literary, scientific or artistic works shall be printed and published or reprinted and republished in Canada, or in the case of works of art that they shall be produced or reproduced in Canada, whether they are so published or produced for the first time, or contemporaneously with or subsequently to publication or production elsewhere: but in no case shall the said sole and exclusive right and liberty in Canada continue to exist after it has expired elsewhere:

2. No immoral, licentious, irreligious, or treasonable or seditious literary, scientific or artistic work, shall be the legitimate subject of such registration or copyright. 38 V., c. 88, s. 4, *part.*

Copyright in Canada of British copyright works—on what conditions obtainable.

Proviso.

As to foreign reprints imported before copyright is obtained in Canada.

6. Every work of which the copyright has been granted and is subsisting in the United Kingdom, and copyright of which is not secured or subsisting in Canada, under any Act of the Parliament of Canada, or of the legislature of the late Province of Canada, or of the legislature of any of the Provinces forming part of Canada, shall, when printed and published, or reprinted and republished in Canada, be entitled to copyright under this Act; but nothing in this Act shall be held to prohibit the importation from the United Kingdom of copies of any such work lawfully printed there:

2. If any such copyright work is reprinted subsequently to its publication in the United Kingdom, any person who has, previously to the date of entry of such work upon the registers of copyright, imported any foreign reprints, may dispose of such reprints by sale or otherwise; but the burden of proof of establishing the extent and regularity of the transaction shall, in such case, be upon such person. 38 V., c. 88, s. 15.

Registration of work first published in separate articles in a periodical.

7. Any literary work, intended to be published in pamphlet or book form, but which is first published in separate articles in a newspaper or periodical, may be registered under this Act while it is so preliminarily published, if the title of the manuscript and a short analysis of the work are deposited at the department, and if every separate article so published is preceded by the words "Registered in accord-

ance with the Copyright Act," but the work, when published in book or pamphlet form, shall be subject, also, to the other requirements of this Act. 38 V., c. 88, s. 10, *part*.

8. If a book is published anonymously, it shall be sufficient to enter it in the name of the first publisher thereof, either on behalf of the un-named author or on behalf of such first publisher, as the case may be. 38 V., c. 88, s. 25. Anonymous books may be entered in the name of first publisher.

9. No person shall be entitled to the benefit of this Act unless he has deposited at the department two copies of such book, map, chart, musical composition, photograph, print, cut or engraving, and in the case of paintings, drawings, statuary and sculpture, unless he has furnished a written description of such works of art; and the Minister shall cause the copyright of the same to be recorded forthwith in a book to be kept for that purpose, in the manner adopted by him, or prescribed by the rules and forms made, from time to time, as herein provided. 38 V., c. 88, s. 7. Deposit of copies, &c., with the department.
Record of copyright.

10. The Minister shall cause one of such two copies of such book, map, chart, musical composition, photograph, print, cut or engraving, to be deposited in the Library of the Parliament of Canada. 38 V., c. 88, s. 8. Copies to be sent to the Library of Parliament.

11. It shall not be requisite to deliver any printed copy of the second or of any subsequent edition of any book unless the same contains very important alterations or additions. 38 V., c. 88, s. 26. As to second and subsequent editions.

12. No person shall be entitled to the benefit of this Act unless he gives information of the copyright being secured, by causing to be inserted in the several copies of every edition published during the term secured, on the title-page, or on the page immediately following, if it is a book,—or if it is a map, chart, musical composition, print, cut, engraving or photograph, by causing to be impressed on the face thereof, or if it is a volume of maps, charts, music, engravings or photographs, upon the title-page or frontispiece thereof, the following words, that is to say: "Entered according to Act of the Parliament of Canada, in the year _____, by A.B., at the Department of Agriculture;" but as regards paintings, drawings, statuary and sculptures, the signature of the artist shall be deemed a sufficient notice of such proprietorship. 38 V., c. 88, s. 9. Notice of copyright to appear on the work.
Form.
Exception.

13. The author of any literary, scientific or artistic work, or his legal representatives, may, pending the publication or republication thereof in Canada, obtain an interim copyright therefor by depositing at the department a copy of the title or a designation of such work, intended for publication or republication in Canada,—which title or designa-

tion shall be registered in an interim copyright register at the said department,—to secure to such author aforesaid or his legal representatives, the exclusive rights recognized by this Act, previous to publication or republication in Canada, —but such interim registration shall not endure for more than one month from the date of the original publication elsewhere, within which period the work shall be printed or reprinted and published in Canada :

Duration of interim copyright. 2. In every case of interim registration under this Act the author or his legal representatives shall cause notice of such registration to be inserted once in the *Canada Gazette*. 38 V., c. 88, s. 10, *part*.

Notice to be given.

Application for registration may be made through an agent. **14.** The application for the registration of an interim copyright, of a temporary copyright and of a copyright, may be made in the name of the author or of his legal representatives, by any person purporting to be the agent of such author or legal representatives ; and any damage caused by a fraudulent or an erroneous assumption of such authority shall be recoverable in any court of competent jurisdiction. 38 V., c. 88, s. 23, *part*.

Punishment of pretended agents.

ASSIGNMENTS AND RENEWALS.

Copyright and right to obtain it to be assignable. **15.** The right of an author of a literary, scientific or artistic work, to obtain a copyright, and the copyright when obtained, shall be assignable in law, either as to the whole interest or any part thereof, by an instrument in writing, made in duplicate, and which shall be registered at the department on production of both duplicates and payment of the fee hereinafter mentioned :

Duplicates, how disposed of. 2. One of the duplicates shall be retained at the department, and the other shall be returned, with a certificate of registration, to the person depositing it. 38 V., c. 88, s. 18.

Copyright to assignee of author. **16.** Whenever the author of a literary, scientific or artistic work or composition which may be the subject of copyright, has executed the same for another person or has sold the same to another person for due consideration, such author shall not be entitled to obtain or to retain the proprietorship of such copyright, which is, by the said transaction, virtually transferred to the purchaser,—and such purchaser may avail himself of such privilege, unless a reserve of the privilege is specially made by the author or artist in a deed duly executed. 38 V., c. 88, s. 16.

Renewal of copyright, for what term and on what conditions. **17.** If, at the expiration of the said term of twenty-eight years, the author or any of the authors (when the work has been originally composed and made by more than one person), is still living, or if such author is dead and has left a widow or a child, or children living, the same sole and exclusive right and liberty shall be continued to such

author, or to such authors still living, or, if dead, then to such widow and child or children, as the case may be, for the further term of fourteen years: but in such case, within one year after the expiration of such term of twenty-eight years, the title of the work secured shall be a second time registered, and all other regulations herein required to be observed in regard to original copyrights shall be complied with in respect to such renewed copyright. 38 V., c. 88, s. 5.

Title to be again registered, &c.

18. In all cases of renewal of copyright under this Act, the author or proprietor shall, within two months from the date of such renewal, cause notice of such registration thereof to be published once in the *Canada Gazette*. 38 V., c. 88, s. 6.

Record of renewal to be published.

CONFLICTING CLAIMS TO COPYRIGHT.

19. In case of any person making application to register as his own, the copyright of a literary, scientific or artistic work already registered in the name of another person, or in case of simultaneous conflicting applications, or of an application made by any person other than the person entered as proprietor of a registered copyright, to cancel the said copyright, the person so applying shall be notified by the Minister that the question is one for the decision of a court of competent jurisdiction, and no further proceedings shall be had or taken by the Minister concerning the application until a judgment is produced maintaining, cancelling or otherwise deciding the matter:

Cases of conflicting claims in respect of copyright to be settled before a competent court.

2. Such registration, cancellation or adjustment of the said right shall then be made by the Minister in accordance with such decision. 38 V., c. 88, s. 19.

Action on decision.

INFRINGEMENT OF COPYRIGHT.

20. Every person who, without the consent of the author or lawful proprietor thereof first obtained, prints or publishes, or causes to be printed or published, any manuscript not previously printed in Canada or elsewhere, shall be liable to the author or proprietor for all damages occasioned by such publication, and the same shall be recoverable in any court of competent jurisdiction. 38 V., c. 88, s. 3.

Liability of persons printing Mss., without owner's consent.

LICENSES TO RE-PUBLISH.

21. If a work copyrighted in Canada becomes out of print, a complaint may be lodged by any person with the Minister, who, on the fact being ascertained to his satisfaction, shall notify the owner of the copyright of the complaint and of the fact; and if, within a reasonable time, no remedy is applied by such owner, the Minister may grant a license to any person to publish a new edition or to import

Provision for the case of a copyrighted work being out of print.

License to print it, &c.

the work, specifying the number of copies and the royalty to be paid on each to the owner of the copyright. 38 V., c. 88, s. 22.

FEEES.

Fees payable under this Act.

22. The following fees shall be paid to the Minister before an application for any of the purposes herein mentioned is received, that is to say:—

- On registering a copyright.....\$1 00
- On registering an interim copyright..... 0 50
- On registering a temporary copyright..... 0 50
- On registering an assignment..... 1 00
- For a certified copy of registration..... 0 50
- On registering any decision of a court of justice, for every folio..... 0 50

On office copies.

For office copies of documents not above mentioned, the following charges shall be made:—

- For every single or first folio, certified copy.....\$0 50
- For every subsequent hundred words (fractions under or not exceeding fifty, not being counted, and over fifty being counted for one hundred)..... 0 25

Fees to be in full for all services.

2. The said fees shall be in full of all services performed under this Act by the Minister or by any person employed by him under this Act:

To form part of Con. Rev. Fund.

3. All fees received under this Act shall be paid over to the Minister of Finance and Receiver General, and shall form part of the Consolidated Revenue Fund of Canada:

No exemption from payment of fees.

4. No person shall be exempt from the payment of any fee or charge payable in respect of any services performed under this Act for such person, and no fee paid shall be returned to the person who paid it. 38 V., c. 88, s. 28.

GENERAL PROVISIONS.

Proviso: as to scenery, &c.

23. Nothing herein contained shall prejudice the right of any person to represent any scene or object, notwithstanding that there may be copyright in some other representation of such scene or object. 38 V., c. 88, s. 14.

As to newspapers, &c., containing portions of British copyright works.

24. Newspapers and magazines published in foreign countries, and which contain, together with foreign original matter, portions of British copyright works republished with the consent of the author or his legal representatives, or under the law of the country where such copyright exists, may be imported into Canada. 38 V., c. 88, s. 10, part.

Clerical errors, how corrected.

25. Clerical errors which occur in the framing or copying of any instrument drawn by any officer or employee in or of

the department shall not be construed as invalidating such instrument, but when discovered they may be corrected under the authority of the Minister. 38 V., c. 88, s. 20.

26. All copies or extracts certified, from the department, shall be received in evidence, without further proof and without production of the originals. 38 V., c. 88, s. 21.

Certified copies and extracts,—
their effect.

27. The Minister may, from time to time, subject to the approval of the Governor in Council, make such rules and regulations, and prescribe such forms, as appear to him necessary and expedient for the purposes of this Act; and such regulations and forms, circulated in print for the use of the public, shall be deemed to be correct for the purposes of this Act; and all documents, executed and accepted by the Minister shall be held valid, so far as relates to all official proceedings under this Act. 38 V., c. 88, s. 2.

Minister to make rules, forms, &c.

Their effect.

OFFENCES AND PENALTIES.

28. Every person who wilfully makes or causes to be made any false entry in any of the registry books herein-before mentioned of the Minister, or who wilfully produces or causes to be tendered in evidence, any paper which falsely purports to be a copy of an entry in any of the said books, is guilty of a misdemeanor, and shall be punished accordingly. 38 V., c. 88, s. 24.

Making false entries, &c., to be a misdemeanor.

29. Every person who fraudulently assumes authority to act as agent of the author or of his legal representative for the registration of a temporary copyright, an interim copyright, or a copyright, is guilty of a misdemeanor and shall be punished accordingly. 38 V., c. 88, s. 23, *part*.

Fraudulent assumption of authority, a misdemeanor.

30. Every person who, after the interim registration of the title of any book according to this Act, and within the term herein limited, or after the copyright is secured and during the term or terms of its duration, prints, publishes, or reprints or republishes, or imports, or causes to be so printed, published or imported, any copy or any translation of such book without the consent of the person lawfully entitled to the copyright thereof, first had and obtained by assignment, or who, knowing the same to be so printed or imported, publishes, sells or exposes for sale, or causes to be published, sold or exposed for sale, any copy of such book without such consent, shall forfeit every copy of such book to the person then lawfully entitled to the copyright thereof; and shall forfeit and pay for every such copy which is found in his possession, either being printed or printed, published, imported or exposed for sale, contrary to the provisions of this Act, such sum, not exceeding one dollar and not less than ten cents, as the court determines,—which forfeiture shall

Penalty for the infringement of copyright of a book.

Recovery and application. be enforceable or recoverable in any court of competent jurisdiction; and a moiety of such sum shall belong to Her Majesty for the public uses of Canada, and the other moiety shall belong to the lawful owner of such copyright. 38 V., c. 88, s. 11.

Penalty for the infringement of copyright of a painting, &c.

31. Every person who, after the registering of any painting, drawing, statue or other work of art, and within the term or terms limited by this Act, reproduces in any manner, or causes to be reproduced, made or sold, in whole or in part, any copy of any such work of art, without the consent of the proprietor, shall forfeit the plate or plates on which such reproduction has been made, and every sheet thereof so reproduced, to the proprietor of the copyright thereof; and shall also forfeit for every sheet of such reproduction published or exposed for sale, contrary to this Act, such sum, not exceeding one dollar and not less than ten cents, as the court determines,—which forfeiture shall be enforceable or recoverable in any court of competent jurisdiction; and a moiety of such sum shall belong to Her Majesty for the public uses of Canada, and the other moiety shall belong to the lawful owner of such copyright. 38 V., c. 88, s. 12.

Recovery and application.

Penalty for the infringement of copyright of a print, chart, music, photograph, &c.

32. Every person who, after the registering of any print, cut or engraving, map, chart, musical composition or photograph, according to the provisions of this Act, and within the term or terms limited by this Act, engraves, etches or works, sells or copies, or causes to be engraved, etched or copied, made or sold, either as a whole or by varying, adding to or diminishing the main design, with intent to evade the law, or who prints or reprints or imports for sale, or causes to be so printed or reprinted or imported for sale, any such map, chart, musical composition, print, cut or engraving, or any part thereof, without the consent of the proprietor of the copyright thereof, first obtained as aforesaid, or who, knowing the same to be so reprinted, printed or imported without such consent, publishes, sells or exposes for sale, or in any manner disposes of any such map, chart, musical composition, engraving, cut, photograph or print, without such consent as aforesaid, shall forfeit the plate or plates on which such map, chart, musical composition, engraving, cut, photograph or print has been copied, and also every sheet thereof, so copied or printed as aforesaid, to the proprietor of the copyright thereof; and shall also forfeit, for every sheet of such map, musical composition, print, cut or engraving found in his possession, printed or published or exposed for sale, contrary to this Act, such sum, not exceeding one dollar and not less than ten cents, as the court determines,—which forfeiture shall be enforceable or recoverable in any court of competent jurisdiction; and a moiety of such sum shall belong to Her Majesty for the

Recovery and application.

public uses of Canada, and the other moiety shall belong to the lawful owner of such copyright. 38 V., c. 88, s. 13.

33. Every person who has not lawfully acquired the copy-right of a literary, scientific or artistic work, and who inserts in any copy thereof printed, produced, reproduced or imported, or who impresses on any such copy, that the same has been entered according to this Act, or words purporting to assert the existence of a Canadian copyright in relation thereto, shall incur a penalty not exceeding three hundred dollars :

Penalty for falsely pretending to have copyright.

2. Every person who causes any work to be inserted in the register of interim copyright and fails to print and publish, or reprint and republish the same within the time prescribed, shall incur a penalty not exceeding one hundred dollars :

Penalty for registering interim copyright without publishing.

3. Every penalty incurred under this section shall be recoverable in any court of competent jurisdiction; and a moiety thereof shall belong to Her Majesty for the public uses of Canada, and the other moiety shall belong to the person who sues for the same. 38 V., c. 88, s. 17.

Recovery and application of penalties.

34. No action or prosecution for the recovery of any penalty under this Act, shall be commenced more than two years after the cause of action arises. 38 V., c. 88, s. 27.

Limitation of actions.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 63.

An Act respecting Trade Marks and Industrial Designs. A.D. 1886.

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

SHORT TITLE.

1. This Act may be cited as "*The Trade Mark and Design Act.*" 42 V., c. 22, s. 40. Short title.

APPLICATION OF ACT.

2. Sections three to twenty-one of this Act, both inclusive, apply only to trade marks, and sections twenty-two to thirty-eight, both inclusive, apply only to industrial designs. 42 V., c. 22, s. 37. Application of Act.

TRADE MARKS.

3. All marks, names, brands, labels, packages or other business devices, which are adopted for use by any person in his trade, business, occupation or calling, for the purpose of distinguishing any manufacture, product or article of any description manufactured, produced, compounded, packed or offered for sale by him—applied in any manner whatever either to such manufacture, product or article, or to any package, parcel, case, box or other vessel or receptacle of any description whatsoever containing the same, shall, for the purposes of this Act, be considered and known as trade marks, and may be registered for the exclusive use of the person registering the same in the manner herein provided; and thereafter such person shall have the exclusive right to use the same to designate articles manufactured or sold by him: What shall be deemed to be trade marks.

2. Timber or lumber of any kind upon which labor has been expended by any person in his trade, business, occupation or calling, shall, for the purposes of this Act, be deemed a manufacture, product or article. 42 V., c. 22, s. 8. Exclusive right.

4. A trade mark may be general or specific, according to the use to which it is applied or intended to be applied by the proprietor thereof: As to timber or lumber.

(a.) A general trade mark is one used in connection with the sale of various articles in which the proprietor deals in his trade, business, occupation or calling generally: Classification.

Specific trade mark. (b.) A specific trade mark is one used in connection with the sale of a class of merchandise of a particular description. 42 V., c. 22, s. 9.

Register to be kept. 5. A register of trade marks shall be kept at the Department of Agriculture, in which any proprietor of a trade mark may have the same registered, on complying with the provisions of this Act. 42 V., c. 22, s. 1.

Minister may make rules and adopt forms. 6. The Minister of Agriculture may, from time to time, subject to the approval of the Governor in Council, make rules and regulations and adopt forms for the purposes of this Act, as respects trade marks; and such rules, regulations and forms circulated in print for the use of the public, shall be deemed to be correct for the purposes of this Act; and all documents executed according to the same and accepted by the minister, shall be deemed to be valid so far as relates to official proceedings under this Act. 42 V., c. 22, s. 2.

Seal and its use. 7. The Minister of Agriculture may cause a seal to be made for the purposes of this Act, and may cause to be sealed therewith trade marks and other instruments, and copies of such trade marks and other instruments, proceeding from his office in relation to trade marks. 42 V., c. 22, s. 3.

How registration may be effected. 8. The proprietor of a trade mark may have it registered on forwarding to the Minister of Agriculture, together with the fee hereinafter mentioned, a drawing and description in duplicate of such trade mark, and a declaration that the same was not in use to his knowledge by any other person than himself at the time of his adoption thereof. 42 V., c. 22, s. 6.

Nature of trade mark to be specified. 9. Every proprietor of a trade mark who applies for its registration shall state in his application whether the said trade mark is intended to be used as a general trade mark or as a specific trade mark. 42 V., c. 22, s. 11.

Tariff of fees. 10. Before any action is taken in relation to an application for registering a trade mark, the following fees shall be paid to the Minister of Agriculture, that is to say:—

On every application to register a general trade mark, including certificate.....	\$30 00
On every application to register a specific trade mark, including certificate.....	25 00
On every application for the renewal of the registration of a specific trade mark, including certificate	20 00
For copy of each certificate of registration, separate from the return of the duplicate.....	1 00
For the recording of an assignment.....	2 00

For office copies of documents, not above mentioned,
for every hundred words or for a fraction thereof. \$0 50
For each copy of any drawing or emblematic trade
mark, the reasonable expenses of preparing the
same,—

And such fees shall be paid over by the Minister of Agriculture to the Minister of Finance and Receiver General: Application.

2. If the Minister of Agriculture refuses to register the trade mark for which application is made, the fee shall be returned to the applicant or his agent, less the sum of five dollars, which shall be retained as compensation for office expenses. Return of fee if application is refused. 42 V., c. 22, s. 12.

11. If any person makes application to register, as his own, any trade mark which has been already registered, and the Minister of Agriculture is not satisfied that such person is undoubtedly entitled to the exclusive use of such trade mark, the Minister shall cause all persons interested in the matter to be notified to appear, in person or by attorney, before him, with their witnesses, for the purpose of establishing which is the rightful owner of such trade mark; and after having heard the said persons and their witnesses, the Minister shall order such entry or cancellation or both, to be made as he deems just; and in the absence of the Minister, the deputy of the Minister of Agriculture may hear and determine the case and make such entry or cancellation or both, as he deems just: Decision of doubtful cases.

2. Errors in registering trade marks and oversights in respect of conflicting registrations of trade marks may be corrected in a similar manner. Correction of errors. 42 V., c. 22, s. 15.

12. The Minister of Agriculture may object to register any trade mark in the following cases:— When Minister may object to register a trade mark.

(a.) If the trade mark proposed for registration is identical with or resembles a trade mark already registered;

(b.) If it appears that the trade mark is calculated to deceive or mislead the public;

(c.) If the trade mark contains any immorality or scandalous figure;

(d.) If the so called trade mark does not contain the essentials necessary to constitute a trade mark, properly speaking. 42 V., c. 22, s. 5.

13. On compliance with the requirements of this Act and of the rules hereinbefore provided for, the Minister of Agriculture shall register the trade mark of the proprietor so applying, and shall return to the said proprietor one copy of the drawing and description with a certificate signed by the Minister or the deputy of the Minister of Agriculture to the effect that the said trade mark has been duly registered in accordance with the provisions of this Act; and the day, Mode of registration and certificate thereof.

Certificate to be evidence.

month and year of the entry of the trade mark in the register shall also be set forth in such certificate; and every such certificate, purporting to be so signed, shall be received in all courts in Canada, as *primâ facie* evidence of the facts therein alleged without proof of the signature. 42 V., c. 22, s. 7.

Duration of general trade mark.

14. A general trade mark once registered and destined to be the sign in trade of the proprietor thereof shall endure without limitation :

And of specific trade mark.

2. A specific trade mark, when registered, shall endure for the term of twenty-five years, but may be renewed before the expiration of the said term by the proprietor thereof, or by his legal representative, for another term of twenty-five years, and so on from time to time; but every such renewal shall be registered before the expiration of the current term of twenty-five years. 42 V., c. 22, s. 10.

Cancellation of trade marks.

15. Any person who has registered a trade mark may petition for the cancellation of the same, and the Minister of Agriculture may, on receiving such petition, cause the said trade mark to be so cancelled; and the same shall, after such cancellation, be considered as if it had never been registered under the name of the said person. 42 V., c. 22, s. 13.

Trade marks may be assigned.

16. Every trade mark registered in the office of the Minister of Agriculture, shall be assignable in law; and on the assignment being produced, and the fee hereinbefore prescribed being paid, the Minister shall cause the name of the assignee, with the date of the assignment and such other details as he sees fit, to be entered on the margin of the register of trade marks on the folio where such trade mark is registered. 42 V., c. 22, s. 14.

Penalty for unlawful use of trade mark.

17. Every person, other than the person who has registered the trade mark, who marks any goods or any article of any description whatsoever, with any trade mark registered under the provisions of this Act, or with any part of such trade mark, whether by applying such trade mark or any part thereof to the article itself, or to any package or thing containing such article, or by using any package or thing so marked which has been used by the proprietor of such trade mark, or who knowingly sells or offers for sale any article marked with such trade mark, or with any part thereof, with intent to deceive and to induce any person to believe that such article was manufactured, produced, compounded, packed or sold by the proprietor of such trade mark, is guilty of a misdemeanor, and liable, for each offence, to a fine not exceeding one hundred dollars and not less than twenty dollars,—which fine shall be paid to the proprietor of such trade mark, together with the costs incurred in enforcing and recovering the same :

2. Every complaint under this section shall be made by the proprietor of such trade mark, or by some one acting on his behalf and thereunto duly authorized. 42 V., c. 22, s. 16.

Complaint to be made by the proprietor.

18. An action or suit may be maintained by any proprietor of a trade mark against any person who uses his registered trade mark, or any fraudulent imitation thereof, or who sells any article bearing such trade mark or any such imitation thereof, or contained in any package being or purporting to be his, contrary to the provisions of this Act. 42 V., c. 22, s. 17

Suit may be maintained by proprietor.

19. No person shall institute any proceeding to prevent the infringement of any trade mark, unless such trade mark is registered in pursuance of this Act. 42 V., c. 22, s. 4, *part*.

No suit unless trade mark is registered.

20. Any person may be allowed to inspect the register of trade marks; and the Minister of Agriculture may cause copies or representations of trade marks to be delivered, on the applicant for the same paying the fee or fees hereinbefore prescribed. 42 V., c. 22, s. 18.

Register may be inspected.

21. Clerical errors which occur in the drawing up or copying of any instrument, under the preceding sections of this Act, shall not be construed as invalidating the same, and when discovered they may be corrected under the authority of the Minister of Agriculture. 42 V., c. 22, s. 19.

Clerical errors not to invalidate.

INDUSTRIAL DESIGNS.

22. The Minister of Agriculture shall cause to be kept a book to be called "The Register of Industrial Designs," in which any proprietor of a design may have the same registered on depositing with the Minister a drawing and description in duplicate of such design, together with a declaration that the same was not in use to his knowledge by any other person than himself at the time of his adoption thereof; and the Minister, on receipt of the fee herein after provided, shall cause such design to be examined to ascertain whether it resembles any other design already registered; and if he finds that such design is not identical with, or does not so closely resemble any other design already registered as to be confounded therewith, he shall register the same, and shall return to the proprietor thereof one copy of the drawing and description, with a certificate signed by the Minister or the deputy of the Minister of Agriculture, to the effect that such design has been duly registered in accordance with the provisions of this Act; and such certificate shall also set forth the day, month and year of the entry thereof in the proper register; and every such certificate purporting to be so signed shall, without proof of the signature, be received in all courts in Canada,

Register of industrial designs to be kept.

Registration.

Certificate and its effect.

as *prima facie* evidence of the facts therein alleged. 42 V., c. 22, s. 20.

Minister may make rules and adopt forms.

23. The Minister of Agriculture may, from time to time, subject to the approval of the Governor in Council, make rules and regulations and adopt forms for the purposes of this Act, as respects industrial designs, and such rules, regulations and forms circulated in print for the use of the public, shall be deemed to be correct for the purposes of this Act; and all documents executed according to the same, and accepted by the Minister, shall be deemed to be valid so far as relates to official proceedings under this Act. 42 V., c. 22, s. 21.

Conditions of registration.

24. Every design in order to be protected, shall be registered before publication; and after registration the name of the proprietor, who shall be a resident of Canada, shall appear upon the article to which his design applies, if the manufacture is a woven fabric, by being marked upon one end thereof, together with the letters "Rd.;" and if the manufacture is any other substance, the letters "Rd.," with the year of the registration, shall be marked at the edge or upon any convenient part thereof:

Use of design.

How mark shall be applied.

2. The mark may be put upon the manufacture by making it on the material itself, or by attaching thereto a label containing the proper marks. 42 V., c. 22, s. 23.

Who shall be deemed the proprietor.

25. The author of the design shall be considered the proprietor thereof, unless he has executed the design for another person, for a good or valuable consideration—in which case, such other person shall be considered the proprietor, and shall alone be entitled to register it; but his right to the property shall only be co-extensive with the right which he has acquired. 42 V., c. 22, s. 24.

Tariff of fees.

26. Before any action is taken in relation to an application for registering an industrial design, the following fees shall be paid to the Minister of Agriculture, that is to say:—

On every application to register a design, including certificate.....	\$5 00
On every application for an extension of time, including certificate, for each year of such extension.....	2 00
For a copy of each certificate of registration, separate from the return of the duplicate...	1 00
For the recording of an assignment.....	2 00
For office copies of documents, not above mentioned, for every hundred words or for a fraction thereof.....	0 50
For each copy of any drawn copy of an industrial design, the reasonable expense of preparing the same :	

And such fees shall be paid over by the Minister of Agriculture to the Minister of Finance and Receiver General: Application.

2. If the Minister of Agriculture refuses to register the industrial design in respect of which application is made, the fee shall be returned to the applicant or his agent, less the sum of two dollars, which shall be retained as compensation for office expenses. 42 V., c. 22, s. 36. Return of fee if application is refused.

27. The Minister of Agriculture may refuse to register such designs as do not appear to him to be within the provisions of this Act, or any design which is contrary to public morality or order—subject to appeal to the Governor in Council. 42 V., c. 22, s. 34. When Minister may refuse to register.

28. On the copy returned to the person registering, a certificate shall be given, signed by the Minister of Agriculture or the deputy of the Minister of Agriculture, showing that the design has been registered, the date of registration, the name of the registered proprietor, his address, the number of such design, and the number or letter employed to denote or correspond to the registration—which said certificate, in the absence of proof to the contrary, shall be sufficient proof of the design, of the name of the proprietor, of the registration, of the commencement and term of registry, of the person named as proprietor being proprietor, of the originality of the design, and of compliance with the provisions of this Act; and generally the writing purporting to be so signed shall be received as *prima facie* evidence of the facts therein stated, without proof of the signature. 42 V., c. 22, s. 32. Certificate to be given and its effect.

29. The exclusive right acquired for an industrial design by the registration of the same as aforesaid shall be valid for the term of five years, but may be renewed at or before the expiration of the said term of five years, for a further period of five years or less, on payment of the fee hereinbefore prescribed, so as that the whole duration of the exclusive right shall not exceed ten years in all. 42 V., c. 22, s. 22. Duration of right.

30. Every design shall be assignable in law, either as to the whole interest or any undivided part thereof, by an instrument in writing, which shall be recorded in the office of the Minister of Agriculture, on payment of the fees hereinbefore provided; and every proprietor of a design may grant and convey an exclusive right, under any copyright, to make, use and vend, and to grant to others the right to make, use and vend such design, within and throughout Canada, or any part thereof, for the unexpired term of its duration, or any part thereof,—which exclusive grant and conveyance shall be called a license, and shall be recorded in the same manner and within the same delay as assignments. 42 V., c. 22, s. 25. Design to be assignable.

License to use design.

Exclusive right to use design.

31. During the existence of the exclusive right (whether it is of the entire or partial use of such design), no person shall, without the license in writing of the registered proprietor, or of his assignee, as the case may be, apply such design, or a fraudulent imitation thereof, to the ornamenting of any article of manufacture, or other article to which an industrial design may be applied or attached, for the purposes of sale, or shall publish, sell or expose for sale or use any such article as aforesaid, to which such design or fraudulent imitation thereof has been applied; and every one who violates the provisions of this section shall forfeit a sum not exceeding one hundred and twenty dollars, and not less than twenty dollars, to the proprietor of the design, which shall be recoverable, with costs, on summary conviction, by the registered proprietor or his assignee. 42 V., c. 22, s. 26.

Penalty for violation.

Penalty for falsely representing article as bearing registered design.

32. Every person who places the word "registered," or the letters "Rd.," upon any article for which no design has been registered, or upon any article for the design of which the copyright has expired, or who advertises the same for sale as a registered article, or unlawfully sells, publishes or exposes for sale such article, knowing the same to have been fraudulently marked, or that the copyright therefor has expired, shall, for each offence, on summary conviction, be liable to a penalty not exceeding thirty dollars and not less than four dollars, which shall be recoverable, with costs, by any person who sues for the same; and a moiety of such penalty shall belong to the prosecutor, and the other moiety to Her Majesty, for the public uses of Canada. 42 V., c. 22, s. 27.

Proceedings in case of wrongful registration

33. If any person, who is not the lawful proprietor of a design, is registered as proprietor thereof, the rightful owner may institute an action in any superior court in any Province of Canada, or before a judge of the Supreme Court in the North-West Territories, as the case may be; and the court or judge having cognizance of such suit may, if it appears that the design has been registered in the name of a wrong person, either direct the registration to be cancelled or that the name of the lawful proprietor shall be substituted for the name in the register, with costs, in its or his discretion; and on application by the plaintiff, supported by affidavit, any such court or judge may, pending such action or proceedings, in its or his discretion, issue an order directed to the defendant, prohibiting the use of such design, pending such action or proceedings, under penalty of being held in contempt of such court or judge. 42 V., c. 22, s. 29; —49 V., c. 25, s. 30.

Order of prohibition.

Consequent alteration of register.

34. The Minister of Agriculture shall, after due service of such order and payment of the fee hereinbefore provided, cause such alteration to be made in the register respecting

industrial designs as is directed by the order made under the next preceding section. 42 V., c. 22, s. 30.

35. A suit may be maintained by the proprietor of any design for the damages he has sustained by the application or imitation of the design, for the purpose of sale, against any person so offending—if the offender was aware that the proprietor of the design had not given his consent to such application. 42 V., c. 22, s. 28.

Suit may be maintained by the proprietor.

36. All proceedings under the preceding sections of this Act, respecting industrial designs, shall be brought within twelve months from the commission of the offence, and not afterwards ; and none of the provisions of the said sections shall apply to protect any design which does not belong to a person resident within Canada, and which is not applied to a subject matter manufactured in Canada. 42 V., c. 22, s. 31.

Time for suits limited.

37. Any person may be allowed to inspect the register of industrial designs ; and the Minister of Agriculture may cause copies or representations of industrial designs to be delivered, on the applicant for the same paying the fee which is deemed sufficient for the purpose of having the same copied or represented. 42 V., c. 22, s. 33.

Register may be examined and copies of designs obtained.

38. Clerical errors which occur in the drawing up or copying of any instrument respecting an industrial design, shall not be construed as invalidating the same, but, when discovered, they may be corrected under the authority of the Minister of Agriculture. 42 V., c. 22, s. 35.

Clerical errors may be corrected.



CHAPTER 64.

An Act respecting the Marking of Timber.

A.D. 1886.

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

1. Every person engaged in the business of lumbering or getting out timber, and floating or rafting the same on the inland waters of Canada, within the Provinces of Ontario and Quebec, shall, within one month after he engages therein, select a mark or marks, and having caused such mark or marks to be registered in the manner hereinafter provided, shall put the same in a conspicuous place on each log or piece of timber so floated or rafted : Persons engaged in lumbering to select, register and use proper marks.

2. Every one who violates the provisions of this section shall incur a penalty of fifty dollars. 33 V., c. 36, s. 1. Penalty for violation.

2. The Minister of Agriculture shall keep at the Department of Agriculture a book to be called the "Timber Mark Register," in which any person engaged in the business of lumbering or getting out timber as aforesaid, may have his timber mark registered by depositing with the Minister a drawing or impression and description in duplicate of such timber mark, together with a declaration that the same is not and was not in use, to his knowledge, by any other person than himself at the time of his adoption thereof; and the Minister, on receipt of the fee hereinafter provided, shall cause the said timber mark to be examined, to ascertain whether it resembles any other mark already registered; and if he finds that such mark is not identical with, or does not so closely resemble any other timber mark already registered as to be confounded therewith, he shall register the same, and shall return to the proprietor thereof one copy of the drawing and description, with a certificate signed by the Minister or the deputy of the Minister of Agriculture, to the effect that the said mark has been duly registered in accordance with the provisions of this Act; and such certificate shall further set forth the day, month and year of the entry thereof, in the proper register; and every such certificate shall be received in all courts in Canada as evidence of the facts therein alleged, without proof of the signature. 33 V., c. 36, s. 2. Minister of Agriculture to register marks, and grant certificates on certain conditions. Certificates to be evidence.

Exclusive right to use registered mark.

3. The person who registers such timber mark shall thereafter have the exclusive right to use the same, to designate the timber got out by him and floated or rafted as aforesaid. 33 V., c. 36, s. 4.

Marks may be cancelled.

4. Any person who has registered a timber mark may petition for the cancellation of the same, and the Minister may, on receiving such petition, cause the said mark to be cancelled; and the same shall, after such cancellation, be considered as if it had never been registered under the name of the said person. 33 V., c. 36, s. 5.

Registered marks assignable, and how.

5. Every timber mark registered at the Department of Agriculture shall be assignable in law; and on the production of the assignment and the payment of the fee hereinafter mentioned, the Minister shall cause the name of the assignee, with the date of the assignment and such other details as he sees fit, to be entered on the margin of the register of timber marks on the folio where such mark is registered. 33 V., c. 36, s. 6.

Different marks to be used.

6. If any person makes application to register, as his own, any timber mark which is already registered, the Minister shall give notice of the fact to such person, who may then select some other mark and forward the same for registration. 33 V., c. 36, s. 7.

Penalty for using another person's mark.

7. Every person, other than the person who has registered the same, who marks any timber of any description with any mark registered under the provisions of this Act, or with any part of such mark, shall, on summary conviction before two justices of the peace, be liable, for each offence, to a penalty not exceeding one hundred dollars and not less than twenty dollars,—which amount shall be paid to the proprietor of such mark, together with the costs incurred in enforcing and recovering the same: Provided always, that every complaint under this section shall be made by the proprietor of such timber mark, or by some one acting on his behalf, and thereunto duly authorized. 33 V., c. 36, s. 8.

Proviso.

Table of fees.

8. The following fees shall be payable, that is to say:—

On every application to register a timber mark, including certificate.....	\$2 00
For each certificate of registration not already provided for.....	0 50
For each copy of any drawing,—the reasonable expenses of preparing the same.	
For recording any assignment.....	1 00

How applied.

And such fees shall be paid over by the Minister of Agriculture to the Minister of Finance and Receiver General, and shall form part of the Consolidated Revenue Fund of Canada. 33 V., c. 36, s. 9.

9. The Minister may, from time to time, subject to the approval of the Governor in Council, make rules and regulations and adopt forms for the purposes of this Act.

Minister may
make rules
and adopt
forms.

33 V., c. 36, s. 3.

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 65.

An Act respecting Immigration and Immigrants. A. D. 1886.

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

SHORT TITLE.

1. This Act may be cited as "*The Immigration Act.*" Short title, 32-33 V., c. 10, s. 33;—35 V., c. 28, s. 17.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—
- (a.) The expression "immigration agent" includes any sub-agent in Europe or in Canada; Interpretation.
"Immigration agent."
 - (b.) The expression "ship" includes every description of vessel used in navigation, not propelled by oars; "Ship."
 - (c.) The expression "vessel" includes all ships, vessels or craft of any kind carrying passengers; "Vessel."
 - (d.) The expression "master" means any person in command of a vessel; "Master."
 - (e.) The expression "passengers" applies to all passengers as well as to immigrants usually and commonly known and understood as such, but not to troops or military pensioners and their families, who are carried in transports or at the expense of the Government of the United Kingdom : "Passengers."

2. Every person recognized by the Minister of Agriculture as a Dominion immigration agent or sub-agent or Provincial immigration agent shall, with reference to any act done or to be done under this Act, and without formal appointment, be deemed to be a Dominion immigration agent or sub-agent, or Provincial immigration agent. 32-33 V., c. 10, s. 31;—35 V., c. 28, s. 16;—38 V., c. 15, s. 1. Who shall be deemed immigration agents.

IMMIGRATION OFFICES.

3. Immigration offices shall be maintained at London, in England, and elsewhere in the United Kingdom, as to the Governor in Council, from time to time, seems proper, and also at Quebec, Montreal, Kingston, Toronto, Hamilton, Ottawa, Halifax, Saint John, N.B., and elsewhere in Canada, as to the Governor in Council, from time to time, seems proper; and an immigration agency or as many immigration Where immigration offices shall be maintained.

Quarantine stations.

agencies as to the Governor in Council, from time to time, seems proper, shall be maintained on the Continent of Europe; and quarantine stations shall be maintained at Halifax, St. John, N.B., and Grosse Isle:

2. Canadian immigration agents shall use, as directed, any moneys granted to them by any local government for the purpose of procuring either food, clothing, transport or other help for immigrants intending to settle within the Province which furnished such moneys. 32-33 V., c. 10, s. 1.

IMMIGRANTS—DUTY PAYABLE ON THEM.

Duty payable by master of vessel when proper sanitary measures are not taken.

4. Whenever a vessel carrying emigrants, not cleared under the sanction of the Imperial Commissioners of Emigration, arrives at her port of destination in Canada, not carrying a surgeon, and on board of which proper measures for the preservation of the health of the passengers and crew during the voyage have not been observed, the medical officer shall report the fact to the collector of customs, and a duty of two dollars, for each passenger or immigrant above the age of one year, shall be paid by the master of the vessel to the collector of customs at the port, and the vessel shall not be admitted to entry until such duty is paid:

How such duty shall be paid.

2. The said duty shall be paid by the master of such vessel, or by some person on his behalf, to the collector of customs at the port in Canada at which such vessel is first entered, and at the time of making such first entry, which shall contain on the face of it the number of passengers actually embarked on board the vessel; and no such entry shall be deemed validly made or have any legal effect whatsoever, unless such rates or duties are so paid; no child under the age of one year shall be reckoned among the number of passengers:

Commissariat drafts to be accepted in payment of duty.

3. Any draft, order or other document made or signed by any person in the United Kingdom aforesaid, duly empowered to that effect by Her Majesty's Government, and directed to Her Majesty's Commissary General or other commissariat officer in Canada, and authorizing the payment to the collector of customs aforesaid, of the duty which would otherwise be payable by the master of any vessel for any number of immigrants on board such vessel, shall be accepted by the collector as payment of the duty payable on such immigrants; and the sum mentioned in such order shall thereafter be received by such collector and paid over and applied in the same manner as other money raised under the authority of this Act:

As to passengers not landed in Canada.

4. Nothing in this section shall be construed to authorize the raising, levying or collecting, or to require the payment of any rate or duty in respect of any passenger or immigrant on board of any vessel entered at any port in the Dominion, other than such as are to be landed in Canada. 32-33 V., c. 10, s. 2;—35 V., c. 28, s. 1, *part.*

5. There shall be raised, levied and collected a duty payable, in the manner hereinafter prescribed, by the master of every ship arriving at any port in Canada from any port in Europe with passengers or emigrants therefrom, at any time when this and the next following section of this Act are in force as hereinafter provided, in addition to any duty payable by the master of such ship under the provisions of the next preceding section of this Act; and such duty shall be such sum, not exceeding two dollars for every passenger or immigrant above the age of one year landed in Canada, as is specified in the proclamation giving effect to this and the next following section of this Act, in force for the time being in the Province in which such port is situate. 38 V., c. 15, s. 2.

Additional duty to that imposed by section four.

Amount of duty.

6. The said duty shall be paid by the master of the ship, or by some person on his behalf, to the collector of customs at the port in Canada at which such vessel is first entered, and at the time of making such first entry, which shall contain on the face of it the number of passengers actually embarked on board the ship, and the number to be landed in Canada; and no such entry, made at any such time, shall be deemed validly made or have any legal effect whatsoever, unless such numbers are correctly stated and such duty has been fully paid. 38 V., c. 15, s. 3.

How such duty shall be paid.

7. The two sections next preceding shall take effect upon, from and after the day, and in the Province or Provinces, and for the amount of duty (within the limit aforesaid) specified by proclamation in that behalf issued under an Order of the Governor in Council, and not before; and the Governor General may, from time to time, by proclamation issued under an Order in Council, suspend the operation of the said sections, and may, in like manner, from time to time, declare them to be again in force in any one or more, or in all the Provinces forming the Dominion of Canada; and from and after the period specified in the proclamation the operation of the said sections shall be suspended, or they shall be revived and again have effect, as the case may be, in the Province or Provinces specified in the proclamation; and every such proclamation shall be published in the *Canada Gazette*. 38 V., c. 15, s. 4.

When two next preceding sections shall take effect.

Proclamation from time to time.

ENFORCEMENT OF CONTRACTS.

8. If any contract is made or any bond or note given by an emigrant before leaving Europe for Canada, to repay in Canada any sum of money advanced to him for or towards defraying his passage money, or towards defraying any other expense attending his emigration, such sum shall be recoverable from the immigrant in Canada, according to the terms of such instrument, by suit in any court of competent juris-

Recovery of money on bonds given by immigrants.

And enforcement of undertaking to work.

Penalty for violation.

diction in Canada ; and every emigrant who, in consideration of money advanced as aforesaid, engages and binds himself to enter the service of any employer in Canada on his arrival there, in any capacity, and to work for and serve such employer in such capacity during any certain time, not exceeding six months, and at any named rate of wages, and afterwards refuses or neglects on his arrival in Canada to perform such engagement, shall be liable, on summary conviction, to a penalty not exceeding twenty dollars and costs, and to imprisonment until such penalty and costs are paid. 35 V., c. 28, s. 4.

IMMIGRANTS—PROPORTION OF PASSENGERS TO SIZE OF VESSEL.

Definition of "adult."

9. For the purposes of this section, each person of or above the age of fourteen years shall be deemed an adult, and two persons above the age of one year and under the age of fourteen years shall be reckoned and taken as one adult :

Proportion of passengers to area of lower deck.

2. If any vessel from any port or place on the Continent of Europe, or from any other port or place out of Her Majesty's Dominions, comes within the limits of Canada, having on board or having had on board, at any time during her voyage, any greater number of passengers than one adult passenger for every twelve clear superficial feet on the lower or platform deck of such vessel, appropriated to the use of such passengers and unoccupied by stores or other goods not being the personal luggage of such passengers, or having on board or having had on board at any time during her voyage a greater number of persons (including the master and crew and the cabin passengers, if any), than in the proportion of one person for every two tons of the tonnage of such vessel, calculated in the manner used for ascertaining the tonnage of British ships, the master of such vessel shall incur a penalty not exceeding twenty dollars and not less than eight dollars for each passenger or person constituting such excess. 32-33 V., c. 10, s. 3.

And to tonnage.

Penalty for violation.

IMMIGRANTS—OBLIGATIONS OF MASTERS OF VESSELS BRINGING THEM.

Reports of passengers to be delivered by the master before passengers leave the vessel.

10. No master of any vessel arriving at any port in Canada shall permit any passenger to leave the vessel until he has delivered, to the collector of customs at such port, a certified and correct report in the form of the schedule to this Act, and a certified copy or duplicate of such report to the Dominion immigration agent at the port of landing, nor until such report has been certified to be correct and a certificate of such correctness and a permission to allow his passengers to leave the vessel, and a receipt for the duties payable by him under the provisions of this Act, have been given to him by the collector of customs ; and every master of a vessel who violates the provisions of this section, shall incur a penalty

not exceeding one hundred dollars and not less than twenty dollars for every passenger leaving the same, contrary to the provisions of this Act. 32-33 V., c. 10, s. 5, *part*;—35 V., c. 28, s. 14. Penalty for violation.

11. The master of any vessel sailing from a port in Her Majesty's Dominions, who embarks passengers after the vessel has been cleared and examined by the proper officer at the port of departure and who does not deliver reports of such additional passengers to some officer to whom by law the same ought to be delivered shall, for every passenger not included in the list of passengers delivered to the collector of customs at the port of departure, or at the port where such additional passenger was embarked, or at the port at which such vessel touched after the embarkation of such passenger, pay to the collector of customs at the port in Canada at which the said vessel is first entered, the sum of eight dollars for each passenger so embarked as aforesaid and not included in one of the said lists, in addition to the duty payable as aforesaid, and at the same time and under the same penalties. 32-33 V., c. 10, s. 4. Penalty for carrying passengers not entered on list.

12. Nothing in this Act shall prevent the master of any vessel from permitting any passenger to leave the vessel at the request of such passenger before the arrival of the vessel at her final port of destination; but in every such case, the name of the passenger so leaving shall be entered in the manifest on the list of immigrants made out at the time of the clearing of the vessel from the United Kingdom or other part of Europe as aforesaid, and shall be certified under the signature of the passenger so leaving the vessel; and if the number of passengers remaining on board on the arrival of the vessel at her final port of destination does not correspond with that mentioned in such manifest, after deducting the number who have so left the vessel, the master thereof shall incur a penalty of twenty dollars for each passenger not found on board or entered on the manifest as having left the vessel as aforesaid. 32-33 V., c. 10, s. 6. Passenger may leave the vessel before arrival at port of destination. Proceedings in such case. Penalty for violation.

13. Every pilot who has had charge of any vessel having passengers on board, and knows that any passenger has been permitted to leave the vessel contrary to the provisions of this Act, and who does not within twenty-four hours after the arrival of such vessel in the harbor to which he engaged to pilot her, inform the collector of customs thereat, that a passenger or passengers has or have been so permitted to leave the vessel, shall incur a penalty not exceeding five dollars for every passenger with regard to whom he has wilfully neglected to give such information. 32-33 V., c. 10, s. 7. Pilot to report contravention of Act. Penalty for neglect.

REPORT BY THE MASTER.

14. The master of every passenger vessel shall, within twenty-four hours after such vessel arrives at her final port Report to be delivered by master within

twenty-four
hours.

of destination, and before any entry of such vessel is allowed, deliver to the collector of customs at the port at which such vessel is to be entered, a correct report, in the form of the schedule to this Act, of all the passengers on board such vessel at the time of her departure from the port or place whence she cleared or sailed for Canada, and a true statement of the other particulars mentioned in the said form; and such master shall incur a penalty of twenty dollars for each day during which he neglects so to deliver such list, after the expiration of the said twenty-four hours, and of eight dollars for each passenger whose name is omitted in such report. 32-33 V., c. 10, s. 8.

Penalty in
default.

Certain parti-
culars to be
entered in re-
port.

15. In addition to the particulars hereinbefore required in the report to be delivered on each voyage by the master of any vessel carrying passengers and arriving at any port in Canada to the collector of customs at such port, the master shall report in writing to the collector the name and age of all passengers embarked on board of such vessel on such voyage, who are lunatic, idiotic, deaf and dumb, blind or infirm, stating also whether they are accompanied by relatives able to support them or not:

Penalty for
contraven-
tion.

2. If any master of any such vessel omits to report the particulars herein specified, or makes any false report in any such particulars, he shall incur a penalty not exceeding one hundred dollars and not less than twenty dollars, for every such passenger in regard to whom any such omission has occurred or any such false report is made,—for which penalty the owner or owners of the vessel shall also be liable jointly and severally. 32-33 V., c. 10, s. 9.

Entry as to
passengers
who have
died.

16. The said report shall further contain the name, age and last place of residence of any person who has died during the passage of the vessel, and shall specify whether such passenger was accompanied by relatives or other persons, and the names of such relatives or other persons, who were entitled to take charge of the moneys and effects left by such passenger; and if there were no such relatives or other persons entitled to take charge of the same, then the report shall fully designate the quantity and description of the property, whether money or otherwise, left by such passenger; and the said master shall pay over and fully account for the same to the collector of customs for the port at which the vessel is entered:

Disposal of
property.

Collector of
customs to
give receipt.

2. The collector of customs shall thereupon grant to such master a receipt for all moneys or effects so placed in his hands by the master,—which receipt shall contain a full description of the nature or amount thereof; and if any master of a vessel neglects or refuses to make such report or to pay over and account for any such moneys or effects, as required by this section, he shall incur a penalty not exceeding one thou-

Penalty for
neglect to
make report.

sand dollars and not less than twenty dollars, for every such case of neglect or refusal. 32-33 V., c. 10, s. 10.

SPECIAL DUTY OF QUARANTINE OFFICERS.

17. The medical superintendent of every quarantine station shall examine into the condition of the passengers carried on any vessel forthwith after the anchoring at such station of such vessel, in compliance with the requirements of any Act, Order in Council or regulation respecting quarantine then in force; and for that purpose the said medical superintendent, or other competent person thereunto appointed, may go on board and through any such vessel and inspect the list of passengers, and the bill of health, manifest, log book or other papers of the vessel, and, if necessary, take extracts from the same:

Duty of medical superintendent.

2. If, on examination, there is found among such passengers any lunatic, idiotic, deaf and dumb, blind or infirm person, not belonging to any immigrant family, and such person is, in the opinion of the medical superintendent, likely to become permanently a public charge, the medical superintendent shall forthwith report the same officially to the collector of customs at the port at which the vessel is to be first entered, who shall (except in the cases in which it is hereinafter provided that such bond may be dispensed with) require the master of the vessel, in addition to the duty payable for the passengers generally, to execute, jointly and severally with two sufficient sureties, a bond to Her Majesty, in the sum of three hundred dollars for every such passenger so specially reported, conditioned to indemnify and save harmless the Government of Canada and of any Province in Canada and every municipality, municipal corporation, village, city, town, county and charitable institution within the same, from any expense or charge incurred within three years from the execution of the bond, for the maintenance and support of any such passenger:

Presence of lunatic, &c., to be reported.

Subsequent proceedings.

Bond to be given.

3. Each of the said sureties shall justify before and to the satisfaction of the said collector, by oath or affirmation (which such collector may administer), that he is a resident of Canada and worth, in real and personal estate, double the amount of the penalty of such bond over and above the amount of his just debts and liabilities:

Nature of sureties.

4. It shall be optional with the master of such vessel either to enter into such bond jointly and severally with sufficient sureties, as aforesaid, or to pay to the collector of customs, who might otherwise require such bond, such sum as has been fixed in that behalf by any instructions from the Government of Canada, as being just and reasonable and sufficient to indemnify Canada, and the Provinces and every municipality, municipal corporation, village, city, town, county, or charitable institution within Canada, against the risk of ex-

Master may pay a sum instead of giving security.

pense for the care, support and maintenance of such passenger or passengers during the then next ensuing three years :

When the bond may be dispensed with.

5. The collector of customs may dispense with such bond, or money in lieu thereof, if it appears by the certificate of the medical superintendent at the proper quarantine station (which certificate the said medical superintendent may give) that the passenger with respect to whom such bond or money is required has become lunatic, idiotic, deaf and dumb, blind or infirm, from some cause not existing or discernible at the time of the departure of the ship from the port where such passenger embarked. 32-33 V., c. 10, s. 11 ;—35 V., c. 28, s. 3.

Arrangement for sending back such person.

18. The proper immigration agent may, with the consent of the Minister of Agriculture, make arrangements with the master, owner or charterer of the vessel carrying the lunatic, idiotic, deaf and dumb, blind or infirm person with respect to whom a bond has been given, or money paid in lieu thereof, or with the master, owner or charterer of any other vessel, for the reconveyance of such person to the port from which he was carried to Canada :

Money paid in lieu of bond may be applied to such reconveyance.

2. Money paid in lieu of or on breach of the condition of a bond in any such case, or so much thereof as is necessary, may be applied to pay for such reconveyance of the person with respect to whom it has been paid ; and when such person has been so reconveyed, the bond so given may be cancelled, or the money paid in lieu thereof (deducting the passage money if any) may be returned, on the receipt by the said immigration agent of a certificate, under the hand of the chief emigration agent or British consul at the port from which he was brought, of the safe arrival of the lunatic, idiotic, deaf and dumb, blind or infirm person at such port, or on proof satisfactory to such immigration agent of his having died during the voyage without any fault attaching to the owner, master or any of the crew of such vessel. 32-33 V., c. 10, s. 12.

Evidence of reconveyance.

Proceedings if such person becomes a charge.

19. If any passenger, in respect to whom any bond has been given as aforesaid, becomes at any time within three years from the execution thereof, chargeable upon Canada, or Province, upon any municipality, municipal corporation, village, city, town or county, or upon any charitable institution within Canada, the payment of such charge or expense, incurred for the maintenance and support of such passenger, shall be provided for out of the moneys collected, in respect of such bond. 32-33 V., c. 10, s. 13.

Penalty for neglect or refusal to execute bond.

20. If the master of any vessel, on board which such passenger specially reported as aforesaid has been carried, neglects or refuses to execute the said bond, or to pay the sum which he may pay instead of giving such bond, forthwith after the said ship has been reported to the collector, of

customs, such master shall incur a penalty of four hundred dollars; and the said vessel shall not be cleared on her return voyage until the said bond has been executed or the said sum paid, or until the said penalty has been paid with all costs incurred on any prosecution for the recovery thereof. 32-33 V., c. 10, s. 14.

21. After any such bond as aforesaid has been executed the collector of customs shall transmit the same to the Minister of Finance and Receiver General, to be by him kept and held, during the said period of three years from the execution of the said bond, or until the payment of the penalty therein mentioned, if incurred, has been enforced :

How such bond shall be disposed of.

2. For the purpose of ascertaining the necessity of such enforcement, each immigration agent, upon representation made to him, shall, in that portion of Canada in respect of which he performs his duties, ascertain the right and claim to indemnity, for the maintenance and support of any such specially reported passenger, and shall report the same to the Governor General, through the Minister of Agriculture; and the said report shall be final and conclusive in the matter, and shall be evidence of the facts therein stated :

Necessity for enforcing bond, how ascertained.

3. The said penalty, or so much thereof as is sufficient, from time to time, to defray the expense incurred for the maintenance and support of any passenger for whom the said bond was given as aforesaid, may be recovered by suit or information in Her Majesty's name, in any court in Canada having jurisdiction in civil cases to the amount for which such suit or information is brought. 32-33 V., c. 10, s. 15.

Penalty to be sued for.

22. The medical superintendent at Grosse Isle may, from time to time, with the consent and approval of the Minister of Agriculture, make such regulations as he deems necessary for enforcing order and insuring the health and comfort of immigrants there; and such regulations, when published in the *Canada Gazette*, shall be in force; and any violation thereof shall be deemed a violation of this Act, and shall be punishable by such penalty not exceeding forty dollars as is assigned by such regulations in each case. 35 V., c. 28, s. 9.

Medical superintendent may make regulations.

Publication.

PAUPER IMMIGRANTS, ETC.

23. The Governor General may, by proclamation, whenever he deems it necessary, prohibit the landing of pauper or destitute immigrants in all ports or any port in Canada, until such sums of money as are found necessary are provided and paid into the hands of one of the Canadian immigration agents, by the master of the vessel carrying such immigrants, for their temporary support and transport to their place of destination; and during such time as any such pauper immigrants would, in consequence of such orders, have to remain on board such vessel, the Governor in Council may provide for

Landing of pauper immigrants may be prohibited.

proper anchorage grounds being assigned to such vessel, and for such vessel being visited and superintended by the medical superintendent or any inspecting physician of the port or quarantine station, and for the necessary measures being taken to prevent the rise or spread of diseases amongst the passengers in such vessel and amongst people on shore. 32-33 V., c. 10, s. 16.

Landing of vicious immigrants may be prohibited.

24. The Governor General may, by proclamation, whenever he deems it necessary, prohibit the landing in Canada of any criminal, or other vicious class of immigrants designated in such proclamation, except upon such conditions for insuring their re-transportation to the port in Europe whence they came with the least possible delay, as the Governor in Council prescribes; and such conditions may, if the Governor in Council deems it necessary, include the immediate return, or the return with the least possible delay, of the vessel and such immigrants to the said port,—such prohibited immigrants remaining on board until such return of the vessel. 35 V., c. 28, s. 10.

PROVISIONS FOR THE PROTECTION OF PASSENGERS.

Passengers are entitled to remain on board 48 hours after arrival.

25. Every passenger on board any vessel arriving in the port or harbor to which the master, owner or charterer of such vessel engaged to convey him, shall be entitled to remain and keep his luggage on board such vessel during forty-eight hours after her arrival in such port or harbor; and every such master who compels any passenger to leave his vessel before the expiration of the said term of forty-eight hours shall incur a penalty not exceeding twenty dollars for every passenger he so compels to leave his vessel; and the master of the vessel shall not, before the expiration of the said forty-eight hours, remove any berths or accommodation used by his passengers, under a like penalty, except with the written permission of the medical superintendent at the proper quarantine station. 32-33 V., c. 10, s. 17.

Penalty for contravention.

Berths not to be removed.

Passengers and luggage to be landed free of expense.

26. The master of any vessel having passengers on board, shall land his passengers and their luggage, free of expense to the said passengers, at the usual public landing places at the port of arrival, according to orders which he receives from the authorities of the said port, and at reasonable hours not earlier than six of the clock in the forenoon, and not later than six of the clock in the afternoon; and the vessel shall, for the purpose of landing passengers and luggage, be anchored in such convenient and safe place, or moored at such wharf as is appointed for that purpose by the authorities of the port. 32-33 V., c. 10, s. 18;—35 V., c. 28, s. 2, *part.*

Governor may appoint landing places.

27. The Governor General may, by proclamation, from time to time, appoint the place at which all passengers arriv-

ing at any port in Canada, other than such as are specially excepted in such proclamation, shall be landed,—and may, in and by such proclamation, make such regulations as he thinks proper, for the government of the place so appointed, and for the protection of the immigrants landed thereat ; and such proclamation, when published at least twice in the *Canada Gazette*, with an interval of at least six days between each publication, shall have the force of law, and shall be in force until suspended by a later proclamation for the like purpose, published as aforesaid ; and at the place so appointed the Governor in Council may cause proper shelter and accommodation to be provided for immigrants until they can be forwarded to their place of destination ; and any violation of any such proclamation as aforesaid, or of any regulation therein contained, shall be deemed a violation of this Act :

2. The master of every vessel arriving at any port in Canada, and having on board the same any passengers to whom any such proclamation as aforesaid then in force applies, shall land such passengers and their luggage free of expense at the place so appointed, and at reasonable hours, not earlier than six in the forenoon nor later than six in the afternoon, and the vessel shall, for the purpose of landing such passengers and their luggage, either be moored at the wharf at the place appointed for such landing, or anchored in the port ; and the masters of such vessels, so anchored, shall duly land, within the hours aforesaid, by steam tug or other proper tender, their passengers at such wharf as aforesaid and not elsewhere :

3. Every one who violates any of the provisions of this section or of the next preceding section, shall incur a penalty of forty dollars for each offence. 32-33 V., c. 10, s. 19 ;—35 V., c. 28, s. 2, *part*.

28. If, during the voyage of any vessel carrying passengers from any port not within the United Kingdom to any port in Canada, the master or any one of the crew of such vessel is guilty of any violation of any of the laws in force in the country in which such foreign port is situate, regarding the duties of such master or crew towards the passengers in such vessel,—or if the master of any such vessel during such voyage commits any breach whatsoever of the contract for the passage made with any passenger by such master, or by the owner or charterer of such vessel,—such master or such one of the crew shall, for every such violation or breach of contract, be liable to a penalty not exceeding one hundred dollars and not less than twenty dollars, independently of any remedy which the passenger complaining otherwise has by law. 32-33 V., c. 10, s. 20.

29. Proof under this Act of the law of a foreign country may be made by the testimony of any consul for the country from which the vessel sailed ; and the proof of the contract

for his passage made by any such passenger in any such vessel sailing from any European port not within the United Kingdom, may be made in all cases by the evidence of either of the parties to such contract. 32-33 V., c. 10, s. 21.

Immigrants not to be solicited except by licensed persons.

30. No person shall, at any port or place within Canada, for hire, reward or gain, or the expectation thereof, conduct, solicit or recommend, either orally, or by handbill or placard, or in any other manner, any immigrant, to or on behalf of any steamboat owner or charterer, or to or on behalf of any railway company, or to or on behalf of any lodging house-keeper or tavern-keeper, or any other person, for any purpose connected with the preparations or arrangements of such immigrant for his passage to his final place of destination in Canada or in the United States of America or the territories of either of them; or give or pretend to give to such immigrant any information, oral, printed or otherwise, or assist him to his said place of destination, or in any way exercise the vocation of booking passengers or taking money for their inland fare or for the transportation of their luggage, unless such person has first obtained a license from the mayor of the city or town or chief officer of the municipality in Canada within which such person resides, authorizing him to act in such capacity; and any person so acting without having first obtained such license, shall incur a penalty of not less than fifty dollars:

Penalty for contravention.

License how obtained, duration and cost.

2. Such mayor or chief officer may grant such license on such person producing a recommendation from the immigration agent nearest to the place where the license is granted, to the effect that he is a proper person to receive such license, and on his giving a satisfactory bond to the mayor or chief officer, with two sufficient sureties in the penal sum of three hundred dollars, as security for his good behavior; and such license shall not be for any period longer than one year from its date; and such person shall pay for such license to the proper officer of such city, town or municipality such sum, not exceeding one hundred dollars, as the council of such city, town or municipality determines. 32-33 V., c. 10, s. 22.

Runners not to board vessels before passengers are landed.

31. No licensed immigrant runner or agent or person acting on behalf of any steamboat company, railway company, forwarding company, or hotel or boarding-house keeper or his agent, shall go on board any vessel bringing immigrants into any port, or book or solicit any immigrant passenger by such vessel, before the immigrant passengers are landed from such vessel, unless he is authorized by the immigration agent so to do; and every one who violates any of the provisions of this section, shall incur a penalty of twenty-five dollars. 35 V., c. 28, s. 5, *part.*

Agent to visit vessel before entry.

32. No such vessel shall be admitted to entry until the immigration agent at the port has visited her, and has notified

the collector of customs that he has done so: and any such vessel arriving in port, shall hoist such signal as is determined on by the immigration agent at the port, who shall communicate it, through the superintendent or other proper officer, to the pilots for the port; and the pilot of the vessel shall see that such signal is hoisted and kept up during daylight, until the immigration agent has visited the vessel.

Signal to be hoisted.

35 V., c. 28, s. 5, *part.*

33. Every person licensed under section thirty of this Act, and every person in his employ, who sells to any immigrant a ticket or order for the passage of such immigrant, or the conveyance of his luggage, at a higher rate than that for which it could be purchased directly from the company undertaking such conveyance,—and every person who purchases any such ticket from an immigrant for less than its value, or gives him in exchange for it one of less value, shall incur a penalty of twenty dollars for each such offence.

Selling tickets to immigrants at an advance, &c.

Penalty.

35 V., c. 28, s. 7.

34. Every keeper of a tavern, hotel or boarding-house in a city, or in any town, village or place to which the Governor General, by proclamation published in the *Canada Gazette*, declares that this section shall extend, who receives into his house, as a boarder or lodger, any immigrant within three months from his arrival in Canada, shall cause to be kept conspicuously posted in the public rooms and passages of his house and printed upon business cards, a list of the prices which will be charged to immigrants per day and week for board or lodging, or both, and also the prices for separate meals, which card shall also contain the name of the keeper of such house together with the name of the street in which it is situated, and its number in such street:

Lists of prices to be displayed.

2. Every keeper of such tavern, hotel or boarding-house, who neglects or refuses to post a list of prices, or to keep business cards, or who charges or receives, or permits or suffers to be charged or received for boarding or lodging, or for meals in his house, any sum in excess of the prices so posted and printed on such business cards, or who omits immediately on any immigrant entering such house as a boarder or lodger for the purpose of taking any meal therein, to deliver to such immigrant one of such printed business cards, shall, upon conviction of any of the said offences, be deprived of his license and incur a penalty not exceeding twenty dollars and not less than five dollars:

Penalty for contravention.

3. No such boarding-house keeper, hotel keeper or tavern keeper shall have any lien on the effects of such immigrant for any amount claimed for such board or lodging, for any sum exceeding five dollars; and every such person who detains the effects of any immigrant after he has been tendered the said sum of five dollars or such less sum as is actually due for board or lodging, shall incur a penalty not exceeding

No lien on immigrant's goods beyond five dollars.

twenty dollars and not less than five dollars, over and above the value of the effects so detained, if they are not immediately restored; and a search warrant may be issued for the same. 32-33 V., c. 10, s. 23.

Inquiry into complaints.

35. If any complaint is made to the Minister of Agriculture against any railway company, or other incorporated company, for any offence or violation of this Act or of the Acts of the United Kingdom known as "*The Passengers' Act, 1855,*" and "*The Passengers' Act amendment Act, 1863,*" or of any other law in any matter relating to immigrants or to immigration, the said Minister may cause such inquiry as he thinks proper to be made into the facts of the case, or may bring the matter before the Governor in Council to the end that such inquiry may be made under the "*Act respecting inquiries concerning Public Matters*"; and if upon such inquiry it appears to the satisfaction of the said Minister, or of the Governor in Council, as the case may be, that the company has been guilty of such violation, the Minister or the Governor in Council may call upon the company to make such compensation to the person aggrieved, or to do such other thing as is just and reasonable, or may adopt measures for causing such proceedings to be instituted against the company as the case requires. 35 V., c. 28, s. 6.

Compensation.

As to property of immigrant parents dying.

36. If both the immigrant parents, or the last surviving immigrant parent of any child, or children, brought with them in any vessel bound to Canada, dies on the voyage or at Grosse Isle, Lawlor's Island, Partridge Island, or elsewhere in Canada, while yet under the care of any immigration agent, the Minister of Agriculture, or such officer as he deposes for the purpose, may cause the effects of such parents or parent to be disposed of for the benefit of such child or children to the best advantage in his power, or, in his discretion, to be delivered over to any institution or person assuming the care and charge of such child or children. 35 V., c. 28, s. 8.

Provision against seduction of female immigrants.

37. Every master or other officer, seaman or other person employed on board of any vessel, while such vessel is in any waters within the jurisdiction of the Parliament of Canada, who, under promise of marriage, or by threats, or by the exercise of his authority, or by solicitation, or the making of gifts or presents, seduces and has illicit connection with any female passenger, is guilty of a misdemeanor, and shall be liable to a penalty not exceeding four hundred dollars or to imprisonment for a term not exceeding one year: Provided, that the subsequent intermarriage of the persons seducing and seduced, may be pleaded in bar of conviction. 35 V., c. 28, s. 11.

Proviso.

Prevention of intercourse between crew

38. No officer, seaman or other person on board of any vessel bringing immigrant passengers to Canada, shall, while

such vessel is in such Canadian waters as aforesaid, entice or admit any female immigrant passenger into his apartment, or except by the direction of permission of the master of such vessel first made or given for such purpose, visit or frequent any part of such vessel assigned to female immigrant passengers; and every officer, seaman or other person employed on board of such vessel, who violates the provisions of this section shall incur a penalty equal in amount to his wages for the voyage during which the said offence has been committed:

and female immigrants.

Penalty for contravention.

2. Every master or commander who, while such vessel is in such waters as aforesaid, directs or permits any officer or seaman or other person on board of such vessel, to visit or frequent any part of such vessel assigned to immigrant passengers, except for the purpose of doing or performing some necessary act or duty as an officer, seaman or person employed on board of such vessel, shall incur a penalty of twenty-five dollars for each occasion on which he so directs or permits the provisions of this section to be violated by any officer, seaman or other person employed on board of such vessel: Provided always, that the provisions of this section shall not apply to cabin passengers, or to any part of the vessel assigned to their use. 35 V., c. 28, s. 12.

Penalty on master permitting such contravention.

Proviso.

39. The master of every vessel bringing immigrant passengers to Canada shall, while the vessel is in such Canadian waters as aforesaid, post a written or printed notice in the English, French and German languages, containing the provisions of the next preceding section of this Act, in a conspicuous place on the forecastle and in the several parts of the said vessel assigned to immigrant passengers, and keep the same so posted during the remainder of the voyage; and for every violation of this section, he shall incur a penalty not exceeding fifty dollars. 35 V., c. 28, s. 13.

Notice of foregoing provision to be posted up.

Penalty for default.

RECOVERY OF DUTIES AND PENALTIES.

40. Every duty or penalty imposed under the authority of this Act, shall be a special lien upon the vessel in respect whereof it has become payable and the master whereof has become liable in such penalty, and may be enforced and collected by the seizure and sale of the vessel, her tackle, apparel and furniture, under the warrant or process of the justices or court before whom it has been sued for, and shall be preferred to all other liens or hypothecations except mariners' wages. 32-33 V., c. 10, s. 24.

Duties and penalties to be a lien on the vessel.

41. Every prosecution for a penalty under section thirty-four of this Act, may be instituted at the place where the offender then is, before any justice of the peace having jurisdiction in such place, at the suit of any Dominion immigration agent in Canada; and the penalties recovered under the

When prosecutions under section 34 may be brought.

said section shall be paid into the hands of the Minister of Finance and Receiver General, and form part of the Consolidated Revenue Fund of Canada :

Costs and imprisonment in case of non-payment, &c.

2. The justice of the peace may award costs against the offender as in ordinary cases of summary proceedings, and may also award imprisonment for a term not exceeding three months, to terminate on payment of any penalty incurred under the said section,— and may, in his discretion, award any part of the penalty, when recovered, to the person aggrieved by the violation of law complained of. 32-33 V., c. 10, s. 25.

Penalties under other sections, how recovered.

42. All penalties, other than those referred to in the next preceding section, imposed by this Act, or by any regulation made by the Governor in Council under the provisions of this Act, and not exceeding eighty dollars in amount, shall be sued for by a collector of customs, or by a Dominion immigration agent, and recovered with costs on the oath of one credible witness other than the prosecutor, in a summary manner, before any two justices of the peace,—and such justices may commit the offender to the common gaol until such penalty and costs are paid ; and all such penalties exceeding the sum of eighty dollars may be recovered by civil action by any such officer as aforesaid, on like evidence, in any court of competent jurisdiction :

Application of penalties.

2. A moiety of every such penalty shall belong to Her Majesty, and shall be paid into the hands of the Minister of Finance and Receiver General and form part of the Consolidated Revenue Fund of Canada ; and the other moiety shall belong to the prosecutor :

When penalty exceeds forty dollars, offence a misdemeanor.

3. Every offence against the provisions of this Act or any regulation made under it, in respect of which the penalty exceeds the sum of forty dollars, is a misdemeanor and shall be punishable by fine or imprisonment, or both, in the discretion of the court before which the offender is convicted. 32-33 V., c. 10, s. 26.

Summons to be issued.

43. Upon complaint being made before any one justice of the peace, in any case over which two justices have jurisdiction as aforesaid, he shall issue a summons requiring the person complained against to appear on a day and at an hour and place named in such summons ; and every such summons shall be served on the person complained against, or shall be left at his place of residence or business, or on board any vessel to which he belongs :

Proceedings upon appearance or default.

2. Either upon the appearance or default to appear of the person complained against, any two or more justices may proceed summarily, either with or without any written information ; and upon proof of the offence or complaint, either by confession of the person complained against, or upon the oath of at least one credible witness other than the prosecutor, the justices may convict the offender, and, upon such conviction, order the offender or person complained against to

pay the penalty imposed by this Act, or by any such regulation as aforesaid, according to the nature of the offence, and also to pay the costs attending the prosecution or complaint :

3. If forthwith upon such order the moneys thereby ordered to be paid, are not paid, the same may be levied, with the costs of the distress and sale, by distress and sale of the goods and chattels of the person ordered to pay such moneys,—the surplus, if any, to be returned to him upon demand ; and such justices may issue their warrant accordingly, and may also order such person to be detained and kept in safe custody until return can conveniently be made to such warrant of distress, unless such person gives security to the satisfaction of such justices for his appearance before them on the day appointed for such return,—such day not being more than three days from the time of taking such security :

If moneys are not paid, the same may be levied by distress

4. If it appears to such justices, by the admission of such person, or otherwise, that no sufficient distress can be had whereon to levy the moneys so adjudged to be paid, they may, if they think fit, refrain from issuing a warrant of distress in the case, or if such warrant has been issued, and upon the return thereof such insufficiency as aforesaid is made to appear to the justices, then such justices shall, by warrant, cause the person ordered to pay such moneys and costs as aforesaid to be committed to gaol, there to remain without bail for any term not exceeding three months, unless such moneys and costs ordered to be paid, and such costs of distress and sale as aforesaid, are sooner paid and satisfied ; but such imprisonment of a master of any vessel shall not discharge the vessel from the lien or liability attached thereto by the provisions of this Act. 32-33 V., c. 10, s. 27.

Proceedings when there is no sufficient distress.

44. No conviction or proceeding under the four sections next preceding shall be quashed for want of form, or be removed by appeal or *certiorari*, or otherwise, into any of Her Majesty's superior courts ; and no warrant of commitment shall be held void by reason of any defect therein, provided it is thereby alleged that the person has been convicted, and there is a good and valid conviction to sustain the same. 32-33 V., c. 10, s. 28.

Conviction or proceeding not to be questioned for want of form, &c.

MONEYS LEVIED AND EXPENDED.

45. All expenses incurred in carrying the provisions of this Act into effect, or under the provisions thereof, shall be paid out of any moneys granted, from time to time, by Parliament for that purpose and for affording help and advice to immigrants, aiding destitute immigrants, visiting and relieving them, procuring medical assistance and otherwise attending to the objects of immigration, as determined by the Parliamentary grants, and by Orders of the Governor in Council for the management of the same. 32-33 V., c. 10, s. 29.

Payment of expenses under this Act.

Application of moneys collected.

46. The moneys levied under this Act shall be paid by the collector of customs by whom they are received, into the hands of the Minister of Finance and Receiver General, and shall form part of the Consolidated Revenue Fund of Canada. 32-33 V., c. 10, s. 30.

SCHEDULE.

NAMES AND DESCRIPTION OF PASSENGERS.

Port of Embarkation.	Names of Passengers.		Adults.	Children between 1 and 14.	Number of Infants not over one year.	Passengers who are heads of families on board.	Adults.	Children under 14.	Passengers not belonging to any Family on Board.	Profession, occupation or calling of Passengers.	Nation or Country of Birth.	Birth at Sea.	Deaths.	Places in the Dominion of Canada or United States to which Passengers are bound.
	Male.	Female.	AGE.	AGE.										

PARTICULARS RELATIVE TO THE VESSEL.

Vessel's Name.	Master's Name.	Tonnage.	From what Port or Place	Total number of superficial feet in the several compartments set apart for Passengers other than Cabin Passengers.	Total number of Adult Passengers exclusive of Master, Crew, and Cabin Passengers, which the vessel can legally carry	Where bound.

SUMMARY.

	Number of Souls.	Number of Adults to which they are equal under the Immigration Act.
Adults		
Children between 1 and 14		
Infants not over 1.		
Total		

I hereby certify that the above is a correct description of the (*Description of the Vessel as Ship, Brig, &c.*) (*Name of Vessel*), and a correct list of all the Passengers on board the same, at the time of her departure from (*Place from whence she came*), and that all the particulars therein mentioned are true.

Date, 18 . *Signature of Master.*
 32-33 V., c. 10, s 5, sub-s. 2 ;—35 V., c. 28, s. 14 and schedule.

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 66.

An Act respecting Immigration Aid Societies.

A. D. 1886.

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

- 1.** In this Act, unless the context otherwise requires,—
- (a.) The expression “Minister of Agriculture” includes any deputy or officer authorized to perform the duty or exercise the power in question ; Interpretation.
“Minister of Agriculture.”
- (b.) The expression “immigration,” or “immigrant,” includes “emigration,” or “emigrant,” when it refers to the act of leaving, or to a person about to leave, Europe for Canada ; “Immigration.”
“Immigrant.”
- (c.) The expression “Society” means the immigration aid society which the context indicates or refers to ; “Society.”
- (d.) Any negotiable or other instrument authorized by this Act may be drawn in any European language understood by the person executing it, and sums of money mentioned therein may be expressed in any currency used in the country where it is executed, and shall be held to mean equivalent amounts expressed in currency of Canada. 35 V., c. 29, s. 14. As to instruments.
- 2.** The Minister of Agriculture shall, from time to time, for the purposes of this Act, divide each of the several Provinces of Canada into immigration districts ; and in each district there shall be an immigration office and an immigration agent ; Immigration districts, agents and offices.
2. Notice of such division, and of any alteration thereof, shall be given in the *Canada Gazette*, and each such district shall be known as the immigration district of the place where the immigration office is kept. 35 V., c. 29, s. 1. Notice to be given.
- 3.** An immigration aid society, or immigration aid societies, may be formed in every immigration district for the purpose of assisting immigrants to reach Canada from Europe, and to obtain employment on their arrival in Canada, and of enabling persons in Canada in want of laborers, artisans or servants, to obtain them by such immigration : Formation of societies, and their purpose.
2. Every such society shall consist of at least twenty-five persons, who may or may not be residents of the immigration district, and who have agreed to form such society, and to subscribe, as the capital of the society, at least five hundred dollars, in shares of twenty dollars each, one-half of Subscriptions and capital.

which at least shall be paid, on subscribing the declaration of membership hereinafter mentioned, into the hands of a person agreed upon as their secretary-treasurer by such persons, not less than twenty-five, as are present at the meeting at which it is agreed to form such society. 35 V., c. 29, s. 2.

Formalities to be complied with for the purpose of such formation.

4. The persons who agree to form such society shall elect or agree upon a president, vice-president, secretary-treasurer, and board of management, composed of at least five members, including the officers above mentioned, and shall adopt a constitution and by-laws, and shall respectively sign a declaration in the form in the schedule to this Act :

Constitution and by-laws of society.

2. There shall be attached to the said declaration the constitution and by-laws of the society, which shall declare the objects of the society to be those mentioned in the next preceding section, and such other special objects, if any, as it is necessary to enumerate :

What the constitution and by-laws shall set forth.

3. The constitution and by-laws shall set forth the names of the first president, vice-president, secretary-treasurer, and members of the board of management ; the place where the office of the society is to be situate ; the time when its meetings will be held ; the manner in which the remainder of the stock of the society shall be paid up ; the annual subscription to be paid by members, if such subscription is deemed advisable ; the manner of admitting new members ; the duties and powers of the board of management and officers ; the time during which the officers and other members of the board of management shall remain in office ; the time and place for and the manner of holding the regular meetings of the society, and the mode of calling and holding special meetings, and the quorum, and mode of voting at such meetings ; the mode of filling vacancies among the officers and members of the board of management, or the manner in which their duties shall be performed by others during their absence ; the period for which the society shall continue, and the mode of dividing its assets at the end of such period, or its profits, from time to time, during such period ; and generally such provisions as are deemed necessary or expedient for the well-working of the society and the attainment of the objects for which it is formed :

Attestation of declaration:

4. The signatures of the members shall be attached to the declaration, and in columns opposite thereto, the amounts of stock for which they respectively subscribe, and the amounts paid up shall be stated ; and the declaration shall then be dated and attested by the signatures of the president or vice-president and of the secretary-treasurer. 35 V., c. 29, s. 3, *part.*

Duplicate of declaration to be sent to the district agent for approval

5. The declaration shall be made in duplicate, and the duplicates shall be delivered or sent by the secretary-treasurer to the immigration agent of the district, who shall examine the declaration and ascertain whether it is in accordance

with this Act, and with the instructions given him on the subject by the Minister of Agriculture; and if the immigration agent has any doubt as to its being conformable to this Act and to such instructions, he may forward it to the Minister for his opinion; and if it is not found so conformable, the immigration agent shall return both duplicates to the secretary-treasurer, informing him of the fact and of the objection to which the declaration is open; but if it is found to be so conformable, he shall certify the fact under his hand on both duplicates, and shall retain one of them in his office, and shall return the other to the secretary-treasurer. 35 V., c. 29, s. 4.

and certificate.

6. If there is no other immigration aid society in his district, the immigration agent shall treat the society as number one, and shall fill the blank left in the declaration for that purpose with that number; but if otherwise he shall give each a number in the order in which he certifies the declarations, and shall fill in the blank in each with its proper number, according to such order. 35 V., c. 29, s. 5.

Agent to give a number to the society.

7. When the declaration is approved and certified as aforesaid, the society shall be a corporation, or body politic and corporate, by the name taken in the declaration, including the number given it by the immigration agent, and shall have all the powers, rights and immunities assigned to corporations by "*The Interpretation Act*," including the right to have a corporate seal, if it thinks fit; but it shall not be necessary that the corporate seal shall be affixed to any document in order to make it the act or deed of the corporation, but it shall be sufficient for that purpose that the document is signed by the secretary-treasurer, and countersigned by the president or vice-president of the society, as such, or by the person or persons acting *pro tempore* in their stead; and the authority or capacity of any person who signs the same, or his signature, shall not be called in question by any but the corporation, and if not so questioned, shall be admitted in evidence without proof; and any document purporting to be the duplicate copy of the declaration signed by the proper immigration agent, shall be admitted as evidence of the facts stated therein, without proof of his signature, unless it is called in question by himself, or by the Minister of Agriculture, or by his authority. 35 V., c. 29, s. 6.

On approval, society to become a corporation.

Corporate seal.

Evidence of duplicate.

8. The society may enter into agreements and contracts, either with its members or with other persons, for any purpose relating to immigration,—and may lend and borrow money, and may take or give any security for the same,—and may become a party to any promissory note, bill of exchange, or other negotiable security or instrument, in the manner hereinbefore provided as to other documents,—and may receive assistance in money or otherwise from municipal or other

Powers of society; lending and borrowing money.

Proviso: total liabilities limited.

corporations, or from any institution, society or person, towards enabling it to attain the objects of this Act, on such terms and conditions as are agreed upon, and which are not inconsistent with this Act or with law; but the total amount of the liabilities of the society shall never exceed the amount of its capital subscribed, and not paid up, and the members of the board of management shall be personally liable for any such excess. 35 V., c. 29, s. 7.

Society may receive applications for the employment of immigrants and act upon them.

9. The society may receive applications from persons desiring to obtain artisans, workmen, servants or laborers from the United Kingdom, or from any part of Europe, and may enter into any lawful contracts with such persons, including the obligation, on the part of such persons, to employ the immigrants referred to on their arrival in Canada, in any manner, at any rate of wages, and for any period, under such penalty as damages for non-performance as are stipulated in such contract, and may receive in advance all or any part of the money to be expended by the society, or may take security for the repayment of all or any part thereof to the society, by instalments or in one sum, as is agreed upon. 35 V., c. 29, s. 8.

Applications to be forwarded to district agent, with report of society's action thereon.

10. The secretary-treasurer shall forthwith transmit every such application, with the requisite information and details, to the immigration agent of the district, with the amount the society has undertaken to advance towards defraying the expenses to be incurred in complying with the application, in paying or partly paying the cost of the ocean passage and other necessary travelling expenses of the emigrants from their home in Europe to the place in Canada where they are required. 35 V., c. 29, s. 9.

Applications to be transmitted to agents in Europe with funds advanced: their duties.

11. The immigration agent shall forthwith transmit every such application and the money received by reason thereof, to the proper immigration agent or sub-agent of Canada, in the United Kingdom or elsewhere, who shall, thereupon, take the necessary steps for procuring and forwarding to the proper place in Canada, such immigrants as are stated in the application; and the immigration agent shall, from time to time, furnish the Minister of Agriculture with such information and details respecting such applications as the Minister requires. 35 V., c. 29, s. 10.

Agents in Europe to take security from emigrants for repayment of advances.

12. If it is the intention of the society, or of the applicant, that the whole or part of the money advanced towards defraying the expenses of immigration, shall be repaid by the immigrant, either in one sum or by instalments, the immigration agent or sub-agent of Canada in Europe who makes the arrangements for the passage of the intending emigrant to Canada, shall take from such emigrant an instrument in writing binding him to repay such money to the society in Canada

in one sum or by instalments, at certain periods, and with interest or without interest, according to the instruction given by the secretary-treasurer to the district immigration agent, and communicated through the Minister of Agriculture to the immigration agent or sub-agent in Europe, and he shall witness the execution of such instrument :

2. If any sum of money has been advanced to the emigrant for like purposes, by any society, or institution or individual in the United Kingdom, such sum may, with the consent of such society, institution or individual, be included in the amount for which such instrument is given, and may be recovered by the Canadian society aforesaid, and being so recovered, shall be paid over without charge to the society, institution or individual by whom it was advanced, and the agent or sub-agent of immigration who witnesses the execution of the instrument shall give notice of the amount mentioned in the instrument to such society, institution or individual and to the Canadian society. 35 V., c. 29, s. 11.

Sums advanced to emigrants by a society in United Kingdom may be included.

13. Any emigrant who might make such instrument as aforesaid, may, in like manner, execute an instrument, witnessed as above provided, binding himself or herself in consideration of the sum advanced by the society therein named, to accept employment of the kind therein stated from any named person in the immigration district in which the society is formed, or with any person in such district whom the society designates to the immigrant on his arrival in such district, at a rate of wages to be named in the instrument, and for a term to be also therein named, and to serve such person faithfully in such employment during such term, and to allow such person to deduct from his wages, at a period or periods to be designated in such instrument, such sum or sums as are also therein designated, and to pay the same to the society, on account of any money due by the immigrant to it. 35 V., c. 29, s. 13, *part*.

Emigrant may bind himself to serve nominee of the society for the amount of advance.

Deduction for repayment of advance.

14. Such instrument may be enforced by the society accordingly, by civil suit in any court of competent jurisdiction against the immigrant ; and any refusal or neglect on the part of the immigrant to perform any of the other obligations undertaken by him or her in such instrument, shall be an offence cognizable before any one justice of the peace, under the "*Act respecting summary proceedings before Justices of the Peace,*" and punishable by a penalty not exceeding twenty dollars and costs, and by imprisonment until such penalty and costs are paid ; and the penalty, if paid, shall belong to the society, and be paid over to it by the convicting justice of the peace ; but the payment of such penalty shall not prevent or affect any civil remedy of the society under such instrument. 35 V., c. 29, s. 13, *part*.

How such obligation may be enforced.

SCHEDULE.

FORM OF DECLARATION.

We, the undersigned, hereby associate ourselves together as "The Immigration Aid Society No....., of the immigration district of.....," and we hereby bind ourselves to observe and obey all the requirements of "*The Act respecting Immigration Aid Societies*," and to pay, respectively, into the hands of the secretary-treasurer the amount of stock set opposite our respective names, one-half on subscribing this declaration, and the other half by the instalments and in the manner hereinafter provided; and we further bind ourselves to observe and obey the constitution and by-laws of the society, which are as follow :—
35 V., c. 29, s. 3, *part.*

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 67.

An Act respecting Chinese Immigration.

A. D. 1886.

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

1. This Act may be cited as "*The Chinese Immigration Act.*" 48-49 V., c. 71, s. 24. Short title.

2. In this Act, unless the context otherwise requires,—
(a.) The expression "controller" means any officer charged with the duty of carrying the provisions of this Act into effect; Interpretation.
"Controller."

(b.) The expression "master" means any person in command of any vessel; "Master."

(c.) The expression "Chinese Immigrant" means any person of Chinese origin entering Canada and not entitled to the privilege of exemption provided for by section eight of this Act; "Chinese Im-
migrant."

(d.) The expression "vessel" means any sea-going craft of any kind or description capable of carrying passengers; "Vessel."

(e.) The expression "tonnage" means tonnage according to the measurement fixed by the Merchants' Shipping Acts of the Parliament of the United Kingdom. 48-49 V., c. 71, s. 1. "Tonnage."

3. The Governor in Council may,—

(a.) Appoint one or more persons to carry the provisions of this Act into effect; Powers of
Governor.
Appoint-
ments.

(b.) Assign any duty in connection therewith to any officer or person in the employ of the Government of Canada; Present
officers.

(c.) Define and prescribe the duty or duties of such officer or person; Duties.

(d.) Fix the salary or remuneration to be allowed to such officer or person; Remunera-
tion.

(e.) Engage and pay an interpreter skilled in the English and Chinese languages, at a salary of not more than three thousand dollars a year, who shall reside in the Province of British Columbia, and perform such duties as are assigned to him by the Governor in Council. 48-49 V., c. 71, ss. 2 and 21. Chinese
interpreter.

4. All appointments made under this Act shall be published in the *Canada Gazette.* 48-49 V., c. 71, s. 3 Publication
of appoint-
ments.

Number of Chinese immigrants in any vessel.

5. No vessel carrying Chinese immigrants to any port in Canada, shall carry more than one such immigrant for every fifty tons of its tonnage; and the owner of any such vessel, who carries any number in excess of the number allowed by this section, shall incur a penalty of fifty dollars for each Chinese immigrant so carried in excess of such number. 48-49 V., c. 71, s. 5.

No passenger to land until permit is obtained

6. No master of any vessel carrying Chinese immigrants shall land any passenger or permit any passenger to land from such vessel, until a permit so to do, stating that the provisions of this Act have been complied with, has been granted to the master of such vessel by the controller; and every master of a vessel who violates the provisions of this section shall incur a penalty of one hundred dollars. 48-49 V., c. 71, s. 8.

Penalty.

Bill of health to be obtained.

7. No controller at any port shall grant a permit allowing Chinese immigrants to land, until the quarantine officer has granted a bill of health and has certified, after due examination, that no leprosy or infectious or contagious disease exists among them, on board such vessel; and no permit to land shall be granted to any Chinese immigrant who is suffering from leprosy or from any infectious or contagious disease, or to any Chinese woman who is known to be a prostitute. 48-49 V., c. 71, s. 9.

No permit in certain cases.

Duty payable by Chinese immigrants.

8. Every person of Chinese origin shall pay into the Consolidated Revenue Fund of Canada, on entering Canada, at the port or other place of entry, a duty of fifty dollars, except the following persons who shall be exempt from such payment, that is to say:—

Exceptions.

(a.) The members of the Diplomatic Corps, or other Government representatives, their suite and their servants and consuls and consular agents;

(b.) Tourists, merchants, men of science and students, who are bearers of certificates of identity, specifying their occupation and their object in coming into Canada, or of other similar documents issued by the Chinese Government or other Government whose subjects they are:

Certificate proving exemption.

2. Every such certificate or other document shall be in the English or French language, and shall be examined and indorsed (*visé*) by a British Consul or Chargé d'Affaires or other accredited representative of Her Majesty, at the place where the same is granted, or at the port or place of departure:

Term "merchant" limited.

3 Nothing in this Act shall be construed as embracing within the meaning of the word "merchant," any huckster, pedler, or person engaged in taking, drying or otherwise preserving shell or other fish for home consumption or exportation:

4. The entrance duty payable under this section shall not apply to any Chinese person who resided or was within Canada on the first day of January, one thousand eight hundred and eighty-six. 48-49 V., c. 71, ss. 4 and 13 *part*.

Duty not to be levied on Chinese resident at a date specified.

9. Every Chinese immigrant liable to pay the duty imposed by the next preceding section, who enters Canada otherwise than by disembarking from any vessel, shall forthwith make declaration of his entry to the controller, or in the absence of such officer, to the Customs officer of the nearest or most convenient place, and shall forthwith pay to such controller or officer the duty of fifty dollars imposed by this Act, and the controller or officer shall grant a certificate of such entry and payment, in conformity with the provisions of the next following section; and if the declaration is made to a customs officer he shall report the fact to the controller at the principal sea port of the Province into which such Chinese immigrant has come, and the controller shall record the same in the register of certificates of entry kept by him. 48-49 V., c. 71, s. 12.

As to immigrants arriving otherwise than by vessel.

Report to controller in such case.

10. The controller shall deliver to each Chinese immigrant who has been permitted to land, and in respect of whom the duty has been paid as hereinbefore provided, a certificate containing a description of such individual, the date of his arrival, the name of the port of his landing and an acknowledgment that the duty has been duly paid; and such certificate shall be *prima facie* evidence of the right of the person presenting the same to enter Canada; but such certificate may be contested by Her Majesty, or by any officer charged with the duty of carrying this Act into effect, if there is reason to doubt the validity or authenticity thereof, or of any statement therein contained; and such contestation shall be heard and determined in a summary manner by any judge of a superior court of any Province of Canada where such certificate is produced. 48-49 V., c. 71, s. 10.

Certificate to be delivered to immigrant permitted to land.

Its effect; but may be contested.

How decided.

11. The controller shall keep a register of all persons to whom certificates of entry have been granted. 48-49 V., c. 71, s. 11.

Register of certificates.

12. Every master of any vessel bringing Chinese immigrants to any port in Canada, shall be personally liable to Her Majesty for the payment of the duty imposed by this Act in respect of any immigrant carried by such vessel, and shall deliver, together with the total amount of such duty, to the controller, immediately on his arrival in port and before any of his passengers or crew disembark, a complete and accurate list of his crew and passengers, showing their names in full, the country and place of their birth, and the occupation and last place of domicile of each passenger. 48-49 V., c. 71, s. 6.

Liability and duty of masters of vessels as to payment of duty.

Certificate to Chinese leaving Canada and intending to return.

13. Every Chinese person who wishes to leave Canada, with the intention of returning thereto, shall give notice of such intention to the controller at the port or place whence he proposes to sail or depart, and shall surrender to the said officer his certificate of entry or his certificate of residence under "*The Chinese Immigration Act, 1885,*" and shall receive in lieu thereof, on payment of a fee of one dollar, a certificate of leave to depart and return; and the person to whom such certificate is granted shall be entitled, on presentation of the same on his return, to receive from the controller the amount of the entrance duty paid by him on such return and to have his original certificate of entry or residence returned to him:

Effect of such certificate.

Provision if certificate is lost.

2. In case of the loss of such return certificate, and on proof of such loss to the satisfaction of the controller, the person to whom such certificate was granted, and who has paid the entrance duty imposed by this Act a second time, shall be entitled to have his second entrance duty returned to him, together with his first certificate of entry or residence. 48-49 V., c. 71, s. 14.

Statement for Provincial Secretary by controller.

14. The controller shall, on the first day of January in each year, send to the Provincial Secretary of the Province wherein certificates of entry have been granted, a certified list of all Chinese immigrants to whom such certificates have been granted during the year next preceding. 48-49 V., c. 71, s. 15.

Application of dues, penalties, &c.

15. All duties, pecuniary penalties and other sources of revenue under this Act shall be paid into and form part of the Consolidated Revenue Fund of Canada; but one-fourth part of all entry dues paid by Chinese immigrants shall, at the end of every fiscal year, be paid out of such fund to the Province wherein the same were collected. 48-49 V., c. 71, s. 20.

Penalty for landing any Chinese before duty is paid, &c.

16. Every master of any vessel who lands or allows to be landed off or from any vessel any Chinese immigrant before the duty payable under this Act has been duly paid, or who wilfully makes any false statement respecting the number of persons on board his vessel, shall, in addition to the amount of the duty payable under the foregoing provisions of this Act, be liable to a penalty not exceeding one thousand dollars and not less than five hundred dollars for every such offence, and in default of payment to imprisonment for a term not exceeding twelve months; and such vessel shall be forfeited to Her Majesty, and shall be seized by any officer charged with the duty of carrying this Act into effect, and dealt with accordingly. 48-49 V., c. 71, s. 7.

Forfeiture of vessel.

Penalty on Chinese for evading this Act.

17. Every Chinese person who wilfully evades or attempts to evade any of the provisions of this Act as respects the payment of duty, by personating any other individual, or who

wilfully makes use of any forged or fraudulent certificate to evade the provisions of this Act, and every person who wilfully aids or abets any such Chinese person in any evasion or attempt at evasion of any of the provisions of this Act, is guilty of a misdemeanor, and liable to imprisonment for a term not exceeding twelve months, or to a fine not exceeding five hundred dollars, or to both. 48-49 V., c. 71, s. 16.

And for aiding in evasion.

18. Every person who takes part in the organization of any sort of court or tribunal, composed of Chinese persons, for the hearing and determination of any offence committed by a Chinese person, or in carrying on any such organization, or who takes part in any of its proceedings, or who gives evidence before any such court or tribunal, or assists in carrying into effect any decision or decree, or order of any such court or tribunal, is guilty of a misdemeanor, and liable to imprisonment for any term not exceeding twelve months, or to a fine not exceeding five hundred dollars, or to both: but nothing in this section shall be construed to prevent Chinese immigrants from submitting any differences or disputes to arbitration, provided such submission is not contrary to the laws in force in the Province in which such submission is made. 48-49 V., c. 71, s. 17.

Penalty for taking part in organizing unlawful court, as to offences by Chinese.

Proviso: as to arbitrations.

19. Every person who molests, persecutes or hinders any officer or person appointed to carry the provisions of this Act into effect is guilty of a misdemeanor, and liable to imprisonment for a term not exceeding twelve months, or to a fine not exceeding five hundred dollars, or to both. 48-49 V., c. 71, s. 18.

Penalty for molesting officers.

20. Every person who violates any provision of this Act, for which no special punishment is herein provided, is guilty of a misdemeanor, and liable to a fine not exceeding five hundred dollars, or imprisonment for a term not exceeding twelve months, or to both. 48-49 V., c. 71, s. 19.

Penalty for other contraventions.

21. All suits or actions for the recovery of duties or penalties under this Act, and all prosecutions for offences under this Act which are not herein declared to be misdemeanors, shall be tried before one or more justices of the peace, or before the recorder, police magistrate, or stipendiary magistrate having jurisdiction where the cause of action arose or where the offence was committed. 48-49 V., c. 71, s. 22

Before whom suits may be brought.



CHAPTER 68.

An Act respecting Quarantine.

A. D. 1886.

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

1. In this Act, unless the context otherwise requires,—
- (a.) The expression “master” includes every person in command of a vessel ; Interpretation.
“Master.”
 - (b.) The expression “vessel” includes all ships, vessels or craft of any kind carrying passengers ; “Vessel.”
 - (c.) The expression “passengers” includes all passengers as well as immigrants usually and commonly known and understood as such, but not troops or military pensioners and their families, who are carried in transports or at the expense of the Government of the United Kingdom ; “Passengers.”
 - (d.) The expression “Quarantine station” includes Grosse Isle, Lawlor’s Island and Partridge Island, or any other place at which quarantine is directed to be performed. 35 V., c. 27, s. 1. “Quarantine station.”

2. The Governor in Council may, from time to time, make such regulations as he thinks proper for enforcing compliance with all the requirements of this Act, and concerning the entry or departure of vessels at the different ports or places in Canada,—and concerning the landing of passengers or cargoes from such vessels, or the receiving of passengers or cargoes on board of the same, as is thought best calculated to preserve the public health,—and for insuring the due performance of quarantine, by and in respect of vessels, passengers, goods or things arriving at or in the neighborhood of any port or place within Canada, to which he thinks it right for the preservation of the public health that such regulations should apply,—and for the thorough cleansing and disinfecting of such vessels, passengers, goods or things, or concerning the arrival at or departure from any place in Canada of any persons, goods or things conveyed by land,—and for insuring the due performance of quarantine by and in respect of such persons, goods and things at or in the neighborhood of any place in Canada to which he thinks it right for the preservation of the public health that such regulations should apply,—and for the thorough cleansing and disinfecting of such persons, goods and things, so as to prevent, as far as possible,

Officers may be appointed.

the introduction into or dissemination of disease in Canada ; and may appoint or remove such officers as he deems necessary for so doing, and assign to them respectively such powers as he thinks requisite for carrying out the provisions of such regulations, and may impose penalties, forfeitures and punishments for the breach thereof: and such regulations shall be published by proclamation inserted at least twice in the *Canada Gazette*. 35 V., c. 27, s. 2.

Publication of regulations.

Quarantine regulations to have the force of law.

3. Such regulations shall have the force of law, and any person disobeying any such regulation is guilty of a misdemeanor, and liable to fine or imprisonment or both, as the court directs; or such person may be sued for the penalties contained in such regulation. 35 V., c. 27, s. 3.

Punishment of persons disobeying them.

Vessels from sea, &c., may be required to perform quarantine.

4. The Governor in Council may, by such regulations, require the master of every vessel coming up the River St. Lawrence from below the quarantine station at Grosse Isle, or arriving by sea at or in the neighborhood of any port or place in Canada (except such vessels as are therein designated and referred to as excepted), to bring his vessel to anchor, at the anchorage at the proper quarantine station designated in the regulations, and report such vessel in writing to the officer at such station designated for that purpose in such regulations, with all the particulars relative to the same, and to the voyage, passengers and cargo thereof, required by such regulations, or by any officer duly authorized under them to require the same,—and to allow the proper officer to visit and inspect such vessel and every part thereof and the passengers and crew and the cargo and other articles on board the same,—and to answer truly all questions asked of him touching the same,—and to send on shore at such station and at the places there pointed out by the officer thereunto authorized by such regulations, any or all of the passengers, crew, cargo or other articles, on board such vessel, as such officer thinks necessary for preventing the introduction of contagious or infectious disease,—and to allow such passengers, crew, cargo or other articles, and also the vessel itself, to remain so long at such station and at such places thereat respectively, and to be so treated, cleansed and purified, as such officer thinks necessary for the purposes aforesaid; and the Governor in Council may, by such regulations, require the owners or persons in charge of goods or things conveyed by land to any place in Canada, to allow the proper officer appointed under such regulations to inspect and examine the same, and to answer truly all questions asked of them by such officer concerning the same, and to allow such goods or things to remain so long in the custody of such officer, and to be so treated, cleansed and purified, as such officer thinks necessary for the purposes of this Act; and the Governor in Council may, by such regulations, require all persons arriving by land at any place in Canada, to allow

Obligations of masters of vessels coming to quarantine station.

Inspection of goods, and the cleansing thereof.

Examination of persons arriving by land.

themselves to be inspected and examined by the proper officer appointed under such regulations, and to answer truly all questions asked of them by such officer, and to remain so long at such place and be so treated, cleansed and purified as such officer thinks necessary for the purposes of this Act. 35 V., c. 27, s. 4.

5. The Governor in Council may, by such regulations, assign to the several officers and persons to be employed at any such quarantine station the powers and duties necessary for carrying the said regulations and this Act into effect, and may declare that any such officer or person shall, by virtue of his office or employment, be a justice of the peace or a constable or peace officer for such quarantine station, and for the space around the same described in such regulations ; and such officer shall accordingly be such justice of the peace or peace officer, whether he is otherwise qualified or not, for the purpose of carrying out the criminal and other laws of Canada ; and the Governor in Council may, by such regulations, prescribe penalties, not exceeding four hundred dollars in any case, for any violation of the same,—and may provide that the offender shall be imprisoned until such penalty is paid—and may direct that no vessel shall be entered or cleared at any custom house in Canada until all the requirements of such regulations are complied with,—and may direct that any person, vessel or thing, who or which has passed or departed or been removed from any quarantine station, before all the requirements of such regulations are complied with in respect of such person, vessel or thing, or without the written permission of the officer empowered to authorize such passing or departure, may be compelled to return or be carried back to such station, and by force, if necessary. 35 V., c. 27, s. 5.

Powers of officers at quarantine station, under the regulations.

Penalties for contravention of regulations, and power to compel obedience.

6. The Governor in Council may appoint one or more medical officers at each of the principal harbors of Canada to board, visit and inspect vessels arriving in such harbor from sea, and to perform such other duties and have such power as the Governor in Council by any regulations directs. 35 V., c. 27, s. 6.

Medical officers at principal harbors.

7. Every penalty imposed under the authority of this Act, shall be a special lien upon the vessel by reason whereof it became payable, and the master whereof becomes liable to such penalty, and may be enforced and collected by the seizure and sale of the vessel, her tackle, apparel and furniture, under the warrant or process of the justices or court before whom it has been sued for, and shall be preferred to all other liens or hypothecations, except mariners' wages. 35 V., c. 27, s. 7.

Penalties, &c., to be special liens upon vessels.

8. When any vessel not originally bound for any port in Canada, arrives at any sea port of Canada with contagious or

As to vessels arriving at ports to which

they were not originally bound, with infectious disease on board. infectious disease on board, and is allowed to remain in quarantine at or near such port, the master of such vessel shall pay to the collector of the customs at the port the sum of two dollars, head money, for each person on board the said vessel at the time of her arrival; and the said sum shall be a lien on the vessel, and shall be paid before she shall be allowed to leave the port. 35 V., c. 27, s. 8.

Vessels may, on certain conditions, put to sea instead of being quarantined.

9. The master of any such vessel shall, before bulk is broken, have the right of putting to sea with such vessel, instead of allowing her to be quarantined, and if this right is exercised, and the vessel has not arrived at her port of destination, the bill of health shall be returned after the inspecting physician has mentioned thereupon the length and circumstances of the detention and the condition of the said vessel on her putting to sea: Provided always, that before the exercise of such right by the master of such vessel, the inspecting physician shall satisfy himself that the sick of the vessel will be taken care of during the remainder of the voyage; and if any of the sick prefer to remain at such port the said physician shall take care of them. 35 V., c. 27, s. 9.

Sums and penalties to form part of Con. Rev. Fund.

10. All sums and pecuniary penalties levied under the authority of this Act shall be paid into the hands of the Minister of Finance and Receiver General, and shall form part of the Consolidated Revenue Fund of Canada. 35 V., c. 27, s. 10.

Penalty for disobeying unrevoked regulations.

11. Every one who disobeys any unrevoked regulation made by the Governor in Council respecting quarantine, is guilty of a misdemeanor and liable to fine or imprisonment or both, in the discretion of the court; or such person may be sued for the penalties prescribed by such regulation. 35 V., c. 27, s. 12, *part*.



CHAPTER 69.

An Act respecting Infectious or Contagious Diseases A. D. 1886.
affecting Animals.

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

SHORT TITLE.

1. This Act may be cited as "*The Animal Contagious Diseases Act.*" 48-49 V., c. 70, s. 1.

INTERPRETATION.

2. In this Act, unless the context otherwise requires:—

(a.) The expression "cattle" means bulls, cows, oxen, heifers and calves;	Interpretation. "Cattle."
(b.) The expression "animals" means cattle, sheep, horses only where specially mentioned, swine, goats and all other animals of whatsoever kind;	"Animals."
(c.) The expression "foreign animals" means animals not already introduced into Canadian territory;	"Foreign animals."
(d.) The expression "contagious" means communicable by close contact or inoculation;	"Contagious."
(e.) The expression "infectious" means communicable in any manner whatsoever;	"Infectious."
(f.) The expression "infectious or contagious disease" includes, in addition to other diseases generally so designated, glanders, farcy, mange, pleuro-pneumonia, foot and mouth disease, anthrax, rinderpest, tuberculosis, splenic fever, scab, hog cholera, hydrophobia and variola ovina.	"Infectious or contagious disease."

48-49 V., c. 70, s. 2.

DUTIES OF OWNERS OF CATTLE.

3. Every cattle or farm stock owner and every breeder of or dealer in cattle or other animals, and every one bringing foreign animals into Canada, shall, on perceiving the appearance of infectious or contagious disease among the cattle or other animals owned by him or under his special care, give immediate notice to the Minister of Agriculture, at Ottawa, of the facts discovered by him as aforesaid. 48-49 V., c. 70, s. 3.

Notice of disease to be given to Minister of Agriculture by breeders or dealers.

Penalty for neglect.

4. Every owner of such diseased cattle or other animals who neglects to comply with the provisions of the next preceding section shall forfeit his claim to compensation for any cattle or other animals slaughtered in accordance with the provisions of this Act; and no such compensation shall be granted to him: and every person who maliciously or fraudulently conceals the existence of infectious or contagious disease among cattle or other animals, shall incur a penalty not exceeding two hundred dollars. 48-49 V., c. 70, s. 4.

Or fraudulent concealment of disease.

Penalty for keeping diseased animals in places not enclosed.

5. Every person who turns out, keeps or grazes any animal knowing such animal to be infected with or laboring under any infectious or contagious disease, or to have been exposed to infection or contagion, in or upon any forest, wood, moor, beach, marsh, common, waste-land, open field, roadside or other undivided or unenclosed land, shall, for every such offence, incur a penalty not exceeding two hundred dollars. 48-49 V., c. 70, s. 5.

Penalty for bringing such animals to market, &c.

6. Every person who brings or attempts to bring into any market, fair or other place, any animal known by him to be infected with or laboring under any infectious or contagious disease, shall, for every such offence, incur a penalty not exceeding two hundred dollars. 48-49 V., c. 70, s. 6.

Penalty for selling or putting off such animals, &c.

7. Every person who sells or disposes of, or puts off, or offers or exposes for sale, or attempts to dispose of or put off any animal known by him to be infected with or laboring under any infectious or contagious disease, or the meat, skin, hide, horns, hoofs or other parts of an animal known by him to be infected with or laboring under any infectious or contagious disease at the time of its death, whether such person is the owner of such animal, or of such meat, skin, hide, horns, hoofs or other parts of such an animal, or not, shall, for every such offence, incur a penalty not exceeding two hundred dollars. 48-49 V., c. 70, s. 7.

For throwing carcass into rivers, &c.

8. Every person who throws or places, or causes or suffers to be thrown or placed, into or in any river, stream, canal, navigable or other water, or into or in the sea, within ten miles of the shore, the carcass of an animal which has died of disease, or which has been slaughtered as diseased or suspected of disease, shall, for every such offence, incur a penalty not exceeding two hundred dollars. 48-49 V., c. 70, s. 8.

For digging up any such carcass when buried.

9. Every person who, without lawful authority or excuse, digs up or causes or allows to be dug up the buried carcass of an animal which has died or is suspected of having died from infectious or contagious disease, or which has been slaughtered as diseased or as suspected of disease, shall, for every such offence, incur a penalty not exceeding one hundred dollars. 48-49 V., c. 70, s. 9.

10. If any animal infected with or laboring under any infectious or contagious disease, is sold, disposed of, or put off, or is exposed or offered for sale in any place whatsoever, or is brought or attempted to be brought for the purpose of being exposed or offered for sale in any market, fair or other open or public place where other animals are commonly exposed for sale, any clerk or inspector, or other officer of such fair or market, or any constable or policeman, or any other person authorized by the mayor or reeve, or by any justice of the peace having jurisdiction in the place, or any person authorized or appointed by the Governor in Council, may seize the same, and report the seizure to the mayor or reeve, or to any justice of the peace having jurisdiction in the place; and such mayor, reeve or justice, or person authorized or appointed by the Governor in Council, may cause the same, together with any pens, hurdles, troughs, litter, hay, straw or other articles which he judges likely to have been infected thereby, to be forthwith destroyed, or otherwise disposed of, in such manner as he deems proper, or as is directed, as provided by this Act. 48-49 V., c. 70, s. 10.

Such animals if offered for sale to be seized and reported to the mayor, &c.

Who may cause them, with things supposed infectious, to be destroyed.

11. The preceding sections of this Act shall have force and effect at all times, whether an Order in Council or of the Minister of Agriculture has or has not been made in respect of any matter in relation to which it is, by this Act, provided that such orders may be made. 48-49 V., c. 70, s. 11.

Effect of foregoing sections

SLAUGHTERING DISEASED CATTLE.

12. The Governor in Council may, from time to time, cause to be slaughtered animals suffering from infectious or contagious disease, and animals which are or have been in contact with or close proximity to a diseased animal, or an animal suspected of being affected by infectious or contagious disease 48-49 V., c. 70, s. 12.

Slaughtering diseased animals.

13. The Governor in Council may order a compensation to be paid to the owners of animals slaughtered under the provisions of this Act; and whenever the animal slaughtered was affected by infectious or contagious disease, the compensation shall be one-third of the value of the animal before it became so affected, but shall not in any such case exceed twenty dollars; in every other case the compensation shall be three-fourths of the value of the animal, but shall not in any case of grade animals exceed fifty dollars, and in any case of thorough-bred pedigree animals two-thirds of the value of the animal, not to exceed one hundred and fifty dollars; and in all such cases the value of the animal shall be determined by the Minister of Agriculture or by some person appointed by him:

Compensation to owners in certain cases.

Amount.

Value to be determined by Minister.

2. Such compensation may be withheld in whole or in part whenever the owner or the person having charge of the animal has, in the opinion of the Minister of Agriculture,

Compensation may be withheld in certain cases.

been guilty, in relation to the animal, of an offence against this Act, or whenever the animal, being a foreign one, was, in his judgment, diseased at the time of entering Canada :

Excess of produce of sale over compensation to go to owner.

' 3. If in any case the sum received by the Government, on the sale of a carcass of an animal slaughtered, under the provisions of this Act, exceeds the amount paid for compensation to the owner of the animal slaughtered, such excess, after deduction of reasonable expenses, shall be paid to such owner. 49 V., c. 43, ss. 1 and 2.

Experimental treatment and *post mortem* examination.

14. The Minister of Agriculture may, notwithstanding anything in this Act, reserve for experimental treatment any animal ordered to be slaughtered under this Act, and may authorize any of his officers or persons employed by him to make *post mortem* examinations of animals which have died, or are supposed to have died, from infectious or contagious disease, and to dig up carcasses of such animals for the purpose of investigation. 48-49 V., c. 70, s. 14.

PROHIBITION OF IMPORTATION.

Governor in Council may prohibit importation of animals and certain articles.

15. The Governor in Council may, from time to time, prohibit the importation or the introduction into Canada, or any part thereof, or into any particular port or ports thereof, of horses, cattle or other animals, or of flesh, hides, hoofs, horns or other parts of animals, or of hay, straw, fodder or other articles, either generally or from any place or places named in the Order in Council, for such period as he deems to be necessary for the purpose of preventing the introduction of any contagious or infectious disease among animals in Canada. 48-49 V., c. 70, s. 15.

APPOINTMENT OF OFFICERS, ETC.

Limits of ports, &c., and appointment of officers.

16. The Governor in Council may, from time to time, define the limits of ports, and of other circumscriptions for the purposes of this Act, and appoint inspectors and other officers when he deems it necessary. 48-49 V., c. 70, s. 16.

INFECTED PLACES.

Duty of inspectors and officers on information received.

17. Inspectors or other officers appointed as aforesaid, on receiving information of the supposed existence of any infectious or contagious disease among animals, shall proceed to the place mentioned with all practicable speed, and execute and discharge their duties pursuant to the regulations made under the authority of this Act and the instructions received by them. 48-49 V., c. 70, s. 17.

Notice to owners of places where disease is found.

18. Whenever an inspector finds infectious or contagious disease of animals to exist within his district, he shall forthwith make a declaration thereof under his hand, and shall deliver a notice, under his hand, of such declaration to the

occupier of the common, field, stable, cowshed or other premises where the disease is found; and thereupon the same, with all lands and buildings contiguous thereto in the same occupation, shall be deemed to be an infected place; and the same shall be held to be an infected place until the determination and declaration of the Minister of Agriculture relative thereto in this Act provided for. 48-49 V., c. 70, s. 18.

Consequence
of notice.

19. Whenever an inspector makes such a declaration of the existence of infectious or contagious disease of animals, he shall, with all practicable speed, send a copy thereof to the Minister of Agriculture; and if it appears that infectious or contagious disease exists as declared by the inspector, the Minister of Agriculture may so determine and declare, and may prescribe the limits of the infected place; but if it appears that it did not exist as declared by the inspector, the Minister of Agriculture may so determine and declare, and thereupon the place comprised in the inspector's declaration, or affected thereby, shall cease to be deemed an infected place. 48-49 V., c. 70, s. 19.

Report to
Minister of
Agriculture.

Power of
minister.

20. Whenever, under this Act, an inspector makes a declaration which constitutes a place an infected place, he may also, if the circumstances of the case appear to him so to require, deliver a notice under his hand of such declaration to the occupiers of all lands and buildings adjoining thereto, any part whereof respectively lies within one mile of the boundaries of the infected place in any direction, and thereupon the provisions of this Act with respect to infected places shall apply to and have effect in respect of such lands and buildings as if the same were actually within the limits of the infected place. 48-49 V., c. 70, s. 20.

Power of
inspector
declaring a
place infect-
ed; extension
of boundaries.

21. The area of an infected place may, in all cases of a declaration by the Minister of Agriculture, include any common, field, stable, cowshed, or other premises in which infectious or contagious disease has been found to exist, and such an area as to the said Minister seems requisite; and the said Minister may, from time to time, by order, extend or curtail the limits of an infected place beyond the boundaries of the common, field, stable, cowshed, farm or premises where infectious or contagious disease is declared or found to exist. 48-49 V., c. 70, s. 21.

Area of
infected
locality, how
defined.

Limits may
be varied.

22. The area of an infected place may, in any case, be described by reference to a map or plan deposited at some specified place, or by reference to townships, parishes, farms, or otherwise. 48-49 V., c. 70, s. 22.

How area
may be
described.

23. The Minister of Agriculture may, at any time, upon the report of an inspector, by order, declare any place to be free from infectious or contagious disease; and thereupon,

Declaring a
place free
from disease.

and from the time specified in that behalf in the order, the place shall cease to be deemed an infected place. 48-49 V., c. 70, s. 23.

Order of the Minister to supersede any local order.

24. An order of the Minister of Agriculture relative to an infected place shall supersede any order of a local authority inconsistent with it. 48-49 V., c. 70, s. 24.

As to transit through infected places.

25. The provisions of this Act with respect to infected places, shall not restrict the moving of any person, animal or thing by railway or other mode of transport on highways through an infected place, if such person, animal or thing is not detained within the infected place, unless such transport is prohibited. 48-49 V., c. 70, s. 25.

CLEANSING OF VESSELS AND VEHICLES.

Vessels, vehicles, &c., to be cleansed and disinfected.

26. Every company and every person carrying for hire animals to or in Canada, shall thoroughly cleanse and disinfect, in such manner as the Governor in Council, from time to time, directs, all steamships, steamers, vessels, boats, pens, carriages, trucks, horse-boxes and vehicles used by such company or person for the carrying of animals; and the Governor in Council may cause any such steamship, steamer, vessel, boat, carriage, truck, horse-box or vehicle, to be detained at such place as to him seems meet, until it is so cleansed and disinfected:

And may be detained for that purpose.

On default, Minister may cause the work to be done.

2. If the company or person using such steamship, steamer, vessel, boat, carriage, truck, horse-box or vehicle for the carrying of animals, fails to cause the same to be so cleansed and disinfected within such time after being notified so to do as the Minister of Agriculture directs, the Minister may cause the same to be cleansed and disinfected at the expense of such company or person. 48-49 V., c. 70, s. 26.

REGULATIONS

Governor in Council may make regulations.

27. The Governor in Council may, from time to time, make such regulations as to him seem necessary for any of the following purposes, that is to say:—

For subjecting animals to quarantine, &c.

(a.) For subjecting horses or other animals to quarantine, or for causing the same to be destroyed upon their arrival in Canada, or for destroying any hay, straw, fodder or other article whereby it appears to him that infection or contagion may be conveyed, and generally for regulating the importation or introduction into Canada of horses or other animals in such manner as to prevent the introduction of any infectious or contagious disease into Canada;

For separation of diseased animals.

(b.) For the keeping separate, treatment and disposal of, and dealing generally with animals affected with infectious or contagious diseases, or suspected of being so affected, or which have been in contact with animals so affected or suspected of being so affected, and for the prevention of the spread of infectious or contagious diseases;

(c.) For segregating and confining animals within certain limits, for establishing districts of inspection or of quarantine, and for prohibiting or regulating the removal to or from such parts of or places in Canada, as he designates in such regulations, of cattle or other animals, or of meats, skins, hides, horns, hoofs or other parts of any animals, or of hay, straw, fodder or other articles likely to propagate infection;

For segregating animals, &c.

Districts of quarantine.

Removal.

(d.) For purifying any yard, stable, outhouse or other place, or any wagons, carts, carriages, cars or other vehicles, or any vessels, and for directing how any animals dying in a diseased state, or any animals, parts of animals, or other things seized under the provisions of this Act, are to be destroyed or otherwise disposed of;

Purification of infected places, &c.

Disposal of diseased animals, &c.

(e.) For causing notices to be given of the appearance of any disease among animals;

Notice of disease.

(f.) For requiring notice of the appearance of any such disease among animals;

Requiring notice.

(g.) For prohibiting or regulating the holding of markets, fairs, exhibitions or sales of animals;

Prohibiting markets, &c.

(h.) For declaring any market, railway yard, cattle yard, pen, wharf, steamship, steam or other vessel, railway car or other vehicle, on or in which animals are exposed for sale, or are placed for the purpose of transit, to be infected, and for declaring the same to be no longer infected;

Declaring market, steamship, &c., infected.

(i.) For the slaughtering of animals as provided for by this Act;

Slaughtering animals.

(j.) For requiring proof of the fact that horses or other animals imported into or passing through Canada have not, at the time of their embarkation, been brought from any place or locality where any contagious or infectious disease is, at the said time, in existence; and, generally,—

Proof as to animals imported.

(k.) Any orders whatsoever which he thinks it expedient to make for the better execution of this Act, or for the purpose of, in any manner, preventing the spreading of and for the extirpation of contagious or infectious disease among animals, whether any such orders are of the same kind as the kinds enumerated in this section or not. 48-49 V., c. 70, s. 27.

Power to make orders generally under this Act

28. The Minister of Agriculture may, from time to time, make such regulations as to him seem necessary for preventing the removal of live animals, or the hide, skin, hair, offal of any animals or any part thereof, the carcass or any remains of any animal, any dung of animals, and any hay, straw, litter or other thing commonly used for or about animals, out of an infected place, without a license signed by an inspector or other officer appointed as aforesaid. 48-49 V., c. 70, s. 28.

Preventing removal of animals, fodder, &c.

29. Every regulation made under either of the two sections next preceding shall have the like force and effect as if it had been embodied in this Act. 48-49 V., c. 70, s. 29.

Effect of such orders.

PUBLICATION AND EVIDENCE.

Publication of Orders in Council, &c.

30. Every Order in Council prohibiting the importation or the introduction of horses or other animals into Canada, or establishing quarantines for horses or other animals, ordering the slaughtering of animals, or declaring any market, railway yard, cattle yard, pen, wharf, steamship, steam or other vessel, railway car or other vehicle to be infected, and every order of the Minister of Agriculture, declaring any place infected, shall be published twice in the *Canada Gazette*. 48-49 V.. c. 70, s. 30.

Order in Council, &c., to be evidence.

31. An order of the Governor in Council declaring any market, railway yard, cattle yard, pen, wharf, steamship, steam or other vessel, railway car or other vehicle to be infected, or of the Minister of Agriculture, declaring a place to be an infected place, or a copy of the declaration of the inspector certified by him, a notice of which has been delivered under the eighteenth section of this Act, shall be conclusive evidence in all courts of justice and elsewhere of the existence of disease and other matters to which the order or declaration relates. 48-49 V., c. 70, s. 31.

Proof of orders or regulations.

32. Any order or regulation made or issued under this Act, or under any order of the Governor in Council or of the Minister of Agriculture, may be proved by the production of a printed or other copy of such order or regulation, certified by the Minister of Agriculture; and any such order or regulation shall, until the contrary is proved, be deemed to have been duly made and issued at the time at which it bears date. 48-49 V., c. 70, s. 32.

Presumption as to orders.

33. The certificate of an inspector or an officer, as aforesaid, to the effect that an animal is affected with an infectious or contagious disease shall, for the purposes of this Act, be *primâ facie* evidence in all courts of justice and elsewhere of the matter certified. 48-49 V., c. 70, s. 33.

Inspector's certificate to be *primâ facie* evidence.

34. Any inspector or other officer appointed as aforesaid may, at any time, for the purpose of carrying into effect any of the provisions of this Act, enter any common, field, stable, cow-shed or other premises within his district, where he has reasonable ground for supposing that any animal affected with infectious or contagious disease is to be found, but shall, if required, state in writing the grounds on which he has entered. 48-49 V., c. 70, s. 34.

POWERS OF INSPECTORS.

Power to enter and examine suspected localities.

35. Any inspector or any officer authorized to carry this Act into effect, may, at all times, enter on board any steamship, steamer, vessel or boat in respect whereof he has reasonable ground for supposing that any company or person has failed

Power of entry to inspect vessels, &c.,

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to comply with the requirements of any order respecting the cleansing and disinfecting of steamships, steamers, vessels, boats, pens, carriages, trucks, horse-boxes or vehicles used by such company or person for the carriage of animals, and on premises where he has reasonable ground for supposing that any pen, carriage, car, vessel, truck, horse-box or vehicle, in respect whereof any company or person has on any occasion so failed, is to be found. 48-49 V., c. 70, s. 35.

Or premises suspected.

OFFENCES AND PENALTIES.

36. Every company and person who refuses admission to an inspector or other officer acting under the next preceding section, shall, for every such offence, incur a penalty not exceeding one hundred dollars. 48-49 V., c. 70, s. 36.

Penalty for refusing admission to vessels, &c.

37. Every person who refuses to admit any inspector or officer acting under this Act, or under regulations or orders made in conformity with this Act, to any common, field, stable, cow-shed or other premises within his district where such inspector or officer has reasonable ground for supposing that any animal affected with infectious or contagious disease is to be found, shall, for every such offence, incur a penalty not exceeding fifty dollars. 48-49 V., c. 70, s. 37.

Penalty for refusing admission under regulations.

38. Every person who obstructs or impedes an inspector or other officer acting in execution of this Act, or of any order of or regulation made by the Governor in Council or the Minister of Agriculture thereunder, and every person who aids and assists him therein, shall for every such offence, incur a penalty not exceeding one hundred dollars; and the inspector or other officer may apprehend the offender and take him forthwith before a justice of the peace to be dealt with according to law; but no person so apprehended shall be detained in custody, without the order of a justice, longer than twenty-four hours. 48-49 V., c. 70, s. 38.

Arrest of persons impeding execution of this Act.

How to be dealt with.

39. If any horses, cattle or other animals are imported or introduced, or attempted to be imported or introduced, into Canada, contrary to the provisions of any order or regulation made in pursuance of this Act, the same shall be forfeited and may be forthwith destroyed or disposed of, as the Minister of Agriculture or any person employed by him in that behalf directs; and every person who imports or introduces, or attempts to import or introduce, any horse or other animal into Canada, contrary to the provisions of any such order or regulation, shall incur a penalty not exceeding two hundred dollars for every horse or other animal so imported or introduced, or attempted to be imported or introduced by him. 48-49 V., c. 70, s. 39.

Forfeiture of animals imported contrary to Order in Council.

Penalty for attempting importation.

40. Every person who moves, or causes or allows to be moved, any animal, hide, skin, hair, wool, horn, hoof, offal,

Penalty for unlawful removal.

carcass, meat, dung, hay, straw, litter or other thing in violation of the provisions of this Act with respect to infected places, shall, for every such offence, incur a penalty not exceeding two hundred dollars. 48-49 V., c. 70, s. 40.

Penalty for entering where entrance is forbidden.

41. Whenever a person having cattle in his possession or keeping within a district wherein infectious or contagious disease exists, affixes at the entrance to a building or inclosed place in which such cattle are kept, a notice forbidding persons to enter into that building or place without his permission, then, if any person not having a right of entry or way into that building or place, knowingly enters into the same, or any part thereof, in violation of the notice, he shall, for every such offence, incur a penalty not exceeding twenty dollars. 48-49 V., c. 70, s. 41.

Penalty for neglect to cleanse vessels. &c.

42. Every company or person who fails to comply with the requirements of any Order in Council, respecting the cleansing and disinfecting of steamships, steamers, vessels, boats, pens, carriages, trucks, horse-boxes or vehicles used by such company or person for the carriage of animals, shall, for every such offence incur a penalty not exceeding two hundred dollars. 48-49 V., c. 70, s. 42.

Penalty for violation of regulations.

43. Every person who violates any provision of this Act, or of any regulation made by the Governor in Council or by the Minister of Agriculture, under the authority of this Act, in respect to which no penalty is hereinbefore provided, shall, for every such offence, incur a penalty not exceeding two hundred dollars. 48-49 V., c. 70, s. 43.

Apprehension of persons offending against this Act.

44. Any constable may, without warrant, apprehend any person found committing an offence against the provisions of this Act with respect to infected places, and shall take any person so apprehended forthwith before a justice of the peace to be examined and dealt with according to law; and a person so apprehended, shall not be detained in custody by any constable without the order of a justice longer than twenty-four hours; and any constable may require that any animal or thing moved out of an infected place in violation of the provisions of this Act be forthwith taken back within the limits of that place, and may enforce and execute such requisition at the expense of the owner of such animal or thing. 48-49 V., c. 70, s. 44.

Return of removed animal, &c., to infected place.

Where offence shall be held to have been committed.

45. Every offence against this Act, or against any order or regulation of the Governor in Council or of the Minister of Agriculture, shall, for the purposes of proceedings under this Act, or of any such order or regulation, be deemed to have been committed, and every cause of complaint under this Act, or any such order or regulation, shall be deemed to have arisen either in the place in which the same actually was

committed or arose, or in any place in which the person charged or complained against happens to be. 48-49 V., c. 70, s. 45.

46. Every penalty imposed by this Act shall be recoverable, with costs, before any two justices of the peace, or any magistrate having the powers of two justices of the peace, under the "*Act respecting summary proceedings before Justices of the Peace.*" Recovery of penalties.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 70.

An Act respecting Lighthouses, Buoys and Beacons, and Sable Island. A.D. 1886.

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

1. All lighthouses, light ships, floating and other lights, lanterns, and other signals, buoys and beacons, anchors and land marks, acquired, constructed, repaired, maintained, improved, erected, placed or laid down, for the greater security and facility of navigation, at the expense of any Province of the Dominion of Canada before it became a part thereof, or at the expense of the Dominion of Canada, together with all buildings and other works belonging thereto and in connection therewith, are vested in Her Majesty, and shall be under the direct control and management of the Minister of Marine and Fisheries. 31 V., c. 59, ss. 1, 2 and 3;—33 V., c. 18, s. 2.

Lighthouses, &c., to vest in Her Majesty, and be under the control of the Minister of Marine and Fisheries.

2. The Minister of Marine and Fisheries may direct the construction of all lighthouses, light ships, floating and other lights, lanterns and other signals, buoys, beacons, anchors and landmarks, and of all buildings and other works belonging thereto and in connection therewith, hereafter to be constructed at the expense of Canada for the greater security and facility of navigation, the construction of any of which is, by the Governor in Council, placed under the direction of the said Minister, as well as the maintenance and repair of the same when constructed, and the maintenance and repair of all similar buildings and other works placed under his direct control and management by this Act: but nothing in this Act shall give authority to the said Minister to cause expenditure not previously sanctioned by Parliament. 33 V., c. 18, s. 1.

The Minister of Marine and Fisheries to direct construction of Lighthouses, &c.

Proviso.

3. The Governor in Council may, from time to time, by proclamation, transfer from the Department of Marine and Fisheries to the Department of Public Works, the construction and repair of lighthouses. 42 V., c. 7, s. 5, *part*.

Provision for transfer of construction, &c., to Public Works.

4. The Minister of Marine and Fisheries shall, on authority of the Governor in Council, from time to time, direct as many buoys, beacons and other marks, to be placed in and about the

Minister to direct placing of buoys, beacons, &c., and

make regulations.

various lakes, rivers, bays and harbors in Canada, as to him appears necessary for the safety of the shipping and convenient navigation of such lakes, rivers, bays and harbors respectively. 31 V., c. 59, s. 4, *part*.

Appointment of officers, &c.

5. The Governor in Council may appoint superintendents, keepers, and such other officers as are necessary for the purposes of this Act. and the Minister of Marine and Fisheries may make contracts for supplies or purchase supplies, for the use of lighthouses, beacons, light ships, floating and other lights, lanterns and signals, and generally may do all such things as are necessary for carrying this Act fully into effect. 31 V., c. 59, s. 7, *part*;—33 V., c. 18, s. 2.

Persons found residing on Sable Island or St. Paul's Island may be punished.

6. The superintendent, or the resident keeper, or any officer of the Department of Marine, or any other person acting under the authority of the Minister of Marine and Fisheries, may apprehend any person who is found residing on Sable Island or St. Paul's Island, having voluntarily gone there for any purpose whatever, without a license from the Minister describing such person and authorizing him to reside thereon, and may bring him and all property found in his possession to Halifax; and any stipendiary magistrate, or police magistrate or two justices of the peace, upon proof that he was so found, may commit him to gaol for not more than six months, and further, until he gives security for his future good behavior; and whatever property is found on the said islands belonging to any such offender shall, by order of such magistrates or justices, be sold, and the proceeds applied to pay the expense of the removal of such offender and goods, and the residue, if any, returned to the owner; but if it appears that such property has been cast on the shores of the islands, or proceeds from some wrecked or stranded vessel, it shall be sold, and the proceeds, after payment of the expenses, paid to the owner or his agent, or otherwise be paid to the Minister of Finance and Receiver General for the right owner when discovered, who, upon proof to the satisfaction of a judge of the Supreme Court of Nova Scotia of his right thereto, shall receive the same. 31 V., c. 59, s. 12.

As to property of such offenders on the Islands

Vessels or goods stranded on such islands, how to be dealt with.

7. When vessels or goods are stranded on Sable Island or St. Paul's Island, or on any of the bars or coasts thereof, and such vessels or goods, or any part thereof, are saved by the superintendent or by any other officer of the Department of Marine, or by any person under the authority of the Minister of Marine and Fisheries, such vessels or goods shall be taken in charge by the superintendent or keeper and sent to Halifax, to be disposed of under the direction of the Minister, for the benefit of the owners, after payment of such salvage as the Minister directs, to the establishment of Sable Island or St. Paul's Island, as the case may be, and all other

Payment of salvage and expenses.

expenses incurred with respect to such vessels or goods, unless the Minister gives contrary orders to the superintendent or keepers; and all goods so saved shall be held to be in the possession of the Minister, and shall not, on any pretence, be taken out of the custody of such superintendent or keepers, or persons employed by either of them, except by order of the Minister, and until payment of the salvage and expenses; and such goods shall be liable to duties of customs. 31 V., c. 59, s. 14.

Disposal of goods.

8. The superintendent, or resident keeper, shall have and exercise in every respect upon the Sable Island and St. Paul's Island, and in relation to wrecks or wrecked goods there and elsewhere, the same power and authority as a justice of the peace. R. S. N. S. (3rd Series), c. 23, s. 3.

Superintendent to have power of a justice of the peace.

9. In all proceedings in any court, Sable Island shall be held to be within the county of Halifax, and Saint Paul's Island to be within the county of Victoria, in the Province of Nova Scotia; and any person charged with committing any criminal offence committed thereon, or on the shores, banks or bars thereof, may be proceeded against and tried as if the islands were actually within the body of such counties respectively. R. S. N. S. (3rd Series), c. 23, s. 5.

In what counties such islands shall be deemed to be.

10. The Governor in Council may, from time to time, make regulations,—

(a.) For the maintenance of buoys, beacons, anchors and marks erected, placed or laid down at the expense of any of the Provinces aforesaid, or at the expense of Canada;

Regulations as to buoys, beacons, &c.

(b.) For the proper lighting and keeping of lighthouses, light ships, floating and other lights, lanterns and other signals;

Lighthouses.

(c.) For the government of Sable Island and St. Paul's Island, and for defining the duties of the resident keepers thereon, for administering relief to shipwrecked persons and their removal, for preserving and removing shipwrecked property, and preventing persons not authorized by the Minister of Marine and Fisheries from taking up their residence thereon, and for the general management of the said islands;

Government of the islands.

And may prescribe penalties for any violation of the said regulations not exceeding two hundred dollars. 31 V., c. 59, ss. 4, part, 7, part, and 13.

Penalties for contravention.

11. Such penalties may be recovered in the name of Her Majesty, by any officer of the Department of Marine and Fisheries, or by any person employed by the Minister in carrying this Act, or regulations made under it, into effect, or by any person aggrieved, on the evidence of one credible witness, who may be the prosecutor himself (unless he is the person aggrieved), before any stipendiary magistrate, or police magistrate, or judge of the sessions of the peace, or

Provision for the summary recovery of penalties.

two justices of the peace, under the "*Act respecting summary proceedings before Justices of the Peace*"; and in default of payment of such penalty, such magistrate, judge or justices may commit the offender to gaol for any period not exceeding three months; and all such penalties shall be paid over to the Minister of Finance and Receiver General. 31 V., c. 59, s. 6.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 71.

An Act respecting discipline on board of Canadian Government Vessels. A.D. 1886.

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

SHORT TITLE.

1. This Act may be cited as "*The Government Vessels Discipline Act.*" 33 V., c. 16, s. 1. Short title.

INTERPRETATION.

2. Every vessel employed by the Government of Canada, either temporarily or permanently, shall be deemed while so employed to belong to the Government for the purposes and within the true intent and meaning of this Act. 33 V., c. 16, s. 12. Vessels employed by Government.

3. In this Act, except in the next following section, the expression "master" includes any person for the time being lawfully in command or in charge of any such vessel as aforesaid, as the officer thereof highest in rank then on board; and the ship's book of every such vessel shall be conclusive evidence of the relative rank of every officer therein named; and the fact that any such officer was at any particular time in command or in charge of the vessel, and the signature of any such officer, as being so in command or in charge, shall not be called in question except by the Crown. 33 V., c. 16, s. 11. "Master" to mean officer in command for the time being.

SHIP'S BOOK.

4. The master of every vessel belonging to the Government of Canada shall cause every person engaged for service in such vessel, after having had this Act read to him, and before he enters upon the discharge of any duty on board of such vessel, to sign his name in the proper column of a book to be kept by the master for that purpose. 33 V., c. 16, s. 2. Men engaged to have this Act read to them, and to sign ship's book.

5. Such book shall contain a statement of the name of the vessel, the name of the master, and the year for which it is the ship's book of such vessel,—and also statements to the following effect, that is to say: that this Act has been Conditions of engagement of men, and what the ship's book shall show.

read to each person who has signed his name in the proper column, before he signed his name thereto; and that he has thereby consented to submit himself to the provisions of this Act, and to conduct himself in an orderly, faithful, honest and sober manner, and to be at all times diligent in the discharge of his duty, and to be obedient to the lawful commands of the master of the said vessel for the time being and of others his superior officers, whether on board, in boats, or on shore, in everything relating to the said vessel and the stores thereof and to this Act, and that any embezzlement, or wilful or negligent destruction or loss of or injury to any part of the stores of the said vessel shall be made good out of the wages of the person guilty of the same, and that if such person has entered himself as qualified for a duty which he proves incompetent to perform, he may be discharged or his wages may be reduced at the discretion of the master. 33 V., c. 16, s. 3, *part.*

Columns for
certain
matters.

6. Such book shall contain columns properly headed, as follows, that is to say:—

(a.) A column for the names of the persons engaged, including officers;

(b.) A column for the dates when engaged;

(c.) A column for the capacity in which each person is to serve, with the relative rank of the officers, indicated by numbers;

(d.) A column for the period during which each person is to serve;

(e.) A column for the rate of wages at which each person is to be paid;

(f.) A column for the names of the witnesses to each signature;

(g.) A column for the dates of signatures. 33 V., c. 16, s. 3, *part.*

Agreement to
be read over,
&c.

7. The contents of the said book shall be read by the master or other officer of such vessel to each man about to ship on board thereof, and every person so signing any such book shall thenceforth be subject to this Act for and during the period of his engagement as therein mentioned. 33 V., c. 16, s. 4.

DISCIPLINE.

Offences and
their punish-
ment.

8. Whenever any person subject to this Act commits any of the following offences, he shall be liable to be punished summarily on conviction before any commissioner of police appointed under the "*Act respecting the Police of Canada,*" or before any justice of the peace, as follows, that is to say:—

Desertion.

(a.) For desertion he shall be liable to imprisonment for any term not exceeding four weeks with or without hard labor, and also to forfeit all or any part of the clothes and

effects he leaves on board, and all or any part of the wages or emoluments which he has then earned;

(b.) For neglecting or refusing, without reasonable cause, to join his vessel, or to proceed on any voyage or cruise in his vessel, or for absence without leave at any time within twenty-four hours of the vessel's sailing from any port, or for absence at any time without leave and without sufficient reason, from his vessel or from his duty not amounting to desertion, he shall be liable to imprisonment for any term not exceeding four weeks with or without hard labor, and also at the discretion of the commissioner, or justice, to forfeit out of his wages a sum not exceeding the amount of ten days' pay;

Neglecting or refusing to join, or to proceed to sea. Absence without leave.

(c.) For quitting the vessel without leave after her arrival in port at the close of the season of navigation, and before she is placed in security, he shall be liable to forfeit out of his wages a sum not exceeding ten days' pay;

Quitting without leave before ship is secured.

(d.) For wilful disobedience to any lawful command, he shall be liable to imprisonment for any term not exceeding four weeks, with or without hard labor, and also, at the discretion of the commissioner or justice, to forfeit out of his wages a sum not exceeding two days' pay;

Act of wilful disobedience.

(e.) For continued wilful disobedience to lawful commands, or continued wilful neglect of duty, he shall be liable to imprisonment for any term not exceeding four weeks, with or without hard labor, and also, at the discretion of the commissioner or justice, to forfeit for every twenty-four hours' continuance of such disobedience or neglect, a sum not exceeding two days' pay;

Continued disobedience.

(f.) For assaulting any master or officer of any Canadian Government vessel, he shall be liable to imprisonment for any term not exceeding four weeks, with or without hard labor;

Assault on officers.

(g.) For combining with any other or others of the crew to disobey lawful commands, or to neglect duty, or to impede the navigation of the vessel, or the progress of the voyage, or the continuance of the cruise, he shall be liable to imprisonment for any term not exceeding four weeks, with or without hard labor;

Combining to disobey.

(h.) For wilfully damaging the vessel, or embezzling or wilfully damaging any of her stores, he shall be liable to forfeit out of his wages a sum equal in amount to the loss thereby sustained, and also, at the discretion of the commissioner or justice, to imprisonment for any term not exceeding four weeks, with or without hard labor. 33 V., c. 16, s. 5.

Wilful damage or embezzlement.

9. Upon the commission of any of the offences enumerated in the next preceding section, an entry thereof shall be made in the log-book, and shall be signed by the master and also by one of the officers or one of the crew; and the offender, if still in the vessel, shall before the next subsequent arrival of the vessel at any port, or if she is at the time in port, before

Entry of offence to be made in the log-book, and to be read over, and a copy given to the offender, and

his reply, if any, to be also entered.

her departure therefrom, be furnished with a copy of such entry, and have the same read over distinctly and audibly to him, and may thereupon make such reply thereto as he thinks fit; and a statement that a copy of the said entry has been so furnished, and that the same has been so read over as aforesaid, and the reply, if any, made by the offender, shall likewise be entered and signed in manner aforesaid; and in any subsequent legal proceeding the entries hereinbefore required shall, if practicable, be produced and proved, and in default of such production and proof, the commissioner or justice hearing the case may, in his discretion, refuse to receive evidence of the offence. 33 V., c. 16, s. 6.

Master or officer may apprehend deserters without warrant.

10. Whenever, either at the commencement or during the progress of any voyage or cruise, any person subject to this Act neglects or refuses to join, or deserts from, or refuses to proceed on any voyage or cruise, in any vessel belonging to the Government of Canada in which he is duly engaged to serve, or is found otherwise absenting himself therefrom without leave, the master or any officer of such vessel may, in any place in Canada, with or without the assistance of the police constables appointed under the said "*Act respecting the Police of Canada*," who are hereby directed to give the same, if required, apprehend him without first procuring a warrant,—and may thereupon in any case, and shall in case he so requires and it is practicable, convey him before some commissioner of police appointed under the said Act, or before some justice of the peace, to be dealt with according to law,—and may, for the purpose of conveying him before such commissioner or justice, detain him in custody for a period not exceeding twenty-four hours or such shorter time as is necessary, or may, if he does not so require, or if there is no such commissioner or justice at or near the place, at once convey him on board; and if any such apprehension appears to the commissioner or justice before whom the case is brought, to have been made on improper or on insufficient grounds, the master or officer who makes the same or causes the same to be made, shall incur a penalty not exceeding one hundred dollars; but such penalty, if inflicted, shall be a bar to any action for false imprisonment in respect of such apprehension. 33 V., c. 16, s. 7.

Penalty for improper arrest.

Deserters may be sent on board in lieu of being imprisoned.

11. Whenever a person subject to this Act is brought before any commissioner of police, or justice of the peace, on the ground of his having neglected or refused to join or proceed on any voyage or cruise, in any vessel belonging to the Government of Canada, in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, such commissioner or justice may, if the master or any officer thereof so requires, instead of committing the offender to prison, cause him to be conveyed on board for the purpose of proceeding on the voyage or cruise,

or deliver him to the master or any officer of the vessel, to be by him so conveyed, and may in such case order any costs and expenses properly incurred by or on behalf of the master, by reason of the offence, to be paid by the offender, and, if necessary, to be deducted from any wages which he has then earned, or which by virtue of his then existing engagement he may afterwards earn. 33 V., c. 16, s. 8.

12. If any person subject to this Act is imprisoned on the ground of his having neglected or refused to join or to proceed on any voyage or cruise, in any vessel belonging to the Government of Canada in which he is engaged to serve, or of his having deserted or otherwise absented himself therefrom without leave, or of his having committed any other breach of discipline, and if during such imprisonment, and before his engagement is at an end, his services are required on board his vessel, any justice of the peace may, at the request of the master or of any officer thereof, cause such person to be conveyed on board his said vessel for the purpose of proceeding on the voyage or cruise, or to be delivered to the master or any officer of the same, to be by him so conveyed, notwithstanding that the term for which he was sentenced to imprisonment has not expired. 33 V., c. 16, s. 9.

Person imprisoned for desertion or breach of discipline may be sent on board before termination of sentence.

13. Whenever a question arises, whether the wages of any person subject to this Act are forfeited for desertion, it shall be sufficient for the person insisting on the forfeiture to show that such person was duly engaged in, or that he belonged to the vessel from which he is alleged to have deserted, and that he quitted such vessel before the completion of the period of his engagement, and that an entry of the desertion has been duly made in the log-book; and thereupon the desertion shall, as far as relates to any forfeiture of wages or emoluments under the provisions hereinbefore contained, be deemed to be proved, unless the person can produce a proper certificate of discharge, or can otherwise show to the satisfaction of the commissioner of police or justice of the peace, hearing the case, that he had sufficient reasons for leaving his vessel. 33 V., c. 16, s. 10.

Facilities for proving desertion so far as concerns forfeiture of wages.

14. Any justice of the peace for the county or district in which is situated the port where the vessel, on board of which the offence has been committed, touches next after the time of its commission, shall have jurisdiction over an offence committed against the provisions of this Act, and any sentence of imprisonment under this Act may be carried out in the common gaol of such county or district. 33 V., c. 16, s. 13.

What justices shall have jurisdiction



CHAPTER 72.

An Act respecting the Registration and Classification A.D. 1886. of Ships.

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

- 1.** In this Act, unless the context otherwise requires,—
- (a.) The expression “the Minister,” means the Minister of Marine and Fisheries ; Interpretation.
“Minister.”
 - (b.) The expression “ship” includes every description of vessel used in navigation not propelled by oars ; “Ship.”
 - (c.) The expression “ships belonging to Her Majesty,” includes ships the cost of which has been defrayed out of the Consolidated Revenue Fund of Canada, and ships described as the property of Canada by the one hundred and eighth section of “*The British North America Act, 1867* ;” “Ships belonging to Her Majesty.”
 - (d.) The expression “master” includes every person having command or charge of any ship. 36 V., c. 128, s. 4. “Master.”
- 2.** Nothing in this Act shall apply to ships belonging to Her Majesty. 36 V., c. 128, s. 5. Exemption of H. M. ships.
- 3.** This Act is divided into four parts :
- The first part, relating to the measurement and registration of ships ; Division of Act
Registration.
 - The second part, relating to the licensing of small ships and other vessels ; Licensing of small ships.
 - The third part, relating to security for advances on ships in course of construction ; Advances.
 - The fourth part, relating to the inspection and classification of ships. 36 V., c. 128, s. 6. Inspection and classification.

PART I.

MEASUREMENT AND REGISTRATION OF SHIPS.

- 4.** The following ships are exempt from the provisions of this part of this Act, that is to say :— Ships exempt from the provisions of this part of Act.
- (a.) Ships having a whole or fixed deck, not propelled wholly or in part by steam, and not exceeding ten tons burthen ;
 - (b.) Ships not propelled wholly or in part by steam, and not having a whole or fixed deck, whatever their burthen. 36 V., c. 128, s. 7.

What ships only shall be recognized in Canada as British ships.

5. No ship propelled either wholly or in part by steam, whatever her tonnage, and no ship not propelled wholly or in part by steam, of more than ten tons burthen and having a whole or fixed deck, although otherwise entitled by law to be deemed a British ship, shall, unless she is duly registered in the United Kingdom, or in Canada, or some other British possession under "*The Merchant Shipping Act, 1854*," and the Acts amending the same or under the provisions of this Act, be recognized as a British ship, or be admitted to the privileges of a British ship in Canada; but any ship which was duly registered under the provisions of the "*Act respecting the registration of inland vessels*," forming chapter forty-one of the Consolidated Statutes of the late Province of Canada, need not be registered in pursuance of the provisions of this Act, except for the purpose of enabling her to proceed to sea as a British ship :

Case of vessels registered under c. 41 of Con. Stat. Canada provided for.

Disabilities of unregistered ships.

2. No ship which was required to be registered by the said "*Act respecting the registration of inland vessels*" shall, unless she was duly registered under the provisions of the said Act, be recognized in Canada as a British ship. 36 V., c. 128, s. 8 and s. 14, *part*.

No clearance unless certificate is produced.

6. No officer of customs shall grant clearance to any ship required to be registered under the provisions of the Act in the next preceding section mentioned, or of this Act, for the purpose of enabling her to proceed on a voyage, unless the master of such ship, upon being required so to do, produces to him the proper certificate of registry; and if any such ship attempts to proceed on a voyage as a British ship, without a clearance, any officer of customs may detain such ship until such certificate is produced to him. 36 V., c. 128, s. 14, *part*.

Ship in such case may be stopped.

Lieutenant Governors may grant passes to British ships.

7. When it appears to the Lieutenant Governor of any Province of Canada, that by reason of special circumstances it is desirable that permission should be granted to any British ship to pass, without being previously registered, from any port or place within the Province of which he is Lieutenant Governor, to any other port or place in Her Majesty's Dominions, such Lieutenant Governor may grant a pass accordingly, and such pass shall, for the time and within the limits therein mentioned, have the same effect as a pass granted by the Governor General, or as a certificate of registry; and such Lieutenant Governor shall forward, without delay, to the Governor in Council, a copy of each pass granted by him. 36 V., c. 128, s. 9.

Governor in Council may appoint registrars of shipping.

8. The Governor in Council may appoint at and for every port at which he deems it expedient to authorize the registry of ships, the collector or other principal officer of customs, who shall be the registrar for all the purposes of "*The Merchant Shipping Act, 1854*," and the Acts amending the same, and of this Act. 36 V., c. 128, s. 10.

9. The Governor in Council may appoint at every such port, and at any other port in Canada, an officer to superintend the survey and measurement of ships in conformity with the said Acts and this Act; and the same person may be appointed both the registrar and surveyor at any such registry port. 36 V., c. 128, s. 11.

Governor in Council may also appoint surveyors.

10. Such surveyor shall be entitled to such fees for the measurement of ships about to be registered for the first time under this Act, or requiring measurement for the purposes of registry, and to such travelling expenses, when required to travel for the purpose of making any such measurement, as the Governor in Council, from time to time, sees fit to establish; and such fees and travelling expenses shall be paid to such surveyor by the persons requiring his services; and any surveyor may, in any case, withhold his certificate of measurement, or any other document that is required of him, until his fees and travelling expenses are paid; and such fees shall be in lieu of all salary and other remuneration whatsoever for such services. 36 V., c. 128, s. 12, *part*.

Surveyors to be entitled to fees and travelling expenses.

By whom paid.

11. No fees shall be charged in Canada for registering vessels or recording transactions relating to the registry of vessels under this Act or under "*The Merchant Shipping Act, 1854*," or the Acts amending the same. 36 V., c. 128, s. 12, *part*.

Exception.

12. When two or more persons claim to be builders or owners of any ship, or present the builder's certificate to the registrar of shipping at any port in Canada for the purpose of obtaining registry for such ship under the provisions of section forty of "*The Merchant Shipping Act, 1854*," and are not agreed as to who is the builder or owner of the same, such registrar may refuse to grant registry for such ship, and may summon witnesses, administer oaths, demand any books or papers and receive any evidence relating to such ship. 36 V., c. 128, s. 13, *part*.

Case of conflicting claims to obtain registry of a ship provided for.

13. A copy of such evidence taken, and a report thereon, shall be submitted by him to the Governor in Council, who shall issue such directions in the case as to the giving of security to the other claimant or claimants, or any other matter or thing, as he deems necessary; and registry shall be granted in pursuance of such directions and not otherwise. 36 V., c. 128, s. 13, *part*.

Submission to Governor in Council.

14. No new certificate of registry of a ship registered in Canada shall be granted in Canada, under section forty-eight of "*The Merchant Shipping Act, 1854*," without proof on oath that the certificate of registry of such ship has been lost, mislaid or destroyed. 36 V., c. 128, s. 15.

Proof of loss, &c., of certificate to be on oath.

15. If any British or foreign registered ship is either actually or constructively wrecked, and the register thereof is

Wrecked ship may be registered by au-

thority of the
Governor in
Council.

closed and the certificate of registry is delivered up to the proper officer and cancelled; or, if any ship, sailing under a pass from the Governor General, or under a pass from a Lieutenant Governor under this Act, is either actually or constructively wrecked on the voyage, and during the time and within the limits mentioned in such pass, the Governor in Council may direct that such ship may be registered as a British ship in any port in Canada at and for which there is a registrar of shipping, on proof being adduced to the satisfaction of the Governor in Council that such ship has been thoroughly repaired and made seaworthy, and also that all the transactions connected with the wreck, condemnation and sale of such ship were in good faith, and that all the requirements of the law have been complied with; but no registrar of shipping shall register any such ship without the authority of the Governor in Council. 36 V., c. 128, s. 16.

Proviso.

Access to
registers of
ships.

16. Every person may, upon payment of a fee of twenty cents, have access to the register of any ship registered in Canada, at the port of registry of such ship, at any reasonable time during the hours of official attendance of the registrar; and such fees shall, from time to time, as directed by the Governor in Council, be paid by the registrars receiving the same to the Minister of Finance and Receiver General, and shall form part of the Consolidated Revenue Fund of Canada. 36 V., c. 128, s. 17.

Collectors of
customs to
indorse
changes of
masters on
certificates.

17. Subject to the provisions of this Act, collectors or other principal officers of customs in Canada, not being registrars of shipping, shall have the same power and be under the same obligation as registrars of shipping under "*The Merchant Shipping Act, 1854*," to indorse, from time to time, on the certificate of registry of any ship at any port in Canada where the said ship is, any change of master which takes place at that port. 36 V., c. 128, s. 18.

Indorsement
of change of
master by
registrar or
collector, on
what proof to
be made.

18. Notwithstanding anything to the contrary contained in the forty-sixth section of "*The Merchant Shipping Act, 1854*," if any registrar of shipping or collector or other principal officer of the customs at any port or place in Canada receives conflicting directions from owners of any ship registered in Canada as to a change of the master of such ship, such registrar or collector or other principal officer may refuse to indorse a memorandum of the change of master on the certificate of registry of such ship, until he receives a declaration, according to the form in the first schedule to this Act, or as near thereto as circumstances permit, from the registered owners representing a majority of shares in such ship, or from their duly appointed agents, setting forth the name of the person appointed in lieu of the former master, who shall be named in such declaration:

2. The said declaration shall be made and subscribed in the presence of the registrar or collector of customs, if the declarant or declarants reside within five miles of the custom house of the port of registry, but if beyond that distance, in the presence of any registrar or collector of customs in Her Majesty's dominions, or of any justice of the peace :

Declaration, how made and subscribed.

3. In addition to such declaration, the registrar of shipping or collector of customs at the port where the change is requested to be indorsed, may require to be produced a certified copy of the register, or such other evidence as he deems necessary, as proof of the ownership of the ship :

Further evidence may be required.

4. If the ship is at or near such port, he shall, on the demand of a majority of the owners thereof, require the master or any other person in possession of the certificate of registry to produce and deliver the same to him ; and in default of the same being forthwith produced and delivered up to him, he may detain the ship, and not allow her to proceed to sea until the same has been produced and delivered up to him :

Further provisions if the ship is at or near such port.

5. Every person who has possession of the certificate of registry of a ship registered in Canada, and who refuses or neglects to produce and deliver up the same to any registrar of shipping or collector of customs requiring the same to be produced and delivered up to him, under the provisions of this section, shall incur a penalty of five hundred dollars. 36 V., c. 128, s. 19.

Penalty for refusing to deliver up certificate.

19. Every registrar of shipping and every collector of customs shall keep a record of every indorsement of a change of master made by him on the certificate of registry of a ship, and shall specify in such record the date of such indorsement, the name of the ship, the official number of the ship, the port of registry of the ship, the name of the old master, the name of the new master, and whether or not he has a certificate of competency or a certificate of service, and, if he has either of such certificates, the number thereof ; and every such record shall be kept in the office of the registrar of shipping or collector of customs making the same, or his successor as such, and shall, at all times during the usual office hours, be open to all persons for inspection, without fee or reward. 36 V., c. 128, s. 20.

Registrars and collectors to keep records of indorsements of changes of master.

20. Whenever the managing owner, or any of the managing owners (if there are more than one) of a ship registered in Canada is changed, or, if there is no managing owner, whenever the ship's husband is changed, the newly appointed managing owner or owners or ship's husband shall forthwith give notice of such change to the registrar of the ship's port of registry, who shall register the same accordingly ; and every managing owner or ship's husband who fails to comply with the requirements of this section shall incur a penalty not exceeding one hundred dollars. 36 V., c. 128, s. 21.

Change of managing owner or ship's husband to be registered.

Rules as to the names of ships.

How described.

How change may be made

21. The following rules shall be observed with respect to the names of ships registered in Canada :—

(a.) A ship shall not be described by any name other than that by which she is, for the time being, registered ;

(b.) No change shall be made in the name of a ship without the previous permission of the Governor in Council, the application for which shall be made in writing ; if the application is made on reasonable grounds, the Governor in Council may entertain the same, and may thereupon require notice thereof to be published in such form and manner as he thinks fit ; and upon such permission being granted, the ship's name shall forthwith be altered in the register book, in the ship's certificate of registry, and on her bows and stern ;

Name changed without authority to be restored.

(c.) If, in any case, it is shown to the satisfaction of the Governor in Council that the name of any ship has been changed without his previous permission, he may direct that her name be altered to that which she bore before such change, and the name shall be altered in the register book, in the ship's certificate of registry, and on her bows and stern accordingly ;

In new registry previous name to be adhered to.

(d.) If a ship which has once been registered has ceased to be so registered, no person, unless he is ignorant of such previous registry (proof of which shall lie on him), shall apply to register, and no registrar shall knowingly register such ship, except by the name by which she was previously registered, unless he has the permission of the Governor in Council :

Penalty for contravention.

2. Every person who acts, or suffers any person under his control to act in violation of this section, or who omits to do, or suffers any person under his control to omit to do anything required by this section, shall, for each offence, incur a penalty not exceeding four hundred dollars :

Ships may be detained.

3. Any registrar or principal officer of customs may detain such ship until the provisions of this section are complied with. 36 V., c. 128, s. 22.

Statement to be made by the master of a British ship to which a casualty has happened.

22. Whenever a shipping casualty happens anywhere in the case of a ship registered in Canada, or within the limits of Canada in the case of any other British ship, the master, or if the master is dead, the chief surviving officer, and also every such other person belonging to the ship as the Minister, from time to time, directs, shall, within twenty-four hours of his first landing in Canada after the happening of such casualty, attend and submit himself for examination at the office of the principal officer of customs residing at or near the place where such casualty occurred, if the same occurred on or near the coasts of Canada, or any island or place adjacent thereto, but at or near the place of such landing, if the casualty occurred elsewhere, unless he has been previously examined or excused from attending for examination by any other principal officer of customs residing at or near either of

such places, or by any receiver of wreck in the United Kingdom; and if any master, officer or other person makes default in obeying the provisions of this section he shall incur a penalty not exceeding two hundred dollars. 36 V., c. 128, s. 23.

23. Whenever the managing owner of any ship registered in Canada has information that such ship is lost, or in consequence of her non-arrival or otherwise has reason to apprehend that she is lost, he shall forthwith send notice of such loss or apprehended loss to the Minister, and shall, upon requisition by the Minister, furnish to him such information as he is required and is able to furnish respecting such ship, and the loss thereof, and the property and persons on board; and if he makes default in obeying the provisions of this section he shall incur a penalty not exceeding two hundred dollars. 36 V., c. 128, s. 24.

Notice of loss of ships registered in Canada to be given to the Minister.

24. Every registrar of shipping shall, on or before the twentieth day of January in each year, make and forward to the Minister a return, in such form and containing such particulars as the Minister, from time to time, directs, of all existingships of which the registry remained in his registry books, on the thirty-first day of December then last. 36 V., c. 128, s. 25.

Registrar to make annual return to the Minister.

PART II.

LICENSING OF SMALL SHIPS AND OTHER VESSELS.

25. The master, owner or managing owner, or one of the managing owners (if there are more than one) of every vessel not a ship within the meaning of this Act, which is employed in or owned for the purpose of fishing, trading or carrying loads of any kind in any of the waters of Canada, shall, within one month from the date of her being so employed or owned for such purpose by him, or of her being built or acquired for such purpose,—and the master, owner, managing owner or one of the managing owners (if there are more than one), of every ship exempted from the provisions of the first part of this Act, shall take from the collector or other principal officer of the customs at some port or place in Canada a license, which it shall be the duty of the collector or other principal officer of the customs at every port or place in Canada to furnish, without fee or reward, to every person applying for the same at his custom house or office in office hours, and complying with the provisions of this section in respect of such application; and such license shall be in the form of and shall contain the particulars provided for in form B in the second schedule to this Act. 36 V., c. 128, s. 30.

Ships not required to be registered, and certain other vessels to be licensed.

Form of license.

Proceedings for obtaining such license. **26.** Upon any such application being made to a collector or other principal officer of the customs the following provisions shall take effect:—

Blank form to be furnished. (a.) The collector or principal officer of customs shall furnish the applicant gratis with a printed blank for a declaration in the form A in the second schedule to this Act;

How filled up. (b.) The applicant shall fill up the said form with true statements, in their proper places, of the length, breadth, depth and approximate tonnage of the ship or vessel, the names of the owners thereof, and, if the property in the ship or vessel is divided into shares, the number of shares held by each owner, and shall subscribe the same and return it to the officer;

License to be filled up. (c.) The officer shall then fill up a license with the particulars stated in the declaration, adding thereto the name of the port and the number of the license, which shall be consecutive for each port, and he shall sign such license and hand the same to the applicant;

Record to be kept. (d.) The officer shall record the particulars contained in the license in a book to be kept by him for that purpose. 36 V., c. 128, s. 31.

Name of port and number of license to be painted on ship or vessel. **27.** Every ship or vessel so required to be licensed shall, at all times, have the name of the port or place at which she was last licensed, and the number of her last license painted on her bow or stern in letters not less than three inches long, of light color, on a dark ground, and such port or place shall be considered, for the time being, her port of license. 36 V., c. 128, s. 32.

On change of owner, new license to be taken out. **28.** Whenever the property in a ship or vessel so required to be licensed passes wholly into new hands, the master or the new owner or managing owner, or one of the new managing owners, if there are more than one, shall, within one month after such change of ownership as aforesaid, take out a new license at some port or place in Canada, and upon receiving the same shall deliver up the former license, if in his possession, to the collector or other principal officer of the customs at such port or place. 36 V., c. 128, s. 33.

Penalty for neglecting to obtain license. **29.** Every master, owner or managing owner of any ship or vessel so required to be licensed, who neglects, without reasonable cause (the proof of which shall lie upon him), to apply for and take out a license for such ship or vessel within any delay allowed by this Act for that purpose, or who neglects to keep the name of her last port of license and the number of her last license painted on her bow or stern as aforesaid, shall incur a penalty of twenty dollars. 36 V., c. 128, s. 34.

Return of ships and vessels licensed to be sent to **30.** Every officer of customs authorized by this part of this Act to license ships and vessels, shall, on or before the twentieth day of January in each year, make and forward to

the Minister a return in such form and containing such particulars as the Minister, from time to time, directs, of all ships and vessels licensed by him during the year ending on the thirty-first day of December then last. 36 V., c. 128, s. 35.

the Minister annually.

PART III.

SECURITY FOR ADVANCES ON SHIPS IN COURSE OF CONSTRUCTION.

31. A ship about to be built or being built may be recorded under a temporary name by the registrar of shipping at or nearest to the port at which she is about to be built or is being built; and any builder desirous of raising money by a mortgage on any ship about to be built or being built, shall furnish to the registrar of shipping at the port at or nearest to which she is about to be built or is being built, a full description of such ship, and a statement of the port at which she is intended to be registered, according to the form A in the third schedule to this Act, and shall indicate the ship to be built or being built by painting on a board near the place of such building in his shipyard, on a dark ground, in white or yellow figures and letters of a length not less than four inches, the number given to him by the proper registrar of shipping for that purpose, the temporary name of the ship, and the name of the port at which she is intended to be registered. 36 V., c. 128, s. 36.

Ship about to be built or being built, may be recorded by registrar of shipping.

32. A ship about to be built or being built, and so recorded as aforesaid, may be made security for a loan or other valuable consideration; and the instrument creating such security, hereinafter termed a "mortgage," shall be in the form B in the third schedule hereto, or as near thereto as circumstances permit; and on the production of such instrument, the registrar of shipping at the port at which the ship is recorded shall enter the same in a record book to be kept by him for that purpose. 36 V., c. 128, s. 37.

Ships recorded may be made security for a loan.

33. Every such mortgage shall be recorded by the proper registrar of shipping in the order of time in which the same is produced to him for that purpose; and such registrar of shipping shall, by memorandum under his hand, notify on the instrument of mortgage that the same has been recorded by him, stating the date and hour of such record. 36 V., c. 128, s. 38.

Mortgages to be recorded in the order of their production to the registrar.

34. Whenever any recorded mortgage has been discharged the proper registrar of shipping shall, upon the production of the mortgage deed, with a receipt for the mortgage money indorsed thereon, duly signed and attested, make an entry in the record book to the effect that such mortgage has been

Proceedings when such mortgage is discharged.

discharged; and upon such entry being made, the estate, if any, which passed to the mortgagee shall vest in the said person or persons in whom the same would, having regard to intervening acts and circumstances, if any, have vested if no such mortgage had ever been made. 36 V., c. 128, s. 39.

Priority of mortgages.

35. If two or more mortgages are recorded in respect of the same ship, the mortgagees shall, notwithstanding any express, implied or constructive notice, be entitled in priority one over the other, according to the date at which each instrument is recorded in the record book, and not according to the date of each instrument. 36 V., c. 128, s. 40.

Mortgagee not to be deemed owner.

36. A mortgagee shall not, by reason of his mortgage, be deemed to be the owner of a ship, nor shall the mortgagor be deemed to have ceased to be owner of such mortgaged ship, except in so far as is necessary for making such ship available as security for the mortgage debt. 36 V., c. 128, s. 41.

Mortgagee to have power of sale.

37. Every mortgagee may absolutely dispose of the ship in respect of which he is recorded as such mortgagee and give effectual receipts for the purchase money; but if there are more persons than one recorded as mortgagees of the same ship, no second or subsequent mortgagee shall, except under the order of a court capable of taking cognizance of such matters, sell such ship without the concurrence of every prior mortgagee; and every bill of sale, when duly executed, shall be produced to the proper registrar of shipping, who shall enter the particulars thereof in the record book, and shall indorse on the bill of sale the fact of such entry having been made, with the date and hour thereof; and all bills of sale shall be entered in the record book in the order of their production to the registrar of shipping. 36 V., c. 128, s. 42.

Transfer of mortgages.

38. A recorded mortgage of any ship may be transferred to any person; and the instrument creating such transfer shall be in the form C in the third schedule hereto; and on the production of such instrument the registrar of shipping shall enter in the record book the name of the transferee as mortgagee of the ship therein mentioned, and shall, by memorandum under his hand, record on the instrument of transfer that the same has been recorded by him, stating the date and hour of such record. 36 V., c. 128, s. 44.

Transmission of interest of mortgagee by death, insolvency or marriage.

39. If the interest of any mortgagee in any ship recorded under this Act becomes transmitted in consequence of death or insolvency, or in consequence of the marriage of any female mortgagee, or by any lawful means other than by a transfer according to the provisions of this Act, such transmission shall be authenticated by a declaration of the person to whom such interest has been transmitted, made in the

form D in the third schedule hereto, and containing a statement describing the manner in which and the party to whom such property has been transmitted; and such declaration shall be made and subscribed in the presence of the registrar of shipping at the port at which such ship has been recorded under this Act, if the declarant resides at or within five miles of the custom house of the port, but if beyond that distance, in the presence of any registrar of shipping, collector of customs or justice of the peace. 36 V., c. 128, s. 45.

40. If such transmission has taken place by virtue of the insolvency of any registered mortgagee, the said declaration shall be accompanied by such evidence as is for the time being receivable in courts of justice as proof of the title of persons claiming under any insolvency; and if such transmission has taken place by virtue of the marriage of a female mortgagee, the said declaration shall be accompanied by a copy of the register of such marriage, or other legal evidence of the celebration thereof, and shall declare the identity of the said female mortgagee; and if such transmission has taken place by virtue of any testamentary instrument or by intestacy, then, in any Province of Canada, excepting Quebec, the said declaration shall be accompanied by the probate of the will or the letters of administration, or an official extract therefrom, and in the Province of Quebec, by the will or any copy thereof that is evidence of such will by the laws of that Province, or by any such document as by the laws of such Province is receivable in the courts of justice thereof, as proof of the title of any person entitled upon an intestacy.

Proof of such transmission.

41. The registrar of shipping, upon the receipt of such declaration and the production of such evidence as aforesaid, shall enter the name of the person or persons entitled under such transmission in the record book as mortgagee or mortgagees of the ship in respect of which such transmission has taken place. 36 V., c. 128, s. 46.

Entry of transmitted mortgage.

42. Whenever the building of a ship which has been recorded under this Act is duly completed, the first mortgagee whose claim is unsatisfied may furnish the builder's certificate for such ship, and thereupon the proper officer may grant a certificate of registry under the laws in force in Canada for that purpose:

Certificate of registry of ship when built.

2. All undischarged mortgages recorded under this Act shall be, by the proper registrar of shipping, transferred to and registered under such laws in the register book, in the order and according to the priority in which the same were entered of record under this Act; and the temporary name used for the purposes of this Act, as above provided for, may be changed at the time of granting a certificate of registry:

All recorded mortgages then undischarged to be registered in register book.

Order of registry.

3. The registry of all such mortgages shall thus appear, according to their priority in the record book, as if the same had been made or granted under the laws providing for the giving of such certificate of registry; and a fresh instrument of mortgage may be granted for that purpose, according to any form prescribed by law, as a substitute for any mortgage granted under this Act. 36 V., c. 128, s. 47.

Fresh mortgage may be granted.

Penalty for attempting to take out register at any port other than that where ship is recorded.

43. Every person who is a party to any unsatisfied mortgage on any ship under this Act and who takes out, or attempts to take out, a register for such ship at any port other than the port named on the board in the ship yard in which such ship was built, or in the statement and description in the form A in the third schedule of this Act, furnished to the registrar of shipping by whom such ship was recorded under this Act, or in any mortgage on such ship under this Act, shall incur a penalty of two thousand dollars, which shall be recoverable, with costs, by the person who first sues for the same in any court of competent jurisdiction, in any Province in Canada in which the offender is served with process. 36 V., c. 128, s. 48.

When certificate of survey may be delivered up by surveyor.

44. No surveyor of shipping who is not also a registrar of shipping shall deliver up any certificate of survey of any ship which he has surveyed for measurement to any person except the registrar of shipping at the port at or for which he is surveyor, and at which such ship is recorded under this Act, until the registrar of shipping at such port has indorsed on the back of such certificate either a statement to the effect that there is no undischarged mortgage on such ship recorded in his office under this Act, or a statement of the amount and other particulars, and if more than one, the number of the undischarged mortgages, if any, on such ship recorded in his office under this Act; and every registrar of shipping shall indorse one of such statements, according to the facts of each case, on every certificate of measurement presented to him for that purpose by any surveyor of shipping. 36 V., c. 128, s. 49.

Indorsement by registrar.

Registrar who is also surveyor to indorse a statement on certificate of survey before delivering it to any person.

45. If the registrar of shipping at any port at which any ship is recorded under this Act is also surveyor of shipping at or for such port, he shall indorse on every certificate of survey of every ship which he has surveyed for measurement, before he delivers the same to any person, either a statement to the effect that there is no undischarged mortgage on such ship recorded in his office under this Act, or a statement of the amount and other particulars, and, if more than one, the number of the undischarged mortgages, if any, on such ship recorded in his office under this Act. 36 V., c. 128, s. 50.

46. The Governor in Council may establish a scale of fees for recording ships and mortgages and other transactions, and for other services to be performed under this Act prior to the registry of any ship under "*The Merchant Shipping Act, 1854*," or any Act or Acts amending or applying to the same. 36 V., c. 128, s. 51. Scale of fees.

47. Nothing in this part of this Act shall take away the right of the owner to his action of account, or such other remedy as he has by law against the advancer. 36 V., c. 128, s. 52. Saving of right of owner.

48. This part of this Act shall not be construed in such a way as to affect the mode of executing deeds in the Province of Quebec, but deeds and documents executed in the said Province may be made and passed in the form and according to the manner prescribed in the said Province. 36 V., c. 128, s. 53. Act not to affect mode of executing deeds in Quebec.

PART IV.

INSPECTION AND CLASSIFICATION OF SHIPS.

49. The Governor in Council may make such rules and regulations as he considers necessary for the inspection and classification of vessels built or registered within Canada, and may, from time to time, alter and amend the same; and may, from time to time, appoint such officers as are necessary to carry out this part of this Act, and prescribe the duties of such officers, who shall be under the control of the Minister. 36 V., c. 128, s. 54. Governor in Council may make regulations for the classification of ships built or registered in Canada.

50. The Governor in Council may, by such rules and regulations, establish a table of fees to be paid for such inspection and classification, and may thereby authorize the granting of certificates of classification in such manner as is therein prescribed. 36 V., c. 128, s. 55. And a tariff of fees therefor.

51. All rules and regulations made under this part of this Act shall be published in the *Canada Gazette*. 36 V., c. 128, s. 56. Publication of regulations.

REPEAL.

52. Upon the commencement of this Act, so much of the provisions of the Act of the Parliament of the United Kingdom, known as "*The Merchant Shipping Act, 1854*," and of any Act of the said Parliament amending the same and forming and to be construed as part thereof, relating to ships registered in Canada, as is inconsistent with this Act, shall be repealed. 36 V., c. 128, s. 2. Repealing clause. Imp. Stat. 17 and 18 V., c. 104.

FIRST SCHEDULE.

FORM OF DECLARATION OF OWNER OR OWNERS FOR CHANGE OF MASTERS.

I (or we) of (residence and occupation) being registered owner (or owners) of sixty-fourth shares of the ship of official number tons register, hereby declare that I (or we) have appointed A. B. master of the ship above mentioned in the place of C. D.

Declared before me this day of 36 V., c. 128, first schedule.

SECOND SCHEDULE.

Form A.

DECLARATION.

I, the undersigned, A. B., of in declare as follows :

I am entitled to take a license for the ship (or vessel, as the case may be) now in this port (or at this place as the case may be), of which the following are the particulars :—

Measurements.	Feet.	Inches.	Tonnage.	No. of tons
Length.....			Approximate tonnage.....	
Breadth.....				
Depth.....				

Names of Owners (or Name of Owner).	Number of Shares held by each *

Dated this day of 18 Master. (or Managing Owner, or Owner, as the case may be)

* If the property in the ship or vessel is not divided into shares, this column need not be filled up.

Form B.

No.

Port of Registry.

LICENSE.

This is to certify that the ship (or vessel, as the case may be), of which the particulars are herein contained, was this day licensed by me, the collector (or principal officer, as the case may be), of customs at _____ under the provisions of the Act intituled "An Act respecting the Registration and Classification of Ships :"

Measurements.	Feet.	Inches.	Tonnage.	No. of tons.
Length			Approximate Tonnage.....	
Breadth				
Depth				

Names of Owners (or Name of Owner).	Number of Shares held by each.*

Dated this _____ day of _____ 18 . _____

* If the property in the ship or vessel is not divided into shares, this column need not be filled up.

36 V., c. 128, second schedule.

THIRD SCHEDULE.

Form A.

DESCRIPTION OF SHIP PROPOSED TO BE BUILT.

TEMPORARY NAME.	PORT OF RECORD.	PROPELLED.

Number of decks.....	Build
Number of masts.....	Gallery
How rigged	Head
Stern	Frame work

ESTIMATED MEASUREMENT.

	FEET.	TENTHS.		TONS.
Length.....			Under Deck.....	
Breadth.....			Closed in.....	
Depth.....			Space between decks.....	
			Poop.....	
			Round House.....	

I, the undersigned (*name and residence*), ship builder, declare that I propose to build a ship, the particulars of which are contained in the above description, in the (*here describe the place, what ship yard, where situated and to whom belonging*), and that I intend to launch the said ship on or about the day of 18 and to register her at the port of .

(Signed),

Dated at
the day of 18
In the presence of }

Form B.

MORTGAGE (TO SECURE ACCOUNT CURRENT, ETC.)

For * Port of
• (Steamer or sailing).

Record No.	Where Building.	When intended to be Launched.	Port of intended Registry.
Intended to Measure.		Intended Tonnage and Temporary Name.	
Length,	feet	Tonnage,	
Breadth,	feet	Name,	
Depth,	feet		

Whereas (*state that there is an account current between mortgagor and mortgagee (describing both), and describe the nature of the transaction so as to show how the amount of principal and interest due at any given time is to be ascertained, and the manner and time of payment.*)

Now I, (*or we*), the undersigned, (*describe them*) in consideration of the premises for (*myself or ourselves*) and (*my or our*) heirs, covenant with the said (*name him or them*) and (*his or their*) assigns, to pay to (*him or them*) the sums for the time being due on this security, whether by way of princi-

pal or interest, at the times and in the manner above mentioned, and for better securing to the said (*name*), the payment of such sums as last aforesaid ; (I or we) do hereby mortgage to the said (*name*) the ship above described.

Lastly, (I, or we), for (myself or ourselves), and (my or our) heirs, covenant with the said (*name of him or them*) and (his or their) assigns that (I or we) have power to mortgage in manner aforesaid, the above mentioned ship, and that the same is free from incumbrances, *save as appear by the record of the said ship.*

N.B.—The last words to be omitted if the ship is free from incumbrances.

In witness whereof (I or we) have hereto subscribed (my or our) name and affixed (my or our) seal, at this day of one thousand eight hundred and

Executed by the above named }
in the presence of }

Form C.

N.B.—In case of transfer it may be made by indorsement in the following form :

TRANSFER OF MORTGAGE.

(a) "I" or (a) the within mentioned in con-
"We," sideration of this day paid to
(b) "Me" or (b) by hereby transfer to
"Us," (c) the benefit of the
(c) "Him" or (c) within written security.
"Them,"
(d) "I" or In witness whereof (d) have hereunto sub-
"We," scribed (e) and affixed (f) this
(e) "My name" or "our names." day of one thousand eight
(f) "My seal" or "our seals." hundred and

Executed by the above named }
in the presence of }

N.B.—In case a mortgage is paid off, the following memorandum of its discharge may be used :

Received the sum of in discharge of the within
written security. Dated at this day of 18 .

Witness
of

Form D.

Declaration by Representative of taking by Transmission*
 For †

* (or decease, or marriage, or bankruptcy).

† (Steamer or for sailing).

Record No.	Date of Record	18

Temporary name of ship

Where building

Proposed measurement, *length,* *ft., breadth,* *ft.,*
depth, *ft.*

Proposed tonnage, *tons.*

(I or we) the undersigned (*declarant's name, description and place of birth*), declare as follows I am (*or we are*)

I (*or we*) declare that the person appearing by the record book to be the (*owner or mortgagee*) of the ship above described (*cause of transmission*) in the county of (*county*) on the day of (*nature of cause of transmission*).

Made and subscribed the day }
 of 18 by the above }
 named }
 in the presence of }
 86 V., c. 128, third schedule.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 73.

An Act respecting Certificates to Masters and Mates of A.D. 1886.
Ships.

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

INTERPRETATION.

1. In this Act, unless the context otherwise requires,—
- (a.) The expression “Minister” means the Minister of Marine and Fisheries; Interpretation.
“Minister.”
- (b.) The expression “ship” means any vessel used for the purposes of navigation and registered in Canada; “Ship.”
- (c.) The expression “sailing ship” means a ship propelled mainly by sails; “Sailing ship.”
- (d.) The expression “steamship” or “steamer” includes any ship propelled wholly or in part by steam or other motive power than sails or oars; “Steamship.”
- (e.) The expression “sea-going ship” includes every ship employed in trading or going between some port or place in Canada and some port or place out of Canada, not being a port or place in Newfoundland or in the United States of America; “Sea-going ship.”
- (f.) The expression “voyage” includes “passage” or “trip”; “Voyage”
- (g.) The expression “coasting voyage” includes a voyage between Canada and Newfoundland or the United States of America. 46 V., c. 28, s. 1. “Coasting voyage.”

EXAMINATIONS AND CERTIFICATES OF MASTERS AND MATES.

2. Examinations shall be instituted in the several Provinces of Quebec, Nova Scotia, New Brunswick, Prince Edward Island and British Columbia for persons domiciled in Canada for at least three years, who intend to become masters or mates or second mates of sea-going ships registered in Canada, or who wish to procure certificates of competency for sea-going ships hereinafter mentioned; and persons serving in ships registered in Canada shall be deemed to be domiciled in Canada while so serving. 33 V., c. 17, s. 1, *part*;—42 V., c. 26, s. 1, *part*. Examinations to be instituted for masters and mates.

Examination of masters and mates of inland vessels or coasters.

3. Examinations may be instituted in Canada, for persons domiciled in Canada for at least three years who intend to become masters or mates of ships trading on the inland waters of Canada, or on coasting voyages, or who wish to procure certificates of competency hereinafter mentioned; and persons serving in ships so registered, and British subjects serving in foreign vessels in like trade, shall be deemed to be domiciled in Canada while so serving. 46 V., c. 28, s. 2, *part.*

Where to be held.
Governor in Council may appoint examiners, &c.

4. Subject as herein mentioned, the Minister shall provide for such examinations at such places as he sees fit; and the Governor in Council may appoint an examiner or examiners at any place or places to conduct the examinations, and may regulate the same, and determine the amount of the remuneration of such examiners; but no person shall be appointed an examiner in respect to masters or mates or second mates of sea-going ships, unless he has himself passed a satisfactory examination before two or more examiners, as to his fitness and competency to act as an examiner, and has received from them a certificate to that effect. 33 V., c. 17, s. 1, *part.*;—46 V., c. 28, s. 2, *part.*

And make rules respecting examinations.

5. The Governor in Council may, from time to time, make rules for the conduct of such examinations, and as to the qualifications of the applicants; and such rules shall be observed by all examiners. 33 V., c. 17, s. 2;—46 V., c. 28, s. 3.

Fees payable before examination.

6. All applicants for examination shall pay, previous to examination, to such person as the Minister appoints for that purpose, the following fees, that is to say:—for a certificate of competency as master of a sea-going ship, ten dollars; for a certificate of competency as first or second mate of a sea-going ship, five dollars; for a certificate of competency as master of a ship trading on inland waters or on coasting voyages, eight dollars; and for a certificate of competency as mate of a ship trading on inland waters or on coasting voyages, four dollars; and for certificates of service, the fees hereinafter provided: and in the event of any applicant failing to procure his certificate of qualification on his first examination, he shall be entitled to a second examination without payment of any additional fee; but if he fails to procure his certificate of qualification on such second examination, he shall pay the same fee previous to any subsequent examination as is hereby required to be paid previous to a first examination for the certificate he seeks to procure. 33 V., c. 17, s. 3;—42 V., c. 26, s. 2;—46 V., c. 28, s. 4.

As to second examination in case of failure to pass in first.

Certificates to persons passing such examination successfully.

7. The Minister may, subject to the proviso hereinafter made, grant to every applicant who is duly reported by any one or more of the examiners to have passed the examination satisfactorily, and to have given satisfactory evidence

of his sobriety, experience, ability and general good conduct on board ship, a certificate (hereinafter called a certificate of competency), to the effect that he is competent to act as master or as first, second or only mate of a sea-going ship, or as master or mate of a ship trading on the inland waters of Canada, or in the coasting trade, as the case may be, and whether for sailing ships or steamships, in the case of ships trading on inland waters or on coasting voyages (stating the class of ships for which he is found competent): but in every case in which the Minister has reason to believe that such report has been unduly made, he may remit the case either to the same or to any other examiner or examiners, and may require a re-examination of the applicant, or a further inquiry into his testimonials and character, before granting him a certificate. 33 V., c. 17, s. 4;—42 V., c. 26, s. 1, *part*;—46 V., c. 28, s. 5.

Proviso: if report is not satisfactory to the Minister.

S. Certificates of service, differing in form from certificates of competency, may be granted as follows, that is to say:—

Certificates of service to be granted to,—

(a.) Every person who, before the first day of January, one thousand eight hundred and seventy, served as master in a sea-going ship, in any Province in Canada, or who has attained the rank of lieutenant, master, passed mate or second master in Her Majesty's Royal Navy, and who produces satisfactory evidence at such examination of his sobriety, experience, ability and general good conduct on board ship, shall be entitled to a certificate of service as master for sea-going ships, on payment of a fee of five dollars;

Persons who served as masters on sea-going ships before 1870, and certain naval officers.

(b.) Every person who, before the first day of January, one thousand eight hundred and seventy, served as mate in a sea-going ship, in any Province in Canada, and who produces satisfactory evidence, in manner aforesaid, of his sobriety, experience, ability and general good conduct on board ship, shall be entitled to a certificate of service as first or only mate for sea-going ships, on payment of a fee of three dollars;

Persons who served as mates on sea-going ships before 1870.

(c.) Every person who, before the first day of January, one thousand eight hundred and eighty-four, served as master in a sea-going ship registered in Canada, and being over one hundred tons, and not over one hundred and fifty tons registered tonnage, and who has produced satisfactory evidence of his sobriety, experience, ability and general good conduct, and has passed the color test, shall be entitled to a certificate as master or mate, as the case may be, for sea-going ships registered in Canada and being over one hundred tons and not over one hundred and fifty tons registered tonnage, on payment of a fee of five dollars for a certificate as master, or three dollars for a certificate as mate;

Persons who served as masters in certain sea-going Canadian ships.

(d.) Every person who, before the first day of January, one thousand eight hundred and eighty-three, served as master in a ship trading on the inland waters of Canada, or on

Persons who served as masters on inland waters before 1883.

coasting voyages, or, being a British subject, served in foreign vessels in like trade, and who produces satisfactory evidence at such examination of his sobriety, experience, ability and general good conduct on board ship, shall be entitled to a certificate of service as master for ships trading on the inland waters of Canada, or on coasting voyages, on payment of a fee of four dollars ;

Persons who served as mates on inland waters before 1883.

(c.) Every person who, before the first day of January, one thousand eight hundred and eighty-three, served as mate in a ship trading on the inland waters of Canada, or on coasting voyages, or, being a British subject, served in foreign vessels in like trade, and who produces satisfactory evidence, in manner aforesaid, of his sobriety, experience, ability and general good conduct on board ship, shall be entitled to a certificate of service as first or only mate, for ships trading on the inland waters of Canada, or upon coasting voyages, on payment of a fee of two dollars :

Certificates may be issued.

2. The Minister may thereupon issue such certificates of service to the various persons so respectively entitled there- to ; and each of such certificates of service for sea-going ships shall contain particulars of the name, place and time of birth, and of the length and nature of the previous service of the person to whom the same is issued. 33 V., c. 17, s. 5 ; —46 V., c. 28, s. 6 ;—47 V., c. 19, s. 3.

Particulars to be contained in certificates.

No ship over 100 tons, registered in Canada, to cross the sea without certificated master and mate.

9. No ship registered in Canada over one hundred tons registered tonnage, shall go to sea from any port or place in Canada, on a voyage to any port or place out of Canada, not being a port or place in Newfoundland, or in the United States of America, unless the master and first mate or only mate thereof have obtained and possess valid certificates either of competency or service for sea-going ships, appropriate to their several stations in such ship, or of a higher grade, from the Minister,—or valid certificates of competency, or service for foreign-going ships, appropriate to their several stations in such ship, or of a higher grade, from the Board of Trade in the United Kingdom,—or valid certificates of competency appropriate to their several stations in such ships, or of a higher grade, granted in any British possession, and declared by order of Her Majesty in Council published in the *London Gazette*, under the provisions of "*The Merchant Shipping (Colonial) Act, 1869*," or of any Act of the Parliament of the United Kingdom containing such provisions, to be of the same force as certificates of competency for foreign-going ships granted under the Acts of the Parliament of the United Kingdom relating to merchant shipping ; and every person who, having been engaged to serve as master or first mate or only mate of any sea-going ship registered in Canada, over one hundred tons registered tonnage, goes to sea as aforesaid, as such master or mate, without being at the time entitled to and possessed of such a certificate either of competency or of service for sea-going ships, as hereinbefore required, or

Penalty for contraven- tion.

who employs any person as master, first mate or only mate of any such sea-going ship as aforesaid, without first ascertaining that he, at the time, is entitled to and possessed of such certificate, shall for each such offence incur a penalty not exceeding one hundred dollars. 33 V., c. 17, s. 6 ;—47 V., c. 19, s. 1, *part*.

10. The master of every sea-going ship registered in Canada, over one hundred tons register, shall produce to every officer of the customs in Canada, to whom he applies for a clearance of such ship on any such voyage by sea as aforesaid, the certificates of competency or service for sea-going ships, which the said master and his first mate, or only mate, are hereby required to possess ; and no officer of the customs at any port in Canada, shall clear any such ship, on any such voyage as aforesaid, without such certificates being first produced to him ; and if any master, mate or other officer of any such ship attempts to sail, or take such ship to sea, from any port in Canada, on any such voyage as aforesaid, until this requirement of this Act has been fully complied with, such master, mate or other officer, shall, for every such offence, incur a penalty not exceeding one hundred dollars : but nothing in this, or the next preceding section contained, shall render it compulsory on the part of any owner to have on his ship a second mate holding a certificate as such, to enable him to clear his ship for sea :

Certificates to be produced to clearing officer of customs, and no ship to be cleared without such production.

Penalty for attempting to go to sea in contravention of this Act.

Employment of certificated second mate not compulsory.

2. Every master of any such ship who, after having produced to the collector or other officer of the customs in Canada to whom he applies for a clearance, a certificate of competency or service required to be possessed by the first or only mate of such ship, and having obtained his clearance by representing that the person possessing such certificate is engaged as first or only mate of the said ship for the voyage for which the clearance is obtained, afterwards proceeds to sea without having the said person or some other duly certificated mate on board as first or only mate, shall incur a penalty of one hundred dollars ; and every person who knowingly allows his certificate as mate to be produced as aforesaid, and does not proceed to sea with such ship as first or only mate on the voyage for which the clearance is obtained, or otherwise wilfully aids the master in his offence against this Act, shall incur a like penalty ; and the certificate of any master or mate offending against this enactment, may, if issued under Canadian authority, be suspended by the Minister for a period not exceeding twelve months. 33 V., c. 17, s. 7 ;—42 V., c. 26, s. 3 ;—47 V., c. 19, ss. 1, *part*, and 2.

Punishment of master or mate fraudulently evading this section after clearance of the ship.

Suspension of certificate of offender if it is Canadian.

11. No sailing ship registered in Canada, over one hundred tons registered tonnage, and no steamship so registered shall go from any port or place in Canada on a voyage to any other port or place in Canada, or in Newfoundland, or in the United States of America, or be licensed or allowed

No vessel to sail on inland waters, &c., unless she carries a certificated master.

to ply on any Canadian water unless the master thereof has obtained from the Minister, and possesses a valid certificate of competency or service as master of a ship trading on inland waters, or on coasting voyages, as the case may be, of the class and description to which such ship belongs,—or a valid certificate of competency or service as master for sea-going ships, from the Minister,—or a valid certificate of competency as master, for foreign-going ships, from the Board of Trade in the United Kingdom,—or a valid certificate of competency as master, granted in any British possession and declared by order of Her Majesty in Council published in the *London Gazette*, under the provisions of “*The Merchant Shipping (Colonial) Act, 1869*,” or of any Act of the Parliament of the United Kingdom, containing such provisions, to be of the same force as a certificate of competency, as master for foreign-going ships, granted under the Acts of the Parliament of the United Kingdom relating to merchant shipping; and no ship registered in Canada over two hundred tons registered tonnage, and no steamship so registered and allowed by law to carry more than forty passengers, shall go from any port or place in Canada, on a voyage to any other port or place in Canada, or in Newfoundland, or in the United States of America, unless such ship carries also a mate who has obtained a valid certificate of competency or service as such mate, granted by one of the authorities mentioned in this section. 46 V., c. 28, s. 7, *part*.

And a certificated mate in certain cases.

Penalty on uncertificated persons acting as masters or mates, and on persons employing them as such.

12. Every person who, having been engaged to serve as master or mate of any ship, the master or mate whereof is hereby required to have such certificate of competency or service, goes on any voyage described in the next preceding section as such master or mate, without being at the time entitled to and possessed of such certificate as hereinbefore required, or who employs any person as master or mate of any such ship as aforesaid, on any such voyage, without first ascertaining that he is, at the time, entitled to and possessed of such certificate, shall, for each such offence, incur a penalty of one hundred dollars. 46 V., c. 28, s. 7, *part*.

Certain classes of vessels exempted.

13. The foregoing provisions as to masters and mates shall not apply to pleasure yachts not carrying passengers or goods for hire, or to ships employed solely in fishing, or barges or other vessels having neither masts, sails nor rigging, and not being steamships. 46 V., c. 28, s. 7, *part*.

A master must produce his certificate (and that of his mate if he has one) on applying for a clearance, &c.

14. The master of every ship trading on inland waters or on coasting voyages required by this Act to be commanded by a master having a certificate of competency or of service as aforesaid, shall produce to every officer of the customs in Canada to whom he applies for a clearance or for a *transire* coastwise for such ship, on any voyage from any port or place in Canada, to any other port or place in

Canada, Newfoundland or the United States of America, or for a license for the season in respect of such ship, the certificate of competency or service which the said master is hereby required to possess; and if such ship is also required to carry a mate having such certificate as aforesaid, the master shall, at the same time, produce to such officer of the customs the certificate of such mate:

2. No officer of the customs at any port in Canada shall clear any such ship or grant a *transire* coastwise for any such ship on any such voyage as aforesaid, or grant a license for the season in respect of any such ship, without such certificate being first produced to him; and if any master of any such ship attempts to sail, or take such ship from any port in Canada, on any such voyage as aforesaid, for which a clearance or a *transire* coastwise or a license for the season is required, until the requirements of this section have been fully complied with, such master shall, for every such offence, incur a penalty of one hundred dollars:

No clearance, &c., to be granted unless such certificate is produced.

Penalty for contravention of this section.

3. The master of any steam tug, or other steamer required to have a certificated master, but so employed as not to require such clearance, *transire* or license as aforesaid, shall, whenever thereunto required by any officer of the customs, produce his certificate as master to such officer, and for any refusal or neglect so to do, shall incur a penalty of one hundred dollars; and if any such steam tug, or other steamer required by this Act to be commanded by a certificated master, plies on any Canadian water without having such certificated master on board and in charge, the owner thereof shall incur a penalty of one hundred dollars for every day on which such offence is committed. 46 V., c. 28, s. 8.

Case of steam tugs, &c., provided for.

Penalty for plying without a proper master.

15. Whenever any master or mate or second mate proves to the satisfaction of the Minister that he has, without fault on his part, lost or been deprived of any certificate, the Minister may, upon payment of one-half the fee charged for the original certificate, cause a copy or duplicate of the original certificate to be made out and certified as aforesaid, and to be delivered to him. 33 V., c. 17, s. 8;—46 V., c. 28, s. 9.

Certificate lost may be replaced, and how.

16. Every person who makes, procures to be made, or assists in making any false representation for the purpose of obtaining for himself or for any other person, any such certificate,—or who forges, assists in forging, or procures to be forged,—or fraudulently alters, assists in fraudulently altering or procures to be fraudulently altered, any such certificate or any official copy of any such certificate, or who fraudulently makes use of any such certificate which is forged, altered, cancelled or suspended, or to which he is not justly entitled, or who fraudulently lends his certificate to or allows the same to be used by any other person, is guilty of a misdemeanor. 33 V., c. 17, s. 9;—46 V., c. 28, s. 10.

Penalty for forgery or fraud with respect to any certificate.

Suspension and cancellation of certificates.

17. The Board of Trade in the United Kingdom, or the Minister, may suspend or cancel the certificate, whether of competency or service, of any master or mate or second mate of a sea-going ship who has received a certificate from such Minister, in the following cases, that is to say: if upon any investigation duly authorized by the Governor in Council under "*The Wrecks and Salvage Act*," such master or mate is reported to be incompetent, or to have been guilty of any gross act of misconduct, drunkenness or tyranny; or it is reported that the loss or abandonment of, or serious damage to any ship, or loss of life, has been caused by his wrongful act or default; or if it is shown, to the satisfaction of the said Board of Trade, or of the said Minister, that such certificate was granted on false or erroneous information. 33 V., c. 17, s. 10.

Minister may suspend or cancel certificate in certain cases of misconduct.

18. The Minister may suspend or cancel the certificate of any master or mate who has received a certificate as master or mate of a ship trading on inland waters or on coasting voyages in the following cases, that is to say: if upon any investigation made or authorized by the Minister such master or mate is found to be incompetent, or to have been guilty of any act of misconduct, drunkenness or tyranny; or it is found that the loss or abandonment of, or serious damage to any ship, or loss of life was caused by his wrongful act or default; or if it is shown, to the satisfaction of the Minister, that such certificate was granted on false or erroneous information. 46 V., c. 28, s. 11.

Cancelled or suspended certificate to be delivered to Minister.

19. Every master or mate whose certificate is cancelled or suspended shall deliver it to the Minister, or as he directs, unless he has already delivered it to any court or tribunal before whom his conduct was called in question in the course of the investigation upon which it is cancelled or suspended, and in default thereof, shall incur a penalty not exceeding two hundred dollars; and the Minister may, at any subsequent time, grant to any person whose certificate has been cancelled, a new certificate of the same or of any lower grade. 33 V., c. 17, s. 11;—46 V., c. 28, s. 12.

New certificate may be granted.

Certificates to be in duplicate.

20. All certificates, whether of competency or service for sea-going ships, shall be made in duplicate, and one part shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded in the Department of Marine; and a record of all certificates of competency or service for ships trading on inland waters or on coasting voyages, granted under this Act, shall be kept in a bound book in the said department, and whenever notice of the cancelling, suspending, altering or otherwise affecting, by competent authority, any such certificate is received by the department, there shall thereupon be made a corresponding entry in the record of certificates. 33 V., c. 17, s. 12, *part*;—46 V., c. 28, s. 13, *part*.

Record of certificates.

Entry of cancellation.

21. All documents purporting to be certificates granted by the Minister in pursuance of this Act, and to be signed by him, shall be received in evidence, and shall be deemed to be such certificates without further proof, unless the contrary is shown; and a copy of any such certificate purporting to be certified by the Minister or the deputy of the Minister, shall be *prima facie* evidence as aforesaid of such certificate; and a copy purporting to be so certified as aforesaid of any entry made as aforesaid in respect of any such certificate shall be *prima facie* evidence of the entry and truth of the matter stated therein. 33 V., c. 17, s. 12, *part*;—46 V., c. 28, s. 13, *part*.

Their effect as evidence.

As to copies certified by Minister or his deputy.

22. All fees received under this Act shall be paid over to the Minister of Finance and Receiver General, and shall form part of the Consolidated Revenue Fund of Canada. 33 V., c. 17, s. 14;—46 V., c. 28, s. 14.

Application of fees.

23. The Minister shall cause a copy of this Act, with the names of the various ports where boards of examiners have been appointed, and a copy of the rules made by the Governor in Council for the guidance of such examiners, to be lodged in all the principal custom houses in Canada. 46 V., c. 28, s. 15.

Copies of this Act, &c., to be kept at certain custom houses.

24. The Governor in Council may, from time to time, make provision for affording facilities for imparting to seafaring men, desirous of becoming applicants for examination for certificates of competency, under this Act, such information as to the theory of navigation as will fit them for such examination, and may defray the expenses incurred for affording such facilities out of any money voted by Parliament for that purpose. 33 V., c. 17, s. 13.

Governor in Council may make provision for the instruction of candidates for examination.

25. Upon, from and after the commencement of this Act, so much of "*The Merchant Shipping Act, 1854*," and of any Act amending the same, and forming and to be construed as part thereof, relating to ships registered in Canada, as is inconsistent with this Act, is repealed. 33 V., c. 17, s. 16.

Repeal of inconsistent enactments.



CHAPTER 74.

An Act respecting the shipping of Seamen.

A. D. 1886.

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

SHORT TITLE.

1. This Act may be cited as "*The Seamen's Act.*" 36 V., Short title. c. 129, s. 1.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—
- (a.) The expression "the said Provinces" means the Provinces of Quebec, Nova Scotia, New Brunswick, Prince Edward Island and British Columbia; Interpretation.
"The said Provinces."
- (b.) The expression "ship" includes every description of vessel used in navigation not propelled by oars; "Ship."
- (c.) The expression "ships belonging to Her Majesty" includes ships the cost of which has been defrayed out of the Consolidated Revenue Fund of Canada, and ships described as the property of Canada, by the one hundred and eighth section of "*The British North America Act, 1867*"; "Ships belonging to Her Majesty."
- (d.) The expression "Canadian foreign sea-going ship" includes every ship registered in any of the said Provinces, employed in trading or going by sea between some place or places in Canada and some place or places out of Canada; "Canadian foreign sea-going ship."
- (e.) The expression "Canadian home-trade ship" includes every ship registered in either of the said Provinces, employed in trading or going from any place or places in any of the said Provinces to any other place or places in any other of the said Provinces; "Canadian home-trade ship."
- (f.) The expression "master" includes every person (except a pilot) having command or charge of a ship; "Master."
- (g.) The expression "seaman" includes every person (except masters, pilots, and apprentices duly indentured and registered) employed or engaged in any capacity on board any ship; "Seaman."
- (h.) The expression "Consular officer" includes Consul General, Consul and Vice-Consul, and any person for the time being discharging the duties of Consul General, Consul or Vice-Consul; "Consular officer."

"Board of
"Trade."

(i.) The expression "the Board of Trade" means the Lords of the Committee of Privy Council appointed for the consideration of matters relating to trade and foreign plantations ;

"Minister."

(j.) The expression "the Minister" means the Minister of Marine and Fisheries. 36 V., c. 129, s. 3.

APPLICATION OF ACT.

Application
of Act.

3. This Act applies only to the Provinces of Quebec, Nova Scotia, New Brunswick, Prince Edward Island and British Columbia. 36 V., c. 129, s. 2.

Limitation.

4. This Act shall not, except as hereinafter specially provided, apply to ships belonging to Her Majesty. 36 V., c. 129, s. 6.

SHIPPING OFFICES.

Governor may
establish ship-
ping offices.

5. The Governor in Council may establish a shipping office at each port in each of the said Provinces, where a custom house is situated, and may, from time to time, establish shipping offices at other ports in the said Provinces as he deems advisable. 36 V., c. 129, s. 7.

And may
appoint
shipping
masters.

6. The Governor in Council may, subject to the provisions of this Act, appoint superintendents of such offices, to be called shipping masters, who may appoint any necessary deputies, clerks and servants, and shall, subject as hereinafter mentioned, have complete control over the same, and be responsible for every act done by such deputies, clerks or servants ; and all acts done by or before such deputies shall have the same effect as if done by or before such shipping masters. 36 V., c. 129, s. 8, *part*.

Certain
persons
ineligible.

7. No person who sells any spirituous liquors, and no tavern keeper or boarding-house keeper, shall be eligible for the situation of shipping master or deputy shipping master. 36 V., c. 129, s. 8, *part*.

Business of
shipping
office may
be conducted
at custom
house.

8. The Governor in Council may direct that at any place in any of the said Provinces in which no separate shipping office is established, the whole or any part of the business of the shipping office shall be conducted at the custom house ; and thereupon the same shall be there conducted accordingly ; and in respect of such business such custom house shall, for all purposes, be deemed to be a shipping office, and the chief officer of the customs there, if no other shipping master has been appointed, shall for all purposes be a shipping master, and be held to have been appointed as such within the meaning of this Act. 36 V., c. 129, s. 9.

Shipping
masters, &c.,
to give secu-
rity.

9. Every shipping master and every deputy, clerk and servant, appointed as aforesaid, shall, before entering upon

his duties, give such security for the due performance thereof as the Minister requires; and if in any case the minister has reason to believe that any person appointed by any shipping master does not properly discharge his duties, he may cause an investigation to be made, and may direct the dismissal or suspension of such person, and may provide for the temporary performance of his duties until another person is properly appointed in his place, or during his suspension, as the case may be. 36 V., c. 129, s. 10.

10. Every shipping master, deputy, clerk and servant so appointed as aforesaid, shall, before entering upon his duties, take and subscribe, before any justice of the peace, an oath in the form following, that is to say:—

Shipping masters, &c., to take oath of office.

“I, A. B., do swear that I will faithfully perform the office and duty of shipping master (or deputy shipping master, or as the case may be) according to the true intent and meaning of the ‘Act respecting the Shipping of Seamen’; that I will not either directly or indirectly, personally or by means of any other person or persons on my behalf, receive any fee, reward or gratuity by reason of any function of my office as shipping master (or deputy shipping master, or as the case may be), except such as are allowed to me under the said Act, and that I will act without partiality, favor or affection, and to the best of my knowledge. So help me God.” 36 V., c. 129, s. 11.

Form of oath.

11. Every shipping master shall,—

(a.) Afford facilities for engaging seamen, by keeping registers of the names of such seamen who apply to him for engagement, and registers of all seamen shipped or discharged by him, which registers shall be open for public inspection;

General business of shipping masters.

Registers of seamen.

(b.) Superintend and facilitate the engagement and discharge of seamen in manner hereinafter mentioned;

Engagement and discharge.

(c.) Provide means for securing the presence on board at the proper times of men who are engaged, when requested so to do; the expense of such service to be defrayed by the master, owner or agent of the ship requiring the presence of men on board;

Securing presence on board.

(d.) Facilitate the making of apprenticeships to the sea service;

Apprenticeships.

(e.) Perform such other duties relating to merchant seamen and merchant ships as are hereby, or are, under the powers herein contained, committed to him;

Other duties.

And all business transacted at any shipping office in any of the said Provinces, shall be under the immediate control and supervision of the Minister:

To be under control of the Minister.

2. Every shipping master and deputy shipping master, shall, before hiring, engaging, supplying or providing any seaman whom he has any reason to suspect of having deserted from his last ship in any of the said Provinces

Duty of shipping master in case of suspected desertion.

within the then last six months, to be entered on board any ship, require such seaman to produce his certificate of discharge from his last ship, in any of the said Provinces, or other satisfactory proof that he was lawfully discharged from and lawfully quitted his last ship, in any of the said Provinces, and shall by all lawful means in his power prevent, so far as he can, the effecting before him of any engagement of a seaman, whom he has any reason to suspect of having deserted from his last ship in any of the said Provinces. 36 V., c. 129, s. 12.

Other persons
not to ship
seamen.

12. No person other than the shipping master or deputy shipping master shall hire, engage, supply or provide a seaman to be entered on board any ship, not being a Canadian home-trade ship, or a ship in the merchant service of any foreign country to which the provisions of this Act are prevented from applying as hereinafter provided :

Penalty for
taking
rewards for
procuring
seamen.

2. Every person, other than a shipping master or deputy shipping master who exacts or receives from the master of any ship, in violation of the provisions of this section, any sum of money as a reward for procuring a seaman to serve on board such ship, shall incur a penalty not exceeding eighty dollars and not less than twenty dollars. 36 V., c. 129, s. 13.

Persons hired
contrary to
this Act not
to be received
on board of
any ship.

13. No owner, part owner, master, person in charge of any ship, ship's husband or consignee, shall knowingly receive or accept to be entered on board such ship, or permit to remain on board the same, any seaman who has been hired, engaged, supplied or provided to be entered on board thereof contrary to the provisions of this Act, or who has been engaged or hired to be entered on board any other ship. 36 V., c. 129, s. 14.

Penalty for
employing
others than
shipping
masters to
provide sea-
men.

14. No person shall employ any person other than a shipping master or deputy shipping master for the purpose of hiring, engaging, supplying or providing seamen to be entered on board any ship not being a Canadian home-trade ship or a ship in the merchant service of a foreign country, and to which the provisions of this Act are prevented from applying as hereinafter provided; and every person who knowingly employs any other person for any of the purposes aforesaid, shall incur a penalty not exceeding forty dollars for each offence. 36 V., c. 129, s. 15.

Penalty for
offences above
described.

15. Every person who is guilty of any of the offences above described shall, for each and every seaman hired, engaged, supplied or provided to be entered on board, or for every seaman knowingly received or accepted to be entered on board, contrary to the provisions of this Act, incur a penalty not exceeding forty dollars for each offence, although several seamen are included in the same contract or several seamen are received or permitted to remain at the same time. 36 V., c. 129, s. 16.

16. The sum of fifty cents shall be payable upon each engagement of a seaman effected before a shipping master or deputy shipping master in any of the said Provinces, as hereinafter mentioned; and the sum of thirty cents shall be payable upon each discharge of a seaman shipped in any of the said Provinces, effected before a shipping master or deputy shipping master in any of the said Provinces, as hereinafter mentioned; and any shipping master, or the deputy, clerk or servant of any shipping master, may refuse to proceed with any engagement or discharge unless the fee payable thereon is first paid. 36 V., c. 129, s. 17.

Fees to be paid on the engagement or discharge of seamen.

17. Every owner or master of a ship engaging or discharging any seaman in a shipping office, or before a shipping master or deputy shipping master in any of the said Provinces, shall pay to the shipping master or deputy shipping master the whole of the fees hereby made payable in respect of such engagement or discharge, and may, for the purpose of in part reimbursing himself, deduct and retain in respect of each such engagement or discharge from the wages of all persons so engaged or discharged, a sum not exceeding one-half the amount so paid to the shipping master or deputy shipping master. 36 V., c. 129, s. 18.

Masters to pay fees, and may deduct part from wages.

18. Every shipping master or deputy shipping master, and every clerk or servant in any shipping office who demands or receives any remuneration, either directly or indirectly, for hiring or supplying any seaman for any ship, except the lawful fees payable under this Act, shall, for every such offence, incur a penalty not exceeding forty dollars, and shall also be liable to be dismissed from his office by the Governor in Council. 36 V., c. 129, s. 19.

Penalty for shipping masters, &c., receiving more than their lawful fees.

19. Every shipping master appointed under this Act shall make and sign and transmit to the Minister on or as soon as possible after the last day of June, and the last day of December in each year, a return of all the fees received by him and his deputy under this Act during the half year ending on such day. 36 V., c. 129, s. 20.

Shipping masters to make returns of fees.

20. The Governor in Council may, from time to time, dispense with the transaction before a shipping master or before a deputy shipping master, or in a shipping office, of any matters required by this Act to be so transacted; and thereupon such matters shall, if otherwise duly transacted as required by law, be as valid as if transacted before a shipping master or deputy shipping master, or in a shipping office. 36 V., c. 129, s. 21.

Dispensing with shipping master's superintendence.

21. Every shipping master and deputy shipping master appointed under this Act, shall give all the assistance in his power towards carrying into effect the objects of the Act of

Powers of shipping masters under Imp. Stat. 22

and 23 V., c. 40, as to Naval Reserve Force.

the Parliament of the United Kingdom passed in the session thereof held in the twenty-second and twenty-third years of Her Majesty's reign, chapter forty, "*For the establishment of a Reserve Volunteer Force of Seamen and for the government of the same,*" in such manner as the Board of Trade, at the instance of the Lords Commissioners of the Admiralty, directs; and every such shipping master and deputy shipping master shall, for this purpose, have the power to call for such answers or information concerning reserve men from the masters of and other persons belonging to British merchant ships as are necessary or desirable in order to enable him to render such assistance as aforesaid, or to make any returns which the Board of Trade or the Lords Commissioners of the Admiralty require; and every master or other person belonging to a British merchant ship, who, when duly called upon by any such shipping master or deputy shipping master, omits or refuses to give any such answer or information as aforesaid which it is in his power to give, shall incur a penalty not exceeding twenty dollars. 36 V., c. 129, s. 22.

Penalty for master, &c., refusing to give information.

APPRENTICESHIPS.

Shipping masters to assist in binding apprentices, and may receive fees.

22. Every shipping master appointed under this Act shall, when applied to for the purpose, give to any person desirous of apprenticing a boy to the merchant service, and to every master or owner of a ship requiring an apprentice, such assistance as is in his power for facilitating the making of such apprenticeship, and may receive from any person availing himself of such assistance, such fees as are determined in that behalf by the minister. 36 V., c. 129, s. 23.

Indentures to be recorded.

23. Every person to whom any boy is bound as an apprentice to the sea service in any of the said Provinces shall, within seven days after the execution of the indenture, take or transmit the same to the shipping master nearest to the residence of the person to whom the boy is bound; and the said shipping master shall cause such indenture to be copied into a book to be kept in his office, which shall be open to public inspection free of any charge, and shall indorse on the indenture that it has been so recorded, and shall re-deliver the same to the master of the apprentice, and the shipping master shall be entitled to charge and receive the sum of one dollar for recording the indenture as aforesaid; and whenever any such indenture is assigned or cancelled, and whenever any such apprentice dies or deserts, the master of the apprentice shall, within thirty days after such assignment, cancellation, death or desertion, if the same happens within Canada, or, if the same happens elsewhere, so soon afterwards as circumstances permit, notify the same to the said shipping master, to be recorded; and

Assignments, &c., thereof, and death, &c., of apprentices to be notified.

Penalty for default.

every person who fails to comply with the provisions of this section shall incur a penalty not exceeding forty dollars. 36 V., c. 129, s. 24. ♀

24. The master of every Canadian foreign sea-going ship shall, before carrying any apprentice to sea from any place in any of the said Provinces, cause such apprentice to appear before the shipping master before whom the crew is engaged, and shall produce to him the indenture by which such apprentice is bound, and the assignment or assignments thereof, if any; and the name of the apprentice, with the date of the indenture and of the assignments thereof, if any, and the name of the port or ports at which the same have been registered, shall be entered on the agreement; and for any default in obeying the provisions of this section, the master shall for each offence incur a penalty not exceeding twenty dollars. 36 V., c. 129, s. 25.

Apprentices and their indentures to be brought before shipping master before each voyage to sea.

Penalty for default.

ENGAGEMENT OF SEAMEN.

25. The master of every Canadian home-trade ship, except ships of less than eighty tons registered tonnage, shall enter into an agreement with every seaman whom he carries as one of his crew, in the manner hereinafter mentioned; and every such agreement shall be in the form A, in the schedule hereto annexed, or as near thereto as circumstances permit, and shall be dated at the time of the first signature thereof, and shall be signed by the master before any seaman signs the same, and shall contain the following particulars as terms thereof, that is to say:—

Agreements to be made with seamen in certain ships, containing certain particulars.

(a.) The nature, and as far as practicable, the duration of the intended voyage or engagement;

Nature of voyage.

(b.) The number and description of the crew, specifying how many are engaged as sailors;

Crew

(c.) The time at which each seaman is to be on board or to begin work;

Time for beginning work.

(d.) The capacity in which each seaman is to serve;

Capacity.

(e.) The amount of wages which each seaman is to receive;

Wages.

(f.) A scale of the provisions which are to be furnished to each seaman;

Provisions.

(g.) Any regulations as to conduct on board, and as to fines, short allowance of provisions, or other lawful punishments for misconduct which the parties agree to adopt;

Conduct.

2. Every such agreement shall be so framed as to admit of stipulations, to be adopted at the will of the master and seaman in each case as to advance and allotment of wages, and may contain any other stipulations which are not contrary to law; and such agreement shall be made and signed either before a shipping master in the manner hereinafter directed with respect to Canadian foreign sea-going ships, or in presence of a respectable witness who shall attest each signature on such agreement:

How to be framed.

Seamen may
be discharged
by consent.

3. Any seaman who has signed such agreement may, at the termination of the agreement, if the master thinks fit, be discharged before a shipping master in the manner herein directed with respect to Canadian foreign sea-going ships ; and at any period during such engagement, and before its termination, the master may discharge any such seaman on payment of his wages and with his consent, if such discharge is made in the presence of and with the sanction of a duly appointed shipping master. 36 V., c. 129, s. 26.

Similar agree-
ment to be
made with
seamen in
other ships.

26. The master of every Canadian foreign sea-going ship shall enter into an agreement with every seaman whom he carries to sea, from any port or place in any of the said Provinces, as one of his crew ; and every such agreement shall be in the form A, in the schedule hereto, or as near thereto as circumstances permit, and shall be dated at the time of the first signature thereof, and shall be signed by the master before any seaman signs the same, and shall contain the particulars set forth in the next preceding section as terms thereof :

How to be
executed.

2. Such agreement shall be signed by the master and each seaman in the presence of a duly appointed shipping master ; and such shipping master shall cause the agreement to be read over and explained to each seaman, or otherwise ascertain that each seaman understands the same before he signs it, and shall attest each signature :

As to sub-
stitutes.

3. In the case of substitutes engaged in any of the said Provinces in the place of seamen who have duly signed the agreement and whose services are lost by death, desertion or other unforeseen cause previously to the vessel putting to sea, the engagement shall, when practicable, be made before a shipping master appointed under this Act ; and whenever such last mentioned engagement cannot be so made, the master shall, before the ship puts to sea if practicable, and if not as soon afterwards as possible, cause the agreement to be read over and explained to the seamen who have shipped as substitutes, and such seamen shall thereupon sign the same in the presence of a witness, who shall attest their signatures :

Provision in
case of sale of
ship.

4. A clause may be inserted in the agreement providing for the sale of the vessel during the voyage intended, and for the discharge of the crew in the event of such sale ; but such clause shall state the amount of wages to be paid to the seamen upon such sale. 36 V., c. 129, s. 27.

Ships making
short voyages
may have
running
agreements.

27. In the case of ships registered in any of the said Provinces making short voyages from any port or place in any of the said Provinces by sea to ports and places out of Canada, averaging less than two months' duration, running agreements with the crew may be made to extend over to two or more voyages, or for a specified time, so that no such

agreement shall extend beyond six months from the date of such agreement, or the first arrival of the ship at her port of destination in any of the said Provinces after the termination of such agreement or the discharge of cargo consequent upon such arrival; and every person who enters into such agreement, whether engaged upon the first commencement thereof or otherwise in any of the said Provinces, shall enter into and sign the same in the manner hereby required for other ships trading by sea to ports or places out of Canada, and every person engaged thereunder, if discharged in any of the said Provinces, shall be discharged in the manner hereby required for the discharge of seamen belonging to other ships trading by sea to ports or places out of Canada. 36 V., c. 129, s. 28.

How to be executed.

28. Every master of a ship registered in any of the said Provinces, except under eighty tons register, exclusively employed in trading between any port or place in any of the said Provinces, and any port or place in any other of the said Provinces, who carries any seaman to sea, apprentices excepted, without entering into an agreement with him in the form and manner, and at the place and time in such case required, shall, for each such offence, incur a penalty not exceeding twenty dollars. 36 V., c. 129, s. 29.

Penalty for carrying seamen to sea, without agreement.

29. The owner, part owner, master or person in charge of any Canadian foreign sea-going ship, or Canadian home-trade ship, or ship's husband, shall not pay in advance, or give any note or acceptance in writing or otherwise in the nature of, and purporting to be an advance note for any part of the wages of any seaman hired, engaged, supplied or provided to be entered on board the said ship, until after the ship's articles have been duly signed by the said seaman and by the master or owner of the said ship, and then only to the seaman himself; but any such note or acceptance may be made payable to the order of such seaman; and no such note or acceptance shall be made, or be payable at any time sooner than five days after the final sailing of the ship with such seaman on board; and all payments of wages contrary to the provisions of this section shall be null and void, and the amount thereof shall be recoverable by the seaman as if they had not been paid or advanced. 36 V., c. 129, s. 30.

Advance notes not to be given until after the articles are signed.

When to be payable.

30. The master of every Canadian foreign sea-going ship, of which the crew has been engaged before a shipping master in Canada, shall, before finally leaving Canada, sign and send to the shipping master before whom the crew were engaged, a full and accurate statement of every change which takes place in his crew before finally leaving Canada; and, in default, shall, for each offence, incur a penalty not exceeding twenty dollars: and such statement shall be admitted as evidence, subject to all just exceptions. 36 V., c. 129, s. 31.

Changes in crew to be reported.

As to ships
over 100 tons
register.

31. The master of every Canadian foreign sea-going ship over one hundred tons register, shall, on signing the agreement with his crew, produce to the shipping master before whom the same is signed, the certificates of competency or service, which the said master and his first mate or mate, are required by law to possess; and if the shipping master is the chief officer of customs at the port, he shall not clear any such ship of over one hundred tons register without such certificates being first produced to him, and shall not clear any ship of any tonnage register until all the requirements of this Act have been complied with to his satisfaction; and if any master of any ship attempts to go from any port until all the requirements of this Act have been complied with, he shall, for every such offence, incur a penalty not exceeding two hundred dollars:

Ships not
over 100 tons.

Penalty on
ships going to
sea without
complying
with this Act.

Certificate
from shipping
master.

2. If the shipping master is not the chief officer of customs at the port, then in the case of any ship of any tonnage register, on all the requirements of this Act being complied with to the satisfaction of the shipping master,—and in the case of any such ship of over one hundred tons register, on the production of the said certificates in addition to complying with all the requirements of this Act to the satisfaction of the shipping master, such shipping master shall give the master of the ship a certificate to that effect or to the effect that the agreement is in his office partially signed waiting an engagement of a portion of the crew, as the case may be. 42 V., c. 27, s. 1, *part*;—47 V., c. 19, s. 4, *part*.

Customs
officers for-
bidden to
clear ships
until this Act
is complied
with.

32. No officer of customs shall clear any ship of any tonnage register without the production of the shipping master's certificate to the effect that all the requirements of this Act have been complied with, or to the effect that the agreement is in his office partially signed waiting an engagement of a portion of the crew, as the case may be, and shall not clear any such ship of over one hundred tons register, without the production of such certificate, and the certificates of competency or service above mentioned; and if any ship of any tonnage register attempts to go to sea without complying with all the requirements of this Act, the master of such ship shall incur a penalty not exceeding two hundred dollars; and at any port at which the chief officer of customs acts as shipping master, such officer of customs shall not clear any ship outwards until all the requirements of this Act have been complied with to his satisfaction. 42 V., c. 27, s. 1, *part*;—47 V., c. 19, s. 4, *part*.

Penalty for
going to sea
without com-
plying with
this Act.

Alterations in
articles to be
void unless
attested to
have been
made with the
consent of all
parties.

33. Every erasure, interlineation, or alteration in any such agreement with seamen, as is required by this Act (except additions so made as hereinbefore directed for shipping substitutes or persons engaged subsequently to the first departure of the ship), shall be wholly inoperative, unless proved to have been made with the consent of all the persons inte-

rested in such erasure, interlineation or alteration by the written attestation (if made in Her Majesty's Dominions) of some shipping master, justice of the peace, officer of customs or other public functionary, or (if made out of Her Majesty's Dominions), of a British consular officer, or where there is no such officer, of two respectable British merchants. 36 V., c. 129, s. 33.

34. Every person who fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, or makes, or assists in making, or procures to be made, any false entry in, or delivers, assists in delivering, or procures to be delivered, a false copy of any agreement under this Act, is guilty of a misdemeanor. 36 V., c. 129, s. 34.

Falsifying ships' articles to be a misdemeanor.

35. Any seaman may bring forward evidence to prove the contents of any agreement under this Act, or otherwise to support his case, without producing or giving notice to produce the agreement or any copy thereof. 36 V., c. 129, s. 35.

Seamen not to be bound to produce agreement.

36. Any seaman who has signed an agreement under this Act, and is afterwards discharged before the commencement of the voyage, or before one month's wages are earned, without fault on his part justifying such discharge and without his consent, shall be entitled to receive from the master or owner, in addition to any wages he has earned, due compensation for the damage thereby caused to him, not exceeding one month's wages, and may, on adducing such evidence as the court hearing the case deems satisfactory of his having been so improperly discharged as aforesaid, recover such compensation as if it was wages duly earned. 36 V., c. 129, s. 36.

Seamen discharged before voyage to have compensation.

ALLOTMENT OF WAGES.

37. All stipulations for the allotment of any part of the wages of a seaman during his absence, which are made at the commencement of the voyage, shall be inserted in the agreement, and shall state the amounts and times of payments to be made; and allotment notes may be in the form B in the schedule hereto. 36 V., c. 129, s. 37.

Rules as to allotment notes.

38. The wife, or the father or mother, or the grandfather or grandmother, or any child or grandchild, or any brother or sister, of any seaman in whose favor an allotment note of part of the wages of such seaman is made, may, unless the seaman is shown in manner hereinafter mentioned to have forfeited or ceased to be entitled to the wages out of which the allotment is to be paid, and subject as to the wife, to the provision hereinafter contained, sue for and recover the sums allotted by the note when and as the same are made payable, with costs, from the owner or any agent who has authorized the drawing of the note,—either in the summary manner in

Allotment notes may be sued on summarily by certain persons and under certain conditions.

which seamen are, by this Act, enabled to sue for and recover wages not exceeding two hundred dollars, or in any court in any of the said Provinces having jurisdiction to the amount, within the limits of whose jurisdiction such owner or agent has been served with process, or the agreement and allotment note or either of them were or was made,—such owner or agent having been duly served with process in any place in any of the said Provinces within or without such limits :

Proof.

2. In any such proceeding it shall be sufficient for the claimant to prove that he or she is the person mentioned in the note, and that the note was given by the owner or by the master or some authorized agent ; and the seaman shall be presumed to be duly earning his wages, unless the contrary is shown to the satisfaction of the court, either by the official statement of the change in the crew caused by his absence made and signed by the master, as by this Act is required, or by a duly certified copy of some entry in the log-book to the effect that he has left the ship, or by a credible letter from the master of the ship to the same effect, or by such other evidence, of whatever description, as the court in its absolute discretion considers sufficient to show satisfactorily that the seaman has ceased to be entitled to the wages out of which the allotment is to be paid :

As to misconduct of wife.

3. The wife of any seaman who deserts her children, or so misconducts herself as to be undeserving of support from her husband, shall thereupon forfeit all right to further payments of any allotment of his wages which has been made in her favor :

Penalty for wilfully false statement.

4. Every master who makes a wilfully false statement in any such letter, as is in this section mentioned, shall incur a penalty of one hundred dollars. 36 V., c. 129, s. 38.

DISCHARGE AND PAYMENT OF WAGES.

Discharges to be made before shipping master.

39. All seamen discharged in any of the said Provinces, from ships registered in any of the said Provinces other than Canadian home-trade ships, shall be discharged and receive their wages in the presence of the shipping master duly appointed under this Act, except in cases where some competent court otherwise directs ; and any master or owner or consignee of any ship registered in any of the said Provinces, not being a Canadian home-trade ship, who discharges any seaman belonging thereto or, except as aforesaid, pays his wages within any of the said Provinces in any other manner, shall incur a penalty not exceeding forty dollars ; and in the case of ships exempted as aforesaid, seamen may, if the owner or master so desires, be discharged and receive their wages in like manner. 36 V., c. 129, s. 39.

Exceptions

Penalty for default.

Master to deliver account of wages.

40. Every master shall, before paying off or discharging any seaman in any of the said Provinces from a ship registered in any of the said Provinces, not being a Canadian home-trade ship of less than eighty tons, deliver to him, or

if he is to be discharged before a shipping master, to such shipping master, a full and true account of his wages, and of all deductions to be made therefrom on any account whatsoever, and in default shall, for each offence, incur a penalty not exceeding twenty dollars; and such account may be in the form C in the schedule hereto. 36 V., c. 129, s. 40.

41. Upon the discharge in any of the said Provinces of any seaman belonging to a ship registered in any of the said Provinces, not being a Canadian home-trade ship of less than eighty tons, or upon payment of his wages, the master shall sign and give him a certificate of his discharge in the form D in the schedule hereto, specifying the period of his service and the time and place of his discharge, and shall make and sign thereon a report of the conduct, character and qualifications of the person discharged, during the period he has been in his employment; or he may state that he declines to give any opinion upon such particulars or upon any of them; and if any master fails to sign and give to any such seaman requiring the same, such certificate of discharge and report or statement as aforesaid, he shall, for each such offence, incur a penalty not exceeding forty dollars. 36 V., c. 129, s. 41.

On discharge masters to give seamen certificates of discharge.

Penalty for default.

42. Every shipping master in Canada may hear and decide any question whatsoever between a master or owner of a ship registered in Canada and any of his crew, which both parties agree in writing to submit to him; and every award so made by him shall be binding on both parties, and shall, in any legal proceedings which are taken in the matter before any court of justice in Canada, be deemed to be conclusive as to the rights of the parties; and any document purporting to be such submission or award shall be *prima facie* evidence thereof, and such shipping master may charge a fee not exceeding four dollars as remuneration therefor. 36 V., c. 129, s. 42.

Shipping master may decide questions which parties refer to him.

43. In any proceeding relating to the wages, claims or discharge of any seaman belonging to any ship registered in any of the said Provinces, carried on before any shipping master under the provisions of this Act, such shipping master may call upon the owner or his agent, or upon the master or any mate or other member of the crew, to produce any log books, papers or other documents in their respective possession or power, relating to any matter in question in such proceedings, and may call before him and examine on oath on any such matter any of such persons then at or near the place; and every owner, agent, master, mate or other member of the crew, who when called upon by the shipping master does not produce any such paper or document as aforesaid, if in his possession or power, or does not appear and give evidence, shall, unless he shows a rea-

Masters and others to produce ship's papers to shipping masters and give evidence.

Penalty for default.

sonable excuse for such default, incur for each such offence a penalty not exceeding twenty dollars. 36 V., c. 129, s. 43.

LEGAL RIGHTS TO WAGES.

Right to wages and provisions, when to begin.

44. In the case of ships registered in any of the said Provinces, the right to wages and provisions of a seaman engaged in any of the said Provinces shall be taken to commence either at the time at which he commences work, or at the time specified for his commencement of work or presence on board, whichever first happens. 36 V., c. 129, s. 44.

Seamen not to forfeit certain rights.

45. No seaman engaged under this Act for any ship registered in any of the said Provinces, shall, by any engagement made in any of the said Provinces, forfeit his lien upon the ship, or be deprived of any remedy for the recovery of his wages to which he would otherwise have been entitled; and every stipulation in any agreement made in any of the said Provinces inconsistent with any provision of this Act, and every stipulation by which any seaman consents to abandon his right to wages in the case of the loss of the ship, or to abandon any right which he has or obtains in the nature of salvage, shall be wholly inoperative; but this shall not apply to the case of any stipulation made by the seamen belonging to any ship which, according to the terms of the agreement, is to be employed on salvage service, with respect to the remuneration to be paid to them for salvage services, to be rendered by such ship to any other ship. 36 V., c. 129, s. 45.

Proviso.

Wages not to depend on the earning of freight.

46. No right to wages of any seaman or apprentice on board of any ship registered in any of the said Provinces shall be dependent on the earning of freight; and every such seaman or apprentice who would be entitled to demand and recover any wages if the ship in which he has served had earned freight shall, subject to all other rules of law and conditions applicable to the case, be entitled to claim and recover the same, notwithstanding that freight has not been earned; but in all cases of wreck or loss of the ship, proof that he has not exerted himself to the utmost to save the ship, cargo and stores, shall bar his claim. 36 V., c. 129, s. 46.

How wages are to be paid in case of death.

47. If any seaman or apprentice to whom wages are due under the next preceding section dies before the same are paid, they shall be paid and applied in the manner hereinafter specified with regard to the wages of seamen who die during a voyage. 36 V., c. 129, s. 47.

Right to wages in case of termination of service by wreck or illness.

48. Whenever the service of any seaman belonging to any ship registered in any of the said Provinces, terminates before the period contemplated in the agreement by reason of the wreck or loss of the ship, and whenever such service

terminates before such period as aforesaid by reason of his being left on shore at any place abroad, under a certificate of his unfitness or inability to proceed on the voyage, granted as herein mentioned, such seaman shall be entitled to wages for the time of service prior to such termination as aforesaid, but not for any further period. 36 V., c. 129, s. 48.

49. No seaman or apprentice belonging to any ship registered in any of the said Provinces, shall be entitled to wages for any period during which he unlawfully refuses or neglects to work when required, whether before or after the time fixed by the agreement for his beginning work, or, unless the court hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offence committed by him. 36 V., c. 129, s. 49.

Wages not to accrue during refusal to work or imprisonment.

50. Whenever a seaman belonging to any ship registered in any of the said Provinces is, by reason of illness, incapable of performing his duty, and it is proved that such illness has been caused by his own wilful act or default, he shall not be entitled to wages for the time during which he is, by reason of such illness, incapable of performing his duty. 36 V., c. 129, s. 50.

Nor during illness caused by wilful act or default.

51. The master or owner of every ship registered in any of the said Provinces shall pay every seaman belonging to such ship, his wages, if demanded within three days after the delivery of the cargo or five days after the seaman's discharge, whichever first happens; but this provision shall not apply to cases in which the seaman by the agreement is paid by a share of the profits of the adventure. 36 V., c. 129, s. 51.

Period within which wages are to be paid.

MODE OF RECOVERING WAGES.

52. Any seaman or apprentice belonging to any ship registered in any of the said Provinces, or any person duly authorized on his behalf, may sue in a summary manner before any judge of the Superior Court for Lower Canada, any judge of the sessions of the peace, any judge of a county court, stipendiary magistrate, police magistrate, or any two justices of the peace acting in or near the place at which the service has terminated, or at which the seaman or apprentice has been discharged, or at which any master or owner or other person upon whom the claim is made is or resides, for any amount of wages due to such seaman or apprentice, not exceeding two hundred dollars, over and above the costs of any proceeding for the recovery thereof, as soon as the same becomes payable; and such judge, magistrate or justices may, upon complaint on oath made to him or them by such seaman or apprentice, or on his behalf, summon such master or owner or other person to appear before him or them to answer such complaint. 36 V., c. 129, s. 52.

Seamen may sue for wages in a summary manner.

Master or owner may be summoned to appear.

Judges may make order for payment of wages.

53. Upon appearance of such master or owner, or in default thereof, on due proof of his having been so summoned, such judge, magistrate or justices may examine upon the oath of the respective witnesses of the parties (if there are any), or upon the oath of either of the parties, in case one of the parties requires such oath from the other, before such judge, magistrate, or justices, touching the complaint and amount of wages due, and may make such order for the payment thereof, as to such judge, magistrate or justices appears reasonable and just; and any order made by such judge, magistrate or justices shall be final. 36 V., c. 129, s. 53.

Warrant of distress may be issued.

54. If such order is not obeyed within twenty-four hours next after the making thereof, such judge, magistrate or justices may issue a warrant to levy the amount of the wages awarded to be due, by the distress and sale of the goods and chattels of the person on whom such order is made,—paying to such person the overplus of the proceeds of the sale, after deducting therefrom all the charges and expenses incurred by the seaman or apprentice in the making and hearing of the complaint, as well as those incurred by the distress and levy, and in the enforcement of the order. 36 V., c. 129, s. 54.

If sufficient distress cannot be found wages and expenses may be levied on ship, or person may be committed.

55. If sufficient distress cannot be found, such judge, magistrate or justices may cause the amount of such wages and expenses to be levied on the ship in respect of the service on board which the wages are claimed, or the tackle and apparel thereof; and if such ship is not within the jurisdiction of such judge, magistrate or justices, then they may cause the person on whom the order for payment is made to be apprehended and committed to the common gaol of the locality, or if there is no gaol there, then to that which is nearest to the locality, for a term not exceeding three months and not less than one month, under each such condemnation. 36 V., c. 129, s. 55.

Restrictions on suits for wages in superior courts.

56. No suit or proceedings for the recovery of wages under the sum of two hundred dollars shall be instituted by or on behalf of any seaman or apprentice belonging to any ship registered in any of the said Provinces in any court of Vice Admiralty, or in any superior court in any of the said Provinces, unless the owner of the ship is insolvent within the meaning of any Act respecting insolvency, for the time being in force in Canada,—or unless the ship is under arrest or is sold by the authority of any such court of Vice Admiralty or superior court as aforesaid,—or unless any judge, magistrate or justices, acting under the authority of this Act, refers the case to be adjudged by such court,—or unless neither the owner nor the master is or resides within twenty miles of the place where the seaman or apprentice is discharged or put ashore. 36 V., c. 129, s. 56.

57. If any suit for the recovery of a seaman's wages is instituted against any such ship, or the master or owner thereof, in any court of Vice Admiralty or in any superior court in any of the said Provinces, and it appears to the court, in the course of such suit, that the plaintiff might have had as effectual a remedy for the recovery of his wages by complaint to a judge, magistrate or two justices of the peace under this Act, then the judge shall certify to that effect, and thereupon no costs shall be awarded to the plaintiff. 36 V., c. 129, s. 57.

If suits are brought unnecessarily before superior court, no costs to plaintiff.

58. No seaman belonging to any Canadian foreign sea-going ship, who is engaged for a voyage or engagement which is to terminate in any of the said Provinces, shall be entitled to sue in any court abroad for wages, unless he is discharged with such sanction as herein required, and with the written consent of the master, or proves such ill-usage on the part of the master or by his authority, as to warrant reasonable apprehension of danger to the life of such seaman if he remained on board; but if any seaman on his return to any of the said Provinces proves that the master or owner has been guilty of any conduct or default which, but for this section, would have entitled the seaman to sue for wages before the termination of the voyage or engagement, he shall be entitled to recover in addition to his wages such compensation, not exceeding eighty dollars, as the court hearing the case thinks reasonable. 36 V., c. 129, s. 58.

No seaman to sue for wages abroad, except in cases of discharge or danger of life.

Proviso.

59. Every master of a ship registered in any of the said Provinces shall, so far as the case permits, have the same rights, liens and remedies for the recovery of his wages, which by this Act or by any law or custom any seaman, not being a master, has for the recovery of his wages; and if, in any proceeding in any court of Vice Admiralty, or court possessing admiralty jurisdiction in any of the said Provinces touching the claim of a master to wages, any right of set-off or counter claim is set up, such court may enter into and adjudicate upon all questions and settle all accounts then arising or outstanding and unsettled between the parties to the proceeding, and may direct payment of any balance which is found to be due. 36 V., c. 129, s. 59.

Master to have same remedies for wages as seamen

WAGES AND EFFECTS OF DECEASED SEAMEN.

60. Whenever any seaman or apprentice belonging to or sent home in any Canadian foreign sea-going ship, employed on a voyage which is to terminate in any of the said Provinces, dies during such voyage, the master shall take charge of all money, clothes and effects which he leaves on board, and shall, if he considers it necessary in order to prevent contagion or disease, dispose of the clothes in such way as he thinks fit,—and shall thereupon sign an entry in the log book containing the following particulars, that is to say:—

Master to take charge of, and may sell effects of deceased seamen, and enter the same and wages due in the log-book.

Statement of property.

(a.) A statement of the amount of money and description of the effects so left by the deceased, and if any effects were disposed of to prevent contagion or disease, a statement of such effects and the mode of disposing of them and the amount received for each ;

Statement of wages.

(b.) A statement of the amount due to the deceased as wages, and of the total amount of the deductions, if any, to be made therefrom,—

Master to give account to shipping master, who shall furnish copy to the minister.

And shall cause such entry to be attested by a mate and by one of the crew : and on arrival at any port in any of the said Provinces at which there is a shipping master, the master shall, within three days after his arrival, deliver to such shipping master a full and true account of such effects, money and wages, with an account of any deductions made therefrom (and no deductions claimed in such account shall be allowed unless verified by an entry in the log-book), and also by such other vouchers as are reasonably required by the shipping master to whom the account is rendered ; and such shipping master shall furnish the Minister with a copy of such account within six days after receiving the same, and shall, subject to his directions, deliver such wages, effects and money to the legal representative of the deceased seaman or apprentice ; or if no such representative can be found, then such shipping master shall dispose of such effects, money and wages in such manner as the Minister directs. 36 V., c. 129, s. 60.

Penalties for not taking charge of or remitting or accounting for money and effects.

61. If any master fails to take such charge of the money or other effects of any such seaman or apprentice dying during a voyage, or to make such entry thereof, or to procure such attestation to such entries, or to make such payment or delivery of any money, wages or effects of any such seaman or apprentice dying during a voyage, or to give such account in respect thereof as hereinbefore respectively directed, he shall be accountable to the legal representative of such seaman or apprentice and shall pay and deliver the same accordingly ; and such master shall, in addition, for every such offence incur a penalty not exceeding treble the value of the money or effects not accounted for, or, if such value is not ascertained, not exceeding two hundred dollars : and if any such money, wages or effects are not duly paid, delivered or accounted for by the master, the owner of the ship shall pay, deliver and account for the same, and such money and wages and the value of such effects shall be recoverable from him accordingly ; and if he fails to account for and pay the same, he shall, in addition to his liability for the said money and value, incur the same penalty, which is hereinbefore mentioned as incurred by the master for the like offence : and all money, wages and effects of any such seaman or apprentice dying during a voyage, shall be recoverable in the same court and by the same modes of proceeding by which seamen are, by this Act, enabled to recover

How money, wages and effects may be recovered.

wages due to them : and any shipping master who fails to report the receipt of such accounts, wages, money and effects to the Minister, or who fails to deliver or pay over such wages, money and effects as directed, shall be liable to be dismissed from his office. 36 V., c. 129, s. 61.

Penalty for failure to report to minister.

62. Whenever any such seaman or apprentice dies in any of the said Provinces, and is, at the time of his death, entitled to claim from the master or owner of any such ship in which he has served any unpaid wages or effects, such master or owner shall pay and deliver or account for the same to the shipping master at the port where such seaman or apprentice was discharged or was to have been discharged, or to the Minister, or as he directs. 36 V., c. 129, s. 62.

Wages and effects of a seaman dying in Canada to whom to be paid and delivered.

63. In cases of wages or effects of deceased seamen and apprentices who belonged, at the time of their death, to ships registered in any of the said Provinces, received by any shipping master on behalf of the Government of Canada, to which no claims substantiated within six years after the receipt thereof by such shipping master on behalf of the Government of Canada, it shall be in the absolute discretion of the Governor in Council, if any subsequent claim is made, either to allow or to refuse the same ; and, subject to the provision hereinafter contained, the Governor in Council may, from time to time, order and direct that any moneys arising from the unclaimed wages and effects of deceased seamen and apprentices, which, in the opinion of the Governor in Council, it is not necessary to detain for the purpose of satisfying claims, shall be paid to the Minister of Finance and Receiver General, to form part of the Consolidated Revenue Fund of Canada ; and such moneys shall be applied as the Governor in Council directs. 36 V., c. 129, s. 63.

Mode of dealing with unclaimed wages of deceased seamen.

LEAVING SEAMEN ABROAD.

64. Whenever any Canadian foreign sea-going ship is transferred or disposed of at any place out of Her Majesty's Dominions, and any seaman or apprentice belonging thereto does not, in the presence of some British consular officer, or if there is no such consular officer there, in the presence of one or more respectable British merchants residing at the place and not interested in the said ship, signify his consent in writing to complete the voyage if continued, and whenever the service of any seaman or apprentice belonging to any such ship terminates at any place out of Her Majesty's Dominions, the master shall give to each such seaman or apprentice a certificate of discharge, and in the case of any certificated mate, whose certificate he has retained, shall return such certificate to him, and shall also, besides paying the wages to which such seaman or apprentice is entitled, either provide him with adequate employment on board some

On discharge of seamen abroad, by sale of ship or otherwise, certificates of discharge to be given, and seamen to be sent home at the expense of the owner.

other British ship bound to the port in Canada or any other port in Her Majesty's Dominions, at which he was originally shipped, or to such other port as is agreed upon by him, or furnish the means of sending him back to such port, or provide him with a passage home, or deposit with such consular officer or such merchant or merchants as aforesaid, such a sum of money as is, by such officer or merchants, deemed sufficient to defray the expenses of his subsistence and passage home :

Recovery of expenses if not paid.

2. If the master refuses or neglects to comply with the provisions of this section, such expenses as last aforesaid, if defrayed by such consular officer or any other person, and the particulars of such payment, provision or deposit indorsed by him or them upon the agreement of the ship which the seaman or apprentice is leaving, unless such seaman or apprentice has been guilty of barratry, shall be a charge upon the ship to which such seaman or apprentice belonged and upon the owner for the time being thereof, and may be recovered from such owner, with costs, at the suit of the consular officer or other person defraying such expenses ; or, if the same has been allowed to the consular officer out of the public moneys, as a debt due to Her Majesty, either by ordinary process of law or in the manner in which seamen are hereby enabled to recover wages ; and such expenses, if defrayed by the seaman or apprentice, shall be recoverable as wages due to him. 36 V., c. 129, s. '64.

Forcing seamen on shore a misdemeanor.

65. Every master or other person belonging to any Canadian foreign sea-going ship, who wrongfully forces on shore and leaves behind, or otherwise wilfully and wrongfully leaves behind in any place, on shore or at sea, in or out of Her Majesty's dominions, any seaman or apprentice belonging to such ship before the completion of the voyage for which such person was engaged, or the return of the ship to Canada, is guilty of a misdemeanor. 36 V., c. 129, s. 65.

Seamen discharged or left abroad. Discharging seamen in any British possession without sanction of proper officer.

66. Every master of a Canadian foreign sea-going ship, who,—

(a.) Discharges any seaman or apprentice in any place situate in the United Kingdom or in any British possession other than Canada, without previously obtaining the sanction in writing indorsed on the agreement of a public shipping master or other officer duly appointed by the Government in that behalf, or (in the absence of such functionary) of the chief officer of customs, resident at or near the place where the discharge takes place, —

(b.) Discharges any seaman or apprentice at any place out of Her Majesty's Dominions without previously obtaining the sanction, so indorsed as aforesaid, of the British consular officer there or (in his absence) of two respectable merchants resident there,—

Elsewhere without such sanction.

(c.) Leaves behind any seaman or apprentice at any place situate in the United Kingdom or in any British possession other than Canada, on any ground whatsoever, without previously obtaining a certificate in writing, so indorsed as aforesaid, from such officer or person as aforesaid, stating the fact and the cause thereof, whether such cause is unfitness or inability to proceed to sea, or desertion or disappearance, or—

Leaving seamen behind in any British possession without certificate of proper officer.

(d.) Leaves behind any seaman or apprentice at any place out of Her Majesty's Dominions, on shore or at sea, on any ground whatsoever, without previously obtaining the certificate, indorsed in the manner and to the effect last aforesaid, of the British consular officer there, or, in his absence, of two respectable merchants, if there are any such at or near the place where the ship then is,—

Elsewhere without such certificate.

Is guilty of a misdemeanor. 36 V., c. 129, s. 66.

Penalty.

67. Upon the trial of any information, indictment or other proceeding against any person for discharging or leaving behind any seaman or apprentice contrary to the provisions of this Act, it shall lie upon such person either to produce the sanction or certificate hereby required, or to prove that he had obtained the same previously to having discharged or left behind such seaman or apprentice, or that it was impracticable for him to obtain such sanction or certificate. 36 V., c. 129, s. 67.

Proof of such certificate to be upon the master.

68. Every master of a Canadian foreign sea-going ship, who leaves any seaman or apprentice on shore at any place out of Canada, under a certificate of his unfitness or inability to proceed on the voyage, shall deliver to one of the functionaries aforesaid, or (in the absence of such functionaries) to the merchants by whom such certificate is signed, or if there is but one respectable merchant resident at such place, to him, a full and true account of the wages due to such seaman or apprentice (such account when delivered to a consular officer to be in duplicate), and shall pay the same either in money or by a bill drawn upon the owner,—and by money whenever it is practicable so to do, and not by bill :

Wages to be paid when seamen are left behind on ground of inability.

2. Whenever payment is made by bill, drawn by the master, the owner of the ship shall be liable to pay the amount for which the same is drawn to the holder or indorsee thereof ; and it shall not be necessary in any proceeding against the owner upon such bill to prove that the master had authority to draw the same : and any bill purporting to be drawn in pursuance of this section and to be indorsed as therein required, if produced out of the custody of the Minister, or of any shipping master, shall be received in evidence ; and any indorsement on any such bill purporting to be made in pursuance of this section, and to be signed by one of the functionaries herein mentioned, shall also be received in evidence and shall be *primâ facie* evidence of the facts stated in such indorsement :

Draft on owner ; effect and proof of.

Penalty for
contraven-
tion.

3. Every such master as aforesaid who refuses or neglects to deliver a full account of such wages, and to pay the amount thereof in money or by bill as hereinbefore required shall, for every such offence or default, be liable, in addition to the payment of the wages, to a penalty not exceeding forty dollars; and every such master who delivers a false account of such wages shall, for every such offence, be liable, in addition to the payment of wages, to a penalty not exceeding eighty dollars. 36 V., c. 129, s. 68.

Penalty for
false account.

Governor in
Council may
pay expenses
of relief of
Canadian sea-
men found
abroad in dis-
tress.

69. The Governor in Council may pay any reasonable expenses incurred by the Board of Trade of the United Kingdom, or by any officers of Her Majesty in any British possession other than Canada, or in any foreign country on account of subsistence or transport back to Canada of any seamen or apprentices who are natives of and residents in Canada, and who have been found in distress, either on account of shipwreck or otherwise, in any place out of Canada, out of any moneys applicable to the relief of distressed seamen and granted by the Parliament of Canada for the purpose,—on the production of the bills of the disbursements, with the proper vouchers and such other evidence as the Governor in Council requires. 36 V., c. 129, s. 69.

Power to sue
for the amount
advanced for
the relief of
seamen left
abroad.

70. If any seaman or apprentice belonging to any Canadian foreign sea-going ship is discharged or left behind at any place out of Canada, without full compliance on the part of the master with all the provisions in that behalf in this Act contained, and becomes distressed and is relieved under the provisions of this Act, all expenses incurred for his subsistence, necessary clothes, conveyance back to Canada, and burial in case he dies abroad before reaching Canada, shall be a charge upon the ship to which he belonged as aforesaid: and the Minister may, in the name of Her Majesty (besides suing for any penalties which have been incurred), sue for and recover the said wages and expenses with costs, either from the master of such ship as aforesaid, or from the person who is owner thereof for the time being; and such sums shall be recoverable, either in the same manner as other debts due to Her Majesty, or in the same manner and by the same form and process in which wages due to the seaman would be recoverable by him; and in any proceeding for that purpose, production of the account to be furnished as hereinbefore provided in such cases, together with proof of payment by the Board of Trade of the United Kingdom, or by the Government of Canada, of the charges incurred on account of any such seaman or apprentice, shall be sufficient evidence that he was relieved, conveyed home or buried, as the case may be, at the expense of the Government of the United Kingdom or of the Government of Canada. 36 V., c. 129, s. 70.

How recover-
able.

PROVISIONS, HEALTH AND ACCOMMODATION.

71. Any three or more of the crew of any ship registered in any of the said Provinces, may complain to any officer in command of any of Her Majesty's ships or any shipping master in Canada, that the provisions or water for the use of the crew are at any time of bad quality, unfit for use or deficient in quantity; and such officer may thereupon examine the said provisions or water, or cause them to be examined; and if on examination, such provisions or water are found to be of bad quality and unfit for use, or to be deficient in quantity, the person making such examination shall signify the same in writing to the master of the ship; and if such master does not thereupon provide other provisions and water in lieu of any so signified to be of bad quality and unfit for use, or does not procure the requisite quantity of any so signified to be insufficient in quantity, or uses any provisions or water which have been so signified as aforesaid to be of bad quality and unfit for use, he shall, in every such case, incur a penalty not exceeding eighty dollars; and upon every such examination as aforesaid, the officer making or directing the same shall enter a statement of the result of the examination in the log-book, and shall send a report thereof to the Minister; and such report, if produced out of the custody of the Minister or any officer of the Government, shall be received in evidence in any legal proceedings. 36 V., c. 129, s. 71.

Survey of provisions and water on complaint made.

Penalty, if necessary provisions are not obtained.

Entry and report of examination.

72. If the officer to whom any such complaint is made, certifies in such statement as aforesaid, that there was no reasonable ground for such complaint, each of the persons so complaining shall be liable to forfeit to the owner, out of his wages, a sum not exceeding one week's wages. 36 V., c. 129, s. 72.

Forfeiture for frivolous complaint.

73. In the following cases, that is to say:—

(a.) If during the voyage the allowance of any of the provisions which any seaman has by his agreement stipulated for is reduced, except in accordance with any regulations for reduction by way of punishment contained in the agreement, and also except for any time during which such seaman willfully and without sufficient cause refuses or neglects to perform his duty, or is lawfully under confinement for misconduct either on board or on shore,—

Allowance for short provisions.

(b.) If it is shown that any of such provisions are or have, during the voyage, been bad in quality and unfit for use,—

The seaman shall receive, by way of compensation for such reduction or bad quality, according to the time of its continuance, the following sums to be paid to him in addition to and to be recoverable as wages, that is to say:—

Compensation to be made.

(a.) If his allowance is reduced by any quantity not exceeding one-third of the quantity specified in the agreement, an amount not exceeding eight cents a day;

(b.) If his allowance is reduced by more than one-third of such quantity, sixteen cents a day ;

(c.) In respect of such bad quality as aforesaid, an amount not exceeding twenty-four cents a day :

Proviso.

But, if it is shown to the satisfaction of the court before which the case is tried, that any provisions; the allowance of which has been reduced, could not be procured or supplied in proper quantities, and that proper and equivalent substitutes were supplied in lieu thereof, the court shall take such circumstances into consideration, and shall modify or refuse compensation as the justice of the case requires. 36 V., c. 129, s. 73.

Masters to keep weights and measures on board.

74. Every master of a ship registered in any of the said Provinces shall keep on board proper weights and measures for the purpose of determining the quantities of the several provisions and articles served out, and shall allow the same to be used at the time of serving out such provisions and articles, in the presence of a witness, whenever any dispute arises about such quantities, and in default shall, for every offence, incur a penalty not exceeding forty dollars. 36 V., c. 129, s. 74.

Expense of medical attendance, &c.

75. The following rules shall be observed with respect to expenses attendant on illness and death, occurring abroad, that is to say :—

In case of injury in the service of the ship.

(a.) If the master or any seaman or apprentice of any Canadian foreign sea-going ship receives any hurt or injury in the service of the ship to which he belongs, the expense of providing the necessary surgical and medical advice, with attendance and medicines, and of his subsistence until he is cured or dies, or is brought back to some port in the United Kingdom, if shipped in the United Kingdom, or to some port in Canada, if shipped in Canada, or if shipped in some other British possession, and of his conveyance to such port, and the expense of his burial, shall be defrayed by the owner of such ship, without any deduction on that account from the wages of such master, seaman or apprentice ;

How to be defrayed.

Removal in consequence of infection.

(b.) If the master or any seaman or apprentice of any such ship is, on account of any illness, temporarily removed from his ship for the purpose of preventing infection or otherwise for the convenience of the ship, and subsequently returns to his duty, the expense of such removal and of providing the necessary advice with attendance and medicines, and of his subsistence while away from the ship, shall be defrayed in like manner ;

Medicines and attendance on board ship.

(c.) The expense of all medicines and surgical or medical advice and attendance given to any master, seaman or apprentice of any ship, whilst on board his ship, shall be defrayed in like manner ;

In other cases.

(d.) In all other cases any reasonable expenses duly incurred by the owner for any seaman or apprentice in respect of

any illness, and also any reasonable expenses duly incurred by the owner in respect of the burial of any seaman or apprentice who dies whilst on service, shall, if duly proved, be deducted from the wages of such seaman or apprentice. 36 V., c. 129, s. 75.

76. If any such expenses in respect of the illness, injury or hurt of any seaman or apprentice belonging to any Canadian foreign sea-going ship as are to be borne by the owner, are paid by any consular officer or any other person on behalf of Her Majesty, or if any other expenses in respect of the illness, injury or hurt of any seaman or apprentice whose wages are not accounted for to such officer under the provisions hereinbefore contained in that behalf, are so paid, such expenses shall be repaid to the officer or other person by the master of the ship; and if not so repaid, the amount thereof, with costs, shall be a charge upon the ship, and be recoverable from the said master or from the owner of the ship for the time being, as a debt due to Her Majesty; and shall be recoverable by ordinary process of law, or in the manner in which seamen are hereby enabled to recover wages; and in any proceeding for the recovery thereof, the production of a certificate of the facts, signed by such officer or other person, together with such vouchers as the case requires, shall be sufficient proof that the said expenses were duly paid by such consular officer or other person as aforesaid. 36 V., c. 129, s. 76.

Expenses if paid by consul to be recoverable from owner.

Evidence.

77. The following rules shall be observed with respect to accommodation for seamen and apprentices on board Canadian foreign sea-going ships, that is to say:—

Accommodation of seamen.

(a.) Every place in any such ship occupied by seamen or apprentices, and appropriated to their use, shall have for every such seaman or apprentice a space of not less than seventy-two cubic feet, and of not less than twelve superficial feet, measured on the deck or floor of such place;

Space for each man.

(b.) Every such place shall be such as to make the space aforesaid available for the proper accommodation of the men who are to occupy it, shall be securely constructed, properly lighted and ventilated, properly protected from weather and sea, and, as far as practicable, shall be properly shut off and protected from the effluvia caused by cargo or bilge water;

Shelter, light and ventilation.

(c.) No such place shall be deemed to be such as to authorize a deduction from registered tonnage, under the provisions hereinafter contained, unless there is or are in the ship one or more properly constructed privy or privies for the use of the crew; such privy or privies to be of such number and of such construction as are approved by the surveyor hereinafter mentioned;

Privies.

(d.) Every such place shall, whenever the ship is registered or re-registered, be inspected by one of the surveyors appointed by the Governor in Council under the third section

To be subject to inspection.

of " *The Colonial Shipping Act, 1868,*" who shall, if satisfied that the same is in all respects such as is required by this Act, give to the collector of customs a certificate to that effect, and thereupon such space shall be deducted from the registered tonnage ;

Inscription
over en-
trance.

(e.) No such deduction from tonnage as aforesaid shall be authorized unless there is permanently cut in a beam, and cut in or painted on or over the doorway or hatchway of every such place, the number of men which it is constructed to accommodate, with the words "certified to accommodate seamen ;"

To be kept
free from
stores.

(f.) Every such place shall be kept free from stores or goods of any kind, which are not the personal property of the crew in use during the voyage ;

Inspection of
such place on
complaint.

(g.) Upon any complaint concerning any such place one of the surveyors appointed by the Governor in Council may inspect such place, and if he finds that any of the provisions of this Act with respect to the same are not complied with, he shall report the same to the collector of customs at the port where the ship is registered ; and thereupon the registered tonnage shall be altered and the deduction aforesaid in respect of space disallowed, until it is certified by such surveyor, or by some other surveyor appointed by the Governor in Council, that the provisions of this Act in respect of such place are fully complied with ;

Penalty if
such place is
not kept
clear of goods.

(h.) If any such place in any such ship is not kept free from goods and stores as aforesaid, the master shall be deemed to be in fault, and shall, for every such failure to comply with the provisions of this section, pay to each seaman lodged in such place, the sum of twenty-four cents a day for each day after complaint made to him by any two or more of such seamen during which any goods or stores, which are not the personal property of the crew, are stored or kept therein ;

Penalty for
contraven-
tion in other
respects.

(i.) If in any other respect, the provisions of this section are not observed with respect to any such place in any such ship, the owner shall be deemed to be in fault, and shall, for every failure to comply with the provisions of this section, incur a penalty not exceeding eighty dollars. 36 V., c. 129, s. 77.

POWER OF MAKING COMPLAINTS.

Seamen to be
allowed to go
ashore to
make com-
plaint to a
justice.

78. If any seaman or apprentice whilst on board, in any of the said Provinces, any ship registered in any of the said Provinces, states to the master that he desires to make complaint to a justice of the peace, or naval officer in command of any of Her Majesty's ships, against the master or any of the crew, the said master shall, if the ship is then at a place where there is a justice or any such officer as aforesaid, as soon as the service of the ship will permit, and if the ship is not then at such a place, so soon after her first arrival at such a place in any of the said Provinces, as the service of the ship will permit, allow such seaman or apprentice to go

ashore or send him ashore in proper custody, so that he may be enabled to make such complaint, and shall, in default, incur a penalty not exceeding forty dollars. 36 V., c. 129, s. 78.

79. Whenever in any proceeding against any seaman or apprentice belonging to any ship, registered in any of the said Provinces, for desertion, or for neglecting or refusing to join or to proceed to sea or on any voyage in his ship, or for being absent from or quitting the same without leave, it is alleged by one-fourth the seamen belonging to such ship, or, if the number of men exceeds twenty, by at least five such seamen, that such ship is, by reason of unseaworthiness, overloading, improper loading, defective equipment, or for any other reason, not in a fit condition to proceed to sea or on such voyage, or that the accommodation in such ship is insufficient, the court having cognizance of the case shall take such means as are in its power to satisfy itself concerning the truth or untruth of such allegation, and shall for that purpose receive the evidence of the person or persons making the same, and shall have power to summon any other witnesses whose evidence such court thinks it desirable to hear; and the court shall thereupon, if satisfied that the allegation is groundless, proceed to adjudicate, but if not so satisfied shall cause such ship to be surveyed :

Survey of ships alleged by seamen to be unseaworthy.

2. No seaman or apprentice charged with desertion, or with quitting his ship without leave, shall have any right to apply for a survey under this section unless previously to his quitting his ship he has complained to the master of the circumstances so alleged in justification :

As to seaman charged with desertion.

3. For the purposes of this section, the court may appoint and require any person having no interest in the ship, her freight or cargo, whom the court deems competent to deal with the special circumstances of the case, to survey the ship, and to answer any question concerning her which the court thinks fit to put :

Survey may be ordered by the court.

4. Such person shall survey the ship, and make his report in writing to the court, including an answer to every question put to him by the court : and the court shall cause such report to be communicated to the parties, and unless it is proved to the satisfaction of the court that the opinions expressed in such report are erroneous, the court shall determine the questions before it in accordance with those opinions :

Survey and report.

5. For the purposes of such survey, the person appointed to make the same may, in the execution of his duty, go on board the ship at any reasonable time, and may inspect the same or any part thereof, or any of the machinery, boats or other equipments, or cargo thereof, or any provisions or other articles on board thereof, the inspection of which appears to him to be requisite for the purpose of the inquiry he is required to make, not unnecessarily detaining or delaying the ship from proceeding to sea or on her voyage ; and if for any reason he considers it necessary so to do, he may require

Powers of surveyors.

the ship to be so dealt with that he may be able to inspect every part of the hull thereof :

Costs.

6. The costs of the survey shall be determined by the court, and shall be paid by the master or owner of the ship, or by the recognized consignee or agent thereof,—provided such recognized consignee or agent has moneys in his hands received on account of such ship :

How to be paid.

7. Every recognized consignee or agent of a ship not being the owner or master of such ship may, out of any moneys in his hands received on account of such ship, retain the amount of the costs so paid by him, together with any reasonable expenses he has incurred by reason of such payment and liability :

On whom to fall.

8. If it is proved to the satisfaction of the court that the ship is in a fit condition to proceed to sea or on her voyage, or, as the case may be, that the accommodation is sufficient, the costs of the survey may be deducted by the master or owner out of the wages due or to become due to the person or persons upon whose demand, or in consequence of whose allegation, the survey was made. 36 V., c. 129, s. 79.

PROTECTION OF SEAMEN FROM IMPOSITION.

Attachment or sale of, and charge upon wages to be invalid.

80. No wages due or accruing to any seaman or apprentice belonging to any ship registered in any of the said Provinces, shall be subject to attachment from any court; and every payment of wages to any such seaman or apprentice shall be valid in law, notwithstanding any previous sale or assignment of such wages or of any attachment or incumbrance thereon; and no assignment or sale of such wages or of salvage made prior to the accruing thereof shall bind the person making the same; and no power of attorney or authority for the receipt of any such wages or salvage shall be irrevocable. 36 V., c. 129, s. 80.

No debt exceeding one dollar recoverable till end of voyage.

81. No debt exceeding in amount one dollar, incurred by any seaman belonging to any ship registered in any of the said Provinces, after he has engaged to serve, shall be recoverable until the service agreed for is concluded. 36 V., c. 129, s. 81.

No debt over one dollar recoverable by tavern keeper.

82. No debt exceeding the sum of one dollar, incurred by any seaman or apprentice, shall be recoverable in any court or be pleadable by way of set-off by any keeper of a tavern, or house of public entertainment, or lodging-house. 36 V., c. 129, s. 82.

Wearing apparel, &c., of seamen not liable for lodging, &c., beyond one dollar.

83. The wearing apparel of any seaman or apprentice shall not be kept by any keeper of a tavern, house of public entertainment, or lodging-house, in pledge for any debt or expenses incurred to any greater amount than one dollar; and on the payment or tender of such sum or of any less

sum due, such wearing apparel shall be immediately given up, whatever is the amount due by such seaman or apprentice. 36 V., c. 129, s. 83.

84. Every person who demands and receives of and from any seaman or apprentice belonging to any ship registered in any of the said Provinces, payment in respect of his board or lodging in the house of such person, for a longer period than such seaman or apprentice has actually resided and boarded therein, shall incur a penalty not exceeding forty dollars. 36 V., c. 129, s. 84.

Penalty for over charging seamen for board or lodging.

85. Every person who receives or takes into his possession or under his control any moneys, documents or effects of any seaman or apprentice belonging to any ship registered in any of the said Provinces, and does not return the same, or pay the value thereof when required so to do by such seaman or apprentice, after deducting therefrom what is justly due and owing in respect of the board and lodging of such seaman or apprentice, or who absconds therewith, shall incur a penalty not exceeding forty dollars over and above the amount or value of such moneys, documents or effects, after such deductions as aforesaid, and such penalty shall be adjudged by the judge, magistrate or justices before whom the offence is heard and determined, to be forthwith paid to such seaman. 36 V., c. 129, s. 85.

Penalty for detaining seamen's effects.

86. No person other than an owner, agent of an owner, or consignee of the ship or cargo, or a person in the employment of either of them, or an officer or person in Her Majesty's service or employment, harbor master, deputy harbor master, health officer, custom house officer, pilot, shipping master or deputy shipping master shall go on board of any merchant ship arriving or about to arrive from sea at the place of her destination before her actual arrival in dock, or at the quay or place of her discharge, or while she remains in port, without the permission and against the orders of the master or person in charge of such ship :

No person to go on board a merchant ship without leave of the master or person in charge.

2. If any person (other than those before mentioned in this section) goes on board of any such ship before her actual arrival in dock, or at the quay or place of her discharge or while she remains in port, without the permission and against the orders of the master or person in charge of such ship, he shall, if he is unarmed at the time of committing the offence, for every such offence be liable to imprisonment for a term not exceeding three years, and not less than six months ; and if such person is armed with or carries about his person any pistol, gun or other firearm, or offensive weapon, at the time of committing the offence, he shall, for every such offence, be liable to imprisonment for any term not exceeding five years, and not less than two years :

Punishment for so doing when unarmed.

When armed.

Arrest of
offender.

3. The master or person in charge of the ship may take any person so offending into custody and deliver him up forthwith to any constable or peace officer, to be, by him, taken before any judge of the Superior Court for Lower Canada, judge of the sessions of the peace, judge of a county court, or any stipendiary magistrate or police magistrate, to be dealt with according to the provisions of this Act. 45 V., c. 33, s. 1.

Penalty for
loitering near
ships.

87. Every person found loitering near any ship, and not giving a satisfactory account of his business there, shall, on summary conviction, be liable to a penalty not exceeding one hundred dollars and not less than fifty dollars, and to imprisonment, with hard labor, for a term not exceeding twelve months and not less than three months, if such person is unarmed at the time he is so found loitering; and every person found loitering near any ship and not giving a satisfactory account of himself, and being at the time armed with or carrying about his person any pistol, gun or other firearm or offensive weapon, shall, on summary conviction, be liable to imprisonment for a term not exceeding three years and not less than two years. 36 V., c. 129, s. 87;—45 V., c. 33, s. 2, *part.*

Boat may be
detained until
penalty is
paid; and sold
to pay it.

88. Any judge of the Superior Court for Lower Canada, judge of the sessions of the peace, justice of the peace, stipendiary magistrate or police magistrate, may order any boat or other water craft in or on which any such person is so found loitering as mentioned in the next preceding section, to be detained until payment of the penalty which such person is condemned to pay: and if such penalty is not paid before the expiration of the term of imprisonment to which such person has been condemned, the boat so detained shall be sold by public auction, and the proceeds of the sale thereof shall be appropriated to the payment of the penalty. 36 V., c. 129, s. 88;—45 V., c. 33, s. 2, *part.*

Penalty for
solicitations
by lodging-
house keepers.

89. Every person who, being on board any ship at any time after her arrival from sea at any port in any of the said Provinces, solicits any seaman to become a lodger at the house of any person letting lodgings for hire, or who takes from and out of such ship any chest, bedding or other effects of any seaman without the permission of the master or person in charge of such ship, shall, for every such offence, be liable, on summary conviction, to imprisonment, with hard labor, for a term not exceeding ninety days and not less than sixty days. 36 V., c. 129, s. 89.

DISCIPLINE.

Misconduct
endangering
ship or life or
limb a mis-
demeanor.

90. Every master of, or any seaman or apprentice belonging to any ship registered in any of the said Provinces, who by wilful breach of duty, or by neglect of duty, or by reason

of drunkenness, does any act tending to the immediate loss, destruction or serious damage of such ship, or tending immediately to endanger the life or limb of any person belonging to or on board of such ship, or who, by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, refuses or omits to do any lawful act proper and requisite to be done by him for preserving such ship from immediate loss, destruction or serious damage, or for preserving any person belonging to or on board of such ship from immediate danger to life or limb, is guilty of a misdemeanor. 36 V., c. 129, s. 90.

91. Whenever any seaman who has been lawfully engaged or bound to any ship registered in any of the said Provinces, and has duly signed an agreement as required by this Act, or whenever any apprentice who has executed indentures to the sea service in any of the said Provinces, commits any of the following offences, he shall be liable to be punished summarily, as follows, that is to say:—

Offences by seamen and apprentices and their punishment.

(a.) For desertion he shall be liable to imprisonment for any term not exceeding twelve weeks and not less than eight weeks, with hard labor, and also to forfeit all or any part of the clothes and effects he leaves on board, and all or any part of the wages or emoluments which he has then earned; and also, if such desertion takes place abroad, at the discretion of the court, to forfeit all or any part of the wages or emoluments he earns in any other ship in which he is employed until his next return to any of the said Provinces, and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him;

Desertion.

(b.) For neglecting or refusing, without reasonable cause, to join his ship or to proceed to sea, or on any voyage in his ship,—or for absence without leave at any time within twenty-four hours of the ship's sailing from any port either at the commencement or during the progress of any voyage,—or for absence at any time without leave and without sufficient reason, from his ship or from his duty not amounting to desertion or not treated as such by the master, he shall be liable to imprisonment for any term not exceeding ten weeks and not less than four weeks, with or without hard labor; and also, in the discretion of the court, to forfeit out of his wages a sum not exceeding the amount of two days' pay, and in addition for every twenty-four hours of absence, either a sum not exceeding six days' pay, or any expenses which have been properly incurred in hiring a substitute;

Neglecting or refusing to join, or to proceed to sea. Absence without leave

(c.) For quitting the ship without leave after her arrival in her port of delivery, and before she is placed in security, he shall be liable to forfeit out of his wages a sum not exceeding one month's pay;

Quitting without leave before the ship is secured.

Act of wilful disobedience.

(d.) For wilful disobedience to any lawful command, he shall be liable to imprisonment for any term not exceeding four weeks and not less than two weeks, with or without hard labor; and also, in the discretion of the court, to forfeit out of his wages a sum not exceeding two days' pay;

Continued disobedience.

(e.) For continued wilful disobedience to lawful commands or continued wilful neglect of duty, he shall be liable to imprisonment for any term not exceeding twelve weeks and not less than four weeks, with or without hard labor; and also, at the discretion of the court, to forfeit for every twenty-four hours' continuance of such disobedience or neglect, either a sum not exceeding six days' pay, or any expenses which have been properly incurred in hiring a substitute;

Assault on officers.

(f.) For assaulting any master or mate, he shall be liable to imprisonment for any term not exceeding twelve weeks and not less than six weeks, with hard labor;

Combining to disobey.

(g.) For combining with any other or others of the crew to disobey lawful commands, or to neglect duty, or to impede the navigation of the ship or the progress of the voyage, he shall be liable to imprisonment for any term not exceeding twelve weeks and not less than six weeks, with hard labor;

Wilful damage or embezzlement.

(h.) For wilfully damaging the ship, or embezzling or wilfully damaging any of her stores or cargo, he shall be liable to forfeit out of his wages a sum equal in value to the loss thereby sustained, and also, at the discretion of the court, to imprisonment for any term not exceeding twelve weeks and not less than six weeks, with hard labor;

Act of smuggling causing loss to owner.

(i.) For any act of smuggling of which he is convicted and whereby loss or damage is occasioned to the master or owner, he shall be liable to pay to such master or owner such a sum as is sufficient to reimburse the master or owner for such loss or damage; and the whole or a proportionate part of his wages may be retained in satisfaction or on account of such liability, without prejudice to any further remedy. 36 V., c. 129, s. 91.

Entry of offence to be made in the log-book, and to be read over or a copy given to the offender, and his reply (if any) to be also entered.

92. Upon the commission of any of the offences enumerated in the next preceding section, an entry thereof shall be made in the log-book, and shall be signed by the master and also by the mate or one of the crew; and the offender, if he is still in the ship, shall, before the next subsequent arrival of the ship at any port, or if she is at the time in port, before her departure therefrom, either be furnished with a copy of such entry or have the same read over distinctly and audibly to him, and may thereupon make such reply thereto as he thinks fit; and a statement that a copy of the said entry has been so furnished, or that the same has been so read over, and the reply if any made by the offender shall likewise be entered and signed in manner aforesaid; and in any legal proceeding the entries hereinbefore required shall, if practicable, be produced or proved, and in default of such produc-

tion or proof the court hearing the case, may, in its discretion, refuse to receive evidence of the offence. 36 V., c. 129, s. 92.

93. Every seafaring person whom the master of any Canadian foreign sea-going ship is, under the authority of any Act of the Parliament of the United Kingdom or of any Act of the Parliament of Canada, compelled to take on board and convey, and every person who goes to sea in any such ship without the consent of the master or owner or other person entitled to give such consent shall, so long as he remains in such ship, be subject to the same laws and regulations for preserving discipline, and to the same penalties and punishments for offences constituting or tending to a breach of discipline, to which he would be subject if he was a member of the crew and had signed the agreement. 36 V., c. 129, s. 93.

Certain seamen and other persons to be subject to penalties for breach of discipline.

94. Whenever, either at the commencement or during the progress of any voyage, any seaman or apprentice neglects or refuses to proceed to sea in any ship registered in any of the said Provinces in which he is duly engaged to serve, or is found otherwise absenting himself therefrom without leave, the master or any mate, or the owner, ship's husband or consignee, may, in any place in any of the said Provinces, with or without the assistance of the local police officers or constables (who shall give such assistance if required), apprehend him without first procuring a warrant; and may thereupon in any case, and shall in case he so requires, and it is practicable, convey him before some court capable of taking cognizance of the matter, to be dealt with according to law; and may, for the purpose of conveying him before such court, detain him in custody for a period not exceeding twenty-four hours, or such shorter time as is necessary, or may, if he does not so require, or if there is no such court at or near the place, at once convey him on board:

Master or owner may apprehend deserters without warrant.

2. If any such apprehension appears to the court before which the case is brought to have been made on improper or on insufficient grounds, the master, mate, owner, ship's husband or consignee, who makes the same or causes the same to be made, shall incur a penalty not exceeding eighty dollars; but such penalty, if inflicted, shall be a bar to any action for false imprisonment in respect of such apprehension. 36 V., c. 129, s. 94.

Penalty in case of such apprehension without sufficient cause.

95. Whenever any seaman or apprentice belonging to any ship registered in any of the said Provinces is brought before any court in any of the said Provinces, on the ground of his having neglected or refused to join or proceed to sea in any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave,—such court may, if the master or the owner or his agent so requires, instead of committing the offender to prison, cause him to

Deserters may be sent on board in lieu of being imprisoned.

As to costs.

proceed on board for the purpose of proceeding on the voyage, or deliver him to the master or any mate of the ship or the owner or his agent, to be by him so conveyed, and may, in such case, order any costs and expenses properly incurred by or on behalf of the master or owner by reason of the offence, to be paid by the offender, and if necessary to be deducted from any wages which he has then earned, or which, by virtue of his then existing engagement, he may afterwards earn. 36 V., c. 129, s. 95.

Seamen imprisoned for desertion or breach of discipline may be sent on board before termination of sentence.

96. If any seaman or apprentice is imprisoned in any of the said Provinces, on the ground of his having neglected or refused to join or to proceed to sea in any ship registered in any of the said Provinces in which he is engaged to serve, or of his having deserted or otherwise absented himself therefrom without leave, or of his having committed any other breach of discipline, and if, during such imprisonment and before his engagement is at an end, his services are required on board his ship, any justice may, at the request of the master or of the owner or his agent, cause such seaman or apprentice to be conveyed on board his said ship for the purpose of proceeding on the voyage, or to be delivered to the master or any mate of the ship, or to the owner or his agent, to be by him so conveyed, notwithstanding that the termination of the period for which he was sentenced to imprisonment has not arrived. 36 V., c. 129, s. 96.

Facilities for proving desertion, so far as concerns forfeiture of wages.

97. Whenever a question arises in any of the said Provinces whether the wages of any seaman or apprentice, belonging to any ship registered in any of the said Provinces, are forfeited for desertion, it shall be sufficient for the person insisting on the forfeiture to show that such seaman or apprentice was duly engaged in or that he belonged to the ship from which he is alleged to have deserted, and that he quitted such ship before the completion of the voyage or engagement, and that an entry of the desertion has been duly made in the log-book; and thereupon the desertion shall, so far as relates to any forfeiture of wages or emoluments under the provisions hereinbefore contained, be deemed to be proved, unless the seaman or apprentice can produce a proper certificate of discharge, or can otherwise show to the satisfaction of the court that he had sufficient reasons for leaving his ship. 36 V., c. 129, s. 97.

Cost of procuring conviction may, to the extent of \$12, be deducted from wages.

98. Whenever, in any proceeding in any of the said Provinces relating to seamen's wages, it is shown that any seaman or apprentice belonging to any ship registered in any of the said Provinces has, in the course of the voyage, been convicted of any offence by any competent tribunal, and rightfully punished therefor by imprisonment or otherwise, the court hearing the case may direct a part of the wages due to such seaman or apprentice, not exceeding twelve

dollars, to be applied in reimbursing any costs properly incurred by the master in procuring such conviction or punishment. 36 V., c. 129, s. 98.

99. Whenever any seaman belonging to any ship registered in any of the said Provinces contracts for wages by the voyage, or by the run, or by the share, and not by the month or other stated period of time, the amount of forfeiture to be incurred under this Act shall be taken to be an amount bearing the same proportion to the whole wages or share as a month or other the period hereinbefore mentioned in fixing the amount of such forfeiture (as the case may be), bears to the whole time spent in the voyage; and if the whole time spent in the voyage does not exceed the period for which the pay is to be forfeited, the forfeiture shall extend to the whole wages or share. 36 V., c. 129, s. 99.

Amount of forfeiture, how to be ascertained when seamen contract for the voyage.

100. All clothes, effects, wages and emoluments which, under the provisions hereinbefore contained, are forfeited for desertion, shall be applied in the first instance in or towards the reimbursement of the expenses occasioned by such desertion to the master or owner of the ship from which the desertion has taken place,—and may, if earned subsequently to the desertion, be recovered by such master, or by the owner or his agent, in the same manner as the deserter might have recovered the same if they had not been forfeited; and in any legal proceeding relating to such wages the court may order the same to be paid accordingly; and, subject to such reimbursement, the same shall be paid to the Minister of Finance and Receiver General, to form part of the Consolidated Revenue Fund of Canada: and in all other cases of forfeiture of wages under the provisions hereinbefore contained the forfeiture shall, in the absence of any specific directions to the contrary, be for the benefit of the master or owner by whom the wages are payable. 36 V., c. 129, s. 100.

Application of forfeitures.

Payment to Con. Rev. Fund.

101. Any question concerning the forfeiture of or deductions from the wages of any seaman or apprentice belonging to any ship registered in any of the said Provinces, may be determined in any proceeding, in any of the said Provinces, lawfully instituted with respect to such wages, notwithstanding that the offence in respect of which such question arises, though hereby made punishable by imprisonment as well as by forfeiture, has not been made the subject of any criminal proceeding. 36 V., c. 129, s. 101.

Question of forfeiture may be decided in suits for wages.

102. If any seaman, on or before being engaged in any of the said Provinces, in any ship registered in any of the said Provinces, wilfully and fraudulently makes a false statement of the name of his last ship or last alleged ship, or wilfully and fraudulently makes a false statement of his own

Penalty for false statement as to ship or name.

name, he shall incur a penalty not exceeding twenty dollars ; and such penalty may be deducted from any wages he earns by virtue of such engagement as aforesaid, and shall, subject to reimbursement of the loss and expenses, if any, occasioned by any previous desertion, be paid and applied in the same manner as other penalties payable under this Act. 36 V., c. 129, s. 102.

Fines to be deducted from wages and paid to shipping master.

103. Whenever any seaman belonging to any Canadian foreign sea-going ship, commits an act of misconduct for which his agreement imposes a fine, and which it is intended to punish by enforcing such fine, an entry thereof shall be made in the log-book, and a copy of such entry shall be furnished, or the same shall be read over to the offender ; and an entry of such reading over, and the reply, if any, made by the offender, shall be made in the manner and subject to the conditions hereinbefore specified with respect to the offences against discipline specified in and punishable under this Act :

How fines shall be deducted and paid over.

2. Such fine shall be deducted and paid over as follows, that is to say :—if the offender is discharged in Canada, and the offences and such entries in respect thereof as aforesaid, are proved to the satisfaction of the shipping master before whom the offender is discharged, the master or owner shall deduct such fine from the wages of the offender, and pay the same over to such shipping master ; and if before the final discharge in Canada of the crew of any such ship, any such offender as aforesaid has entered into any of Her Majesty's ships, or has been discharged abroad, and the offence and such entries as aforesaid have been proved to the satisfaction of the officer in command of the ship into which he so enters, or of the consular officer, officer of customs or other person by whose sanction he has been so discharged, and the fine has thereupon been deducted as aforesaid and an entry of such deduction has then been made in the log-book, if any, and signed by such officer or other person, under the provisions of section two hundred and fifty-six of "*The Merchant Shipping Act, 1854*," then on the return of the ship to Canada, the master or owner shall pay over such fine to the shipping master before whom the crew is discharged :

Penalty for default.

3. Every master or owner who neglects or refuses to pay over any such fine in manner aforesaid, shall, for each such offence, incur a penalty not exceeding six times the amount of the fine retained by him :

No second punishment.

4. No act of misconduct for which any such fine as aforesaid has been inflicted and paid shall be otherwise punished under the provisions of this Act. 36 V., c. 129, s. 103.

ENTICING TO DESERT AND HARBORING DESERTERS.

Penalty for enticing to desert or

104. Every person who, by any means whatsoever, persuades or attempts to persuade, any seaman or apprentice

belonging to any ship to neglect or refuse to join or to proceed to sea in or to desert from his ship, or to absent himself from his duty shall, for the first offence in respect of each such seaman or apprentice, be liable to imprisonment, with hard labor, for a term not exceeding six months and not less than three months; and for any subsequent offence, in respect of each such seaman or apprentice, be liable to imprisonment, with hard labor, for a term not exceeding twelve months and not less than six months; and every person who wilfully harbors or secretes any such seaman or apprentice who has deserted from his ship, or who has wilfully neglected or refused to join, knowing or having reason to believe such seaman or apprentice so harbored or secreted, be liable to imprisonment, with hard labor, for a term not exceeding six months and not less than three months; and for any subsequent offence, for a term not exceeding twelve months and not less than six months. 36 V., c. 129, s. 104.

harboring
deserters.

PUNISHMENT OF STOWAWAYS.

105. Every person who secretes himself, and goes to sea in any ship registered in any of the said Provinces without the consent of either the owner, consignee or master, or of a mate, or of any other person in charge of such ship, or of any other person entitled to give such consent, shall be liable to a penalty not exceeding eighty dollars, or to imprisonment, with or without hard labor, for any term not exceeding four weeks. 36 V., c. 129, s. 105.

Penalty for
obtaining
passage sur-
reptitiously.

CHANGE OF MASTER.

106. If, during the progress of a voyage, the master of any Canadian foreign sea-going ship is superseded in any of the said Provinces, or for any other reason quits the ship, and is succeeded in the command by some other person, he shall deliver to his successor the certificate of registry and the various documents relating to the navigation of the ship and to the crew thereof which are in his custody, and shall, in default, incur a penalty not exceeding four hundred dollars; and such successor shall immediately, on assuming the command of the ship, enter in the log-book a list of the documents so delivered to him. 36 V., c. 129, s. 106.

On change of
master,
documents
required to be
handed over
to his succes-
sor.

CRIMES COMMITTED ON THE HIGH SEAS OR ABROAD.

107. Whenever any case of death happens on board any Canadian foreign sea-going ship, the shipping master shall, on the arrival of such ship at the port in any of the said Provinces where the crew is discharged, inquire into the cause of such death; and if in the course of such inquiry it appears to him that any such death has been caused by violence or other improper means, he shall either report the

Inquiry into
cause of death
on board.

matter to the Minister, or, if the emergency of the case so requires, shall take immediate steps for bringing the offender or offenders to justice. 36 V., c. 129, s. 107.

LOG-BOOKS.

Masters of Canadian foreign sea-going ships to keep log-books.

108. The master of every Canadian foreign sea-going ship shall keep a log-book, and every entry to be made in such log-book shall be made as soon as possible after the occurrence to which it relates, and, if not made on the same date as the occurrence to which it relates, shall be made and dated so as to show the date of the occurrence, and of the entry respecting it, and in no case shall any such entry therein, in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge in any of the said Provinces, be made more than twenty-four hours after such arrival. 36 V., c. 129, s. 108.

Entries to be made in log-books.

109. The master of such ship, whether he does or does not make in such log-book the entries usually made in ships' log-books, shall make or cause to be made therein, entries of the following matters, that is to say:—

Convictions.

(a.) Every legal conviction of any member of his crew, and the punishment inflicted;

Offences.

(b.) Every offence committed by any member of his crew for which it is intended to prosecute, or to enforce a forfeiture, or to exact a fine, together with the statement concerning the reading over such entry, and concerning the reply, if any, made to the charge;

Punishments.

(c.) Every offence for which punishment is inflicted on board, and the punishment inflicted;

Conduct, &c., of crew.

(d.) A statement of the conduct, character and qualifications of each of his crew, or a statement that he declines to give an opinion on such particulars;

Illness and injuries.

(e.) Every case of illness or injury happening to any member of the crew, with the nature thereof, and the medical treatment adopted,—if any;

Deaths.

(f.) Every case of death happening on board and the cause thereof;

Births.

(g.) Every birth happening on board, with the sex of the infant, and the names of the parents;

Marriages.

(h.) Every marriage which takes place on board, with the names and ages of the parties;

Quitting ship.

(i.) The name of every seaman and apprentice who ceases to be a member of the crew, otherwise than by death, with the place, time, manner and cause thereof;

Wages of men entering the Navy.

(j.) The amount of wages due to any seaman who enters Her Majesty's service during the voyage;

Wages of deceased seamen.

(k.) The wages due to any seaman or apprentice who dies during the voyage, and the gross amount of all deductions to be made therefrom;

(l.) The sale of the effects of any seaman or apprentice who dies during the voyage, including a statement of each article sold, and of the sum received for it ;

Sale of deceased men's effects.

(m.) Every collision with any other ship, and the circumstances under which the same occurred. 36 V., c. 129, s. 109.

Collisions.

110. The entries hereby required to be made in log-books shall be signed as follows, that is to say : every such entry shall be signed by the master and by the mate or some other of the crew, and every entry of illness, injury or death shall be also signed by the surgeon or medical practitioner on board,—if any ; and every entry of wages due to or of the sale of the effects of any seaman or apprentice who dies, shall be signed by the master and by the mate and some other member of the crew ; and every entry of wages due to any seaman who enters Her Majesty's service shall be signed by the master, and by the seaman or by the officer authorized to receive the seaman into such service. 36 V., c. 129, s. 110.

Entries, how to be signed.

111. The following offences in respect of log-books shall be punishable as hereinafter mentioned, that is to say :—

Penalties in respect of log-books.

(a.) If, in any case, a log-book is not kept in the manner hereby required, or if any entry hereby directed to be made in such log-book is not made at the time and in the manner hereby directed, the master shall, for each such offence, incur the specific penalty herein mentioned in respect thereof, or where there is no specific penalty, a penalty not exceeding twenty dollars ;

Not making entries in time ;

(b.) Every person who makes or procures to be made, or assists in making any entry in any log-book in respect of any occurrence happening previously to the arrival of the ship at the final port of discharge in any of the said Provinces, more than twenty-four hours after such arrival, shall, for each such offence, incur a penalty not exceeding one hundred dollars ;

Or more than twenty-four hours after arrival.

(c.) Every person who wilfully destroys or mutilates or renders illegible any entry, or makes any false entry or omission in any such log-book, is guilty of a misdemeanor. 36 V., c. 129, s. 111.

Mutilating log-book.

112. All entries made in any log-book, as hereinbefore directed, shall be received in evidence in any proceeding in any court of justice, subject to all just exceptions. 36 V., c. 129, s. 112.

Entries in log-books to be received in evidence.

LEGAL PROCEDURE.

113. The time for instituting summary proceedings under this Act shall be limited as follows, that is to say :—

Limitation of time.

(a.) No conviction for any offence shall be made in any summary proceeding under this Act, unless such proceeding is commenced within six months after the commission of the offence, or—if both or either of the parties to such proceeding

In summary proceedings :

happen during such time to be out of the said Provinces, or not to be within the jurisdiction of any court capable of dealing with the case—unless the same is commenced within two months after they both first happen to arrive or to be at one time within any of the said Provinces, or within such jurisdiction ;

And as to orders for payment of money on such proceedings.

(b.) No order for the payment of money shall be made in any summary proceeding under this Act, unless such proceeding is commenced within six months after the cause of complaint arises, or—if both or either of the parties happen during such time to be out of the said Provinces—unless the same is commenced within six months after they both first happen to arrive or to be at one time within any of the said Provinces. 36 V., c. 129, s. 113.

Before whom offences may be dealt with.

114. Any judge of the Superior Court for Lower Canada judge of the sessions of the peace, judge of a county court, police magistrate or stipendiary magistrate, or any two justices of the peace, may try and determine in a summary way all offences punishable under this Act, whether by fine, penalty or imprisonment, or by both fine and imprisonment, or penalty and imprisonment. 45 V., c. 33, s. 2, *part*.

Act respecting summary proceedings to apply to offences against this Act.

115. The provisions of the Act intituled "*An Act respecting summary proceedings before Justices of the Peace*," shall apply to and govern proceedings against any person for any offence against this Act ; and any judge of the Superior Court for Lower Canada, judge of the sessions of the peace, judge of a county court, police magistrate or stipendiary magistrate, before whom any proceedings under this Act are taken, shall, for the purposes of the said proceedings, have all the powers of two justices of the peace under the said "*Act respecting summary proceedings before Justices of the Peace*." 45 V., c. 33, s. 3.

Recovery and application of penalties.

116. All penalties imposed by this Act may be recovered with costs, upon the oath of any one credible witness other than the informer, and shall be paid over to the Minister of Finance and Receiver General to be disposed of as the Governor in Council directs (except in the cases provided for in the next following section,—in which only part of the penalty shall be so paid over and disposed of), and in case of non-payment, shall be levied by distress and sale of the offender's goods and chattels, by warrant under the hand and seal of the convicting judge, magistrate or justices, directed to a constable or other peace officer ; and the overplus, if any, after deducting the penalty and costs of suit, together with the expenses of the distress and sale, shall be returned to the owner : and for want of sufficient distress, the offender shall be committed by warrant, under the hand and seal of the judge, magistrate or justices, to the common gaol of the locality, or if there is no common gaol there,

Imprisonment in default of distress.

then to that common gaol which is nearest to that locality, for any term not exceeding six months ; and such judge, magistrate or justices shall also award and order the imprisonment (if any) to which the offender is liable for the offence whereby the penalty is incurred. 36 V., c. 129, s. 114.

117. In all cases of complaints made by or on behalf of any seaman under this Act, the evidence of such seaman shall be received and taken, notwithstanding that he is interested in the matter ; and such seaman shall, in any such case where he has been so examined, receive such part of any penalty imposed as the judge, magistrate or justices before whom the case is heard adjudges him to receive for any moneys or effects which appear to have been deposited by him with any such offender as aforesaid. 36 V., c. 129, s. 115.

Evidence of seamen concerned to be received.

118. There shall be no appeal from any conviction or order adjudged or made under this Act, for any offence against this Act ; and no conviction under this Act shall be quashed for want of form, or be removed by *certiorari* or otherwise into any of Her Majesty's superior courts of record ; and no warrant of commitment under this Act shall be held void by reason of any defect therein, if it is therein alleged that the person has been convicted, and there is a good and valid conviction to sustain the same. 36 V., c. 129, s. 116.

Conviction not to be quashed for want of form or removed by *certiorari*.

119. Any justice of the peace, at any port or place in any of the said Provinces, on complaint before him on the oath of one or more credible witness or witnesses, that any seaman or apprentice in the sea service is concealed or secreted in any dwelling house or out-house, or on board of any ship or elsewhere, shall grant a warrant, under his hand and seal, addressed to a constable or constables there, commanding him or them to make diligent and immediate search, in or about such dwelling house or out-house, or on board such ship, or in such other place or places as are specified in the warrant, and to bring before him every such seaman or apprentice found concealed, whether named in the warrant or not. 36 V., c. 129, s. 117.

Justices may grant warrant to search for seamen unlawfully harbored or secreted.

120. Any justice of the peace, at any port or place in any of the said Provinces, on information before him, under oath, that any seaman or other person has deserted, or is suspected of having deserted from any of Her Majesty's ships, or from any ship in the merchant service, and is lodged or harbored in any tavern or house of public entertainment, or in any house of ill-fame or in any other house, may issue an order in writing to the master or keeper of such tavern, house of ill-fame or other house, commanding such master or keeper to furnish him with a correct list of every such person,

Justice may grant a search warrant for apprehending deserters supposed to be concealed in taverns or houses of ill-fame, &c.

stating his name and surname as far as is known to such master or keeper of such tavern or other house of public entertainment or house of ill-fame, or other person whatsoever, how long he has lodged in the said house, and the name of the ship on board whereof he has declared himself to have arrived at the port or place; and on the refusal or neglect of such master or keeper to comply with such order, within the time specified, or his knowingly delivering a false account of any such person, such master or keeper shall incur a penalty of forty dollars for each such offence. 36 V., c. 129, s. 118.

Unless person suspected is a tavern keeper, &c., informer to make oath as to his belief in the truth of the information.

121. Whenever the person giving such information on oath seeks to obtain such order against any person who is not a master or keeper of such tavern or house of public entertainment or house of ill-fame, such order shall not be given by any justice of the peace unless the person giving the information deposes, on oath, that he verily believes that such person, not so being master or keeper of such tavern or house of entertainment or house of ill-fame, then harbors or conceals such deserter or person suspected of desertion, and also knows that the person who has so deserted, is unlawfully and improperly absenting himself from his duty on board the vessel to which he belongs. 36 V., c. 129, s. 119.

Constables, &c., employed to receive reasonable remuneration.

122. Every constable and officer, not being a paid policeman, employed in the execution of any warrant for the apprehension of, or in search of, or for the delivery of any person against whom a warrant is issued by virtue of the foregoing sections of this Act, may demand from the person at whose request such warrant was issued, a reasonable recompense for the time he has been employed, subject to be taxed by the justice of the peace who issued such warrant, —and in cases within the jurisdiction of any court of Vice Admiralty, according to the legal procedure of that court, — and recoverable, on refusal of payment, in a summary way by warrant of distress and sale of such person's goods and chattels; which warrant every such justice of the peace is hereby required to grant, under his hand and seal, on proof of such refusal of payment. 36 V., c. 129, s. 120.

Recovery thereof.

In certain cases part of the evidence may be taken and the trial continued for completion on a future day.

123. In any proceeding before any court under this Act, if an application is made on behalf of the defendant or of the prosecutor, upon sufficient cause, to adjourn the case to a future day, the court, in its discretion, may receive and may cause to be reduced to writing the evidence of such witnesses for the defence or for the prosecution as are then present or can be produced, and may thereupon discharge such witnesses from further attendance, and may continue the case for the completion of the trial thereof to such fur-

ther day as such court appoints for that purpose; and the examination of any seaman liable to be obliged to leave the Province in which any offence against this Act is prosecuted, or of any witness sick, infirm or about to leave such Province, may be taken *de bene esse* before any commissioner or other proper authority, in the like manner as depositions in civil cases are taken. 36 V., c. 129, s. 121.

Examination of witnesses about to leave the Province, &c.

124. Any police officer or constable required under the provisions of this Act to give assistance to the master or any mate, or the owner, ship's husband or consignee of any ship in apprehending with or without a warrant, any seaman or apprentice duly engaged to serve in such ship and neglecting or refusing to proceed to sea therein, or found otherwise absenting himself therefrom without leave, may, at any time, enter into any tavern, inn, ale-house, beer-house, seaman's boarding-house or other house or place of entertainment, or into any shop or other place wherein liquors or refreshments are sold or reputed to be sold, whether legally or illegally, or into any house of ill-fame; and any person being therein, or having charge thereof, who refuses, or after due demand fails to admit such police officer or constable into the same, or offers any obstruction to his admission thereto, shall, for every such offence, incur a penalty not exceeding fifty dollars and not less than ten dollars. 36 V., c. 129, s. 122.

Right of police officer, &c., to enter taverns, &c.

Penalty for obstructing.

125. Nothing in this Act shall authorize or justify the execution of any warrant or process of justices of the peace within the jurisdiction of any court of Vice Admiralty in any of the said Provinces, unless such execution has been previously authorized by the judge of such court of Vice Admiralty. 36 V., c. 129, s. 123.

As to execution of warrant of justices within jurisdiction of court of Vice Admiralty.

FOREIGN SHIPS.

126. The foregoing provisions of this Act relating to the shipping of seamen, shall extend and apply to ships in the merchant service of every foreign country, and to all persons in relation to such ships in the same manner as the same extend and apply to ships in the British merchant service, and to similar persons in relation to such last mentioned ships, unless there is something in the terms of some existing treaty between Her Majesty and such foreign country to prevent the same, or any of the same from so extending and applying. 36 V., c. 129, s. 124.

Extension and application of certain provisions of this Act to foreign ships.

127. In so far as is consistent with the provisions of any Act of the Parliament of the United Kingdom in force in Canada, and with the terms of existing treaties between Her Majesty and foreign powers respectively, and the rights, privileges and immunities secured to the consuls, vice-con-

And of other provisions thereof under certain conditions.

suls, commercial and other duly accredited agents, subjects and citizens of such foreign powers respectively, the foregoing provisions of this Act, relating to desertion of seamen and apprentices, shall extend and apply to ships in the merchant service of foreign countries and to all persons in relation to such ships in the same manner as the same extend and apply to ships in the British merchant service, and to similar persons in relation to such last mentioned ships. 36 V., c. 129, s. 125.

Oath of master of foreign ship to be proof that any seaman is bound to serve.

128. The oath of the master of any such foreign merchant ship, or of any officer or person employed on board thereof, or on board any other ship of the same country that, to the best of his belief and understanding, any seaman or other person is bound to serve on board such ship, according to the law of the country to which such ship belongs, or of the place where such seaman or other person was hired, shall be *prima facie* evidence that he is legally bound to serve on board such ship within the meaning of this Act, although he has not regularly entered into or signed articles of agreement, and is not bound by articles of indenture in the manner required by law with regard to seamen and others engaged or bound to serve on board British ships. 36 V., c. 129, s. 126.

No justice to act as regards foreigners in foreign ships without the consent of the parties, or that of their consular officers, except in pursuance of treaties.

129. No judge, magistrate or justice of the peace shall entertain or act upon any complaint or information under this Act, by or against any person belonging to or connected with any such foreign merchant ship, and not being a subject of Her Majesty, or shall exercise jurisdiction under this Act over or at the instance of any such person, without the consent of both parties to such complaint or information, or the consent in writing of the consul, vice-consul or commercial or other duly accredited agent of the country to which such ship belongs, first had and obtained, unless the parties to such complaint or information are subjects or citizens of a country or countries by the terms of treaties in force between Her Majesty's government and the government or governments of which country or countries it is stipulated that the assistance of British courts and magistrates shall be granted to the subjects or citizens of such countries, or one of such parties is a subject or citizen of any such country and the other is a subject of Her Majesty. 36 V., c. 129, s. 127.

GENERAL PROVISIONS.

Masters to furnish blanks.

130. The master of every ship shall furnish and pay for every blank form required by this Act to be used by him. 36 V., c. 129, s. 128.

131. Upon, from and after the commencement of this Act so much of the provisions of the Act of the Parliament of the United Kingdom known as "*The Merchant Shipping Act, 1854*," and of any Act of the said Parliament amending the same and forming and to be construed as part thereof, relating to ships registered in any of the said Provinces, as is inconsistent with this Act, is repealed. 36 V., c. 129, s. 5, *part.*

Repealing
clause.
Imp. Stat. 17
and 18 V., c.
104.

SCHE

[A] AGREEMENT or Articles for a Canadian Foreign

Name of Ship.	Official Number.	Port of Registry.	Port No. and Date of Register.	Registered Tonnage.	MANAGING
					Name.

Scale of Provisions to be allowed and served out to the Crew.

	Bread, lb.	Beef, lb.	Pork, lb.	Flour, lb.	Peas.	Tea, oz.	Coffee, oz.	Sugar, oz.	Water, qts.
SUNDAY									
MONDAY									
TUESDAY									
WEDNESDAY									
THURSDAY									
FRIDAY									
SATURDAY									

⁵ Here any stipulation for changes or substitution of one article for another may be inserted.

The several persons whose names are hereto and of whom _____ are engaged as Sailors, hereby capacities expressed against their respective names (or, which ship is to be employed²)

And the said Crew agree to conduct them and to be at all times diligent in their respective the said Master, or of any person who shall lawfully relating to the said Ship and the stores and cargo consideration of which services to be duly per Crew as wages the sums against their names provisions according to the annexed scale: And or negligent destruction of any part of the Ship's the wages of the person guilty of the same: And he proves incompetent to perform, his wages shall is also agreed, That the Regulations, which in the are adopted by the parties hereto, and shall be also agreed, That if any member of the Crew con agreement or otherwise, he shall represent the officer in charge of the Ship, who shall thereupon agreed, That⁴

In witness whereof the said parties have sub respective signatures mentioned.

Signed by _____ Master,

Signatures of Crew.	Age.	Where Born.	No. of Royal Naval Volunteer's Certificate.	Ship in which he last served, Official Number, and Port she belonged to, or other Employment.	Date and Place of Discharge from such Ship.	
					Date.	Place.

PLACE FOR SIGNATURES AND

NOTE.—Here the Entries are to be made as above, except that the signature of engaged, is to be substituted

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ACCOUNT OF APPREN

NOTE.—Any Erasure, Interlineation, or Alteration, in this Agreement, except in the case of Substitutes, will be void, unless attested by some Shipping Master, Officer of Customs, Consul or Vice-Consul, to be made with the consent of the persons interested.

Christian and Sur-names of the Apprentices at length.	Date of Registry of Indenture.

D U L E

Sea-going or Canadian Home-Trade Ship.

Amount of Fees paid to Shipping Master \$

OWNER.		MASTER.		Date and Place of first Signature of Agreement, including Name of Shipping Office.
Address.	Name.	No. of Certificate	Address.	

subscribed, and whose descriptions are contained below, agree to serve on board the said Ship, in the several on a voyage from¹

¹ Here the voyage is to be described, and the places named at which the ship is to touch, or if that cannot be done, the general nature and probable length of the voyage is to be stated.

selves in an orderly, faithful, honest and sober manner, duties, and to be obedient to the lawful commands of succeed him, and of their superior officers, in everything thereof, whether on board, in boats, or on shore; in formed, the said Master hereby agrees to pay to the said respectively expressed, and to supply them with it is hereby agreed. That any embezzlement or wilful cargo or stores shall be made good to the owner out of if any person enters himself as qualified for a duty which be reduced in proportion to his incompetency: And it paper annexed hereto are numbered² considered as embodied in this agreement: And it is siders himself to be aggrieved by any breach of the same in a quiet and orderly manner to the Master or take such steps as the case may require: And it is also

² Here state probable nature of ship's employment, or nature of voyage and period of engagement.

³ Here are to be inserted the numbers of any of the Regulations for preserving discipline, lettered F, in this Schedule, which the parties agree to adopt. If any of them are so adopted, a Copy of the Regulations is to be kept annexed to the Agreement.

⁴ Here any other stipulations may be inserted to which the parties agree, and which are not contrary to Law.

scribed their names hereto on the days against their

The Authority of the Owner or Agent for the Allotments mentioned below is in my possession.⁶

Shipping Master.

⁶ This is to be filled up if such an authority has been produced; and such authority may be in the form G, in this Schedule.

on the _____ day of _____ 18__.

Date and Place of joining this Ship.		In what Capacity engaged; and if Mate, No. of his Certificate (if any).	Time at which he is to be on board.	Amount of Wages per Calendar Month, Share, or Voyage.		Amount of Wages Advanced on Entry.		Amount of Monthly Allotment.		Shipping Master's or Witness' Signature.
Date.	Place.			\$	cts.	\$	cts.	\$	cts.	

DESCRIPTIONS OF SUBSTITUTES.

the Consul, Vice-Consul, Officer of Customs or Witness before whom the Man is for that of the Shipping Master.

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TICES ON BOARD.

Port at which Indenture was Registered.	Date of Registry of Assignment (if any).	Port at which Assignment (if any) was Registered.

I declare to the truth of the entries in this Agreement, delivered to the Shipping Master at _____ on the _____ day of _____ 18__.

Master.

INDORSEMENTS.	INDORSEMENTS.	INDORSEMENTS.

[C]

ACCOUNT OF WAGES.

Name of Ship and Official Number.	Name of Master.	Description of Voyage or Employment.

Name of Seaman.	Date of Engagement.	Date of Discharge.	Rate of Wages.

	Amount.	Deductions.	Amount.
Wages :— for months days		Advance..... Allotment..... Fines and Forfeitures .	
Deductions as per contra...			
Balance due.....\$		Total Deductions ...\$	

Dated at the Port of
 this day of 18 .

Signature of Master.

[D] CERTIFICATE OF DISCHARGE FOR SEAMAN.

Name of Ship.	Official Number.	Port or Registry.	Registered Tonnage.	Description of Voyage or Employment.

Name of Seaman.	Place of Birth.	Date of Birth.

Capacity.	Date of Entry.	Date of Discharge.	Place of Discharge.

Character for Ability in whatever Capacity	Character for Conduct.

I CERTIFY that the above particulars are correct, and that the above named Seaman was discharged accordingly.

Dated this day of 18 .
 (Countersigned) Seaman. (Signed) Master.

Witness

Address of Witness

Occupation of Witness

NOTE — One of these Certificates must be filled up and delivered to every Seaman who is discharged.

[E] CERTIFICATE.

SHIPPING OFFICE.

Port of

18 .

I HEREBY CERTIFY, That all the requirements of "The Seamen's Act" have been complied with to my satisfaction in case of the ship Official No. of tons master (or, as the case may be), That

master of the _____, Official No. _____, of _____ tons, has opened articles at this office, and the master and mate have duly signed the same, producing their certificates of competency to me before signing, and that the said agreement so partially signed is in my office waiting an engagement of a portion of the crew.

Master, No. of Certificate _____

Mate, do do _____

Shipping Master.

[F] REGULATIONS FOR MAINTAINING DISCIPLINE.

(Referred to in the Form of Agreement A.)

All or any of these regulations may be adopted by agreement between a master and his crew, and thereupon the offences specified in such of them as are so adopted will be legally punishable by the appropriate fines or punishments. These regulations are all numbered, and the numbers of such of them as are adopted shall be inserted in the space left for that purpose in the agreement, and a copy of these regulations shall be made to correspond with the agreement by erasing such of the regulations as are not adopted and must then be attached to and kept with the agreement which the master of the ship takes with him. If the agreement is made before a shipping master, his signature shall be placed opposite such of the regulations as are adopted.

For the purpose of legally enforcing any of the following penalties, the same steps shall be adopted as in the case of other offences punishable under the Act,—that is to say, a statement of the offence, shall, immediately after its commission, be entered in the log-book by the direction of the master, and shall, at the same time, be attested to be true by the signatures of the master and the mate or one of the crew; and a copy of such entry shall be furnished, or the same shall be read over, to the offender, before the ship reaches any port or departs from the port at which she is, and an entry that the same has been so furnished or read over, and of the reply, if any, of the offender, shall be made and signed in the same manner as the entry of the offence. These entries shall, upon discharge of the offender, be shown to the shipping master before whom the offender is discharged, or, in the case of a Canadian home-trade ship to some shipping master at or near the place where the crew is discharged; and if he is satisfied that the offence is proved, and that the entries have been properly made, the fine shall be deducted from the offender's wages, and paid over to the shipping master.

If, in consequence of subsequent good conduct, the master thinks fit to remit or reduce any fine upon any member of his crew which has been entered in the log-book, and signifies the same to the shipping master, the fine shall be remitted or reduced accordingly. If wages are contracted for by the voyage or by share, the amount of the fines is to be ascertained in the manner in which the amount of forfeiture is ascertained in similar cases under section 99.

	Offence.	Amount of Fine or Punishment.	Shipping Master's Signature or Initials.
1	Not being on board at the time fixed by the agreement.....	Two Days' Pay.	
2	Not returning on board at the expiration of leave.....	One Day's Pay.	
3	Insolence or contemptuous language or behavior towards the master or any mate.....	One Day's Pay.	
4	Striking or assaulting any person on board or belonging to the ship.....	Two Days' Pay.	
5	Quarrelling or provoking to quarrel.....	One Day's Pay.	
6	Swearing or using improper language.....	One Day's Pay.	
7	Bringing or having on board spirituous liquors.....	Three Days' Pay.	
8	Carrying a sheath-knife.....	One Day's Pay.	
9	Drunkenness. First offence.....	Two Days' half allowance of Provisions.	
	Ditto Second offence.....	Two Days' Pay.	
10	Neglect on the part of officer in charge of the watch to place the look-out properly.....	Two Days' Pay.	
11	Sleeping or gross negligence while on the look-out.....	Two Days' Pay.	
12	Not extinguishing lights at the time ordered.....	One Day's Pay.	
13	Smoking below.....	One Day's Pay.	
14	Neglecting to bring up, open out, and air bedding, when ordered.....	Half a Day's Pay.	
15	(For the Cook)—Not having any meal of the Crew ready at the appointed time.....	One Day's Pay.	
16	Not attending Divine Service on Sunday, unless prevented by sickness or duty of the Ship.....	One Day's Pay.	
17	Interrupting Divine Service by indecorous conduct.....	One Day's Pay.	
18	Not being cleaned, shaved and washed on Sundays.....	One Day's Pay.	
19	Washing clothes on a Sunday.....	One Day's Pay.	
20	Secreting contraband goods on board with intent to smuggle.....	One Month's Pay.	
21	Destroying or defacing the copy of the agreement which is made accessible to the Crew.....	One Day's Pay.	
22	If any Officer is guilty of any act or default which is made subject to a Fine, he shall be liable to a Fine of twice the number of Days which would be exacted for a like act or default from a Seaman, and such Fine shall be paid and applied in the same manner as other Fines.		

[G] AUTHORITY FOR ALLOTMENT NOTES.

I HEREBY authorize _____ Master of the Ship
of _____ Official Number
to give Allotment or Monthly Notes to the Wives, Fathers,
Mothers, Grandfathers, Grandmothers, Children or Grand-
children, Brothers or Sisters, of any of the Crew, to the
extent of one _____ part of their respective Monthly
Wages.

Dated at _____
the _____ day of _____ 18

Signed

Owner, part Owner or Agent.

NOTE.—This document, when signed, is to be delivered to the Shipping Master.

[H] OFFICIAL LOG-BOOK OF THE _____ FROM
TOWARDS _____

Date of the Occurrence entered with Day and Hour.	Place of the Occurrence or Situation by Latitude and Longitude at Sea.	Entries required by Act of Parliament.	Amount of any Fine or Forfeiture inflicted.

N. B.—Every Entry in this Log-book required by the Act shall be signed by the Master and by the Mate or some other of the Crew; and every entry of illness, injury or death, shall also be signed by the Surgeon or Medical Practitioner on board, (if any); and every entry of wages due to, or of the sale of the effects of any Seaman or Apprentice who has died shall be signed by the Master and by the Mate, and some other member of the Crew; and every entry of wages due to any Seaman who enters Her Majesty's Service shall be signed by the Master and by the Seaman, or by the Officer authorized to receive the Seaman into such service.



CHAPTER 75.

An Act respecting the Shipping of Seamen on Inland Waters. A. D. 1886.

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

SHORT TITLE.

1. This Act may be cited as "*The Inland Waters Seamen's Act*." 38 V., c. 29, s. 1.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—
- (a.) The expression "ship" includes every description of vessel used in navigation, not propelled by oars; Interpretation.
"Ship."
 - (b.) The expression "master" includes every person having command or charge of a ship, except a pilot; "Master."
 - (c.) The expression "seaman" includes every person employed or engaged in any capacity on board any ship, except masters and pilots; "Seaman."
 - (d.) The expression "Consular officer" includes Consul General, Consul and Vice-Consul, and any person for the time being discharging the duties of Consul General, Consul or Vice-Consul; "Consular officer."
 - (e.) The expression "the Minister" means the Minister of Marine and Fisheries; "Minister."
 - (f.) The expression "ship subject to the provisions of this Act" includes every ship registered in Canada propelled by steam and of more than twenty tons, registered tonnage, or propelled otherwise than by steam and of more than fifty tons registered tonnage, and employed in navigating the inland waters of Canada above the harbor of Quebec. 38 V., c. 29, s. 2, *part*. "Ship subject to the provisions of this Act"

APPLICATION OF ACT.

3. This Act shall not apply to barges and scows navigating rivers and canals. 38 V., c. 29, s. 2, *part*. Act not to apply to barges, &c.

ENGAGEMENT AND WAGES OF SEAMEN.

4. The master of every ship subject to the provisions of this Act, shall enter into an agreement with every seaman whom he carries as one of his crew, in the manner herein- Agreement between master and crew.

Form of agree- ment.	after mentioned; and every such agreement shall be in the form of the schedule to this Act, or as near thereto as circumstances admit, and shall be dated at the time of the first signature thereof, and shall be signed by the master before any
Particulars.	seaman signs the same, and shall contain the following particulars as terms thereof, that is to say:—
Nature of voyage.	(a.) The nature and, as far as practicable, the duration of the intended voyage or engagement;
Crew.	(b.) The number and description of the crew, specifying how many are engaged as sailors;
Time for work.	(c.) The time at which each seaman is to be on board or to begin work;
Capacity.	(d.) The capacity in which each seaman is to serve;
Wages.	(e.) The amount of wages which each seaman is to receive;
Conduct, &c.	(f.) Any regulations as to conduct on board, and as to fines, or other lawful punishments for misconduct which the parties agree to adopt:

To be so framed as to admit of certain stipulations. 2. Every such agreement shall be so framed as to admit of stipulations, to be adopted at the will of the master and seamen in each case, as to advances, and may contain any other stipulations which are not contrary to law; and every such agreement shall be made and signed in presence of a respectable witness, or a shipping master or chief officer of customs, who shall attest each signature on such agreement:

Discharge of seamen, how effected. 3. Any seaman who has signed any such agreement may, at the termination of his engagement, if the master thinks fit, be discharged before any shipping master or chief officer of customs in Canada; and at any period during any such engagement, and before its termination, the master may discharge any such seaman on payment of his wages, and with his consent; and any such discharge may be made, if the master thinks fit, before any shipping master or chief officer of customs in Canada. 38 V., c. 29, s. 3.

Duration of agreement. 5. In the case of ships subject to the provisions of this Act making short voyages, running agreements with the crew may be made to extend over two or more voyages, or for a specified time, so that no such agreement shall extend beyond eight months from the date of such agreement, or the first arrival of the ship at her port of destination after the termination of such agreement, or the discharge of cargo consequent upon such arrival; and every person entering into such agreement, whether engaged upon the first commencement thereof, or otherwise, shall enter into and sign the same in the manner hereinbefore required; and every person engaged thereunder when discharged may be discharged in the manner hereinbefore provided for. 38 V., c. 29, s. 4.

Penalty for carrying seamen without agreement. 6. Every master of any ship subject to the provisions of this Act, who carries any seaman as one of his crew without entering into an agreement with him, in the form and manner

and at the place and time in such case required, shall, for each such offence, incur a penalty not exceeding twenty dollars. 38 V., c. 29, s. 5.

7. Every erasure, interlineation or alteration in any such agreement with seamen as is required by this Act, except additions made for shipping substitutes or persons engaged subsequently to the first departure of the ship, shall be wholly inoperative, unless proved to have been made with the consent of all the persons interested in such erasure, interlineation or alteration, by the written attestation, if made in Her Majesty's Dominions, of some shipping master, justice of the peace, officer of customs or other public functionary, or, if made out of Her Majesty's Dominions, of a British consular officer, or where there is no such officer, of two respectable witnesses. 38 V., c. 29, s. 6.

Erasures, &c., in agreement void, unless consent of all parties is proved.

8. Every person who fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, or makes or assists in making or procures to be made, any false entry in, or delivers, assists in delivering, or procures to be delivered a false copy of any agreement under this Act, is guilty of a misdemeanor. 38 V., c. 29, s. 7.

Penalty for fraudulently altering agreement, &c.

9. Any seaman may bring forward evidence to prove the contents of any agreement under this Act or otherwise to support his case, without producing or giving notice to produce the agreement or any copy thereof. 38 V., c. 29, s. 8.

Proof of agreement.

10. Any seaman who has signed an agreement under this Act, and is afterwards discharged before the commencement of the voyage, or before one month's wages are earned, without fault on his part justifying such discharge and without his consent, shall be entitled to receive from the master or owner, in addition to any wages he has earned, due compensation for the damage thereby caused to him,—not exceeding one month's wages; and may, on adducing such evidence as the court hearing the case deems satisfactory of his having been so improperly discharged, recover such compensation as if it were wages duly earned. 38 V., c. 29, s. 9.

Right of seaman discharged without cause before the end of his term of agreement.

11. Whenever any agreement under this Act is signed before any shipping master or a chief officer of customs as a witness thereto, such officer shall append his title of office to his signature as such witness; and the sum of forty cents shall be payable to every such officer upon each engagement of a seaman before him, and the sum of twenty cents shall be payable to every such officer upon each discharge of a seaman effected before him as hereinbefore mentioned; and any shipping master or chief officer of customs may refuse to sign any such engagement or discharge, as a witness thereto, unless the fee payable thereon is first paid. 38 V., c. 29, s. 10.

Attestation of agreement or discharge and fee to officers.

As to seaman whose term of service is terminated without his fault.

12. Whenever the service of any seaman belonging to any ship subject to the provisions of this Act, terminates before the period contemplated in the agreement, by reason of the wreck or loss of the ship, and whenever such service terminates before such period as aforesaid, by reason of his being left on shore at any place abroad, under a certificate of his unfitness or inability to proceed on the voyage, granted by competent authority, such seaman shall be entitled to wages for the time of service prior to such termination as aforesaid, but not for any further period. 38 V., c. 29, s. 11.

Seaman unlawfully refusing to work, &c.

13. No seaman belonging to any ship subject to the provisions of this Act, shall be entitled to wages for any period during which he unlawfully refuses or neglects to work when required, whether before or after the time fixed by the agreement for his beginning work, or, unless the court hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offence committed by him. 38 V., c. 29, s. 12.

Seaman disabled by illness caused by his own wilful act.

14. Whenever a seaman belonging to any ship subject to the provisions of this Act, is, by reason of illness, incapable of performing his duty, and it is proved that such illness has been caused by his own wilful act or default, he shall not be entitled to wages for the time during which he is, by reason of such illness, incapable of performing his duty. 38 V., c. 29, s. 13.

Seaman not to sue for wages in court out of Canada, except in certain cases.

15. No seaman belonging to any ship subject to the provisions of this Act, who is engaged for a voyage or engagement which is to terminate in Canada, shall be entitled to sue in any court out of Canada for wages, unless he is discharged with the written consent of the master or proves such ill-usage on the part of the master or by his authority, as to warrant reasonable apprehension of danger to the life of such seaman if he remained on board; but if any seaman, on his return to Canada, proves that the master or owner has been guilty of any conduct or default which, but for this section, would have entitled the seaman to sue for wages before the termination of the voyage or engagement, he shall be entitled to recover, in addition to his wages, such compensation, not exceeding eighty dollars, as the court hearing the case thinks reasonable. 38 V., c. 29, s. 14.

Proviso.

Master or owner bound to produce agreement to certain officers.

16. The master or owner of every ship subject to the provisions of this Act shall, at all times when required so to do by the Minister or by any person in that behalf duly authorized by the Minister, or by any inspector of steamboats or custom house officer or officer of river police, produce and exhibit to the Minister or to such person authorized by him, or to such inspector of steamboats or custom house officer or officer of river police, any agreement then in

force and subsisting between the master of such ship and the seamen whom he carries as his crew; and every such owner or master who fails to comply with the requirements of this section shall incur a penalty of twenty dollars. 38 V., c. 29, s. 15.

Penalty for default.

DISCIPLINE.

17. Every master of and every seaman belonging to any ship subject to the provisions of this Act, who, by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, does any act tending to the immediate loss, destruction or serious damage of such ship, or tending immediately to endanger the life or limb of any person belonging to or on board of such ship, or who, by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, refuses or omits to do any lawful act, proper and requisite to be done by him for preserving such ship from immediate loss, destruction or serious damage, or for preserving any person belonging to or on board of such ship from immediate danger to life or limb, is guilty of a misdemeanor. 38 V., c. 29, s. 16.

Misconduct endangering ship, life or limb a misdemeanor.

18. Whenever any seaman, who has been lawfully engaged or bound to any ship subject to the provisions of this Act, and has duly signed an agreement as required by this Act, commits any of the following offences, he shall be liable to be punished summarily as follows, that is to say:—

Offences of seamen and their punishment.

(a.) For desertion, he shall be liable to imprisonment for any term not exceeding twelve weeks and not less than four weeks, with hard labor, and also to forfeit all or any part of the clothes and effects he leaves on board, and all or any part of the wages or emoluments which he has then earned, and also, if such desertion takes place abroad, at the discretion of the court, to forfeit all or any part of the wages or emoluments earned in any other ship in which he is employed until his next return to Canada, and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him;

Desertion.

(b.) For neglecting or refusing, without reasonable cause, to join his ship, or to proceed on any voyage in his ship, or for absence without leave at any time within twenty-four hours of the ship's sailing from any port, either at the commencement or during the progress of any voyage, or for absence at any time without leave and without sufficient reason from his ship or from his duty, not amounting to desertion or not treated as such by the master, he shall be liable to imprisonment for any term not exceeding ten weeks and not less than four weeks, with or without hard labor, and also, in the discretion of the court, to forfeit out of his wages a sum not exceeding the amount of two days' pay, and in

Neglecting or refusing to join ship or proceed on voyage.

Absence without leave.

addition, for every twenty-four hours of absence, either a sum not exceeding six days' pay, or any expenses which have been properly incurred in hiring a substitute ;

Quitting without leave, before ship is secured.

(c.) For quitting the ship without leave after her arrival in her port of delivery, and before she is placed in security, he shall be liable to forfeit out of his wages a sum not exceeding one month's pay ;

Act of wilful disobedience.

(d.) For wilful disobedience to any lawful command, he shall be liable to imprisonment for any term not exceeding four weeks and not less than two weeks, with or without hard labor, and also, at the discretion of the court, to forfeit out of his wages a sum not exceeding two days' pay ;

Continued disobedience or neglect of duty.

(e.) For continued wilful disobedience to lawful commands, or continued wilful neglect of duty, he shall be liable to imprisonment for any term not exceeding twelve weeks and not less than four weeks, with or without hard labor, and also, in the discretion of the court, to forfeit, for every twenty-four hours' continuance of such disobedience or neglect, either a sum not exceeding six days' pay, or the amount of any expenses which have been properly incurred in hiring a substitute ;

Assault on officers of ship.

(f.) For assaulting any master or mate, he shall be liable to imprisonment for any term not exceeding twelve weeks and not less than six weeks, with hard labor ;

Combining to disobey or neglect duty.

(g.) For combining with any other or others of the crew to disobey lawful commands, or to neglect duty, or to impede the navigation of the ship or the progress of the voyage, he shall be liable to imprisonment, with hard labor, for any term not exceeding twelve weeks and not less than six weeks ;

Wilful damage or embezzlement.

(h.) For wilfully damaging the ship, or embezzling or wilfully damaging any of her stores or cargo, he shall be liable to forfeit out of his wages a sum equal in value to the loss thereby sustained, and also, in the discretion of the court, to imprisonment, with hard labor, for any term not exceeding twelve weeks and not less than six weeks ;

Act of smuggling causing loss to owner.

(i.) For any act of smuggling of which he is convicted, and whereby loss or damage is occasioned to the master or owner, he shall be liable to pay to such master or owner such a sum as is sufficient to reimburse the master or owner for such loss or damage ; and the whole or a proportionate part of his wages may be retained in satisfaction or on account of such liability, without prejudice to any further remedy. 38 V., c. 29, s. 17.

Master or owner may apprehend deserters without warrant.

19. Whenever, either at the commencement or during the progress of any voyage, any seaman neglects or refuses to proceed in any ship subject to the provisions of this Act, in which he is duly engaged to serve, or is found otherwise absenting himself therefrom without leave, the master or any mate, or the owner, ship's husband or consignee may, in any place in Canada, with or without the assistance of the

local police officers or constables (who shall give the same if required) apprehend him without first procuring a warrant,—and may thereupon in any case, and shall, in case he so requires and it is practicable, convey him before some court capable of taking cognizance of the matter, to be dealt with according to law—and may, for the purpose of conveying him before such court, detain him in custody for a period not exceeding twenty-four hours, or such shorter time as is necessary, or may, if he does not so require, or if there is no such court at or near the place, at once convey him on board; and if any such apprehension appears to the court before which the case is brought to have been made on improper or on insufficient grounds, the master, mate, owner, ship's husband or consignee who makes the same or causes the same to be made, shall incur a penalty not exceeding eighty dollars; but such penalty, if inflicted, shall be a bar to any action for false imprisonment in respect of such apprehension. 38 V., c. 29, s. 18.

Penalty for improper arrest.

20. Whenever any seaman belonging to any ship subject to the provisions of this Act, is brought before any court in Canada on the ground of his having neglected or refused to join or proceed in any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, such court may,—if the master or the owner or his agent so requires,—instead of committing the offender to prison, cause him to proceed on board for the purpose of proceeding on the voyage, or deliver him to the master or any mate of the ship, or the owner or his agent, to be by him so conveyed, and may, in such case, order any costs and expenses properly incurred by or on behalf of the master or owner by reason of the offence, to be paid by the offender, and, if necessary, to be deducted from any wages which he has then earned, or which, by virtue of his then existing engagement, he afterwards earns. 38 V., c. 29, s. 19.

Deserters may be sent on board in lieu of being imprisoned.

21. If any seaman is imprisoned on the ground of his having neglected or refused to join or to proceed in any ship subject to the provisions of this Act, in which he is engaged to serve, or of his having deserted or otherwise absented himself therefrom without leave, or of his having committed any other breach of discipline, and if, during such imprisonment, and before his engagement is at an end, his services are required on board his ship, any justice of the peace may, at the request of the master or of the owner or his agent, cause such seaman to be conveyed on board his said ship for the purpose of proceeding on the voyage, or to be delivered to the master or any mate of the ship, or to the owner or his agent, to be by him so conveyed, notwithstanding that the termination of the period for which he was sentenced to imprisonment has not arrived. 38 V., c. 29, s. 20.

Seaman imprisoned for desertion or breach of discipline may be sent on board before termination of sentence.

Facilities for proving desertion, so far as concerns forfeiture of wages.

22. Whenever a question arises whether the wages of any seaman belonging to any ship subject to the provisions of this Act, are forfeited for desertion, it shall be sufficient for the person insisting on the forfeiture to show that such seaman was duly engaged in or that he belonged to the ship from which he is alleged to have deserted, and that he quitted such ship before the completion of the voyage or engagement; and thereupon the desertion shall, so far as relates to any forfeiture of wages or emoluments under the provisions hereinbefore contained, be deemed to be proved, unless the seaman can produce a proper certificate of discharge, or can otherwise show, to the satisfaction of the court, that he had sufficient reasons for leaving his ship. 38 V., c. 29, s. 21.

Cost of procuring imprisonment may, to the extent of \$12, be deducted from wages.

23. Whenever, in any proceeding relating to seamen's wages, it is shown that any seaman belonging to any ship subject to the provisions of this Act, has, in the course of the voyage, been convicted of any offence by any competent tribunal, and rightfully punished therefor by imprisonment or otherwise, the court hearing the case may direct a part of the wages due to such seaman, not exceeding twelve dollars, to be applied in reimbursing any costs properly incurred by the master in procuring such conviction or punishment. 38 V., c. 29, s. 22.

Amount of forfeiture, how to be ascertained when seamen contract for the voyage.

24. Whenever any seaman belonging to any ship subject to the provisions of this Act, contracts for wages by the voyage, or by the run or by the share, and not by the month or other stated period of time, the amount of forfeiture to be incurred under this Act shall be taken to be an amount bearing the same proportion to the whole wages or share, as a month or other the period hereinbefore mentioned in fixing the amount of such forfeiture, as the case may be, bears to the whole time spent in the voyage; and if the whole time spent in the voyage does not exceed the period for which the pay is to be forfeited, the forfeiture shall extend to the whole wages or share. 38 V., c. 29, s. 23.

Application of forfeitures.

25. All clothes, effects, wages and emoluments which, under the provisions hereinbefore contained, are forfeited for desertion, shall be applied, in the first instance, in or towards the reimbursement of the expenses occasioned by such desertion to the master or owner of the ship from which the desertion has taken place; and may, if earned subsequently to the desertion, be recovered by such master, or by the owner or his agent, in the same manner as the deserter might have recovered the same if they had not been forfeited; and in any legal proceeding relating to such wages, the court may order the same to be paid accordingly; and, subject to such reimbursement, the same shall be paid to the Minister of Finance and Receiver General, to form part of the Con-

solidated Revenue Fund of Canada; and in all other cases of forfeiture of wages under the provisions hereinbefore contained, the forfeiture shall, in the absence of any specific directions to the contrary, be for the benefit of the master or owner by whom the wages are payable. 38 V., c. 29, s. 24.

26. Any question concerning the forfeiture of or deductions from the wages of any seaman, belonging to any ship subject to the provisions of this Act, may be determined in any proceeding in Canada, lawfully instituted with respect to such wages, notwithstanding that the offence in respect of which such question arises, though hereby made punishable by imprisonment as well as forfeiture, has not been made the subject of any criminal proceeding. 38 V., c. 29, s. 25.

Question of forfeiture may be decided in suits for wages.

27. If any seaman, on or before being engaged in any ship subject to the provisions of this Act, wilfully and fraudulently makes a false statement of the name of his last ship or last alleged ship, or wilfully and fraudulently makes a false statement of his own name, he shall incur a penalty not exceeding twenty dollars; and such penalty may be deducted from any wages he earns by virtue of such engagement as aforesaid, and shall, subject to reimbursement of the loss and expenses, if any, occasioned by any previous desertion, be paid and applied in the same manner as other penalties payable under this Act. 38 V., c. 29, s. 26.

Penalty for false statement as to ship or name.

ENTICING TO DESERT AND HARBORING DESERTERS.

28. Every person who, by any means whatsoever, persuades or attempts to persuade any seaman, belonging to any ship subject to the provisions of this Act, to neglect or refuse to join or to desert from his ship, or to absent himself from his duty, shall, for the first offence in respect of each such seaman, be liable to imprisonment, with hard labor, for a term not exceeding six months and not less than one month, and for any subsequent offence, in respect to each such seaman, be liable to imprisonment, with hard labor, for a term not exceeding twelve months and not less than two months: and every person who wilfully harbors or secretes any such seaman who has deserted from his ship, or who has wilfully neglected or refused to join his ship, knowing or having reason to believe such seaman to have so done shall, for every such seaman so harbored or secreted, be liable to imprisonment, with hard labor, for a term not exceeding six months and not less than one month, and for any subsequent offence, for a term not exceeding twelve months and not less than two months. 38 V., c. 29, s. 27.

Punishment for enticing to desert or harboring deserters.

CHANGE OF MASTER.

29. If, during the progress of a voyage, the master of any ship subject to the provisions of this Act, is superseded in

On change of master, certain docu-

ments to be handed over to his successor.

Canada, or, for any other reason, quits the ship and is succeeded in the command by some other person, he shall deliver to his successor the certificate of registry and the various documents relating to the navigation of the ship and to the crew thereof, which are in his custody, and shall, in default, incur a penalty not exceeding four hundred dollars. 38 V., c. 29, s. 28.

MODE OF RECOVERING WAGES.

Seamen may sue for wages in a summary manner.

30. Any seaman or apprentice belonging to any ship subject to the provisions of this Act, or any person duly authorized on his behalf, may sue in a summary manner before any judge of the Superior Court for Lower Canada, judge of the sessions of the peace, judge of a county court, stipendiary magistrate, police magistrate, or any two justices of the peace acting in or near the place at which the service has terminated, or at which the seaman or apprentice has been discharged, or at which any master or owner or other person upon whom the claim is made is or resides, for any amount of wages due to such seaman or apprentice not exceeding two hundred dollars over and above the costs of any proceeding for the recovery thereof, as soon as the same becomes payable; and such judge, magistrate or justices may, upon complaint on oath made to him or them by such seaman or apprentice, or on his behalf, summon such master or owner, or other person to appear before him or them to answer such complaint. 45 V., c. 34, s. 2, *part*;—36 V., c. 129, s. 52.

Summons.

Judges may make order for payment of wages.

31. Upon appearance of such master or owner, or in default thereof, on due proof of his having been so summoned, such judge, magistrate or justices may examine upon the oath of the respective witnesses of the parties, if there are any, or upon the oath of either of the parties, in case one of the parties requires such oath from the other, before such judge, magistrate or justices, touching the complaint and amount of wages due, and may make such order for the payment thereof, as to such judge, magistrate or justices appears reasonable and just; and any order made by such judge, magistrate or justices shall be final. 45 V., c. 34, s. 2, *part*;—36 V., c. 129, s. 53.

Warrant of distress may be issued.

32. If such order is not obeyed within twenty-four hours next after the making thereof, such judge, magistrate or justices may issue a warrant to levy the amount of the wages awarded to be due, by the distress and sale of the goods and chattels of the person on whom such order is made,—paying to such person the overplus of the produce of the sale, after deducting therefrom all the charges and expenses incurred by the seaman or apprentice in the making and hearing of the complaint, as well as those incurred by the distress and levy, and in the enforcement of the order. 45 V., c. 34, s. 2, *part*;—36 V., c. 129, s. 54.

33. If sufficient distress cannot be found, such judge, magistrate or justices may cause the amount of such wages and expenses to be levied on the ship in respect of the service on board which the wages are claimed, or the tackle and apparel thereof; and if such ship is not within the jurisdiction of such judge, magistrate or justices, they may cause the person on whom the order for payment is made to be apprehended and committed to the common gaol of the locality, or if there is no gaol there, then to that which is nearest to the locality, for a term not exceeding three months and not less than one month, under each such condemnation. 45 V., c. 34, s. 2, *part*;—36 V., c. 129, s. 55.

If sufficient distress cannot be found wages and expenses may be levied on ship, or person may be committed.

34. No suit or proceedings for the recovery of wages under the sum of two hundred dollars shall be instituted by or on behalf of any seaman or apprentice belonging to any ship subject to the provisions of this Act, in any court of Vice Admiralty, or in the Maritime Court of Ontario, or in any superior court, unless the owner of the ship is insolvent within the meaning of any Act respecting insolvency, for the time being in force in Canada, or unless the ship is under arrest or is sold by the authority of any such court as aforesaid, or unless any judge, magistrate or justices, acting under the authority of this Act, refer the case to be adjudged by such court, or unless neither the owner nor the master is or resides within twenty miles of the place where the seaman or apprentice is discharged or put ashore. 45 V., c. 34, s. 2, *part*;—36 V., c. 129, s. 56.

Restrictions on suits for wages in superior courts.

35. If any suit for the recovery of a seaman's wages is instituted against any such ship, or the master or owner thereof, in any court of Vice Admiralty, or in the Maritime Court of Ontario, or in any superior court in Canada, and it appears to the court, in the course of such suit, that the plaintiff might have had as effectual a remedy for the recovery of his wages by complaint to a judge, magistrate or two justices of the peace under this Act, then the judge shall certify to that effect, and thereupon no costs shall be awarded to the plaintiff. 45 V., c. 34, s. 2, *part*;—36 V., c. 129, s. 57.

If suits are brought unnecessarily before superior court, no costs to plaintiff.

LEGAL PROCEDURE.

36. The time for instituting summary proceedings under this Act, shall be limited as follows, that is to say:—

(a.) No conviction for any offence shall be made in any summary proceeding under this Act, unless such proceeding is commenced within six months after the commission of the offence, or—if both or either of the parties to such proceeding happen, during such time, to be out of Canada, or not to be within the jurisdiction of any court capable of dealing with the case—unless the same is commenced within two months after they both first happen to arrive or to be at one time within Canada, or within such jurisdiction;

Limitation of time in summary proceedings.

Summary convictions.

Orders for
payment of
money.

(b.) No order for the payment of money shall be made in any summary proceeding under this Act, unless such proceeding is commenced within six months after the cause of complaint arises, or—if both or either of the parties happen, during such time, to be out of Canada—unless the same is commenced within six months after they both first happen to arrive or to be at one time within Canada. 38 V., c. 29, s. 29.

How offences
shall be dealt
with.

37. Any judge of the Superior Court for Lower Canada, judge of the sessions of the peace, judge of a county court, police magistrate, stipendiary magistrate or any two justices of the peace, shall have authority and jurisdiction to try and determine in a summary way all offences punishable under this Act, whether by fine, penalty or imprisonment, or by both fine and imprisonment, or penalty and imprisonment.

Act respect-
ing summary
proceedings
to apply.

38. The provisions of the Act intituled "*An Act respecting summary proceedings before justices of the peace*," shall apply to and govern proceedings against any person for any offence against this Act, and a judge of the Superior Court, a judge of the sessions of the peace, a judge of a county court, a police magistrate or stipendiary magistrate, before whom any proceedings under this Act are taken, shall, for the purposes of the said proceedings, have all the powers of two justices of the peace.

Recovery of
penalties.

39. All penalties imposed by this Act may be recovered, with costs, upon the oath of one credible witness other than the informer, and shall be paid over to the Minister of Finance and Receiver General, to be disposed of as the Governor in Council directs, and in case of non-payment, shall be levied by distress and sale of the offender's goods and chattels, by warrant under the hand and seal of the convicting judge, magistrate or justices of the peace, directed to a constable or other peace officer; and the overplus, if any, after deducting the penalty and costs of suit, together with the expenses of the distress and sale, shall be returned to the owner; and for want of sufficient distress, the offender shall be committed, by warrant under the hand and seal of the judge, magistrate or justices, to the common gaol of the locality, or if there is no common gaol there, then to that common gaol which is nearest to that locality, for any term not exceeding six months; and such judge, magistrate or justices shall also award and order the imprisonment, if any, to which the offender is liable for the offence whereby the penalty is incurred. 38 V., c. 29, s. 30.

Imprison-
ment if not
paid.

Evidence of
seamen con-
cerned to be
received.

40. In all cases of complaints made by or on behalf of any seaman under this Act, the evidence of such seaman shall be received and taken, notwithstanding that he is interested in the matter. 38 V., c. 29, s. 31, *part.*

41. There shall be no appeal from any conviction or order adjudged or made under this Act, by or before any judge of the Superior Court for Lower Canada, judge of the county court, judge of the sessions of the peace, police magistrate, stipendiary magistrate or any two justices of the peace, for any offence against this Act; and no conviction under this Act shall be quashed for want of form, or be removed by *certiorari*.

No appeal; and conviction not to be quashed for want of form or removed by *certiorari*.

and no warrant of commitment under this Act shall be held void by reason of any defect therein, if it is therein alleged that the party has been convicted, and there is a good and valid conviction to sustain the same. 38 V., c. 29, s. 32.

42. Any justice of the peace, at any port or place in Canada, on complaint before him on the oath of one or more credible witness or witnesses, that any seaman under this Act is concealed or secreted in any dwelling house or out-house, or on board of any ship or elsewhere, shall grant a warrant under his hand and seal, addressed to a constable or constables there, commanding him or them to make diligent and immediate search, in or about such dwelling house or out-house, or on board such ship, or such other place or places as are specified in the warrant, and to bring before him every such seaman found concealed, whether named in the warrant or not. 38 V., c. 29, s. 33.

Justices may grant warrant to search for seamen unlawfully harbored or secreted.

43. Any police officer or constable required under the provisions of this Act to give assistance to the master or any mate, or the owner, ship's husband or consignee of any ship in apprehending, with or without a warrant, any seaman duly engaged to serve in such ship, and neglecting or refusing to proceed to sea therein, or being found otherwise absenting himself therefrom without leave, may, at any time, enter into any tavern, inn, ale house, beer house, seamen's boarding house, or other house or place of entertainment, or into any shop or other place wherein liquors or refreshments are sold or reputed to be sold, whether legally or illegally, or into any house of ill fame; and any person being therein, or having charge thereof, who refuses, or after due demand fails to admit such police officer or constable into the same, or offers any obstruction to his admission thereto, shall, for every such offence, incur a penalty not exceeding fifty dollars and not less than ten dollars. 38 V., c. 29, s. 34.

Police officers or constables to assist in enforcing this Act.

Penalty for obstructing search &c.

SCHEDULE

AGREEMENT, or Articles, for a

Name of Ship.	Official Number.	Port of Registry.	Port No. and Date of Register.	Registered Tonnage.	MANAGING
					Name.

The several persons whose names are hereto subscribed, and whose descriptions are contained the several capacities expressed against their respective names, on a voyage from^a

And the said Crew agree to conduct themselves in an orderly, faithful, honest and sober manner, and to be obedient to the lawful commands of the said Master, or of any person who shall lawfully relating to the said Ship, and the stores and cargo thereof, whether on board, in boats, or on shore; the said Master hereby agrees to pay to the said Crew as wages the sums against their names respect according to the usual custom: And it is hereby agreed that any embezzlement or wilful or negligent be made good to the owner out of the wages of the person guilty of the same: And if any person enters to perform, his wages shall be reduced in proportion to his incompetency: And it is also agreed that

In witness whereof the said parties have subscribed their names hereto on the d^{ys} against

Signed by _____ Master, on the _____

Signatures of Crew.	Age.	Where Born.	Ship in which he last served, Official Number, and Port she belonged to, or other Employment.	Date and Place of Discharge from such Ship.	
				Date.	Place.

PLACE OF SIGNATURES AND

NOTE.—Here the entries

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NOTE.—Any Erasure, Interlineation or Alteration in this Agreement, except in the case of Substitutes, will be void, unless attested by some Shipping Master, Officer of Customs, Consul, or Vice-Consul, or other respectable witnesses to be made with the consent of the persons interested.

U L E .

Canadian Ship, subject to this Act.

OWNER.	MASTER.			Date and Place of first Signature of Agreement, including Name of Shipping Office.
Address.	Name.	No. of Certificate	Address.	

below, hereby agree to serve on board the said Ship, in (or, which Ship is to be employed^b)

and to be at all times diligent in their respective duties, succeed him, and of their superior officers, in everything in consideration of which services to be duly performed, ively expressed, and to supply them with provisions destruction of any part of the Ship's cargo or stores shall himself as qualified for a duty which he proves incompetent

^a Here the voyage is to be described, and the places named at which the ship is to touch, or if that cannot be done, the general nature and probable length of the voyage is to be stated.

^b Here state probable nature of Ship's employment, or nature of voyage and period of engagement.

^c Here any other stipulations may be inserted to which the parties may agree, and which are not contrary to law.

their respective signatures mentioned.

day of _____ 18____.

Date and Place of joining this Ship.		In what capacity engaged ; and if Mate, No. of his certificate (if any).	Time at which he is to be on board.	Amount of Wages per Calendar Month, Share, or Voyage.		Shipping Master's or Witness' Signature.
Date.	Place.			\$	cts.	

DESCRIPTIONS OF SUBSTITUTES.

are to be made as above.

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I declare to the truth of the entries in this Agreement.

_____ *Master.*

INDORSEMENTS.	INDORSEMENTS.	INDORSEMENTS.



CHAPTER 76.

An Act respecting sick and distressed Mariners.

A. D. 1886.

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

1. In this Act, unless the context otherwise requires,—

(a.) The expression "sick mariner" includes any master, mate, engineer, seaman, sailor, steward, fireman or other person employed on board of any vessel on which duty has been paid under this Act, who, from sickness, accident or any other cause, is in need of medical or surgical assistance and treatment;

Interpretation.

"Sick mariner."

(b.) The expression "vessel" means any vessel used in navigation, not propelled by oars ;

"Vessel."

(c.) The expression "year," when used in this Act in relation to the duty thereby imposed, means the calendar year commencing on the first day of January and ending on the thirty-first day of December. 31 V., c. 64, ss. 1 and 2;— 38 V., c. 31, s. 2.

2. The Governor in Council may, from time to time, designate and appoint any hospital in Canada receiving aid from the public funds of Canada, but not longer than such hospital continues to receive such aid, to be, during pleasure, an hospital for the reception, care and medical or surgical treatment, or both, of sick mariners, under this Act. 31 V., c. 64, s. 3, *part*.

Hospitals for sick mariners to be designated by Governor.

3. The Governor in Council may, from time to time, with the consent of the governors, trustees, directors or other persons having the control and management of any hospital not receiving aid from the public funds of Canada, designate and appoint such hospital to be, during pleasure, an hospital for the reception, care and medical or surgical treatment, or both, of sick mariners under this Act. 31 V., c. 64, s. 3, *part*.

The same.

4. There shall be levied and collected on every vessel arriving in any port in the Provinces of Quebec, Nova Scotia, New Brunswick, Prince Edward Island or British Columbia, a rate or duty of two cents for every ton which such vessel

Duty to be collected on all vessels arriving in certain ports.

- measures, registered tonnage, which shall be paid by the master or person in command of such vessel or by some person on his behalf, to the collector or other chief officer of the customs at the port at which such vessel is entered, and at the time of making such entry, which shall contain on the face of it the tonnage of such vessel ; and no entry shall be validly made, or have any legal effect whatsoever, unless the rate or duty is so paid, save and except as hereinafter mentioned ; and no collector or other chief officer of the customs shall grant a clearance to any vessel on which such rate or duty or any part thereof is due and unpaid ; and the moneys so received shall be paid by such collector or chief officer to the Minister of Finance and Receiver General, and shall form a fund to be called and known as "The Sick Mariners' Fund," for the purposes hereinafter mentioned, and no other : 31 V., c. 64, s. 4, *part* ;—37 V., c. 27, *part*.
- No entry until duty is paid.** 2. Vessels of the burthen of one hundred tons or less, shall be liable to the payment of the said duty once in each year, but not oftener : 31 V., c. 64, s. 4, *part*.
- Application of such duties.** 3. Vessels of the burthen of more than one hundred tons register, shall be liable to the payment of the said duty three times in one year, but not oftener : 38 V., c. 31, s. 1.
- Vessels of 100 tons or under.**
- Vessels over 100 tons.**
- Exemption from tonnage duty.** 4. No vessel arriving at any port in any one of the Provinces of Canada from any port not within the same Province, except in the case of a vessel arriving at a port in Quebec from a port in Ontario, shall be exempt from the payment of the said duty unless it has been paid at some other port on the same voyage, by reason merely of her voyage being one not requiring entry or clearance at the custom house ; and if she does not require entry the duty shall be paid immediately on her arrival : 33 V., c. 19, s. 1, *part*.
- Further exemption.** 5. No vessel engaged in the coasting trade of Canada, and arriving at any port in any of the said Provinces, from any other port in the same Province, or arriving at any port in the Province of Quebec from any port in the Province of Ontario, shall be subject to the payment of the said duty : Provided always, that no vessel arriving at any port in Canada from any place out of Canada, and afterwards continuing her voyage to another port in Canada, shall be exempt from the payment of the said duty at the last mentioned port, unless she has paid it at the first mentioned or some other port on the same voyage : 33 V., c. 19, s. 1, *part*.
- Proviso: as to vessels arriving at one port and continuing their voyage to another.**
- Fishing vessels.** 6. The master or person in charge of any fishing vessel registered in Canada may pay in any year such rate or duty in respect to such vessel before leaving on a fishing voyage at its first port of outfit in respect to such voyage :
- Payment once a year entitles sick mariners to benefit if vessel is 100 tons or less.** (a.) If such vessel is of the burthen of one hundred tons registered tonnage or less, such payment shall entitle the master or person in charge of such vessel and the mariners employed thereon, if they are sick, to the rights and benefits conferred by the two sections next following, during such year, in any port where there is a collector of customs ;

(b.) If such vessel is of the burthen of more than one hundred tons registered tonnage, such payment shall entitle to the said rights and benefits only the master and mariners employed upon the voyage in respect to which such payment has been made; but the payment of the said rate or duty three times in any calendar year in respect to such vessel, shall entitle the master and mariners thereof to the said rights and benefits during the remainder of such year in any such port: 47 V., c. 21, s. 1.

One payment in respect to vessel over 100 tons entitles mariners for the voyage to benefits and three payments to benefits for one year.

7. Every collector or other chief officer of the customs shall transmit quarterly, on the thirtieth day of September, the thirty-first day of December, the thirty-first day of March and the thirtieth day of June in each year, to the Minister of Marine and Fisheries, accounts of the sums received by him and paid over to the Minister of Finance and Receiver General under this Act. 31 V., c. 64, s. 4, *part.*

Collector to account quarterly to Minister.

5. The master or person in command of any vessel paying such rate or duty, may send to the marine hospital at Quebec, or to the marine or seamen's hospital at or for any other port in any of the Provinces aforesaid, or to any hospital so designated and appointed as aforesaid, at any hour of the day (and in case of accident or emergency, at any hour of the night), any sick mariner belonging to his vessel; and such sick mariner, so sent with a written recommendation from such master or person in command of such vessel, indorsed as "approved" by the collector of the customs at the port, or other officer appointed for the purpose by the Minister of Marine and Fisheries, shall be gratuitously received into such hospital, and receive therein such medical and surgical attendance and such other treatment as the case requires, so long as the same is required. 31 V., c. 64, s. 5.

Masters of vessels may send their sick mariners to such hospitals, where they shall be received gratuitously.

6. At any port at which such rate or duty as aforesaid is received, and at or for which there is no marine or seamen's hospital, or other hospital so designated and appointed as aforesaid, the collector or other chief officer of the customs, upon being required so to do at any hour of the day (and in case of accident or emergency, at any hour of the night), by the master or person in command of any vessel paying such rate or duty at such port, shall make without delay the best provision in his power for the medical or surgical assistance, or both, and treatment of every sick mariner belonging to such vessel, at the nearest public hospital if there is one at a safe and convenient distance, and if not, then at some public or private house. 31 V., c. 64, s. 7.

If no marine or seamen's hospital, collector to make provision for care of sick or disabled sailor.

7. The two sections next preceding shall not apply to sick mariners belonging to vessels exempted from or not paying the duties mentioned in this Act, and no mariner belonging to any such vessel shall be gratuitously received and treated in any hospital designated and appointed for

Sections 5 and 6 not to apply to sick mariners of vessels exempted as aforesaid.

the reception of sick mariners under this Act, nor shall any provision be made by any collector or other chief officer of customs for their medical or surgical care or treatment in any other hospital or house, out of any money collected under this Act, unless by the special authority of the Minister of Marine and Fisheries. 33 V., c. 19, s. 2.

Care and treatment of sick mariners to be paid for out of fund created by duty.

8. The Governor in Council may, by warrant under his hand, pay, from time to time, for the purposes of this Act, and out of any moneys paid under it into the hands of the Minister of Finance and Receiver General, to the managers or directors of the marine hospital at Quebec, and to the managers or directors of any hospital designated and appointed as hereinbefore provided, for the reception, care and medical or surgical treatment, or both, of sick mariners under this Act, but not exclusively devoted to that purpose, such sum or sums as he deems a reasonable compensation for the care and treatment of the sick mariners sent to such hospital. 31 V., c. 64, s. 6.

Expenses incurred by collector to be paid out of fund arising from duty.

9. The Governor in Council may, from time to time, for the purposes of the sixth section hereof and out of any moneys paid under this Act into the hands of the Minister of Finance and Receiver General, pay to the collector or chief officer of the customs at any such port as is described in the said section, such sum or sums of money as such collector or other chief officer of the customs, from time to time, proves to his satisfaction that he has lawfully and in good faith expended or become liable for, under and in pursuance and for the purposes of the said section. 31 V., c. 64, s. 8.

Certain sums may be appropriated yearly towards temporary relief of certain other seamen.

10. The Governor in Council may, whenever he deems it necessary, appropriate from the fund arising from the duties imposed under this Act, such sums as he deems requisite towards the temporary relief, in such manner as he deems advisable, of shipwrecked, destitute or otherwise distressed seamen not entitled to relief under any of the provisions of "*The Merchant Shipping Act, 1854*," which are in force in that one of the Provinces aforesaid in which such seamen are. 31 V., c. 64, s. 9, *part*.

Such seamen may be taken care of.

11. Any shipwrecked, destitute or otherwise distressed seamen may, by authority from the Minister of Marine and Fisheries, be temporarily boarded and lodged and taken care of at any marine or seamen's hospital devoted exclusively to the reception, care and treatment of sick mariners. 31 V., c. 64, s. 9, *part*.

All expenses to be paid out of "Sick Mariners' Fund."

12. All expenses incurred in any one of the Provinces aforesaid, for the care and medical and surgical treatment of sick mariners, including the cost of the maintenance and support of marine and seamen's hospitals, devoted exclusively to such purposes, shall be defrayed out of "the Sick Mariners' Fund;" and the Governor in Council shall appoint

the superintendents and other officers of such hospitals, who shall receive such salaries or remuneration as the Governor in Council, from time to time, directs. 31 V., c. 64, s. 10.

13. Every person intrusted with the expenditure of any portion of the moneys hereby appropriated shall make up detailed accounts of such expenditure, showing the sum advanced to the accountant, the sum actually expended, the balance, if any, remaining in his hands, and the amount of the moneys hereby appropriated to the purpose for which such advance has been made, remaining unexpended in the hands of the Minister of Finance and Receiver General; and every such account shall be supported by vouchers, therein distinctly referred to by numbers corresponding to the numbering of the items in such account, and shall be made up to and closed on the thirtieth day of September, the thirty-first day of December, the thirty-first day of March and the thirtieth day of June in each year during which such expenditure is made, and shall be attested before a judge of a superior court or a justice of the peace, and shall be transmitted to the Minister of Marine and Fisheries within ten days next after the expiration of the said periods respectively. 31 V., c. 64, s. 11.

Expenditure of fund to be accounted for and vouchers produced.

Accounts to be attested.

14. Subject to the approval of the Governor in Council, the Minister of Marine and Fisheries shall have the management of all marine and seamen's hospitals and pest houses for the use of sick mariners, and may renew leases of lands on which any such hospitals or pest houses are erected, and may make all necessary contracts for repairing and maintaining the same, and for the cure, care, attendance and support of the patients therein, and may also make such regulations as he deems advisable for the government of the same, for regulating the visiting of seamen ill of any infectious diseases, and for their removal to any pest house or other building; and until proper buildings are erected at the several ports, the said Minister may hire and make use of any building which is convenient for the purposes aforesaid, or any of them. 31 V., c. 64, s. 13.

Powers of Minister of Marine and Fisheries.

15. All marine and seamen's hospitals, devoted exclusively to the reception, care and treatment of sick mariners shall be vested in Her Majesty, and under the exclusive control and management of the Minister of Marine and Fisheries. 31 V., c. 64, s. 14.

Certain hospitals to be under the control of the Minister.

16. The Minister of Marine and Fisheries shall make an annual report and statement to the Governor General of the receipts and expenditures under this Act, to be laid before Parliament within the first fifteen days of the next session thereof. 31 V., c. 64, s. 12.

Annual report to be laid before Parliament.



CHAPTER 77.

An Act respecting the Safety of Ships and the Prevention of Accidents on board thereof. A. D. 1886.

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

1. In this Act, unless the context otherwise requires,—
- (a.) The expression “the Minister,” means the Minister of Marine and Fisheries; Interpretation.
“Minister.”
 - (b.) The expression “ship” includes every description of vessel used in navigation not propelled by oars; “Ship.”
 - (c.) The expression “ships belonging to Her Majesty,” includes ships the cost of which has been defrayed out of the Consolidated Revenue Fund of Canada, and ships described as the property of Canada by the one hundred and eighth section of “*The British North America Act, 1867* ;” “Ships belonging to Her Majesty.”
 - (d.) The expression “master” includes every person who has command or charge of any ship. “Master.”
- 36 V., c. 8, s. 4;—36 V., c. 56, s. 1;—36 V., c. 128, s. 4.
2. Nothing in this Act shall apply to ships belonging to Her Majesty. Exemption of H. M. ships.
- 36 V., c. 8, s. 5;—36 V., c. 128, s. 5.

UNSEAWORTHY SHIPS.

3. If complaint is made to the Minister that any ship registered in Canada is, by reason of the defective condition of her hull or equipments, or by reason of her being overloaded or improperly loaded, unfit to proceed to sea, or on any voyage on any waters within the limits of Canada, the Minister may cause such ship to be surveyed by a person appointed by him,—first exacting from the complainant, if he thinks fit so to do, a deposit of money to defray the expenses of the survey, and to pay any loss which may be sustained by the owner on account of any detention, or such security for the payment of such expenses and loss as he deems sufficient; and if such person reports that the hull or equipments of such ship is or are in such a state, or that such ship is so loaded that she could not proceed to sea or on any such voyage, as the case may be, without serious danger to human life, the Minister may declare such ship to be unseaworthy, and thereupon any principal officer of customs may detain such ship:

Minister may declare ships unseaworthy after survey: consequent detention of ship.

Complaint to be in writing; copy for owner.

2. Every such complaint shall be in writing, and shall state the name and address of the complainant; and a copy of the complaint, including the name and address of the complainant, shall, before or during such survey, be given by the Minister to the master or to the owner or one of the owners of the ship:

Costs if vessel is seaworthy.

3. If, upon such survey, such ship is found to be seaworthy, the expenses of the survey shall be paid to the Minister by the person making the complaint, without prejudice to any right of suit or action against him by any person aggrieved by the complaint:

And if unseaworthy.

4. If, upon such survey, such ship is found to be unseaworthy, the expenses of the survey shall be paid to the Minister by the owner of the ship. 36 V., c. 128, s. 26.

Appeal to Court of Vice Admiralty or Maritime Court of Ontario.

4. Any shipowner who is dissatisfied with the decision of any person appointed by the Minister under the next preceding section may appeal to the court of Vice Admiralty having jurisdiction in the place where such ship was surveyed, if there is any, and if there is not then to the court of Vice Admiralty holding its sittings nearest to the place where such ship was surveyed, or if in Ontario, to the Maritime Court of Ontario, and such courts respectively may, if they think fit, appoint a competent person or competent persons to survey such ship anew:

Order may be made by the court.

2. Upon any such appeal such court may make such order as to the detention or discharge of the ship, as to the payment (whether by the Crown or otherwise) of any costs or damages occasioned by her detention, and as to the payment of the expenses of the original survey, and of the survey anew, as to such court seems just. 36 V., c. 128, s. 27.

Powers of persons appointed to make survey.

5. Any person so appointed either by the Minister or by any court of Vice Admiralty, or by the Maritime Court of Ontario, to survey a ship, may, in the execution of his duty, go on board such ship at all reasonable times and inspect the same or any part thereof, or any of the equipments, cargo or articles on board thereof, or the certificate of registry thereof,

not unnecessarily detaining or delaying the ship in proceeding on her voyage; and if such person considers it necessary so to do, he may require the ship to be so dealt with that he may be able to inspect every part of the hull thereof; and every person who hinders any person so appointed from going on board any ship, or otherwise impedes him in the execution of his duty under this Act, shall, for every such offence, incur a penalty not exceeding twenty dollars. 36 V., c. 128, s. 28.

Penalty for impeding surveyor.

Sending an unseaworthy ship to sea a misdemeanor.

6. Every person who, having authority as owner or otherwise to send a ship registered in Canada to sea, or on any voyage on any waters within the limits of Canada, from any port or place in Canada, sends her to sea or on any such

voyage from any such port or place in an unseaworthy state, so as to endanger the life of any person belonging to her on board the same, is guilty of a misdemeanor, unless he proves that he used all reasonable means to make and keep the ship seaworthy, and was ignorant of such unseaworthiness, or that her going to sea or on such voyage in an unseaworthy state was, under the circumstances, reasonable and unavoidable; and for this purpose he may give evidence in the same manner as any other witness. 36 V., c. 128, s. 29, *part*.

DECK LOADS.

7. No master of any ship, when sailing after the first day of October or before the sixteenth day of March in any year, on a voyage from any port in Canada to any port in Europe, and during the voyage while within Canadian jurisdiction, shall place, or cause or permit to be placed or to remain upon or above any part of the upper deck of such ship, not included within the limits of any break or poop, or any other permanently closed in space thereon and available for cargo, the tonnage of which forms part of the registered tonnage of such ship,—

- (a.) Any square, round, waney or other timber; Timber.
 (b.) Any more than five spare spars, or store spars made, Spars.
 dressed and finally prepared for use, or not so dressed and prepared;
 (c.) Any cargo of any other description, except live stock, to Other cargo.
 any height exceeding three feet above the deck:

Provided always, that if the master of any such ship considers that it is necessary, in consequence of the springing of a leak, or of other damage received or apprehended during the voyage, he may remove and place upon any part of the upper deck not included within the limits of any break or poop or any other permanently closed in space thereon and available for cargo, the tonnage of which forms part of the registered tonnage of such ship, any other or greater portion of such cargo than is hereby permitted to be placed upon such part of the upper deck of such ship, and permit the same to remain there for such time as he considers expedient: 36 V., c. 56, ss. 2 and 4, *part*;—41 V., c. 12, s. 1.

2. Before any officer of the customs permits any ship, subject to the provisions of the next preceding sub-section, to clear out from any port in Canada, he shall ascertain that there is not piled, or stored or placed upon any part of the upper deck of such ship, not included within the limits of any break or poop, or any other permanently closed in space thereon, available for cargo, and the tonnage of which forms part of the registered tonnage of such ship,—

- (a.) Any square, round, waney or other timber;
 (b.) Any more than five spare spars, or store spars, as hereinbefore mentioned;
 (c.) Any cargo of any other description, except live stock, to any height exceeding three feet above the deck;

Certificate.

And he shall give the master of such ship a certificate to that effect ; and no master of any ship shall sail in such ship when subject to the provisions of the next preceding sub-section from any port in Canada until he has obtained such certificate : 36 V., c. 56, ss. 5 and 7.

Ships sailing to the West Indies.

3. No master of any ship, when sailing after the fifteenth day of November or before the sixteenth day of March in any year, on a voyage from any port in Canada to any port in the West Indies, and during the voyage while within Canadian jurisdiction, shall, if she is a single decked vessel,

Certain modes of carrying cargo forbidden.

place or cause or permit any cargo whatever to be placed or remain upon or above the deck to a height exceeding by more than six inches that of the main rail, or in any case greater than four feet six inches above the deck,—nor if she has a spar deck, shall he place or cause or permit to be placed or remain, any cargo on or above any part of such spar deck ;

Exception.

but this provision shall not prevent such master from carrying two spare spars or store spars, made, dressed and finally prepared for use, on the deck or on the spar deck of such ship : Provided always, that if the master of any such ship

Proviso : in case of leak or other damage to ship.

considers that it is necessary in consequence of the springing of a leak or of other damage received or apprehended during the voyage, he may remove and place upon the upper deck or on the deck or spar deck of such ship, any part of the cargo, and permit the same to remain there for such time as he considers expedient : 36 V., c. 56, ss. 3 and 4, part.

Certificate to be given before clearing.

4. Before any officer of the customs permits any ship subject to the provisions of the next preceding sub-section, to clear out from any port in Canada, he shall ascertain that no provision of the said sub-section is violated in respect of such ship and the cargo thereof, and shall give the master of such ship a certificate to that effect ; and no master of any

Ship not to sail without certificate.

ship shall sail in such ship, when subject to the provisions of such sub-section, from any port in Canada, until he has obtained such certificate : 36 V., c. 56, ss. 6 and 7.

Not to apply to British Columbia.

5. Nothing in this section contained shall apply to any vessel sailing from British Columbia. 36 V., c. 56, s. 13.

Penalty for contravention.

8. Every master of a ship subject to the provisions of the next preceding section, who violates any of the provisions of the said section, shall, for each such violation, incur a penalty not exceeding, except as hereinafter provided, eight hundred dollars ; and every master of a ship who, with intent to evade any of the provisions of the said section, sails in such ship after the first day of October or before the sixteenth day of March in any year, from any port in Canada to any port in Europe, without the certificate therein mentioned, and with any cargo on any part of the upper deck of such ship, not included within the limits of any break or poop, or any other closed in space thereon available for cargo, and the tonnage of which forms part of the registered tonnage of such ship,—or who sails in such ship, after the fifteenth

Sailing with intent to evade this Act to be a misdemeanor.

day of November or before the sixteenth day of March in any year, from any port in Canada to any port in the West Indies with any cargo upon the deck, or on the spar deck of such ship, as the case may be, which would prevent his rightfully obtaining such certificate, is guilty of a misdemeanor, and shall be liable to a fine not exceeding eight hundred dollars, or to imprisonment for a term not exceeding two years and not less than three months, or to both. 36 V., c. 56, ss. 8, 9 and 10. Penalty.

9. Every ship in respect of which any of the penalties mentioned in the next preceding section is incurred, may be seized and detained by order of the court by or before which such penalty is imposed or recovered until such penalty is paid, or security given for the payment thereof; and unless payment is made or satisfactory security is given within thirty days, such ship may, at the expiration thereof, be sold by order of the court, and the said penalty and all the costs paid out of the proceeds; and the surplus, if any, shall be paid over to the owner of the ship. 36 V., c. 56, s. 11. Ship may be seized and sold to secure payment of penalty.

DISORDERLY PASSENGERS.

10. If any of the following offences are committed on board any vessel registered in Canada, propelled wholly or in part by steam, and carrying passengers to or from any place or places in Canada to or from any place or places out of Canada, not being in the United Kingdom, or between any places in Canada (which vessels alone are in the following sections of this Act included in the expression "steamers"), that is to say:— Persons committing certain offences incur a penalty.

(a.) If any person being drunk or disorderly has been on that account refused admission into a steamer by the owner or any person in his employment, and nevertheless persists in attempting to enter the steamer; Disorderly persons attempting to enter.

(b.) If any person being drunk or disorderly on board a steamer is requested by the owner or any person in his employment to leave the same at any place in Canada, being a reasonably convenient place to leave the same, and does not comply with such request; Or refusing to leave.

(c.) If any person on board a steamer, after warning by the master or other officer of the steamer, molests or continues to molest any passenger; Molesting passengers.

(d.) If any person, after having been refused admission into a steamer by the owner or any person in his employment on account of the steamer being full, and having had the amount of his fare, if he has paid it, returned or tendered to him, nevertheless persists in attempting to enter the steamer; Forcible entry.

(e.) If any person on board a steamer, without reasonable excuse (proof whereof shall lie on him), fails, when requested by the master or other officer thereof, either to pay his fare or exhibit such ticket or other receipt, if any, showing the Non-payment of fare.

payment of his fare, as is usually given to persons travelling by and paying their fare on steamers,—

The penalty. The person so offending shall for every such offence incur a penalty not exceeding ten dollars; but this liability shall not prejudice the recovery of any amount payable by him as fare. 36 V., c. 57, s. 2.

Injuring or obstructing the steamer.

11. Every person on board a steamer, who without reasonable excuse (proof whereof shall lie on him), does or causes to be done, anything in such manner as to obstruct or injure any part of the machinery or tackle of the steamer, or to obstruct, impede or molest the crew, or any of them, in the navigation or management of her, or otherwise in the execution of their duty on or about the steamer, shall, for every such offence, incur a penalty not exceeding one hundred dollars. 36 V., c. 57, s. 3.

Penalty.

Master of a steamer may detain offender.

12. The master or other officer of any steamer, and all persons called by him to his assistance, may detain any offender against any of the provisions of the two sections next preceding, whose name and address are unknown to such master or officer, and may convey such offender with all convenient despatch before some justice or justices of the peace; and any offender so conveyed before such justice or justices under this section, shall be dealt with as if arrested, and brought before them on his or their warrant, under the "*Act respecting summary proceedings before Justices of the Peace.*" 36 V., c. 57, ss. 4 and 5, part.

Arrest by master valid.

Disorderly persons on board steamers; how to be treated.

13. The master or officer in command of any steamer may refuse to receive on board thereof any person who is drunk or disorderly, or who causes, or is in a condition to cause, annoyance or injury to passengers on board; or if any such person is on board, the master or officer may put him on shore at any convenient place. 36 V., c. 57, s. 1.

DANGEROUS GOODS.

Sending dangerous goods in ships, unmarked.

14. Every person who sends or attempts to send by, or not being the master or owner of the ship, carries or attempts to carry in any ship registered in Canada, from any port or place in Canada, any dangerous goods, that is to say, aquafortis, oil of vitriol, gunpowder, nitro-glycerine, naphtha, benzine, lucifer matches or any other goods of a dangerous nature, without distinctly marking their nature on the outside of the package containing the same, and giving written notice of the nature of such goods, and of the name and address of the sender thereof, to the master or owner of the ship, at or before the time of sending the same to be shipped or taking the same on board the ship, shall, for every such offence, incur a penalty not exceeding five hundred dollars. 38 V., c. 8, s. 6, part.

Penalty.

15. If such person shows that he was merely an agent in the shipment of any such goods as aforesaid, and was not aware, and did not suspect, and had no reason to suspect that the goods shipped by him were of a dangerous nature, the penalty to which he is liable shall not exceed forty dollars. 36 V., c. 8, s. 6, *part.*

If shipper is not aware of the nature of the goods.

16. Every person who knowingly sends, or attempts to send by, or carries or attempts to carry in any ship registered in Canada, from any port or place in Canada, any dangerous goods, or goods of a dangerous nature, under a false description, or falsely describes the sender or carrier thereof, shall incur a penalty not exceeding two thousand dollars. 36 V., c. 8, s. 7. •

Sending such goods under false description.

Penalty.

17. The master or owner of any ship registered in Canada may refuse to take on board any package or parcel which he suspects to contain goods of a dangerous nature, and may require it to be opened to ascertain the fact. 36 V., c. 8, s. 8.

Master may refuse to receive package.

18. When any dangerous goods, as defined in this Act, or any goods which, in the judgment of the master or owner, are of a dangerous nature, are sent on board any ship registered in Canada, within the limits of Canada, without being marked, as aforesaid, or without such notice having been given, as aforesaid, the master or owner of such ship may cause such goods to be thrown overboard; and neither the master nor the owner of the ship shall, in respect of such throwing overboard, be subject to any liability, civil or criminal, in any court in Canada. 36 V., c. 8, s. 9.

Such goods sent on board without notice, may be thrown overboard.

No liability in such case.

19. When any dangerous goods are sent or attempted to be sent, or carried or attempted to be carried, on board any ship registered in Canada, from any port or place in Canada, without being marked as aforesaid, or without such notice having been given as aforesaid, and when any such goods are sent or attempted to be sent under a false description, or the sender or carrier thereof is falsely described, any court of record, on application by or on behalf of the owner, charterer or master of the ship, may declare such goods forfeited, and when forfeited they shall be disposed of as the court directs. 36 V., c. 8, s. 10.

Goods may be forfeited by order of court.

PENALTIES.

20. Every penalty imposed by this Act may be recovered or enforced with costs before any two justices of the peace or any magistrate having the powers of two justices of the peace, under the "*Act respecting summary proceedings before Justices of the Peace,*" if such penalty does not exceed one hundred dollars, and if it exceeds one hundred dollars, before any court of competent jurisdiction :

Penalties and how enforced.

Jurisdiction
of justices of
the peace.

2. Any justices of the peace shall have jurisdiction under the tenth and eleventh sections of this Act, either in the place where the offence was committed, or, if committed while the steamer is under way, then in the place where it next stops. 36 V., c. 57, s. 5, *part.*

Application of
penalties.

21. The whole of every pecuniary penalty recovered under this Act shall belong to Her Majesty, and shall be paid over to the Minister of Finance and Receiver General by the officer or person receiving the same, and shall be thereafter appropriated in such manner as the Governor in Council directs in each case. 36 V., c. 56, s. 12, *and* c. 57, s. 5, *part.*

Repeal of Mer-
chant Ship-
ping Act,
1854, in part

22. So much of the "*Merchant Shipping Act, 1854*," and of any other Act amending the said Act and forming part of the same, as is inconsistent with this Act, is hereby repealed so far as relates to ships registered in Canada. 36 V., c. 8, s. 3;—36 V., c. 128, s. 2.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 78.

An Act respecting the inspection of Steam-boats, and the examination and licensing of Engineers employed on them. A.D. 1886.

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

SHORT TITLE.

1. This Act may be cited as "*The Steam-boat Inspection Act.*" 45 V., c. 35, s. 1. Short title.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—
- (a.) The expression "steam-boat" includes any vessel used in navigation or afloat on navigable water, and propelled or movable wholly or in part by steam; Interpretation.
"Steam-boat."
 - (b.) The expression "owner" includes the lessee or charterer of any such vessel; "Owner."
 - (c.) The expression "year" means the calendar year, commencing on the first day of January and ending on the thirty-first day of December; "Year."
 - (d.) The expression "boilers and machinery" includes the steam engine or engines, and every part thereof or thing connected therewith, employed in propelling the steam-boat, and any donkey or pony engine used on board, and the boiler or boilers for supplying steam thereto, and the furnaces, chimneys, flues, safety and blow-off valves, gauges, braces, stays, pipes, steam pumps, and all other apparatus and things attached to or connected therewith or used with reference to any such engine or under the care of the engineer; "Boilers and machinery."
 - (e.) The expression "hull and equipment" includes the hull and every part thereof, masts, sails and rigging when the steam-boat carries them, life boats and other boats and the tackle and apparatus for lowering or hoisting them, the apparatus, other than steam fire engines, for preventing or extinguishing fires, anchors and cables, windlasses and capstans, fire buckets, compasses, axes, lanterns, and all other articles and things necessary for the navigation and safety of the steam-boat and not under the care of the engineer; "Hull and equipment."
 - (f.) The expression "inspector" means a person appointed to inspect the "boilers and machinery" of steam-boats, when "Inspector."

and so far as such provision applies to anything included in that expression, or a person appointed to inspect the "hulls and equipment" of steam-boats, when and so far as the provision applies to any thing included in the expression last mentioned ;

- "Boiler." (g.) The expression "boiler" means a boiler of or intended for a steam-boat, and includes boilers when the steam-boat has more than one, and the expression "boilers" means "boiler" when she has only one ;
- "Boilers."
- "Hull." (h.) The expression "hull" includes the equipment ;
- "Certificate." (i.) The expression "certificate" means one of the duplicates or triplicates of the certificate given by the inspectors or inspector, as the case may be ;
- "Freight
"boats." (j.) The expression "freight boats" means steam-boats carrying freight only. 45 V., c. 35, ss. 3 and 6, *part.*

EXTENT AND APPLICATION OF ACT.

3. This Act shall not apply to steam-boats belonging to Her Majesty the Queen, or to steam-boats registered in Great Britain and Ireland or in any foreign country, and plying between any port or place in Canada and any port or place out of Canada. 45 V., c. 35, s. 4, *part.*

4. All steam yachts, used exclusively for pleasure or private use without hire or remuneration of any kind, all tug boats, all freight boats under one hundred and fifty tons gross, and all steam-boats used only for fishing purposes or the carrying of fish, and under one hundred and fifty tons gross, and steam dredges and elevators or vessels of like kind, shall be exempt from the requirements of this Act, except as regards the inspection of their boilers and machinery, to which they shall be subject at least once in each year, and oftener if required, under the same provisions and penalties for neglect as other steam-boats, and except also as to the obligation to carry one life-buoy hereinafter imposed on all steam-boats. 45 V., c. 35, s. 4, *part.*

5. The Governor in Council may direct that any steam-boat not registered in Canada, but employed in Canada in carrying mails, passengers or troops, shall be subject to the provisions of this Act. 45 V., c. 35, s. 5.

APPOINTMENT AND QUALIFICATION OF INSPECTORS.

6. The Governor in Council shall, from time to time, appoint at each of such places and to act respectively within such local limits as he deems advisable, in Canada, a skilled person or persons competent to inspect the boilers and machinery employed in steam-boats, who shall not be interested in the manufacture of steam engines, boilers or other machinery belonging to steam-boats, and whose duty it shall be to make such inspection as hereinafter prescribed, and to give

to the owner or master two of the triplicate certificates of such inspection,—and also a skilled person or persons competent to inspect the hulls and equipment of steam-boats, who shall not be interested in the building or construction of hulls of steam-boats, or of any article or thing hereinafter mentioned as part of the equipment required by this Act for steam-boats, or properly belonging to or connected with such equipment according to the intent of this Act, and whose duty it shall be to make such inspection, and to give triplicate certificates of such inspection. 45 V., c. 35, s. 6.

And inspectors of hulls and equipment.

7. No person shall be appointed an inspector of boilers and machinery of steam-boats unless he has passed a satisfactory examination before the board of steam-boat inspection, as to his knowledge on the subject of boilers and machinery of steam-boats, and the working of the same; and no person shall be appointed an inspector of the hulls and equipment of such vessels, unless he has passed a satisfactory examination as to his competency for the office, before a board of three practical shipbuilders appointed by the Governor in Council, or unless he is a certified surveyor of a recognized society for the classification of shipping; and no one shall be appointed an inspector for either purpose unless he has received from the chairman of the board, or from such practical shipbuilders (as the case may be) a certificate in writing that he has satisfactorily passed such examination, or unless he is a certified surveyor as aforesaid:

Examination of inspectors of boilers and machinery.

And of inspectors of hulls and equipment.

2. Every such inspector, before entering upon his duties as such, shall take and subscribe an oath, before a judge of a court of record, well, faithfully and impartially to execute the duties assigned to him by this Act, in the form or to the effect following:—

Oaths of office.

I, A.B., do solemnly swear that I will well, faithfully and impartially, to the best of my judgment, skill and understanding, execute the duties assigned to the office of inspector of boilers and machinery (or hulls and equipment, as the case may be) of steam-boats under "*The Steam-boat Inspection Act.*" So help me God:

Form of oath.

3. The oath taken by every inspector shall be forwarded forthwith by such judge to the Department of Marine. 45 V., c. 35, s. 7, *part.*

BOARD OF STEAM-BOAT INSPECTION.

8. The inspectors shall form a board, to be called the "Board of Steam-boat Inspection," of which board the Governor in Council shall name the chairman; three of the members shall form a quorum, and the chairman shall have the right to vote; and in the case of an equal division he shall also have a casting vote:

Board of steam-boat inspection.

2. The minutes of the proceedings of the board shall be kept by such chairman,—and a copy thereof, certified by him,

Minutes of proceedings.

shall be transmitted to the Minister of Marine and Fisheries :

Duties, proceedings and rules of board.

3. The board shall meet at least once every year, at such place as they agree upon, and may make rules and regulations for their own conduct, and for the uniform inspection of steam-boats, the selection of ports of inspection, and for prescribing the duties of engineers, and for such other purposes as are necessary under this Act; and such rules and regulations shall not come into force until after they are approved by the Governor in Council :

Subject to approval.

Provision respecting inspectors of hulls in certain parts of Canada, or in case of vacancy.

4. In the Provinces of Manitoba and British Columbia, and in the North-West Territories and the District of Keewatin, the Minister of Marine and Fisheries may, when he sees fit, dispense with the appointment of an inspector of hulls and equipment; and in such case and in case of the non-appointment of such inspector in any inspection district, or of vacancy in the office therein, the said Minister may assign the duties of such inspector to the inspector of boilers and machinery, or such other person as he temporarily employs,—who shall then and so long as such order remains in force, have all the powers and perform all the duties hereby assigned to the inspector of hulls and equipment, under the like obligations and like penalties in case of default,—the forms of certificate being altered to suit the case. 45 V., c. 35, s. 8;—49 V., c. 34, s. 1, *part*.

INSPECTION.

Neglect of duty by inspectors to be reported by chairman.

9. The chairman of the board of steam-boat inspection, who shall also be the supervising inspector, may at any time inspect or examine the hull, equipment, boiler and machinery of any steam-boat, and if he suspects any inspector of having neglected his duty in relation to such steam-boat, or in any other respect, he may call a meeting of the board to investigate the case, or may himself investigate it; and the result of such investigation shall be forthwith communicated, in writing, to the Minister of Marine and Fisheries; he shall receive and examine all reports and accounts of inspectors, and report fully to the Minister upon all matters pertaining to his official duties, so as to ensure, as far as possible, a uniform and efficient administration of the inspection laws, rules and regulations. 45 V., c. 35, s. 9;—49 V., c. 4, s. 5.

Inspection to be made at least yearly.

Certificates of inspection.

10. The master or owner of every steam-boat liable to inspection under this Act, shall cause the boiler and machinery and the hull and equipment thereof, to be inspected at least once every year, and shall deliver to the chief officer of customs at the port where such inspection is made, or at which such steam-boat arrives next after such inspection, when it has not been made in such port, one of the certifi-

cates thereof; and for every neglect to cause such inspection to be made, and a certificate thereof to be delivered to the proper officer of customs, such master or owner shall incur a penalty of four hundred dollars, and such steam-boat shall be liable for the same and chargeable therewith: Penalty for neglect.

2. Every such certificate, unless sooner revoked, shall be good for a period of twelve months from the date thereof, or for such less period as is stated by the inspector in the certificate. 45 V., c. 35, s. 10. Duration of certificate.

11. The master, owner or engineer of every steam-boat, or the person in charge thereof, shall, at the earliest opportunity after the occurrence of any event whereby the hull, or the machinery or boiler thereof, or any part of any or either of the same is, in any material degree, injured, strained or weakened, report such occurrence to the inspector by whom the same was last inspected, or to the proper inspector at the port or place where the steam-boat is, or first arrives after such event occurs; and in case of omission to give such notice, the owner of the steam-boat shall incur a penalty of two hundred dollars for every day during which such omission continues; and if the injury is in respect to the machinery or boiler or any part of the same, the license of the engineer shall be revoked. 45 V., c. 35, s. 11. Subsequent injury to hull or machinery to be reported. Penalty for default.

12. Every inspector may, at all times when inspecting, visiting or examining any boilers and machinery or the hull of any steam-boat, ask of any or all of the owners, officers or engineers of such steam-boat, or other person on board thereof and in charge or appearing to be in charge of such steam-boat, or of the boiler or machinery thereof, such pertinent questions concerning the same, or concerning any accident that has happened thereto, as he thinks fit; and every such person shall fully and truly answer every such question so put to him; and every person who refuses to answer or falsely answers such question, or who prevents any such inspection or obstructs any inspector in making such inspection, shall incur a penalty of forty dollars. 45 V., c. 35, s. 12. Officers of steam-boats to answer questions. Penalty for refusal.

13. Every inspector of steam-boats may demand of the owner or master of any steam-boat which he is inspecting the production of the certificate of registry of such steam-boat, and such owner or master shall thereupon produce and exhibit the same to such inspector. 45 V., c. 35, s. 13. Certificate of registry to be exhibited.

14. When the inspector finds it necessary to open up the hull of a vessel for the purpose of examining her condition, the expense thereby incurred shall be chargeable to the owner of such vessel. 45 V., c. 35, s. 14. Owner to pay certain expenses of examination.

15. The inspector may require that the engine and machinery under inspection by him shall be put in motion; Inspection of machinery in motion:

free passage
of inspector.

and every inspector shall be carried free of expense on any steam-boat which he desires to inspect while under way, and during such period as is necessary for such inspection, and for his return to the port at which he embarked on such steam-boat for such purpose, or for his disembarkation at any port at which such steam-boat touches on her voyage. 45 V., c. 35, s. 15.

Certificate of
inspection
of hull and
equipment.

16. If the inspector of hulls and equipment, who inspects any steam-boat in the manner required by this Act, approves the hull and equipment of such steam-boat, he shall make and sign, in triplicate, a certificate according to the form A, in the schedule to this Act,—and such triplicates shall be delivered by him to the inspector of boilers and machinery for the same district, who, when he has inspected and approved the boilers and machinery of the steam-boat, shall make and sign, in triplicate, upon the same sheets of paper on which the certificate in triplicate of the inspector of hulls and machinery is written, a certificate according to the form A, in the said schedule, and shall deliver two of the triplicates of the said certificate to the owner or master of the steam-boat,—who shall deliver one triplicate to the chief officer of customs as aforesaid, and shall cause the other to be posted up, framed and protected by glass, in some conspicuous part of the steam-boat for the information of the public; and the inspector of boilers and machinery shall retain the other triplicate for the purposes of this Act:

And of
boilers and
machinery.

In triplicate
on same
sheets.

How dis-
posed of

Certificate of
inspection of
boilers and
machinery
only.

2. If the steam-boat is one of which the boiler and machinery only are subject to inspection under this Act, the inspector of boilers and machinery shall sign a certificate in the form B in the said schedule, in duplicate, and deliver the duplicates to the master or owner of the steam-boat, who shall deliver one to the chief officer of customs and cause the other to be posted up in some conspicuous part of the steam-boat for the information of the public:

Inspector to
see that
steam-boats
have proper
lights, &c.

3. Every inspector of steam-boats shall, whenever he visits and inspects any steam-boat, examine whether such steam-boat is properly furnished with lights and with means of making fog-signals, in pursuance of the rules prescribed by the "*Act respecting the Navigation of Canadian Waters*," and shall refuse to grant any certificate with respect to any steam-boat which he finds is not so provided, and shall report such steam-boat as unsafe to the Minister of Marine and Fisheries. 43 V., c. 29, s. 10;—45 V., c. 35, s. 16, *part*;—49 V., c. 34, s. 6.

No certificate
in case of non-
compliance.

Decision of
disputes in
certain cases

17. Any matter in dispute arising under this Act, between an inspector or the board of steam-boat inspection and the master or owner of any steam-boat, and also any dispute between an inspector or the said board and an engineer, may be referred by either party to the Minister of Marine and Fisheries, who shall finally decide the same. 45 V., c. 35, s. 16, *part*.

18. Each inspector shall keep a register of the inspections and certificates made and granted by him, in such form and with such particulars respecting them as the chairman of the board of steam-boat inspection, from time to time, requires, and shall furnish copies thereof to the chairman when required. 45 V., c. 35, s. 16, *part*;—49 V., c. 34, s. 7.

Register of inspections.

BOILERS AND MACHINERY.

19. Any inspector may, whenever he deems it necessary so to do, and one inspector shall, at least once in every year, subject the boiler of every steam-boat to a test by hydrostatic pressure, and shall satisfy himself by examination and experimental trials that such boiler is well made of good and suitable materials; the limit of such pressure shall not exceed one hundred and fifty pounds to the square inch, in the case of a boiler made of iron plates, or one hundred and ninety pounds to the square inch, in the case of a boiler made of steel plates: for the purposes of such test the owner of the steam-boat shall provide the necessary hand-pump and apparatus, and the same shall be worked by the crew of the steam-boat: and no inspector shall make or deliver to the owner or master of any steam-boat, any certificate unless he has first subjected the boiler of such steam-boat to such test by hydrostatic pressure:

Testing of boilers by hydrostatic pressure.

Limit of test.

Essential to obtaining certificate.

2. Before a boiler is subjected to a test by hydrostatic pressure, it shall be opened up for inspection, the man-hole doors and mud-plates removed, and the outside and inside of the boiler cleaned, the furnace grates removed and the furnace swept out clean, so that satisfactory and efficient inspection may be made; when bulkheads are so placed as to prevent a close examination of the plates of the boiler, they shall be removed; and the owner or master of the steam-boat shall see that the foregoing requirements are complied with before applying for inspection:

Proceedings before testing by hydrostatic pressure.

3. In any case in which the test is not satisfactory, the defects shall be made good and the boiler re-tested satisfactorily, before a certificate is granted:

Defects to be made good.

4. When the outside of the bottom of a boiler cannot be otherwise perfectly inspected, the boiler shall be lifted for inspection once at least in every four years:

Boiler to be lifted if necessary.

5. In subjecting boilers made of iron plates to the hydrostatic test aforesaid, the inspector shall assume one hundred pounds to the square inch as the maximum pressure allowable as a working power for a new boiler forty-two inches in diameter, made of the best refined iron, at least one-quarter of an inch thick, in the best manner and of the quality herein required,—and shall rate the working pressure of all iron boilers, whether of greater or less diameter, according to their strength compared with this standard; and in all such cases the test applied shall exceed the working pressure allowed, in the ratio of one hundred and fifty pounds to one

Maximum working pressure for new iron boilers.

Ratio of test to working pressure.

hundred, using the water in such tests at a temperature not exceeding sixty degrees Fahrenheit :

Maximum working pressure for new steel boilers.

6. In subjecting boilers made of steel to the hydrostatic test aforesaid, the inspector shall assume one hundred and twenty-five pounds as the maximum pressure allowable as a working power for a new boiler forty-two inches in diameter, made in the best manner, of the best quality of steel plates, at least one-quarter of an inch thick, with all the rivet holes drilled in place, the plates being then taken apart and the burrs removed, the longitudinal seams in the shell being fitted with double butt steel straps cut across the grain of the plate, and each of five-eighths the thickness of the plates they cover, and all the seams being at least double riveted and having at least seventy per cent. of the strength of the solid plate, and all the flat surfaces stayed in the best manner and all the seams double riveted,—and they shall rate the working pressure of all steel boilers so made, whether of greater or less diameter, according to their strength compared with this standard ; and in all such cases the test applied shall exceed the working pressure allowed for such boilers in the ratio of one hundred and ninety pounds to one hundred and twenty-five pounds, using the water in such tests at a temperature not exceeding sixty degrees Fahrenheit :

Ratio of test to working pressure.

Working pressure allowed may be reduced.

7. If the inspector is of opinion that any boiler, whether made of iron or steel plates, by reason of its construction or material, will not safely allow so high a working pressure as that hereinbefore specified for each such description of boiler respectively, he may, for reasons to be stated specifically in his certificate, fix the working pressure of such boiler at less than two-thirds of the test pressure :

Discretion allowed to inspector as to working pressure.

8. The foregoing rules shall be observed in all cases, unless the proportion between such boilers and the cylinders, or some other cause, renders it manifest that their application would be unjust,—in which case the inspector may depart from the said rules if it can be done with safety ; but in no case shall the working pressure allowed exceed the proportion hereinbefore mentioned, as compared with the hydrostatic test :

Determination of external working pressure on flues, &c.

9. The external working pressure to be allowed on plane circular iron furnaces and flues subjected to such pressure, when the longitudinal joints are welded or made with a butt strap, shall be determined by the following formula :—

Formula.

The product of 90,000 multiplied by the square of the thickness of the plate in inches,—divided by the length of the flue or furnace in feet plus 1, multiplied by the diameter in inches,—shall be the allowable working pressure per square inch in pounds,—provided it does not exceed that found by the following formula :—

Formula.

The product of 8,000 multiplied by the thickness of the plate in inches, divided by the diameter of the furnace or

flue in inches, shall be the allowable working pressure per square inch in pounds,—

The length of the furnace to be used in the first formula being the distance between the rings, if the furnace is made with rings; and that one of the two formulæ which gives the lowest pressure being the one by which the inspector shall be guided:

Length, how understood.

10. On flat surfaces the allowable working pressure shall not exceed six thousand pounds to each effective square inch of sectional area of the stays supporting it; the pressure to be allowed on plates forming flat surfaces shall be that found by the following formula:—

Allowable pressure on flat surfaces.

$$\frac{C \times (T+1)^2}{S-6} = \text{Working pressure in pounds per square inch, where—}$$

T = Thickness of plate in sixteenths of an inch;

S = Surface supported in square inches;

C = 100; but when the plates are exposed to the impact of heat or flame, and steam only is in contact with the plates on the opposite side, C is to be reduced to 50:

11. In order to satisfy himself as to the strength and condition of a boiler, the inspector may, if he deems it necessary, order holes to be cut in it, and may also demand that such information shall be furnished him in respect to the interior construction of the boiler as will enable him to judge correctly of its strength:

Interior condition of boiler to be ascertained.

12. In no case shall a certificate be granted for a boiler when drift pins have been used in bringing the holes in the sheets together:

Use of drift pins forbidden.

13. Man-hole openings shall be stiffened with compensating rings of at least the same effective sectional area as the plate cut out, and in no case shall such rings be of less thickness than the plates to which they are attached; all openings in the shells of cylindrical boilers shall have their short axes placed longitudinally:

Openings in shells of boilers.

14. When bars or angle irons are used for sustaining the crown sheet of the furnace of a boiler, three-fifths of the working pressure allowable upon the crown sheet shall be sustained by hanging stays from the shell of the boiler attached to the crown sheet:

Stays to crown sheet of boilers.

15. Donkey boilers on steam-boats shall be provided with a safety-valve, which may be locked up:

Safety valves to donkey boilers.

16. Boilers in which the longitudinal seams in the cylindrical shell are single riveted, in place of being double riveted, shall be subject to a reduction in the working pressure allowable for a boiler made in the best manner (as prescribed by sub-sections five and six of this section), and the limit of pressure in boilers so made shall not exceed eighty pounds to the square inch in place of one hundred pounds or one hundred and twenty-five pounds, as mentioned in the said sub-sections. 45 V., c. 35, s. 17.;—49 V., c. 34, ss. 8 and 9.

Reduction required in working pressure for single riveted shells.

Mark or name of maker of plates to be stamped on them.

Maker or quality of plates to be sworn to.

Proviso: in case of decease of maker.

Inspector to be notified of construction of new boiler

Bad material or form not allowed.

20. No boiler made and placed on board shall be made of boiler plate, whether iron or steel, which has not been stamped with the mark or name of the maker thereof; and no certificate shall be granted with respect to any boiler made wholly or in part of plate not so marked; and before a certificate shall be granted with respect to any boiler, a declaration on oath by the maker of the boiler, stating the name of the maker of the plates, their quality, and the quality of all materials used in the construction thereof, shall be furnished to the inspector; such oath may be taken before any justice of the peace in Canada, or before a notary public, and certified under his official seal, if taken out of Canada: Provided always, that in any case where such declaration on oath by the maker of the boiler cannot be obtained owing to the death of the maker, or from other cause deemed sufficient by the inspector, the affidavit of two practical boiler makers who have examined the boiler and reported upon the quality of the materials in it and its workmanship and strength, shall, if satisfactory to the inspector, be deemed sufficient in lieu of such declaration by the maker of the boiler:

2. During the construction of every boiler made in Canada, the maker of such boiler shall notify the inspector of the district in which it is being made, that it is open to his inspection, and shall, at all times during such construction, allow the inspector access to such boiler:

3. No boiler or pipe shall be approved which is made in whole or in part of bad material, or is unsafe in its form, or dangerous from defective workmanship, age, use or any other cause. 45 V., c. 35, s. 18.

SAFETY VALVES, STEAM GAUGES, ETC.

Examination of safety valves.

One or more to be taken from control of engineer when steam is up.

Proviso.

Attachment of cocks and valves to boiler.

21. Every inspector, when inspecting, visiting or examining the boiler or machinery of any steam-boat, shall satisfy himself that the safety valves attached thereto are of suitable dimensions, sufficient in number, well managed and in good working order, and only loaded so as to open at or below the certified working pressure; and he may, if he thinks proper, order and cause one or more of such safety valves (which together shall be of sufficient dimensions to discharge all the steam the boiler can generate, and of such construction as he approves), to be locked up and taken wholly away from the control of the engineer when the steam is up; but the engineer shall have access to the safety valves when the steam is not up, and shall see that they are kept in working order, and the master of the steamboat shall see that the engineer has access to them for that purpose, and keeps them in proper working order:

2. The boiler cocks and valves attached to the boilers shall be substantially made, and in no case shall they be attached to the boilers by screwing into the plate, unless, as an addi-

tional security, bolted flanges are used in addition to such attachment :

3. No valve, under any circumstances, shall, at any time, be so loaded or so managed in any way, as to subject a boiler to a greater pressure than that allowed by the inspector at the then last inspection thereof: No valve to be overloaded.

4. The lock-up safety valves shall be of a construction approved by the board of steam-boat inspection,—such valves shall be tested and proved by an inspector before use; and no inspector shall grant a certificate to any steamboat unless the boiler, or each boiler, if more than one, of such steam-boat is provided with a safety-valve: Lock-up valves.

5. Every safety valve made or placed on board of a steam-boat after the seventeenth day of May, in the year one thousand eight hundred and eighty-two, or attached to a boiler made after that date, shall have a lift equal to at least one-fourth of its diameter; the openings for the passage of steam to and from the valve shall each have an area not less than the area of the valve, as shall also the waste steam pipe, —and the valve box shall have a waste water pipe; if the lever of a lever safety valve is not bushed with brass the pin shall be of brass,—iron and iron working together shall not be allowed; every such safety valve shall be fitted with lifting gear so that it can be worked by hand, either from the engine room or the fire hold, or by the master or person in charge on deck; every such safety valve shall be so attached to the boiler, that the valve chest shall be as close to the boiler as possible. 45 V., c. 35, s. 19;—49 V., c. 34, ss. 10 and 11. Lift and openings of valves: lifting gear, &c.

22. The area of any locked safety valve or the joint areas of any locked safety valves to any boiler, made or placed on board after the said date, shall not be less than half a square inch for each square foot of grate surface in or under the boiler. 45 V., c. 35, s. 20. Area of locked safety valves.

23. Whenever the engine of any steam-boat is stopped for any purpose, the engineer or the master or person in charge of such steam-boat shall open the safety valve, so as to keep the steam in the boiler down to ten pounds below the pressure limited by the inspector's certificate if the engine is a high pressure engine, and to five pounds below the pressure limited as aforesaid if the engine is a low pressure engine,—and every person who violates any provision of this section shall incur a penalty of two hundred dollars. 45 V., c. 35, s. 21. When engine is stopped, safety valve to be opened, and steam pressure reduced.

24. There shall be, in a conspicuous and easily accessible place in each steam-boat, a steam gauge properly constructed and open to the view of all passengers and others on board such steam-boat, and showing at all times the true pressure of the steam in the boiler thereof. 45 V., c. 35, s. 22. Steam gauge to be exposed to view of passengers.

Penalty for
concealing or
tampering
with gauge.

25. Every master and engineer of any steam-boat who, at any time, allows the pressure of steam to which the boiler of such steam-boat is subjected, to exceed that limited by her certificate, or who alters or conceals or otherwise deals with the said steam gauge, so as to prevent the real pressure of steam from being seen and ascertained by any passenger, shall incur a penalty of two hundred dollars for every such offence. 45 V., c. 35, s. 23.

Bourdon
gauge to be
used.

26. The steam gauge required by this Act to be open to the view of all passengers and others on board any steam-boat, shall be that known as "the Bourdon Gauge," or shall be of such construction and shall be put in such place and position, as the inspector visiting, examining or inspecting such steam-boat, from time to time, directs. 45 V., c. 35, s. 24.

Water gauge
and surface
blow-off
valves.

27. Each boiler of every steam-boat shall be provided with a suitable water gauge, capable of showing the water level within each boiler at all times; and all steam-boats navigating in brackish or salt water, shall be provided with surface blow-off valves, such as are commonly used on board sea-going steam-boats. 45 V., c. 35, s. 25.

Bilge pipe
with valve
connecting
with con-
denser.

28. Every steam-boat carrying passengers and having a condensing engine, shall be provided with a bilge injection valve and pipe of suitable dimensions, leading from the floor frames of the steam-boat into the condenser of the engine. 45 V., c. 35, s. 26.

BOATS.

29. The following provisions shall be observed with respect to boats to be carried by steamers:—

Boats on sea-
going or lake-
going steam-
boats.

1. No steam-boat with passengers on board shall proceed to sea from any port or place in Canada, or depart from any port or place on any of the Lakes Memphremagog, Ontario, Erie, Huron, Simcoe or Superior, or on the River St. Lawrence, or on the River Ottawa, or St. John, or any lake or river in Manitoba, British Columbia, or the North-West Territories, or the District of Keewatin, which is, at any point on the route of such steamer, more than one mile broad,—

Description
of boats.

(a.) Unless there are on board thereof, or attached to such steam-boat, good, suitable, sufficient and properly equipped boats, in good condition, each having not less than seventeen feet length of keel, and at least six oars and other necessary tackle, and sufficient capacity to carry not less than twelve adult persons exclusive of the crew of such boat;

Which boats shall be in the following proportion to the registered tonnage of such steam-boat, that is to say:—

Number for
each vessel.

At least one boat for every steam-boat of less than fifty tons;

At least two boats for every steam-boat of fifty tons and upwards, but less than three hundred tons;

At least three boats for every steam-boat of three hundred tons and upwards ; and—

(b.) If such steam-boat is of the registered tonnage of one hundred tons or upwards, unless, in addition to the boats hereinbefore required, there is on board thereof or attached thereto,—

Steam-boats of 100 tons and upwards.

One good and sufficient life-boat, capable of sustaining, inside and outside, fifty persons,—which life-boat may be considered of sufficient capacity if made of the following dimensions: length of keel, twenty-two feet ; breadth of beam from metal to metal, five feet six inches ; depth from top of keel to top of gunwale at bottom of row-lock, two feet nine inches ; or—

Life-boat to be carried by such steam-boats.

Two good and sufficient life-boats, each capable of sustaining, inside and outside, thirty persons, which life-boats may be considered of sufficient capacity if made of the following dimensions: length of keel, eighteen feet ; breadth between metal and metal, five feet two inches ; depth from top of keel to top of gunwale, two feet two inches :

Or two small life-boats.

2. Every such life-boat shall be made of suitable metal, fire proof, with life lines attached to the gunwale at suitable distances, and with air-tight metallic compartments at the ends and sides, or at the sides only or ends only, according to the directions of the inspector by whom such steam-boat was last inspected :

Description of life-boats.

3. Every boat shall be kept in good condition, water tight and ready for immediate use ; when wood is used as fuel for heating the boilers of high pressure steam-boats the covers for such boats shall be made of wood covered with zinc ; and every boat shall have the name of the steam-boat to which it belongs, and of her port of registry, legibly painted on her bows and stern :

Care and management of boats and their protection ; name to be painted on boat.

4. Every such steam-boat shall be provided with sufficient means for lowering from on board safely and expeditiously the boats hereinbefore required to be on board of or attached to such steam-boat ; and masters of steam-boats shall detail their crew and exercise them in lowering and handling the said boats at least once a month :

Lowering apparatus.

5. Every such boat shall be hung in separate davits, with lowering apparatus complete and ready for instant lowering : Provided, that in any case where any such steam-boat carries two life-boats, one of the other boats may be carried on the hurricane deck without davits :

Davits.

6. No steam-boat employed chiefly in the carriage of freight, when carrying not more than twenty-five passengers, shall be required to have on board or attached to such steam-boat more than two boats in addition to a life-boat :

Boats for steam-boats carrying not more than 25 passengers.

7. The Minister of Marine and Fisheries may authorize the use, in individual, specified cases, of boats of different dimensions from those hereinbefore specified, and upon such authorization being granted it shall be sufficient for any such

Minister may authorize special boats in special cases.

steam-boat to carry and be provided with boats of the dimensions specified in such authorization :

Boats to be carried by steamers in certain inland navigation.

8. Steam-boats confined to the navigation of the river St. John, above Fredericton, the waters in the district of Muskoka, the county of Victoria and the county of Peterborough, in the Province of Ontario, and the waters of the Ottawa river, and its tributaries above the city of Ottawa, or of lakes or rivers not exceeding one mile in width at any point on the route of such steam-boat, and which are employed in the carriage of passengers, shall carry at least one good boat provided with four oars, and of sufficient capacity to carry not less than twelve persons besides the crew :

Boats for steam-boats employed in inland navigation on waters not before provided for.

9. Every steam-boat employed in the carriage of passengers, and used only in the navigation of rivers or inland waters, other than the rivers and inland waters hereinbefore provided for, shall, if such steam-boat exceeds one hundred and fifty tons registered tonnage, carry at least two good boats provided with four oars each, and of sufficient capacity to carry with safety at least twelve persons besides the crew ; and if such steam-boat does not exceed one hundred and fifty tons and is not less than fifty tons, registered tonnage, she shall not be required to carry more than one such boat ; and if such steam-boat is less than fifty tons registered tonnage, she shall carry one good boat of the size and description, and provided in the manner approved of in each case by the inspector :

Boats for steam-boats not hereinbefore provided for.

10. Every steam-boat not employed in the carriage of passengers, and every steam-boat to which the foregoing provisions of this section do not apply, shall, at all times when the crew thereof is on board, be provided with and have on board or attached to such steam-boat in some convenient place, a good, suitable and sufficient boat, or good, suitable and sufficient boats, in good condition and properly equipped, and provided with oars in sufficient number and other necessary tackle, and of sufficient capacity to carry all the crew of such steam-boat, and with sufficient means for lowering such boat or boats from on board safely and expeditiously. 45 V., c. 35, ss. 27, 28, 29, 30, 31, 32 and 33, *part* ;—49 V., c. 34, s. 12.

LIFE PRESERVERS.

Life preservers.

30. No steam-boat carrying passengers shall proceed to sea from any port or place in Canada, or depart from any port or place on any of the lakes Memphremagog, Ontario, Erie, Huron, Simcoe, or Superior, or on the river St. Lawrence, or on the river Ottawa or St. John, or on any lake or river in Manitoba, British Columbia, or the North-West Territories, or the district of Keewatin, which is, at any point on the route of such steamer, more than one mile broad, or shall navigate any bay or arm of the sea in Canada, unless she is provided with and carries on board thereof on every such voyage, (a) two hundred life preservers, if such steam-boat is

Number of.

of the registered tonnage of two hundred tons and upwards ; or (b) three life preservers for every five tons, if such steam-boat is of less than two hundred tons registered tonnage :

2. Every steam-boat carrying passengers on rivers or inland waters other than the lakes and rivers provided for in the next preceding sub-section, if of the registered tonnage of two hundred tons and upwards, shall be provided with and shall carry on board thereof on every voyage, not less than one hundred life preservers ; and if of less than two hundred tons registered tonnage, such steam-boat shall be provided with and shall carry on board thereof on every voyage fifty life preservers :

Life preservers for inland waters not hereinbefore provided for.

3. Provided always, that the maximum number of such life preservers required on any steam-boat shall not exceed two hundred ; but in any steam-boat, as to which the boat capacity, and the number of life preservers, together fall short of the number of passengers she is allowed to carry by her certificate, such deficiency shall be supplied by a number of wooden floats, each equal in buoyancy to one cubic foot of seasoned white pine, equal to the number of passengers and crew not provided for in the boats or with life preservers :

Maximum number of life preservers.

Wooden floats for deficiency.

4. No steam-boat employed chiefly in the carriage of freight, when carrying not more than sixty passengers, shall be required to be provided with or carry on board on any voyage, more than one life preserver for each passenger, and one life preserver for each of the crew then on board of such steamboat :

Life preservers for steam-boats chiefly carrying freight.

5. Every steam-boat not employed in the carriage of passengers, and every steam-boat to which the foregoing provisions of this section do not apply, shall, at all times when the crew thereof is on board, be provided with a life preserver for each one of the crew :

Life preservers for other boats.

6. All such life preservers shall be made of the size and material approved of by the inspector, and shall be fitted with shoulder straps and fastenings suitable for securing the same around the body under the arms ; and they shall, at all times, be kept in some convenient and accessible places, in the staterooms or on the deck of such steam-boat, under cover and in readiness for immediate use ; and each such life preserver shall have a buoyancy equal to sustaining twenty-three pounds of iron immersed in water :

Description of life preservers.

7. A cork jacket, with shoulder straps and waist lines for fastening the same around the body, or such other description of life preserver as the Governor in Council approves, shall be the form of life preserver to be used on passenger steam-boats. 45 V., c. 35, ss. 33, *part*, 35 and 36 ;—49 V., c. 34, ss. 13 and 18.

Cork jackets.

31. Nothing in the two sections next preceding shall apply to ferry boats or tug boats plying elsewhere than on the River St. Lawrence. 45 V., c. 35, s. 34.

Ferry boats and tug boats.

Ferry boats
may be ex-
empted.

32. The Governor in Council may, at any time, order and direct that the provisions of this Act, in so far as such provisions extend to the carrying of boats and life preservers, shall not, at any time or during any time specified in the Order in Council, apply to any ferry boat specially mentioned in such order, and the Governor in Council may order and direct that such other provisions, as he deems advisable with respect to the carrying of boats and life preservers on such ferry boat, shall be applicable to and shall be enforced in respect of such ferry boat. 45 V., c. 35, s. 37, *part.*

Life buoys.

33. Every steam-boat registered in Canada, or to which this Act applies, shall carry at least one life buoy with a proper heaving line attached, in some convenient place where it can be easily got at for use in case of accident requiring it. 45 V., c. 35, s. 37, *part.*

PRECAUTIONS AGAINST FIRE.

Fire
apparatus
on passenger
boats.

34. Every steam-boat employed in the carriage of passengers, whether by sea, bay, lake or river navigation, shall be provided with and have on board, in some convenient place, not less than twenty-five sufficient fire buckets of metal or leather, five axes, and six good and sufficient lanterns approved of by the inspector: Provided always, that passenger steam-boats of more than seventy-five and less than one hundred and fifty tons gross shall not be required to be provided with and have on board a greater number of fire buckets than twelve, and that passenger steam-boats of seventy-five tons gross and under, and steam tugs under one hundred and fifty tons gross, shall not be required to be provided with and have on board a greater number of fire buckets than six. 45 V., c. 35, s. 38.

Proviso:
limiting
number.

And on other
steam-boats.

35. Every steam-boat not employed in the carriage of passengers and every steam-boat to which the provisions of the next preceding section do not apply, shall be provided with and have on board in convenient places a number in due proportion to that of the crew of good and sufficient fire buckets of metal, leather or other suitable material, and of axes and lanterns to the satisfaction of the inspector. 45 V., c. 35, s. 33, *part.*

Further pre-
cautions
against fire.

36. Suitable and safe provision shall be made throughout every steam-boat to guard against danger from fire; and no combustible material, liable to take fire from heated iron or any other heat generated on board any steam-boat, in and about the boilers, pipes or machinery, shall be placed at less than six inches distance from such heated metal or other substance likely to cause ignition; and when wood is so exposed to ignition, it shall, as an additional preventive, be shielded by some incombustible material, in such manner as to allow the air to circulate freely between such material

and the wood: metallic vessels or safes shall be provided and kept in some convenient place to receive cotton-waste, hemp, and other inflammable substances, which are in use on board; and no coal oil lamp shall be used between decks on any passenger steam-boat in which hay or other inflammable material is carried, under a penalty of one hundred dollars for each contravention of this provision, nor shall any coal oil which will not bear a test of three hundred degrees Fahrenheit without taking fire be used on any passenger steam-boat:

2. If the structure of the steam-boat is such, or the arrangement of the boiler or machinery is such, that the requirements aforesaid cannot, without serious inconvenience or sacrifice, be complied with, the inspector may allow deviations from the said requirements, if in his judgment it can be done with safety:

Inspector may authorize deviations from usual requirements.

3. Inflammable matter, when carried on any steam-boat, shall invariably be stowed away as far as possible from the boiler, and from places where its ignition is possible:

Inflammable matter.

4. No fire or lighted lamp, candle or other artificial light by which fire may be communicated, shall be allowed in any stateroom of any passenger steam-boat, or in the steerage thereof, unless in a locked and glazed lantern. 45 V., c. 35, s. 39;—49 V., c. 34, s. 14.

Uncovered lights not allowed.

37. Every steam-boat carrying passengers shall have at least three double-acting forcing pumps, with chambers at least four inches in diameter, two to be worked by hand, and one by steam, if steam can be employed independently of and not worked by the main engine, otherwise, all three by hand,—one whereof shall be placed near the stern, one near the stem, and one amidship, each having a suitable well-fitted hose of at least two-thirds the length of the steam-boat, kept at all times in perfect order, clear of freight or other obstructions, with hose coupled and ready for immediate use; each pump and coupling shall be provided with a hose wrench chained to the same, and each of the said pumps shall be supplied with water by a pipe connected therewith, and passing through the side of the steam-boat, so low as to be at all times in the water when the boat is afloat:

Force pumps and hose.

Hose wrenches and supply pipes.

2. In steam-boats not exceeding two hundred tons gross, two of such pumps (one of which may be the steam pump) may be dispensed with, and in steam-boats of over two hundred tons, but not exceeding five hundred tons gross, one of such hand pumps may be dispensed with; but in such cases the hose shall be of such length as to reach easily to every part of the steam-boat; and in steam-boats where only one pump is used, such pump shall be placed as directed by the inspector:

As to vessels not exceeding 200 tons.

3. Whenever there is or are fixed under the hurricane deck of any steam-boat an iron tube or tubes equal in diame-

If there are fixed iron tubes along

deck with
nozzles.

ter to the hose carried by such steam-boat, connected with a force pump or pumps, and extending at least one-half of her length, and provided with nozzles placed at distances of not more than thirty feet from each other or from either end of the steam-boat—to which nozzles the hose carried by the steam-boat can be readily attached,—it shall not be necessary that the hose should be of greater length than will be sufficient to reach from some one of such nozzles to either end of the steam-boat: and each nozzle shall be provided with a stop valve or stop cock, so that one or more of such hose attachments may be used, as is required:

Vessels under
100 tons.

4. In steam-boats under one hundred tons gross, one steam pump of suitable size, or if steam cannot be employed, one force pump of suitable size worked by hand, shall be sufficient:

If only one
pump, it is to
be placed
aft.

5. In steam-boats not exceeding two hundred tons gross, requiring only one pump, such pump shall be placed aft, unless the space forward is kept free to admit of ready access to the pump and hose, in which case the pump may be placed forward. 45 V., c. 35, s. 40.

Exception.

Steam pony
pump.

38. Every steam-boat of more than sixty tons, registered tonnage, carrying passengers, shall also be provided with a steam pony pump that may be used as a fire engine, to be worked independently of the main engine; such steam pony pump shall be placed on the main deck, as near as possible to the engine room, convenient to the control of the engineer; and in all cases the pump hose shall be coupled to the pony and hand fire pumps, ready for immediate use in case of fire. 45 V., c. 35, s. 41.

Hose to be
coupled.

Means of
escape from
lower to
upper deck.

39. Every steam-boat carrying passengers on the main or lower deck, shall be provided with sufficient and convenient facilities for the escape of passengers to the upper deck, in case of fire or other accident endangering life. 45 V., c. 35, s. 42.

Regulations
as to carrying
chemical fire
extinguishers.

40. The Governor in Council may, from time to time, make, alter or repeal rules and regulations requiring steam-boats to carry chemical or other fire extinguishers, and prescribing the number of such fire extinguishers to be carried by steam-boats of different sizes and classes respectively; and such rules and regulations shall be published in the *Canada Gazette*, and shall have effect and be enforced by the inspectors and others as if part of this Act; and any violation thereof shall be punishable as an offence against this Act. 45 V., c. 35, s. 44.

ENGINEERS.

Examination
of engineers.

41. Any person who claims to be qualified to perform the duties of a first, second, third or fourth class engineer on a

steam-boat, may apply for a certificate to the Minister of Marine and Fisheries, who shall cause the board of steam-boat inspection, or an inspector or inspectors, to examine the applicant and the proofs that he produces in support of his application, and to report upon such examination and proofs; and any such examination may be upon oath,—which any inspector may administer; and if the said board are satisfied that his character, habits of life, knowledge and experience in the duties of an engineer are such as to qualify him to be such engineer, the said Minister, on the report of the said board, shall give him a certificate to that effect, specifying the grade for which he has been found qualified:

May be on oath.

Certificate if found qualified.

2. If the report of the inspector or inspectors certifying the fitness of an applicant, is made at a time when the board of steam-boat inspection is not sitting, it may be sent by such inspector or inspectors to the said Minister, who may thereupon grant a certificate to the applicant to be in force only until the then next meeting of the board; and the fee paid by him shall not be returned if the said board does not then make a report to the Minister certifying the fitness of the applicant, but, if the said board so reports, he shall not pay any further fee for the certificate to be granted him:

Provision if the board of inspection is not sitting when an applicant is found qualified.

3. Such certificate shall be on parchment and shall be signed by the said Minister:

On parchment.

4. Any certificate of competency as an engineer in force on the second day of June, one thousand eight hundred and eighty-six, may be delivered up by the holder thereof to the said Minister, who may thereupon give to the holder a certificate on parchment, signed by the said Minister:

Certain certificates may be exchanged for new ones.

5. Every certificate shall be granted for life or during good conduct:

Duration.

6. For the first certificate to an engineer of any class, or for a certificate raising him to a higher class after re-examination, the applicant shall pay five dollars; and for every certificate granted on the delivery up, under sub-section four of this section, of an unexpired certificate, or on the expiration of the term for which any certificate was granted, the applicant shall pay one dollar:

Fees thereon.

7. The said sums shall be paid to the Minister of Finance and Receiver General, to form part of the Consolidated Revenue Fund of Canada:

Disposal of fees.

8. The certificate of any such engineer may be revoked by the said Minister upon proof of negligence, unskilfulness or drunkenness, or in consequence of the finding of a coroner's inquest, and may also be revoked by the said Minister for any other cause, provided such other cause is deemed sufficient by the said Minister, and is certified as such by him:

Revocation of certificate for cause.

9. No person shall keep watch as engineer on any passenger steam-boat or on any freight steam-boat over one hundred

Engineer on the watch on passenger boats or

freight boats
over 150 tons.

and fifty tons gross, who does not hold a certificate as provided by this Act :

Engineer not
to be master.

10. No person shall act in the double capacity of engineer and master on any steam-boat :

Form of cer-
tificates
intended to
avail under
Imperial Acts.

11. Every certificate of competency to which it is intended that the Order of Her Majesty in Council, extending to certificates of competency as first class or second class engineers for sea-going British ships, the provisions of the Order in Council made under the "*Merchant Shipping (Colonial) Act, 1869*," and dated the twenty-ninth day of June, one thousand eight hundred and eighty-two, making the colonial certificates of competency granted in Canada by the Minister of Marine and Fisheries to persons intending to act as masters or mates on board British sea-going ships, of the same force as if they had been granted under the Acts of the United Kingdom relating to merchant shipping, shall apply, shall have the word "Canada" inserted prominently on its face and back, and shall be as nearly as possible similar in shape and form to corresponding certificates of competency for the foreign trade granted by the Board of Trade under the Acts relating to merchant shipping, and shall be numbered in consecutive order :

Imperial
regulations
as to sea-ser-
vice to apply
thereto.

12. The certificate mentioned in the next preceding sub-section of this section shall be granted only on proof that the previous service at sea of the person applying for the same has been such as is required by the regulations for the time being in force in the United Kingdom with respect to certificates of like grade :

Certificates
may be can-
celled by Im-
perial Board
of Trade or by
Minister.

13. Every certificate of competency granted under the provisions of the eleventh sub-section of this section shall be subject to be suspended or cancelled by the Board of Trade for like offences or causes, and in like manner, as certificates granted under the Acts of the United Kingdom relating to merchant shipping,—all the provisions whereof or of any Order of Her Majesty in Council made under them shall apply to such certificates,—or to be revoked for cause by the Minister of Marine and Fisheries under the provisions of this Act :

Imperial
certificates
to avail in
Canada.

14. Certificates of competency as first or second class engineers in sea-going ships, granted under the Acts of the United Kingdom relating to merchant shipping, shall, after the time of the coming into force of the said Order of Her Majesty in Council referred to in the eleventh sub-section of this section, and while in force under the said Acts of the United Kingdom, be of the same force and effect in Canada as if granted under this Act, but subject to be forfeited for cause, as respects ships to which this Act applies, as if granted under this Act. 45 V., c. 35, s. 45 ;—48-49 V., c. 75, s. 3 ;—49 V., c. 34, ss. 1, 2, 3 and 15.

Forfeiture
thereof.

Grades of
engineers.

42. Engineers shall be classified according to the following grades :—

- 1st Class Engineers ;
 2nd Class Engineers ;
 3rd Class Engineers ;
 4th Class Engineers ;

2. A first class engineer shall be qualified to take charge of any steam-boat : Qualifications of first class engineer.

3. A second class engineer shall be qualified to take charge of any freight steam-boat, or of any other steam-boat, except a sea-going passenger steam-boat of more than one hundred nominal horse power : Second class.

4. A third class engineer shall be qualified to take charge of any passenger steam-boat of less than thirty nominal horse power, or of any freight steam-boat except a sea-going steam-boat of more than one hundred nominal horse power : Third class.

5. A fourth class engineer may act in the capacity of second engineer to a second class engineer or third class engineer, on any freight steam-boat, or any other steam-boat except a sea-going passenger steam-boat of more than one hundred nominal horse power, but shall not act as chief engineer on any steam-boat requiring under this Act engineers holding certificates : Fourth class.

6. Persons who held certificates as second or third class engineers, or as first class assistant engineers, or limited certificates as competent to take charge of passenger steam-boats for the year one thousand eight hundred and eighty-two, may, at any time, exchange them for certificates as third class engineers on payment of a fee of five dollars, which shall be paid to the Minister of Finance and Receiver General, to form part of the Consolidated Revenue Fund of Canada. 45 V., c. 35, s. 46 ;—48-49 V., c. 75, s. 1 ; 49 V., c. 34, s. 16. Certain existing certificates may be exchanged.

43. No person shall employ another as engineer, and no person shall serve as engineer on any passenger steam-boat, or on any freight steam-boat of over one hundred and fifty tons gross, unless the person employed or serving as engineer holds a certificate from the board for the grade in which he is to be employed, and every person who offends against this section shall incur a penalty of one hundred dollars : Provided however, that if a steam-boat leaves a port with a complement of engineers, and on her voyage is deprived of their services, or the services of any of them, without the consent, fault or collusion of the master, owner or any one interested in the steam-boat, the deficiency may be temporarily supplied until engineers holding such certificates can be obtained. 45 V., c. 35, s. 47. Engineers on certain boats must be licensed. Penalty for contravention. Proviso : when vessel is deprived of engineer.

RULES FOR THE GUIDANCE OF INSPECTORS OF STEAM-BOATS EXAMINING ENGINEERS.

44. No person shall be entitled to a fourth class engineer's certificate unless he has the following qualifications, that is to say :— Qualifications of fourth class engineer.

- (1.) He shall be over twenty-one years of age ;

(2.) He shall have served an apprenticeship of not less than thirty-six months in a steam engine shop, and been employed on the making and repairing of steam engines,—or, if he has not served such apprenticeship, he shall have been employed for not less than thirty-six months as a journeyman mechanic in some work-shop on the making and repairing of steam engines,—or he shall have served at least thirty-six months in the engine room of a steam-boat as engineer on the watch,—or he shall have served not less than forty-eight months in the fire-hold of a steam-boat of not less than thirty nominal horse power, as fireman on the watch; and in any of the above mentioned cases twelve months of the time prescribed may have been served in a boiler shop on the making and repairing of steam boilers;

(3.) He shall be able to read and shall write a legible hand;

(4.) He shall understand the construction and operation of the feed water-pump, water-gauges and safety-valves; he shall know when a boiler is foaming, and how to stop the foaming, and also the danger resulting from neglect to keep a boiler clean, and the usual methods of cleaning it:

Qualifications
of third class
engineer.

2. No person shall be entitled to a third class engineer's certificate unless he has the following qualifications, that is to say:—

(1.) He shall be over twenty-one years of age;

(2.) (a.) He shall have served an apprenticeship of at least three years in a marine steam engine shop, and have been employed in the making and repairing of marine engines, or if he has not served such apprenticeship, he shall have been employed at least three years as a journeyman mechanic in some workshop in the making and repairing of marine engines,—and in either case shall have served one calendar year in the engine room of a steam-boat as engineer on the watch; or—

(b.) He shall have served four years at least in the engine room of a steam-boat as engineer on the watch;

(3.) He shall be able to give a description of boilers, the methods of staying them, and the requisite strength of their several parts, and shall know the means of repairing them, the method of lining the engine, setting the eccentrics and adjusting the slides or valves, and the cause of any derangement and the means of remedying it;

(4.) He shall write a legible hand, and understand the first five rules of arithmetic:

Qualifications
of second
class engi-
neer.

3. A second class engineer shall have the qualifications of a third class engineer, and at least two years' experience in the engine room of steam-boats of not less than thirty nominal horse power, as third class engineer on the watch:

Qualifications
of first class
engineer.

4. A first class engineer shall—

(1.) Have the qualifications of a second class engineer, and at least three years' experience on one or more steam-boats of not less than one hundred nominal horse power;

(2.) He shall be competent to calculate the thickness of plates required for a boiler of given dimensions and construction to carry a fixed pressure of steam and also the pressure that the boiler may be allowed to carry,—its dimensions and construction and the thickness of the plates being given ;

(3.) He shall be able to calculate the strength of its stays, connections, joints and other parts, and the tensile and crushing strength of the materials used in its construction ;

(4.) He shall be able to calculate the required capacity of the feed pump, the area of the safety valve for a boiler of given dimensions, and the power of the engine from a diagram of its working, and to define the position of the crank and eccentrics as indicated by diagram ;

(5.) He shall know the relative volumes of steam and water at different temperatures and pressures, the chemical constituents of coal, its heating and mechanical equivalents, and the quantity of air required for its combustion ;

(6.) He shall be competent to make a working drawing of any part of an engine, and explain the operation of the engine or any of its parts in connection with the whole ; and—

(7.) He shall be conversant with surface condensation and the working of steam expansively. 45 V., c. 35, s. 48 ;—48-49 V., c. 75, s. 2.

APPEAL.

45. Any engineer who feels himself aggrieved by any order or act of an inspector may, within two weeks thereafter, appeal therefrom to the board of steam-boat inspection, or to the chairman when the board is not sitting, who shall submit the case to the board at its next sitting ; and the board may confirm, modify or disallow such order or act ; and any other person who feels himself aggrieved by any order or act of an inspector, may, within two weeks thereafter, appeal therefrom to the Minister of Marine and Fisheries, who may confirm, modify or disallow such act or order. 45 V., c. 35, s. 49.

Engineer
aggrieved
may appeal
to board or
its chairman.

Any person
may appeal to
Minister of
Marine when
aggrieved by
inspector.

INSPECTION FEES.

46. The owner or master of every steam-boat in Canada, shall pay, yearly and every year, a rate or duty fixed by the Governor in Council, and not exceeding ten cents for every ton gross which such steam-boat measures ; and the owner or master of every passenger steam-boat exceeding one hundred tons gross, shall pay an inspection fee of eight dollars for each inspection made imperative by this Act ; and the owner or master of any passenger steam-boat of one hundred tons and less, or of any other steam-boat, shall pay an inspection fee of five dollars for each inspection made imperative by this Act :

Inspection
fees, scale of.

No deduction for machinery when calculating tons for fees.

2. Every ton of the gross tonnage of a steam-boat shall, for the purposes of this section, be reckoned, and no allowance or deduction shall be made for the space occupied by the engine room :

Fees to be paid to chief officer of customs.

3. The amount of such rate or duty and inspection fees shall, in each case, be paid to and received by the chief officer of customs, at some one of the ports in Canada, who shall, at such times and in such manner as the Governor in Council, from time to time, directs, account for and pay over the same to the Minister of Finance and Receiver General, to form part of the Consolidated Revenue Fund of Canada. 45 V., c. 35, s. 50.

Inspector's certificate not to be granted before fees are paid.

47. No inspector shall make or deliver a certificate respecting any steam-boat under this Act, unless the receipt of a chief officer of customs for the rate or duty payable in respect of such steam-boat for the then current year, has been produced and shown to him, and unless he is satisfied, by careful examination, that all the conditions and requirements of this Act have been fulfilled and complied with, in respect of such steam-boat ; and every inspector shall report to some chief officer of customs any case of omission to pay such rate or duty, or of omission to apply for such inspection as aforesaid, for more than one year from the date of the last inspection, or of any refusal to submit to inspection at any time, which in any way or at any time comes to his knowledge. 45 V., c. 35, s. 51.

Inspectors to report to chief officer of customs, omissions to pay duty, &c.

Certificate or receipt may be demanded from owner of vessel.

48. Each chief officer of customs shall demand of the owner or master of every steam-boat entered, cleared or otherwise officially dealt with by such officer, the production of the certificate of inspection of such steam-boat and of the receipt for the payment of the rate or duty mentioned in section forty-six of this Act, in respect of such steam-boat ; and if such certificate and receipt are not so produced, then such chief officer shall seize and detain the said steam-boat until the same are produced and exhibited, and any penalty incurred and lawfully imposed on such steam-boat under the provisions of this Act, has been paid in full ; and in default of payment, such chief officer shall sell such steam-boat for the payment of such rate or duty and penalties, in the usual manner, and shall deal with the proceeds as if the penalties were incurred for violation of the Customs laws. 45 V., c 35, s. 52 ;—49 V., c. 34, s 17.

Vessel may be detained, seized and sold on failure to pay penalty.

Proceeds how dealt with.

PASSENGERS.

Number of cabin and steerage passengers allowed to be prescribed in certificate.

49. The inspectors shall, in their certificate, prescribe the number of cabin or steerage or other passengers that may be carried by any steam-boat inspected by them, having regard to the dimensions or tonnage thereof, or both, subject to appeal to the Minister of Marine and Fisheries,— whose deci-

sion shall be final; and if such decision differs from that of the inspectors, they shall amend their certificate accordingly. 45 V., c. 35, s. 53.

50. Every inspector may, at any time, visit, within the limits assigned to him, any steam-boat, and inspect and examine the same, and if he considers such steam-boat unsafe or unfit to carry passengers, he shall report thereon to the Minister of Marine and Fisheries, who may order that such steam-boat shall not be used or run until permitted by the Minister, or by the inspector who has made such report; and any steam-boat run or used in violation of the order of the Minister shall be liable to forfeiture and seizure by the chief officer of customs at any port, and may thereupon be sold in the same way and under like provisions as goods liable to forfeiture for non-payment of customs duties. 45 V., c. 35, s. 54.

Inspector may visit any steamer and may report to Minister that she is unfit for passengers.

Penalty for running contrary to order of Minister.

51. The master or owner of any steam-boat, in which a greater number of passengers than that allowed by her certificate are, at any time, carried, is guilty of an offence against this Act, and shall, for each such offence, incur a penalty not exceeding five hundred dollars and not less than fifty dollars. 45 V., c. 35, s. 55.

Penalty for carrying more passengers than allowed by certificate.

52. The master or person in charge for the time being of any steam-boat who, wilfully or negligently at any time, allows to be carried on board such steam-boat, a greater number of passengers than that permitted by her certificate, is guilty of a misdemeanor, and liable to a fine not exceeding five hundred dollars, or to two years' imprisonment, or to both. 45 V., c. 35, s. 56.

Punishment of master allowing more passengers to be carried than allowed by certificate.

53. No tug boat shall be employed to tow any barge, or any boat, bateau, scow or undecked vessel having passengers on board, unless such vessel has been inspected by an inspector of hulls and equipment, and by him certified as provided in Schedule C, to this Act, to be fit and properly equipped to carry passengers on the waters on which she is so towed; and no such vessel shall, while so towed, have on board a greater number of passengers than she is certified as being fit to carry safely; and for any violation of this provision, the master and the owner of the tug boat and the owner and person in charge of such barge, boat, bateau, scow or vessel carrying such passengers, shall each incur a penalty not exceeding two hundred dollars and not less than twenty dollars. 45 V., c. 35, s. 57.

Barge, scow, &c., used to carry passengers when being towed must be certified as fit.

Penalty for contravention.

MASTS AND SAILS—AND GANG BOARDS.

54. The Minister of Marine and Fisheries may, from time to time, by regulations approved by the Governor in Council,

Regulations as to carrying

masts and
sails.

require that every or any description of steam-boats above sixty tons registered tonnage, carrying passengers on the sea coasts of Canada or on all or any of the waters of Canada, shall, at all or any seasons of the year, be provided with a mast or masts, and sail or sails, suitable for such steam-boats, and may prescribe the dimensions of such mast or masts, and sail or sails respectively; but nothing in this section contained shall apply to that portion of the St. Lawrence between Quebec and Kingston, and the river connecting Lakes Erie and Huron, and the waters between Kingston and the head of the Bay of Quinte, and the rivers in the Provinces of Nova Scotia and New Brunswick, and the tributary rivers flowing into the river St. Lawrence, or the lakes west of Quebec, and any rivers or lakes not exceeding one mile in width on any point thereof on the route of such steam-boats. 45 V., c. 35, s. 58.

Exception.

Gang boards

55. Every steam-boat or vessel carrying passengers shall be provided with good and sufficient gang boards, protected at the sides in a suitable manner to prevent passengers from falling overboard; and the master of every such steam-boat or vessel shall, on stopping at any wharf or landing place, cause a gang board to be firmly secured to the vessel for the safe and convenient transit of passengers, and shall cause to be affixed to such gangway in the night time good and sufficient lights; and the owner or occupier of every such wharf or landing place shall also, in the night time, cause to be shown conspicuously, on such wharf or landing place, and at every angle or turn thereof, during the whole of the time that any steam-boat or vessel is approaching the same or stopping thereat, a good and sufficient light:

Lights to be
affixed at
night.

Lights on
wharves.

Definition of
night.

2. For the purposes of this section, the night at all seasons of the year, shall be deemed to extend from one hour after sunset till one hour before sunrise. 45 V., c. 35, ss. 59, 60 and 61.

Penalty for
infringement
of next
preceding
section.

56. Every person commanding or having charge of any steam-boat, schooner or other vessel navigating the waters of Canada, and every owner or occupier of a wharf or landing place, who offends against any of the provisions of the next preceding section, shall incur a penalty of twenty dollars, recoverable with costs,—and in default of payment shall be liable to imprisonment for a term not exceeding twenty days, unless such penalty and costs are sooner paid; and in addition, shall be liable for all damages sustained by any person or persons from any accident happening from non-compliance with any of the said provisions, or during the time the said provisions are not complied with,—recoverable in any superior court in the Province in which such accident happens. 45 V., c. 35, ss. 62 and 63.

Liability for
damages arising
from such
non-compliance.

GENERAL PROVISIONS.

- 57.** There shall be placed on board every steam-boat carrying passengers in some conspicuous place accessible to all the passengers, a copy of this Act, and in every cabin, state room and in other conspicuous places about the vessel, a printed paper (to be provided and filled up by the owner or master of the steam-boat) showing the number of boats, with their capacity, and also the number of fire buckets, axes and life preservers and floats on board of such steam-boat, and the method of adjusting such life preservers to the body, and a statement of the places where such buckets, axes and life preservers are kept: the name of the steam-boat shall be painted or stamped on all the boats, fire buckets and floats, axes and life preservers on board thereof. 45 V., c. 35, s. 43.
- Printed notice to be pasted up stating number of boats, pumps, buckets, &c., and with instructions as to fitting life preservers, &c.
- Name of vessel to be painted on boats, &c.
- 58.** If any damage to any person or property is sustained in consequence of the non-observance of any of the provisions of this Act, imposing any duty on the owner or master of any steam-boat, the owner shall, in all civil proceedings, and the master or other person having charge thereof shall, in all proceedings, whether civil or criminal, be subject to the legal consequences of such default. 45 V., c. 35, s. 64, *part*.
- Owner or master of vessel liable for non-observance of this Act.
- 59.** Every inspector who wilfully, or through any culpable neglect of duty, makes or confirms any false statement in any certificate under this Act, shall incur a penalty of two hundred dollars. 45 V., c. 35, s. 64, *part*.
- Penalty for inspector giving false certificate.
- 60.** Except when otherwise specially provided, the owner or master of any steam-boat in Canada shall, for any violation in respect of such steam-boat, on any one voyage or trip thereof, of any of the provisions of this Act or of any Order in Council made under it, incur a penalty not exceeding two hundred dollars and not less than twenty dollars; and any inspector of steam-boats may detain any steam-boat on board or in respect of which the provisions of this Act have not been fully complied with, or of which the boilers or machinery or the hull, by reason of any injury or other cause, have, in his opinion, become unsafe; and whenever any such inspector gives notice in writing to any chief officer of customs that any of the provisions of this Act have not been fully complied with in respect to any steam-boat, such chief officer of customs shall not grant any clearance, coasting license or other document for such steam-boat, until he receives the certificate in writing of such inspector, to the effect that such provisions have been fully complied with in respect to such steam-boat. 45 V., c. 35, s. 65.
- Penalty in non-provided cases under this Act.
- Inspector may detain the vessel.
- Clearance to be withheld in case of non-compliance with provisions of this Act.
- 61.** All penalties incurred under this Act may, when no other provision is made in the case, be recovered with costs
- Recovery of penalties

by summary proceedings.

in a summary manner under the "*Act respecting summary proceedings before Justices of the Peace*," in the name of Her Majesty, by any inspector or any person aggrieved by any act, neglect or omission, on the evidence of one credible witness who may be the prosecuting inspector himself, before any judge of a county court, judge of the sessions of the peace, stipendiary or police magistrate, or two justices of the peace; and in default of immediate payment of such penalty, such judge, magistrate or justices may commit the offender to gaol for any term not exceeding three months, unless such penalty is sooner paid; and one moiety of all penalties recovered under this Act shall be paid to the Minister of Finance and Receiver General, and shall be, by him, placed to the credit of the Consolidated Revenue Fund of Canada, and the other moiety shall belong to the informer unless he is the prosecuting inspector,—in which case the whole shall be paid to the said Minister for the said fund. 45 V., c. 35. s. 66.

Imprisonment in default of payment.

Application of proceeds of penalties.

Investigation into causes of accidents involving loss of life.

62. The Governor in Council may order an investigation to be made by any person or persons appointed for that purpose, into the cause of any accident involving loss of life on any steam-boat; and the person or persons so appointed may summon witnesses and compel their attendance before him or them by the same process as courts of justice,—and may administer oaths and examine witnesses touching the cause of such accident,—and report thereon to the Governor General. 45 V., c. 35, s. 67.

Yearly report of board to Minister of Marine.

63. The chairman of the board of steam-boat inspection shall, at the end of each calendar year, furnish the Minister of Marine and Fisheries with a report of the proceedings of the board, and a return of all steam-boats inspected, and of all penalties collected under the provisions of this Act. 45 V., c. 35, s. 68, *part*.

Monthly returns by inspectors.

64. Each inspector shall make monthly returns to the chairman of the said board of all steam-boats inspected by him, their tonnage and power, with general descriptions of their machinery and hulls, and a statement of the fees collected upon the same. 45 V., c. 35, s. 68, *part*.

Tonnage of re-measured steam-ships.

65. In the case of every steam-ship which, under the provisions of the Act passed in the fortieth year of Her Majesty's reign, chapter nineteen, has been re-measured for tonnage according to the rules prescribed by "*The Merchant Shipping Act, 1884*," the tonnage of such steam-ship previously to such re-measurement shall be deemed to be her tonnage for the purposes of this Act. 40 V., c. 19, s. 1, *part*.

SCHEDULE A.

Certificate of the Inspector of Hulls and Equipment, for a steam-boat to carry passengers, or a freight boat of or over 150 tons gross.

Having examined the hull and equipment of the steam-boat (*name*), of _____, whereof _____ is (*or are*) owner (*or owners*) and _____ is master, on this _____ day of _____, A.D. 18 _____ :

The particulars of her gross and registered tonnage, as shown on her certificate of registry, being as follows:—

	Tons
Tonnage under tonnage deck.....	
Houses on deck (<i>naming them</i>).....	
Total gross tonnage.....	
Deduct for engine room.....	
Registered tonnage.....	

I (*inspector's name*), Inspector of Hulls and Equipment, do hereby certify that her hull is in all respects staunch, seaworthy and in good condition for navigation ; that the equipment of the vessel throughout is in conformity with the requirements of "*The Steam-boat Inspection Act,*" the said steam-boat having on board, properly placed and in good order for immediate service:—

(*Number*) boats, having together a carrying capacity for _____ persons ; _____ life boats, having together a carrying capacity for _____ persons ; _____ life preservers ; _____ wooden floats ; _____ fire buckets ; _____ axes ; _____ lanterns, and one life buoy having a proper heaving line attached ; and that she has the fire-pumps, hose and other appliances for extinguishing fire required by the said Act, and placed as therein provided, and in every way efficient and according to the requirements of the said Act ; and I further certify that the said steam-boat is permitted to run on the waters between (*here insert the places between which the steam-boat is to be employed in running, and the season or period of time during which she may be so employed, and for which the certificate is granted, and if she is a passenger steam-boat, add :* and that she is adapted and fit to carry (*number*) passengers and no more (*as the case may be*).

Date (*time and place*).

A. B.,
Inspector of Hulls and Equipment.

Certificate of the Inspector of Boilers and Machinery for the same Steam-boat.

And I (*Inspector's name*), Inspector of Boilers and Machinery, do hereby certify that the engine, boiler and machinery of the steam-boat (*name*) are sufficient and suitable to author-

ize her being lawfully employed in the carriage of passengers (or as a freight boat, or as a ferry boat, as the case may be), without hazard to life, on the route on which she is to be placed as hereinafter mentioned; that the engine of the said steam-boat is of nominal horse power, and that her boiler can carry with safety pounds of steam pressure per square inch, and no more.

Add the certificate as to the waters on which the steam-boat is to run, as in the certificate of the Inspector of Hulls and Equipment.

Date (time and place)

C. D.,

Inspector of Boilers and Machinery.

49 V., c. 34, s. 19.

SCHEDULE B.

Certificate for a freight boat under 150 tons gross, or a tug boat, fishing boat, or pleasure yacht, steam dredge, or elevator, or like vessel.

Having examined the boiler and machinery of the steam-boat (name, or as the case may be) of whereof is owner (or are owners) and is master, on this day of A.D. 18 ;

The particulars of her gross and registered tonnage, as shown on her certificate of registry, being as follows:—

	Tons.
Tonnage under tonnage deck.....	
Houses on deck (naming them).....	
Total gross tonnage.....	
Deduct for engine room.....	
Registered tonnage.....	

(If not registered omit this statement of tonnage).

I (inspector's name), inspector of boilers and machinery, do hereby certify that her engine, boiler and machinery are sufficient for a freight boat under 150 tons (or as the case may be) and may be so used without hazard to life; that the engine of the said (steam-boat) is of nominal horse-power and that the boiler of the said (steam-boat) can carry with safety pounds (here insert number of pounds) per square inch of steam pressure, and no more:—and that she is provided with one life buoy, having a proper heaving line attached and so placed as to be ready for immediate use when required.

Date (time and place).

C. D.,

Inspector of Boilers and Machinery.

45 V., c. 35, sch. B.

SCHEDULE C.

Certificate for a barge, boat, bateau or scow, to carry passengers in tow of a tug steam-boat.

I, (*inspector's name*) inspector of hulls and equipment, having examined the barge, (boat, bateau or scow, as the case may be), of which is owner and is master (or the person in charge) on this A.D. 18 , do hereby certify that the said vessel is fit, safe and properly equipped in all respects to carry passengers in tow of a tug boat, on the waters (*here describe the locality on which she is to be employed*) and that she is provided with one life buoy having a proper heaving line attached, and so placed as to be ready for immediate use.

Date (*time and place*).

A. B.,

Inspector of Hulls and Equipment.

45 V., c. 35, sch. C.

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 79.

An Act respecting the Navigation of Canadian Waters. A.D. 1886.

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

INTERPRETATION.

1. In this Act, unless the context otherwise requires,—
- (a.) The expression “vessel” includes every description of vessel used in navigation; Interpretation.
“Vessel.”
 - (b.) The expression “ship” includes every description of vessel not propelled by oars; “Ship.”
 - (c.) The expression “steam-ship” or “steam-boat” includes every vessel propelled wholly or in part by steam or by any machinery or power other than sails or oars; “Steam-boat”
or “steam-ship.”
 - (d.) The expression “ordinary practice of seamen,” as applied to any case, means and includes the ordinary practice of skilful and careful persons engaged in navigating the waters of Canada in like cases; “Practice of
seamen.”
 - (e.) The expression “owner” includes the lessee or charterer of any vessel having the control of the navigation thereof. “Owner.”
- of. 43 V., c. 29, s. 3.

REGULATIONS FOR PREVENTING COLLISIONS.

2. The following rules with respect to lights, fog signals, steering and sailing and rafts, shall apply to all the rivers, lakes and other navigable waters within Canada, or within the jurisdiction of the Parliament thereof: that is to say:—
- Extent of
application of
the following
rules.

Preliminary.

Art. 1. In the following rules every steam-ship which is under sail and not under steam is to be considered a sailing ship; and every steam-ship which is under steam, whether under sail or not, is to be considered a ship under steam.

Steam-ships
under sail or
under steam.

Rules concerning Lights.

Art. 2. The lights mentioned in the following Articles, numbered 3, 4, 5, 6, 7, 8, 9, 10 and 11, and no others, shall be carried in all weathers, from sunset to sunrise.

What lights
shall be
carried.

By steam-ships under way.
At foremast head.

Art. 3. A steam-ship when under way shall carry—

(a.) On or in front of the foremast, at a height above the hull of not less than twenty feet, and if the breadth of the ship exceeds twenty feet, then at a height above the hull not less than such breadth, a bright white light, so constructed as to show an uniform and unbroken light over an arc of the horizon of twenty points of the compass,—so fixed as to throw the light ten points on each side of the ship, viz., from right ahead to two points abaft the beam on either side,—and of such a character as to be visible on a dark night, with a clear atmosphere, at a distance of at least five miles ;

On starboard side.

(b.) On the starboard side, a green light so constructed as to show an uniform and unbroken light over an arc of the horizon of ten points of the compass,—so fixed as to throw the light from right ahead to two points abaft the beam on the starboard side,—and of such a character as to be visible on a dark night, with a clear atmosphere, at a distance of at least two miles ;

On port side.

(c.) On the port side, a red light, so constructed as to show an uniform and unbroken light over an arc of the horizon of ten points of the compass,—so fixed as to throw the light from right ahead to two points abaft the beam on the port side,—and of such a character as to be visible on a dark night, with a clear atmosphere, at a distance of at least two miles ;

How to be fitted.

(d.) The said green and red side lights shall be fitted with inboard screens projecting at least three feet forward from the light, so as to prevent these lights from being seen across the bow.

By steam-ships towing.

Art. 4. A steam-ship, when towing another ship, a raft or rafts, shall, in addition to her side lights, carry two bright white lights in a vertical line, one over the other, not less than three feet apart, so as to distinguish her from other steam-ships : each of these lights shall be of the same construction and character, and shall be carried in the same position as the white light which other steam-ships are required to carry.

Lights and shapes, by steam or sailing ships when not under command.

Art. 5. A ship, whether a steam-ship or a sailing-ship, when employed either in laying or in picking up a telegraph cable, or which from any accident is not under command, shall at night carry, in the same position as the white light which steam-ships are required to carry, and, if a steam-ship, in place of that light, three red lights in globular lanterns, each not less than ten inches in diameter, in a vertical line one over the other, not less than three feet apart : and shall by day carry in a vertical line one over the other, not less than three feet apart, in front of but not lower than her foremast head, three black balls or shapes, each two feet in diameter ;

What to denote.

(a.) These shapes and lights are to be taken by approaching ships as signals that the ship using them is not under command, and cannot therefore get out of the way ;

(b.) The above ships, when not making any way through the water, shall not carry the side lights, but when making way shall carry them. When to carry side lights.

Art. 6. A sailing ship under way, or being towed, shall carry the same lights as are provided by Article 3 for a steamship under way, with the exception of the white light,—which she shall never carry. By sailing ships in motion.

Art. 7. Whenever, as in the case of small vessels during bad weather, the green and red side lights cannot be fixed, these lights shall be kept on deck, on their respective sides of the vessel, ready for use; and shall, on the approach of or to other vessels, be exhibited on their respective sides in sufficient time to prevent collision, in such manner as to make them most visible, and so that the green light shall not be seen on the port side nor the red light on the starboard side: By small vessels in bad weather.

To make the use of these portable lights more certain and easy, the lanterns containing them shall each be painted outside with the color of the light they respectively contain, and shall be provided with proper screens. Lanterns to be painted outside.

Art. 8. A ship, whether a steam-ship or a sailing ship, when at anchor, shall carry, where it can best be seen, but at a height not exceeding twenty feet above the hull, a white light in a globular lantern of not less than eight inches in diameter, and so constructed as to show a clear, uniform and unbroken light visible all around the horizon, and at a distance of at least one mile. By ships at anchor.

Art. 9. A pilot vessel, when engaged on her station on pilotage duty, shall not carry the lights required for other vessels, but shall carry a white light at the masthead, visible all around the horizon, and shall also exhibit a flare-up light or flare-up lights at short intervals, which shall never exceed fifteen minutes: By pilot vessels on duty.

(a.) A pilot vessel, when not engaged on her station on pilotage duty, shall carry lights similar to those of other ships. When not on duty.

Art. 10. (a.) Open fishing boats and other open boats when under way shall not be obliged to carry the side lights required for other vessels; but every such boat shall, in lieu thereof, have ready at hand a lantern with a green glass on the one side and a red glass on the other side; and on the approach of or to other vessels, such lantern shall be exhibited in sufficient time to prevent collision, so that the green light shall not be seen on the port side, nor the red light on the starboard side; Open fishing and other boats.

(b.) A fishing vessel, and an open boat, when at anchor, shall exhibit a bright white light; When at anchor.

(c.) A fishing vessel, when employed in drift net fishing, shall carry on one of her masts two red lights in a vertical line one over the other, not less than three feet apart; Fishing vessels when drift net fishing.

(d.) A trawler at work shall carry on one of her masts two lights in a vertical line one over the other, not less than three Trawlers at work.

feet apart, the upper light red, and the lower green, and shall also either carry the side lights required for other vessels, or, if the side lights cannot be carried, have ready at hand the colored lights as provided in Article 7, or a lantern with a red and a green glass as described in paragraph (a) of this Article ;

Flare-up lights.

(e.) Fishing vessels and open boats shall not be prevented from using a flare-up light in addition, if they desire so to do ;

The said lights substituted for those under convention with France.

(f.) The lights mentioned in this Article are substituted for those mentioned in the 12th, 13th and 14th Articles of the Convention between France and England scheduled to the "*British Sea Fisheries Act, 1868*" ;

Lanterns for lights.

(g.) All lights required by this Article, except side lights, shall be in globular lanterns, so constructed as to show all round the horizon.

Ship overtaken by another.

Art. 11. A ship which is being overtaken by another shall show from her stern to such last-mentioned ship a white light or a flare-up light.

Sound Signals for Fog, &c.

Steam-ships to have certain sound signals.

Art. 12. A steam-ship shall be provided with a steam whistle or other efficient steam sound signal, so placed that the sound may not be intercepted by any obstruction, and also with an efficient bell. A sailing-ship shall be provided with an efficient fog horn, to be sounded by a bellows or other mechanical means, and also with an efficient bell :

In fogs, &c.

In fog, mist, or falling snow, whether by day or night, the signals described in this Article shall be used as follows ; that is to say :—

Blasts at intervals by steam-ships.

(a.) A steam-ship under way shall make with her steam whistle or other steam sound signal, at intervals of not more than two minutes, a prolonged blast ;

Signals by fog horn by sailing-ships.

(b.) A sailing-ship under way shall make with her fog horn, at intervals of not more than two minutes, when on the starboard tack one blast, when on the port tack two blasts in succession, and when with the wind abaft the beam, three blasts in succession ;

By ringing bell.

(c.) A steam-ship and a sailing-ship, when not under way shall, at intervals of not more than two minutes, ring the bell.

Speed of Ships to be moderate in Fog, &c.

Speed restricted in fog, &c.

Art. 13. Every ship, whether a sailing-ship or steam-ship, shall, in a fog, mist, or falling snow, go at a moderate speed.

Steering and Sailing Rules.

Sailing-ships meeting.

Art. 14. When two sailing-ships are approaching one another, so as to involve risk of collision, one of them shall keep out of the way of the other, as follows, that is to say :—

(a.) A ship which is running free shall keep out of the way of a ship which is close-hauled ;

(b.) A ship which is close-hauled on the port tack shall keep out of the way of a ship which is close-hauled on the starboard tack ;

(c.) When both are running free with the wind on different sides, the ship which has the wind on the port side shall keep out of the way of the other ;

(d.) When both are running free with the wind on the same side, the ship which is to windward shall keep out of the way of the ship which is to leeward ;

(e.) A ship which has the wind aft shall keep out of the way of the other ship.

Art. 15. If two ships under steam are meeting end on, or nearly end on, so as to involve risk of collision, each shall alter her course to starboard, so that each may pass on the port side of the other : Steam-ships meeting.

(a.) This Article only applies to cases where ships are meeting end on, or nearly end on, in such a manner as to involve risk of collision, and does not apply to two ships which must, if both keep on their respective courses, pass clear of each other ; Limitation of this article.

(b.) The only cases to which it does apply are, when each of the two ships is end on, or nearly end on, to the other ; in other words, to cases in which, by day, each ship sees the masts of the other in a line, or nearly in a line, with her own ; and by night, to cases in which each ship is in such a position as to see both the side lights of the other ; Cases to which it applies.

(c.) It does not apply by day, to cases in which a ship sees another ahead crossing her own course, or by night, to cases where the red light of one ship is opposed to the red light of the other, or where the green light of one ship is opposed to the green light of the other, or where a red light without a green light, or a green light without a red light, is seen ahead, or where both green and red lights are seen anywhere but ahead. Cases to which it does not apply.

Art. 16. If two ships under steam are crossing, so as to involve risk of collision, the ship which has the other on her own starboard side shall keep out of the way of the other. Steam-ships crossing.

Art. 17. If two ships, one of which is a sailing-ship and the other a steam-ship, are proceeding in such directions as to involve risk of collision, the steam-ship shall keep out of the way of the sailing ship. Steam-ships and sailing ships.

Art. 18. Every steam-ship, when approaching another ship, so as to involve risk of collision, shall slacken her speed or stop and reverse, if necessary. Steamships nearing a vessel.

Art. 19. In taking any course authorized or required by these regulations, a steam-ship under way may indicate that course to any other ship which she has in sight by the following signals on her steam whistle, that is to say :— How steam-ships may signal by steam.

One short blast to mean " I am directing my course to starboard " ;

Two short blasts to mean "I am directing my course to port";

Three short blasts to mean "I am going full speed astern."
 Signalling to be optional. The use of these signals is optional; but if they are used, the course of the ship must be in accordance with the signal made.

Ship over-taking another. Art. 20. Notwithstanding anything contained in any preceding Article, every ship, whether a sailing-ship or a steam-ship, overtaking any other, shall keep out of the way of the overtaken ship.

Steam-ships in narrow channels. Art. 21. In narrow channels every steam-ship shall, when it is safe and practicable, keep to that side of the fairway or midchannel which lies on the starboard side of such ship.

Ship keeping out of the way. Art. 22. When by the above rules one of two ships is to keep out of the way, the other shall keep her course.

Regard to be had to dangers of navigation. Art. 23. In obeying and construing these rules, due regard shall be had to all dangers of navigation, and to any special circumstances which may render a departure from the above rules necessary in order to avoid immediate danger.

No ship, under any circumstances, to neglect proper precautions.

Rules not to excuse. Art. 24. Nothing in these rules shall exonerate any ship, or the owner or master or crew thereof, from the consequences of any neglect to carry lights or signals, or of any neglect to keep a proper look-out, or of the neglect of any precaution required by the ordinary practice of seamen, or by the special circumstances of the case.

Reservation of Rules for Harbors and Inland Navigation.

Rules by local authorities. Art. 25. Nothing in these rules shall interfere with the operation of a special rule, duly made by local authority, relative to the navigation of any harbor, river or inland navigation.

Special Lights for Squadrons and Convoys.

Squadrons or convoys. Art. 26. Nothing in these rules shall interfere with the operation of any special rules made by the Government of any nation with respect to additional station and signal lights for two or more ships of war or for ships sailing under convoy.

Rafts and Harbor of Sorel.

Rules for rafts. Art. 27. Rafts, while drifting or at anchor on any of the waters of Canada, shall have a bright fire kept burning on them from sunset to sunrise. Whenever any raft is going in the same direction as another which is ahead, the one shall be so navigated as not to come within twenty yards of the other, and every vessel meeting or overtaking a raft shall keep out of the way thereof. Rafts shall be so navigated

Not to obstruct vessels.

and anchored as not to cause any unnecessary impediment or obstruction to vessels navigating the same waters.

Art. 28. Unless it is otherwise directed by the Harbor Commissioners of Montreal, ships and vessels entering or leaving the harbor of Sorel shall take the port side, any thing in the preceding articles to the contrary notwithstanding. Harbor of Sorel.

Art. 29. The rules of navigation contained in Articles 27 and 28, shall be subject to the provisions contained in Articles 23 and 24. 43 V., c. 29, s. 2;—44 V., c. 21, s. 2;—49 V., c. 4, s. 2 and schedule. As to articles 27 and 28.

LOCAL BY-LAWS, PENALTIES, &C.

3. No rule or by-law of the Harbor Commissioners of Montreal or the Trinity House of Quebec, or Quebec Harbor Commissioners, or other local rule or by-law inconsistent with this Act, shall be of any force or effect; but so far as it is not inconsistent with this Act, any such rule or by-law made by the said Harbor Commissioners of Montreal or Trinity House of Quebec, or Quebec Harbor Commissioners, or other competent local authority, shall be of full force and effect within the locality to which it applies. 43 V., c. 29, s. 4. Provision as to local by-laws and rules.

4. All owners, masters and persons in charge of any ship, vessel, or raft, shall obey the rules prescribed by this Act, and shall not carry and exhibit any other lights or use any other fog signals than such as are required by the said rules; and in case of wilful default, such master or person in charge, or such owner, if it appears that he was in fault, shall, for each occasion on which any of the said rules is violated, incur a penalty not exceeding two hundred dollars and not less than twenty dollars. 43 V., c. 29, s. 5. Penalty for wilful disobedience of this Act.

5. If, in any case of collision, it appears to the court before which the case is tried, that such collision was occasioned by the non-observance of any of the rules prescribed by this Act, the vessel or raft by which such rules have been violated shall be deemed to be in fault; unless it can be shown to the satisfaction of the court that the circumstances of the case rendered a departure from the said rules necessary. 43 V., c. 29, s. 6. Collision from non-observance of rules.

6. If any damage to person or property arises from the non-observance by any vessel or raft of any of the rules prescribed by this Act, such damage shall be deemed to have been occasioned by the wilful default of the person in charge of such raft, or of the deck of such vessel at the time, unless the contrary is proved, or it is shown to the satisfaction of the court that the circumstances of the case rendered a departure from the said rules necessary; and the owner of the vessel or raft, in all civil proceedings, and the master or

person in charge as aforesaid, or the owner,—if it appears that he was in fault,—in all proceedings, civil or criminal, shall be subject to the legal consequences of such default. 43 V., c. 29, s. 7.

Case where both vessels are in fault.

Imp. Act. 36
37 V., c. 66.

7. In any cause or proceeding for damages arising out of a collision between two vessels, or a vessel and a raft, if both vessels or both the vessel and the raft are found to have been in fault, the rules heretofore in force in the Court of Admiralty in England, and now in Her Majesty's High Court of Justice, under the "*Supreme Court of Judicature Act, 1873*," so far as they are at variance with the rules in force in the courts of common law, shall prevail, and the damages shall be borne equally by the two vessels, or the vessel and the raft, one half by each. 43 V., c. 29, s. 8.

Recovery of penalties.

If not paid.

Application.

Exception.

8. Unless herein otherwise provided, all penalties incurred under this Act may be recovered in the name of Her Majesty, by any inspector of steam-boats, or by any person aggrieved by any act, neglect or wilful omission by which the penalty is incurred, before any two justices of the peace, on the evidence of one credible witness; and in default of payment of such penalty, such justices may commit the offender to gaol for any term not exceeding three months; and, except as hereinafter provided, all penalties recovered under this Act shall be paid over to the Minister of Finance and Receiver General, and shall be by him placed at the credit of and shall form part of the Steam-boat Inspection Fund: Provided always, that all penalties incurred for any offence against this Act shall, if such offence is committed within the jurisdiction of the Quebec Harbor Commissioners, or of the Harbor Commissioners of Montreal, be sued for, recovered, enforced and applied in like manner as penalties imposed for the violation of the by-laws of the said Harbor Commissioners within whose jurisdiction the offence is committed. 43 V., c. 29, s. 9.

Foreign ships in Canadian waters.

9. Whenever foreign ships are within Canadian waters, the rules for preventing collisions prescribed by this Act, and all provisions of this Act relating to such rules, or otherwise relating to collisions, shall apply to such foreign ships; and in any case arising in any court of justice in Canada concerning matters happening within Canadian waters, foreign ships shall, so far as regards such rules and provisions, be treated as if they were British or Canadian ships. 43 V., c. 29, s. 11.

DUTY OF MASTERS; LIABILITY OF OWNERS OF SHIPS.

Duties of masters of vessels in case of collision.

10. In every case of collision between two ships, the person in charge of each ship shall, if and so far as he can do so without danger to his own ship and crew, render to the other ship, her master, crew and passengers, such assistance

as is practicable, and as is necessary in order to save them from any danger caused by such collision; and shall also give to the master or other person in charge of the other ship the name of his own ship and of her port of registry, or of the port or place to which she belongs, and also the names of the ports and places from which and to which she is bound; and if he fails so to do, and no reasonable excuse for such failure is shown, the collision shall, in the absence of proof to the contrary, be deemed to have been caused by his wrongful act, neglect or default. 43 V., c. 29, s. 12, *part*.

Penalty for default.

11. Every master or person in charge of a British or Canadian ship, who fails, without reasonable cause, to render such assistance, or to give such information as aforesaid, is guilty of a misdemeanor; and if he is a certificated officer under Canadian authority, an inquiry into his conduct may be held, and his certificate may be cancelled or suspended. 43 V., c. 29, s. 12, *part*.

Further penalty in case of British or Canadian ships.

12. The owners of any ship, whether British, Canadian or foreign, shall not, whenever all or any of the following events occur without their actual fault or privity, that is to say:—

Liability of owners limited in case of collision without their fault.

(a.) When any loss of life or personal injury is caused to any person being carried in such ship;

(b.) When any damage or loss is caused to any goods, merchandise or other things whatsoever on board any such ship;

(c.) When any loss of life or personal injury is, by reason of the improper navigation of such ship as aforesaid, caused to any person in any other ship or boat;

(d.) When any loss or damage is, by reason of the improper navigation of such ship as aforesaid, caused to any other ship or boat, or to any goods, merchandise or other things whatsoever on board any other ship or boat,—

Be answerable in damages in respect of loss of life or personal injury, either alone or together with loss or damage to ships, boats, goods, merchandise or other things, nor in respect of loss or damage to ships, goods, merchandise or other things, whether there is in addition loss of life or personal injury or not, to an aggregate amount exceeding thirty-eight dollars and ninety-two cents for each ton of the ship's tonnage.—such tonnage to be the registered tonnage in the case of sailing-ships; and in the case of steam-ships the gross tonnage without deduction on account of engine room:

Extreme amount recoverable.

Tonnage.

2. In the case of any British or Canadian ship, such tonnage shall be the registered or gross tonnage, according to the British or Canadian law, and in the case of a foreign ship which has been or can be measured according to British or Canadian law, the tonnage as ascertained by such measure-

How calculated.

ment shall, for the purposes of this section, be deemed to be the tonnage of such ship :

Tonnage,
how calcu-
lated in cer-
tain cases.

3. In the case of any foreign ship which has not been and cannot be measured according to British or Canadian law, the deputy of the Minister of Marine shall, on receiving from or by direction of the court hearing the case, such evidence concerning the dimensions of the ship as it is found practicable to furnish, give a certificate under his hand, stating what would, in his opinion, have been the tonnage of such ship if she had been duly measured according to Canadian law, and the tonnage so stated in such certificate shall, for the purposes of this section, be deemed to be the tonnage of such ship. 43 V., c. 29, s. 13.

As to insur-
ances in such
cases.

13. Insurances effected against any or all of the events enumerated in the section next preceding, and occurring without such actual fault or privity as therein mentioned, shall not be invalid by reason of the nature of the risk. 43 V., c. 29, s. 14.

Provision in
case of altera-
tion of Im-
perial regula-
tions.

14. If Her Majesty, acting on the joint recommendation of the Admiralty and the Board of Trade, by Order in Council annuls or modifies any of the regulations for preventing collisions on navigable waters, which, by Order of Her Majesty in Council of the fourteenth day of August, 1879, were substituted for those theretofore in force for like purposes in the United Kingdom, or makes new regulations in addition thereto or in substitution therefor, the Governor in Council may, from time to time, make corresponding changes, as respects Canadian waters, in the regulations contained in the second section of this Act or any that may be substituted for them,—or may suspend them or any of them, and make others in their stead,—or may revive all or any of the regulations in the Act of the Parliament of Canada passed in the thirty-first year of Her Majesty's reign and intituled "*An Act respecting the Navigation of Canadian Waters,*" as he deems best for insuring the correspondence of the regulations of Her Majesty in Council with those of the Governor in Council. 44 V., c. 20, s. 2.

OTTAWA : Printed by BROWN CHAMBERLIN, LAW Printer to the Queen's Most Excellent Majesty.



CHAPTER 80.

An Act respecting Pilotage.

A. D. 1886.

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

SHORT TITLE.

1. This Act may be cited as "*The Pilotage Act.*" 36 V., Short title. c. 54, s. 1.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—
- (a) The expression "the Minister" means the Minister of Marine and Fisheries; Interpretation.
"Minister."
 - (b) The expression "ship" includes every description of vessel used in navigation, not propelled by oars; "Ships."
 - (c) The expression "ships belonging to Her Majesty" includes ships the cost of which has been defrayed out of the Consolidated Revenue Fund of Canada, and ships described by the one hundred and eighth section of "*The British North America Act, 1867,*" as the property of Canada; "Ships belonging to Her Majesty."
 - (d) The expression "master" includes every person having command or charge of any ship; "Master."
 - (e) The expression "pilot" means any person not belonging to a ship who has the conduct thereof; "Pilot."
 - (f) The expression "boat" means every description of vessel used in navigation not being a ship; "Boat."
 - (g) The expression "pilot boat" means any ship or boat employed in the pilotage service of any district; "Pilot boat."
 - (h) The expression "license" includes a branch; "License."
 - (i) The expression "licensed pilot" includes a branch pilot; "Licensed pilot."
 - (j) The expression "pilotage authority" means any persons authorized to appoint or license pilots, or to fix or alter rates of pilotage, or to exercise any jurisdiction in respect of pilotage; "Pilotage authority."
 - (k) The expression "pilot fund" means any fund established by a pilotage authority, or by pilotage authorities, for the relief of superannuated or infirm licensed pilots, or of their wives, widows or children, or of any two or more of such classes of persons collectively; "Pilot fund."

" Pilotage
" dues."

(*l.*) The expression " pilotage dues " means the remuneration payable in respect of pilotage ;

Quebec
Harbor Com-
missioners.

(*m.*) Expressions referring to the pilotage authorities of pilotage districts generally, as applied to the pilotage district of Quebec, mean and include only the Quebec Harbor Commissioners ;

Montreal
Harbor Com-
missioners.

(*n.*) Expressions referring to the pilotage authorities of the districts for which pilots are licensed, as applied to pilots for and above the harbor of Quebec, mean and include only the Montreal Harbor Commissioners. 36 V., c. 54, s. 2 and s. 18, *part* ;—38 V., c. 28, s. 4 ;—38 V., c. 55, s. 2, *part*.

APPLICATION OF ACT.

Act not to ap-
ply to H. M.
ships, &c.

3. Nothing in this Act shall apply to ships belonging to Her Majesty, or to ships wholly employed in Her Majesty's service while so employed, the masters of which have been appointed by Her Majesty's Government, either in the United Kingdom or in Canada. 36 V., c. 54, s. 4.

PILOTAGE AUTHORITY.

Pilotage dis-
trict of Que-
bec.

4. The Quebec Harbor Commissioners shall be the pilotage authority of the pilotage district of Quebec, comprising the river St. Lawrence from the basin of Portneuf, inclusively, to an imaginary line drawn from the eastern anchorage ground off Barnaby Island to the eastern anchorage ground under Cape Columbia on the north shore, together with those parts of all rivers, waters, creeks, bays and coves within the said limits where the tide ebbs and flows. 36 V., c. 54, s. 5 ;—38 V., c. 55, s. 2, *part*.

Pilotage dis-
trict of Mont-
real.

5. The Montreal Harbor Commissioners shall be the pilotage authority of the pilotage district of Montreal, comprising the river St. Lawrence, from the basin of Portneuf exclusively, to the Province line, formerly dividing the Provinces of Upper and Lower Canada and now dividing the Provinces of Ontario and Quebec, and the several rivers falling into the St. Lawrence within the said limits ; and also, so far as relates to pilots and their apprentices, pilotage, pilot dues and pilot boats for and above the harbor of Quebec, of that part also of the pilotage district of Quebec comprising the river St. Lawrence, between St. Patrick's Hole and the basin of Portneuf, both inclusive, and that part of all rivers, waters, creeks, bays and coves, within the said last mentioned limits where the tide ebbs and flows. 36 V., c. 54, s. 6.

Pilotage dis-
trict of Hali-
fax.

6. The Halifax Pilot Commissioners as already constituted, consisting of three persons appointed by the Governor in Council, two persons elected by the city council for the city of Halifax, hereinafter called " City Council," and two persons elected by the executive committee of the Chamber of Com-

merce of the city of Halifax, hereinafter called the "Executive Committee," shall be the pilotage authority of the pilotage district of Halifax,—the limits of which shall be fixed by an Order in Council, as hereinafter provided. 36 V., c. 54, ss. 7 and 8, *part.*

7. Every vacancy happening, from time to time, among the Halifax Pilot Commissioners appointed by the Governor in Council under this Act (not being commissioners so appointed by reason of any refusal or neglect to elect or refusal to accept office when elected as herein mentioned), shall be filled by the Governor in Council, by an instrument under the Great Seal of Canada; and every other vacancy shall be filled up as follows:—

(a.) If the person whose death or resignation has caused the vacancy was elected by the city council, or was appointed by the Governor in Council by reason of the refusal or neglect of the city council to elect, or by reason of the refusal of any person elected by the city council to accept office, the city council shall, within fourteen days after the receipt of due notice of such vacancy, elect a person to fill such vacancy;

(b.) If the person whose death or resignation has caused the vacancy was elected by the executive committee, or was appointed by the Governor in Council by reason of the refusal or neglect of the executive committee to elect, or by reason of the refusal of any person elected by the executive committee to accept office, the executive committee shall, within fourteen days after the receipt of due notice of such vacancy, elect a person to fill such vacancy:

2. The name of every person so elected by the city council to fill a vacancy shall be, forthwith after his election, certified to the Minister under the seal of the city of Halifax, and the name of every person so elected by the executive committee to fill a vacancy, shall be forthwith after his election certified to the Minister under the hand and seal of the city clerk: Provided always, that if the city council or the executive committee, as the case may be, refuses, or for such fourteen days neglects to elect a person to fill any such vacancy and to certify the name of such person as aforesaid, the Governor in Council may, within thirty days after the expiration of such fourteen days, by an instrument under the Great Seal of Canada, appoint a person to fill such vacancy: Provided also, that if any person elected to fill a vacancy as aforesaid, refuses to accept the office, the Governor in Council may, by an instrument under the Great Seal of Canada, appoint, in the place of the person so refusing, some other person to fill such vacancy. 36 V., c. 54, s. 9.

8. Such commissioners, and the survivor or survivors of them, and their successors, so from time to time elected and appointed as aforesaid (any three of whom shall be a suffi-

cient quorum for the transaction of business and the exercise of all the powers conferred by this Act), shall be and are hereby declared to be a body corporate and politic in deed and in name, by the name of "The Halifax Pilot Commissioners." 36 V., c. 54, s. 10.

Pilotage district of St. John.

9. The St. John Pilot Commissioners as already constituted, consisting of three persons appointed by the Governor in Council, two persons elected by the mayor, aldermen and commonalty of the city of St. John, and two persons elected by the council of the St. John Board of Trade, shall be the pilotage authority of the pilotage district of St. John,—the limits of which shall be fixed by Order in Council, as hereinafter provided. 36 V., c. 54, ss. 12 and 13, *part*.

Mode of filling vacancies.

10. Every vacancy happening, from time to time, among the St. John Pilot Commissioners appointed by the Governor in Council under this Act, not being commissioners so appointed by reason of any refusal or neglect to elect or refusal to accept office when elected as herein mentioned, shall be filled up by the Governor in Council, by an instrument under the Great Seal of Canada; and every other vacancy shall be filled up as follows:—

If of commissioner elected by city council, &c.

(a) If the person whose death or resignation has caused the vacancy, was elected by the mayor, aldermen and commonalty of the city of St. John, or was appointed by the Governor in Council by reason of the refusal or neglect of the mayor, aldermen and commonalty of the city of St. John to elect, or by reason of the refusal of any person elected by the mayor, aldermen and commonalty of the city of St. John to accept office, the mayor, aldermen and commonalty of the city of St. John shall, within fourteen days after the receipt of due notice of such vacancy, elect a person to fill such vacancy;

If of commissioner elected by St. John Board of Trade.

(b.) If the person whose death or resignation has caused the vacancy was elected by the council of the St. John Board of Trade, or had been appointed by the Governor in Council by reason of the refusal or neglect of the council of the St. John Board of Trade to elect, or by reason of the refusal of any person elected by the council of the St. John Board of Trade to accept office, the council of the St. John Board of Trade shall, within fourteen days after the receipt of due notice of such vacancy, elect a person to fill such vacancy:

Certificate to Minister.

2. The name of every person so elected by the mayor, aldermen and commonalty of the city of St. John to fill a vacancy, shall be forthwith, after his election, certified to the Minister under the seal of the city of St. John, and the name of every person so elected by the council of the St. John Board of Trade to fill a vacancy, shall be forthwith, after his election, certified to the Minister under the seal of the St. John Board of Trade: Provided always, that

if the mayor, aldermen and commonalty of the city of St. John, or the council of the St. John Board of Trade, as the case may be, refuse or, for such fourteen days, neglect to elect a person to fill any such vacancy, and to certify the name of such person as aforesaid, the Governor in Council may, within thirty days after the expiration of such fourteen days, by an instrument under the Great Seal of Canada, appoint a person to fill such vacancy: Provided also, that if any person elected to fill a vacancy as aforesaid, refuses to accept the office, the Governor in Council may, by an instrument under the Great Seal of Canada, appoint, in the place of the person so refusing, some other person to fill such vacancy. 36 V., c. 54, s. 14.

Proviso:
in case of default to certify.

Proviso:
or of refusal to accept.

11. Such commissioners and the survivor or survivors of and their successors so, from time to time, elected and appointed as aforesaid (any three of whom shall be a sufficient quorum for the transaction of business and the exercise of all the powers conferred by this Act), shall be and are hereby declared to be a body corporate in deed and in name, by the name of "The St. John Pilot Commissioners." 36 V., c. 54, s. 15.

Commissioners incorporated.

12. If any pilotage commissioner for the pilotage district of Halifax, or for the pilotage district of St. John, is at any time absent for twelve months from the Province in which the pilotage district for which he was appointed or elected is situate, without having resigned his office, and without leave from the authority by which he was appointed or elected, his office shall, *ipso facto*, be vacant; and upon written notice of the fact given by any member of the said pilotage authority to the authority by which any such vacancy is to be filled, it shall be filled under the provisions of this Act as if it had been occasioned by the death or resignation of such absentee. 45 V., c. 32, s. 2.

Pilotage commissioner of Halifax or St. John absent twelve months without leave, to forfeit his office.

13. The Governor in Council may fix the limits of pilotage districts, in any places not included within either of the pilotage districts of Quebec or Montreal, and may constitute pilotage authorities, each consisting of not less than three or more than five persons in any places not included within either of the pilotage districts of Quebec, Montreal, Halifax, or St. John (a majority of whom respectively shall be a sufficient quorum for the transaction of business and the exercise of all the powers conferred by this Act), and the Governor in Council may, from time to time, make the payment of pilotage dues compulsory or not compulsory, within any limits so fixed. 36 V., c. 54, s. 17.

Powers of the Governor in Council, as respects pilotage districts and authorities.

And as to compulsory payment of dues.

14. The pilotage authority of any district other than the pilotage authority of Quebec may, with the sanction of the Governor in Council, appoint a secretary and treasurer, and

Secretary-treasurers may be appointed and paid.

pay him such salary or remuneration, out of pilotage dues or fees for licenses received by it, as it sees fit, and may with such sanction and out of such funds, pay any other necessary expenses of conducting the pilotage business of the district. 38 V., c. 28, s. 3.

GENERAL POWERS OF PILOTAGE AUTHORITIES.

Powers of pilotage authorities.

15. Subject to the provisions of this Act, or of any Act for the time being in force in its pilotage district, every pilotage authority shall have power, from time to time, by by-law confirmed by the Governor in Council, to do all or any of the following things within its district, that is to say :—

To determine qualifications of pilots.

(a.) To determine the qualification in respect of age, time of service, skill, character and otherwise, required of persons applying to be licensed as pilots ;

To make regulations respecting pilot boats.

(b.) To make regulations respecting the approval, licensing, management and maintenance of pilot boats,—and respecting the distribution of the earnings of pilots and pilot boats,—and to require that decked pilot boats be provided with life boats to be used in conveying pilots to and from ships, and also with such numbers of life preservers as such pilotage authority deems advisable ;

To aid companies for the support of pilot boats.

(c.) To provide for aiding in the establishment of and participating in the profits of companies for the support of pilot boats ;

To grant licenses and certificates.

(d.) To license pilots and (except in the pilotage district of Quebec) apprentices, and (except in the pilotage districts of Quebec, Montreal, Halifax and St. John) to grant certificates to masters and mates to act as pilots, as hereinafter mentioned ;

To make regulations as to licenses and certificates.

(e.) To fix the terms and conditions of granting licenses to pilots and (except in the pilotage district of Quebec) apprentices, and (except in the pilotage districts of Quebec, Montreal, Halifax and St. John) the terms and conditions of granting such pilotage certificates, as are in this Act mentioned, to masters and mates, and the fees payable for such licenses and certificates, and to regulate the number of pilots ;

To make regulations for the government of pilots.

(f.) To make regulations for the government of the pilots licensed, and the masters and mates, if any, holding certificates from such pilotage authority, and for insuring their good conduct and constant attendance to and effectual performance of their duty on board and on shore,—and for the government of apprentices, and (elsewhere than in the pilotage district of Quebec) for regulating the number of apprentices ;

To make rules for punishing breaches of regulations.

(g.) To make rules for punishing any breach of such regulations by the withdrawal or suspension of the license or certificate of the person guilty of such breach, or by the infliction of penalties,—but no single penalty shall exceed the sum of forty dollars, with, in case of a continuing breach, a further

penalty not exceeding four dollars, for every twenty-four hours during which such breach continues, - and such penalty shall be capable of reduction in the discretion of the court by which the same is inflicted ;

(h.) To fix and alter the mode of remunerating the pilots licensed by such authority, and the amount and description of such remuneration, and the person or authority to whom the same shall be paid :

To fix and alter pilotage dues.

Provided always, that the rates of pilotage for and below the harbor of Quebec, set forth in Tables one and two of Schedule A to the Act of the Legislature of the late Province of Canada, passed in the twelfth year of Her Majesty's reign chapter one hundred and fourteen, intituled "*An Act to consolidate the laws relative to the powers and duties of the Trinity House of Quebec, and for other purposes,*" shall not be altered, unless the share of the net income of the corporation of pilots for and below the harbor of Quebec annually accruing to each member of the said corporation acting and practising as a pilot for and below the harbor of Quebec, has been less than six hundred dollars on an average of the three consecutive years next preceding the passing of the by-law hereinafter referred to,—in which case it shall be the duty of the Quebec Harbor Commissioners to submit to the Governor in Council for approval, a by-law establishing such increased rates of pilotage or pilotage dues, as are deemed necessary for the purpose of securing to each such pilot an average annual share of not less than six hundred dollars of such net income, and so on for and during each successive period of three years thereafter :

Proviso : as to pilotage for and below Harbor of Quebec.

(i.) To provide for the compulsory retirement of licensed pilots having attained the age of sixty-five years, subject to the provisions contained in section thirty-two of this Act ;

Compulsory retirement of aged pilots.

(j.) To provide for the compulsory retirement of licensed pilots proved on oath before the pilotage authority to be incapacitated by mental or bodily infirmity or by habits of drunkenness before attaining the age of sixty-five years ;

And of infirm or intemperate pilots.

(k) To provide for the adjustment and decision of questions and disputes arising between masters of ships, pilots and others, respecting pilotage ;

Decision of disputes about pilotage.

(l.) To establish (elsewhere than in the pilotage districts of Quebec and Montreal), either alone or in conjunction with any other pilotage authority or authorities, funds for the relief of superannuated or infirm licensed pilots, or of their wives, widows or children, and in any pilotage district to make any new regulations with respect to any funds for the time being applicable to those purposes or any of them,—with power to determine the amount, manner, time and persons (such persons to be in the service of such pilotage authority) to, and in which, and by and upon whom the contributions in support of such existing or future funds may be made or levied ; but so that no such contribution to any such fund shall be so made or levied by or upon any pilot

To establish and regulate pilot funds, except in Quebec and Montreal districts.

to any amount exceeding seven per cent. of his earnings; and further, to determine what persons, or class of persons, from among the men in the service of such pilotage authority, their wives, widows or children, are and are not respectively entitled to participate in the benefits of such existing or future funds, and the terms and conditions upon which, if entitled, they are so entitled;

To repeal or alter previous by-laws.

(m.) To repeal or alter any by-law made in exercise of the powers of this section, or any by-law touching any of the matters enumerated in this section in force in and for its district, and to make a new by-law or new by-laws in lieu thereof:

2. Nothing in this Act shall be construed to give power to the Quebec Harbor Commissioners to make regulations respecting the management or maintenance of pilot boats, or respecting the administration or distribution of the earnings of pilots and pilot boats. 36 V., c. 54, s. 18, *part*, and s. 91.

Power to Montreal pilotage authority to grant second class pilot licenses and make a tariff of pilotage dues.

16. The pilotage authority of the pilotage district of Montreal, may, from time to time, by by-law confirmed as provided in the next preceding section, make provision for granting a second class pilotage license, to such indentured apprentices as are found competent to perform a limited or subordinate class of pilotage duties, and, from time to time, may fix and alter the pilotage dues payable to the holders of such second class licenses; but the employment of a pilot holding a second class license shall not be compulsory: such second class licenses shall remain in force until the holders of them become qualified to be licensed as pilots, unless sooner withdrawn or suspended for cause. 42 V., c. 25, s. 2.

Penalties under by-laws and their recovery and application.

17. Every pilotage authority may, in any by-law made according to the provisions of either of the two sections next preceding, impose a reasonable penalty, not exceeding in any case forty dollars, for the breach of such by-law, with, in case of a continuing breach, a further penalty not exceeding four dollars for every twenty-four hours during which such breach continues; but in no such by-law shall a minimum penalty be imposed. 36 V., c. 54, s. 18, *part*.

Confirmation of by-laws.

18. Every by-law made by any pilotage authority in the exercise of the powers conferred upon it by this Act shall, when confirmed by the Governor in Council, be published in the *Canada Gazette*, and when so confirmed and published, shall be valid and effectual; and every breach thereof shall be deemed an offence against this Act. 36 V., c. 54, ss. 19 and 20.

Special provision for pilots for and below Quebec.

19. A copy of every by-law made by the Quebec Harbor Commissioners under this Act, shall be furnished to the corporation of pilots for and below the harbor of Quebec twenty

days before such by-law is submitted to the Governor in Council, for the purpose of being confirmed. 36 V., c. 54, s. 21.

20. Every pilotage authority shall, until replaced by the Governor in Council, if subject to be so replaced, and if not subject to be so replaced, continually, retain all powers and jurisdiction which it lawfully possesses so far as the same are consistent with the provisions of this Act. 36 V., c. 54, s. 22.

Existing pilotage authorities to retain all their powers and jurisdiction.

21. Every by-law, rule, regulation, law or ordinance made by any pilotage authority before the commencement of this Act shall, so far as the same is not inconsistent with any provision of this Act, continue to be of the same force and effect as if this Act had not been passed, until repealed or altered by a by-law of the proper pilotage authority duly made and confirmed under the authority of this Act. 36 V., c. 54, s. 23 ;—38 V., c. 55, s. 11.

Existing by-laws continued in force subject to this Act.

RETURNS BY PILOTAGE AUTHORITIES.

22. Every pilotage authority shall, on or before the tenth day of January in every year, transmit to the Minister, in such form as the Minister requires, returns, in this Act called pilotage returns, of the following particulars with regard to pilotage within its district, made up to the thirty-first day of December previous, that is to say:—

Pilotage authorities to make annual returns.

(a) The name and age of every pilot, apprentice, master or mate licensed, certificated or authorized to act by such authority, and of every pilot or apprentice acting either mediately or immediately under such authority, whether so licensed or authorized, or not ;

Names and ages of pilots, &c.

(b) The service for which each pilot, apprentice, master or mate is licensed or certificated ;

Services of pilots, &c.

(c) The rates of pilotage dues for the time being in force, including therein the amounts and description of all charges upon shipping made in respect of pilotage ;

Pilotage dues.

(d) The total amount received for pilotage dues, distinguishing the amounts received from British ships and from foreign ships, and the amount received in respect of different classes of ships paying different rates of pilotage dues for the time being in force, and the amounts received for the several classes of service rendered by pilots ;

Amount of pilotage dues received.

(e) The receipt and expenditure of all money received by or on behalf of such authority, in respect of pilots or pilotage ; and—

Receipts and expenditure of all money received.

(f) Such other particulars as the Minister, from time to time, requires to be included in any such return. 36 V., c. 54, s. 24.

Other particulars.

APPRENTICES—QUEBEC.

23. Persons desirous of becoming pilots for and below the harbor of Quebec, shall continue to pass their indentures of

Indentures of apprenticeship in pilot-

age district of
Quebec.

apprenticeship with the corporation of pilots for and below the harbor of Quebec (and not with the individual pilots) as required by the said Act passed in the twelfth year of Her Majesty's reign, chapter one hundred and fourteen; and for that purpose the said corporation shall continue to be subject to the provisions of the said Act, as amended by this Act, and to the by-laws made by the late Trinity House of Quebec or the Quebec Harbor Commissioners, relative to pilots taking apprentices, and shall continue to have power to cause such apprentices to serve in turn on board ships piloted, or on board the schooners of the corporation. 36 V., c. 54, s. 25

Number of
pilots for and
below Quebec
to be reduced.

Provide: as to
apprentices
now inden-
tured.

Number of
apprentices
hereafter may
be limited.

24. The pilotage authority of the district of Quebec shall not grant any new license to any person as a pilot until the number of pilots in the said district is reduced below one hundred and twenty-five,—which number shall never be exceeded after such reduction: Provided, that the said pilotage authority may grant a license to any apprentice admitted to indenture to the corporation of pilots for and below the harbor of Quebec before the seventh day of May, one thousand eight hundred and eighty-two, and who, on completing by consecutive service the full term prescribed by the regulations of the said corporation of pilots, shall be found qualified; and the said pilotage authority may prescribe the number of apprentices to be indentured to the corporation of pilots for and below the harbor of Quebec, having regard to the requirements of the service; and the said corporation shall, in each year, make a return of the number of its apprentices to the said pilotage authority. 45 V., c. 32, s. 8.

As to appren-
tice pilots
whose term of
apprentice-
ship has been
interrupted.

25. Notwithstanding anything to the contrary contained in section twenty-one of the said Act, passed in the twelfth year of Her Majesty's reign, chapter one hundred and fourteen, if the period of apprenticeship of any apprentice indentured to the said corporation of pilots for and below the harbor of Quebec has been interrupted for less than four months in all, or on account of sickness, involuntary absence or other legitimate cause, the Quebec Harbor Commissioners shall grant him, if found otherwise qualified and entitled, a license as pilot, on proof that he has served a regular apprenticeship of seven years in all,—provided he has made up for the time lost by such interruption, by an additional period or periods of service after the lapse of seven years from the commencement of his apprenticeship, and has made four voyages to Europe as required by the said Act. 36 V., c. 54, s. 27.

LICENSING OF PILOTS.

Contents, form
and registra-
tion of licen-
ses to pilots.

26. Every pilot on being licensed by any pilotage authority, shall receive a license containing his name and usual place of abode, a description of his person, and a specifica-

tion of the limits within which he is qualified to act, - which license may be in the form of the first schedule to this Act, or in any like form; and the collector of customs at the principal port of the district within which any pilot is licensed to act, shall, on his request, and without fee or reward, register his license, and add his name to the list posted up at the custom house; and a licensed pilot shall not be entitled to act as such until his license is so registered:

2. Every licensed pilot who acts beyond the limits for which he is qualified by his license, shall be considered an unlicensed pilot. 36 V., c. 54, s. 29.

27. Every licensed pilot shall, on receiving his license, be furnished with a copy of this Act, and a copy of the tariff of dues and of the by-laws established within the district for which he is licensed; and he shall produce such copies to the master of any ship or other person employing him, when required so to do, and in case of default shall incur a penalty not exceeding twenty dollars. 36 V., c. 54, s. 30.

Copies of this Act, and of tariff and by-laws to be furnished to and produced by pilots.

28. Every pilot who has received a license from a duly constituted authority in that behalf, before the commencement of this Act, may retain the same under and subject to the provisions of this Act, and shall, for the purposes of this Act, be a pilot licensed by the pilotage authority of the district to which his license extends. 36 V., c. 54, s. 31.

Existing licenses continued in force.

29. Every licensed pilot, while acting in that capacity, shall be provided with his license, and shall produce the same whether requested to produce it or not to every person by whom he is employed, or to whom he offers his services as pilot, at the time when he enters into the employment of, or offers his services to such person; and shall, at all times, produce his license, at the request of every person by whom he is employed as pilot; and if he neglects or refuses to produce his license, he shall, for each such neglect or refusal, incur a penalty not exceeding forty dollars and shall be subject to suspension or dismissal by the pilotage authority by whom he is licensed. 36 V., c. 54, s. 33.

Pilots to produce licenses when offering their services and when employed.

30. Every branch pilot or licensed pilot who passes two full and consecutive years without acting as a pilot, except in case of sickness, unavoidable absence or special permission from the pilotage authority of his district, shall forfeit his license. 36 V., c. 54, s. 34.

License forfeited by non-user during two years.

31. Every licensed pilot, suspended or deprived of his license or compelled to retire, shall produce or deliver up his license to the authority by whom he is so suspended or deprived or compelled to retire; and on the death of any licensed pilot, the person into whose hands his license comes

License to be delivered up in certain cases.

Penalty for default.

shall, without delay, deliver it to the pilotage authority of the pilotage district for which he was licensed : and if any person, without reasonable cause (proof whereof shall lie on him), fails to comply with any requirement of this section, he shall incur a penalty not exceeding forty dollars; and any court of competent jurisdiction may, in addition to imposing such penalty, by summary order direct such license to be forthwith delivered up to such authority. 36 V., c. 54, s. 35.

Pilots 65 years of age to deliver up their licenses, &c.

32. Every licensed pilot shall, on attaining the age of sixty-five years, produce and deliver up his license or branch to the pilotage authority of the district to which it extends, and such authority may grant him a new license for one year, and so on from year to year. 36 V., c. 54, s. 36.

Powers of corporation of pilots as to the withdrawal of members.

33. The board of directors of the corporation of pilots for and below the harbor of Quebec, may make any agreement and compromise respecting the withdrawal of the license of any pilot for and below the said harbor, and the conditions of such withdrawal. 45 V., c. 32, s. 9.

Power to limit a pilot's license.

34. The pilotage authority for any district (except the pilotage districts of Quebec, Montreal and St. John, respectively), may, if it sees fit, limit the period during which any license to a pilot granted by it shall be in force to any term not less than two years from the date thereof, and may, in its discretion after the end of such period, renew such license for a further limited term not less than two years; and may also, in its discretion cancel any license to a pilot heretofore granted, and substitute for it a license limited and renewable as aforesaid; and in such cases the form of the license shall be altered by inserting after the word "capacity" in the first schedule to this Act, the words "until the day of A.D., , unless "in the meantime this license is cancelled." 45 V., c. 32, s. 5.

Form of license in such case.

Fees on renewal of license.

35. All pilots shall pay to the pilotage authority of the respective districts for which they are licensed, or as such authority directs, such fees upon such renewals as are, from time to time, fixed for that purpose by such authority with the consent of the Governor in Council; and such fees shall be applied in the manner prescribed by section seventy-one of this Act. 45 V., c. 32, s. 6.

Application.

Names &c., of pilots to be published. List to be transmitted to collectors of customs.

36. The names and addresses of all licensed pilots shall be published in the following manner :—
(a.) Every pilotage authority shall, from time to time, and at least once in every year, prepare a list of the pilots holding licenses for their pilotage district, specifying the name and usual place of abode of every pilot holding such license, and the limits within which he is licensed to act; and shall transmit such list to the collector of customs at the principal port within such district;

(b.) Every collector of customs, to whom any such list is so transmitted, shall, immediately after the receipt thereof, cause the same to be posted up, and shall always keep the last received of such lists posted up at the custom house of the port. 36 V., c. 54, s. 37.

And posted up at custom houses.

37. Each of the pilotage authorities of Quebec, Montreal, Halifax and St. John shall cause every pilot's license granted by such authority to be registered in a book to be kept for that purpose in the office of such pilotage authority; and every such book shall, at all times, during the usual office hours, be open to all persons for inspection without fee or reward. 36 V., c. 54, s. 38.

Registers of pilot licenses to be kept at certain places.

RIGHTS OF PILOTS GENERALLY.

38. Every pilot compelled to retire under the provisions of this Act on account of age or of mental or bodily infirmity, and every widow and child of a deceased pilot shall be entitled to such pension or assistance as the pilotage authority of the district, in and for which such pilot was licensed, deems it proper to grant to him or her out of the pilot fund of such district. 36 V., c. 54, s. 39.

Retired pilots and widows and children of pilots to have pensions.

39. No pilot shall, without his consent, be taken to sea or beyond the limits for which he is licensed, in any ship whatsoever; and every pilot so taken shall be entitled to cabin passage, and over and above the pilotage dues otherwise payable to him, to the sum of two dollars a day, to be computed from, and inclusive of the day on which the ship passes the limit up to which he was engaged to pilot her, and up to and inclusive of, either the day of his being returned in the said ship to the place where he was taken on board, or if he is discharged from the ship at a distance from such place, such day as will allow him sufficient time to return thereto; and in such last mentioned case he shall be entitled to his reasonable travelling expenses by cabin passage or first class conveyance by land, as the case may be, over and above such pilotage dues and other sums. 36 V., c. 54, s. 40.

Allowances to pilot carried out of his district.

40. If a licensed pilot is placed in quarantine, owing to his having been taken on board any ship, he shall be entitled to suitable board and accommodation, and over and above the pilotage dues payable to him, to the sum of three dollars a day, from and inclusive of the day on which he is placed in quarantine up to and inclusive of either the day on which he is discharged therefrom, or, if he is discharged at a distance from the place where he was taken on board, such day as will allow him sufficient time to return thereto; and in such last mentioned case, he shall be entitled to his reasonable travelling expenses over and above such pilotage dues and other additional sums. 36 V., c. 54, s. 41.

Allowances to pilot detained in quarantine.

When a pilot may quit a ship which he has undertaken to pilot.

41. Any licensed pilot may quit a ship which he has undertaken to pilot as soon as such ship is finally anchored or moored after completion of her voyage or removal, as the case may be, or as soon as she passes out of the pilotage district to which his license extends, whichever first happens; whereupon the service for which he was hired shall be held to be performed. 36 V., c. 54, s. 42.

Amount of damage caused by condemned pilot to ship to be deducted from his pilotage dues.

42. A pilot deprived of his license, or suspended or condemned to pay a penalty for having caused damage to a ship, shall not be entitled to any pilotage dues if the amount of such damage is equal to or exceeds that of such dues, or, if it is less, to more than the excess of the amount of such dues over that of such damage; and the provisions of this section shall be deemed to be referred to in section twenty-six of the Act of the legislature of the late Province of Canada, passed in the twenty-third year of Her Majesty's reign, chapter one hundred and twenty-three, intituled "*An Act to incorporate the Pilots for and below the Harbor of Quebec.*" 36 V., c. 54, s. 43.

23 V., c. 123, s. 26.

Pilots shall not be harbor masters.

43. No licensed pilot shall be hereafter appointed to act, or shall act, as harbor master of any port unless he first surrenders his license. 45 V., c. 32, s. 7.

RIGHTS OF PILOTS IN PILOTAGE DISTRICTS IN WHICH THE
PAYMENT OF PILOTAGE DUES IS FOR THE TIME
BEING COMPULSORY.

When licensed pilot shall be entitled to pilotage for leading.

44. If any boat or ship having on board a licensed pilot leads any ship which has not a licensed pilot on board when such last mentioned ship cannot, from particular circumstances, be boarded, the pilot so leading such last mentioned ship shall be entitled to the full pilotage dues for the distance run, as if he had actually been on board and piloted such ship; and such pilot while leading such last mentioned ship, shall keep his pilot flag flying, and such last mentioned ship, shall, while being so led, show the ensign of such ship at her fore. 36 V., c. 54, s. 44.

Penalty on unlicensed persons acting as pilots.

45. If any person pilots a ship in any pilotage district for which he is not a licensed pilot, under any circumstances not provided for in the next following section of this Act, he shall be liable to a penalty of forty dollars. 36 V., c. 54, s. 45.

Occasions on which unlicensed persons may act as pilots.

46. Any person may, within any pilotage district for which he is not a licensed pilot, without subjecting himself or his employer to any penalty, pilot a ship under any of the following circumstances:—

No pilot.

(a.) When no licensed pilot for such district has offered to pilot such ship, or made a signal for that purpose, although the master of the ship has displayed and continued to display

the signal for a pilot in this Act provided, whilst within the limits prescribed for that purpose ;

(b.) When a ship is in distress, or under circumstances Distress. making it necessary for the master to avail himself of the best assistance which can be found at the time. 36 V., c. 54, s. 46.

47. A licensed pilot may, in any such district upon showing his proper signal and exhibiting his license, supersede an unlicensed-pilot, but the master shall pay to such unlicensed pilot a sum in proportion to the distance run for his services, and deduct the same from the charge of the licensed pilot ; and in case of dispute, the pilotage authority of the district for which the licensed pilot is licensed, shall determine the proportionate sum to which each person is entitled ; and if not so superseded, the unlicensed pilot shall be entitled to be paid the full pilotage dues. 36 V., c. 54, s. 47. Power of licensed pilot to supersede unlicensed pilot.

48. Every unlicensed pilot who continues in the charge of a ship in any such district after a licensed pilot has offered as aforesaid to take charge of her, shall, for each offence, be liable to a penalty not exceeding one hundred dollars, and, in default of payment, to imprisonment for any term not exceeding one month. 36 V., c. 54, s. 48. Penalty on unlicensed pilot continuing in charge after arrival of licensed pilot.

49. If any master of a ship which is not an exempted ship, removes such ship or causes such ship to be removed from one place to another within the harbor of Quebec, without the assistance of a licensed pilot for and below the harbor of Quebec, he shall pay to the corporation of pilots for and below the harbor of Quebec the same pilotage dues as he would have been liable to pay if he had obtained the assistance of one of such licensed pilots ; but this provision shall not apply to the master of any ship actually proceeding to Montreal or elsewhere above the harbor of Quebec, in charge of a pilot for and above the harbor of Quebec. 36 V., c. 54, s. 49. Penalty for moving a ship at Quebec, without a pilot.

PILOTAGE DUES.

50. Whenever, under the provisions of this Act, any pilotage dues are made payable by or in respect of any ship, the following persons shall be liable to pay such dues ; that is to say,—the owner, the master and the recognized consignee or agent thereof, if such recognized consignee or agent has moneys in his hands received on account of such ship. 36 V., c. 54, s. 50. What persons liable to pay pilotage dues.

51. Every recognized consignee or agent of a ship not being the owner or master of such ship may, out of any moneys in his hands received on account of such ship retain the amount of pilotage dues so paid by him, together with any reasonable expenses he has incurred by reason of such payment and liability. 36 V., c. 54, s. 51. Consignee or agent, how to re-imburse himself.

Recovery of
pilotage dues.

52. All pilotage dues may be recovered as a debt due to the pilot or corporation of pilots or pilotage authority, as the case may be, to whom the same are payable; and all sums made payable to a pilot over and above the pilotage dues, shall be payable by the same persons, and recoverable in the same manner as if they were part of the pilotage dues payable to such pilot; but the mode of payment of pilotage dues in the pilotage districts of Quebec and Montreal shall remain the same as before the commencement of this Act. 36 V., c. 54, s. 52.

No clearance
until such
dues, if pay-
able, are paid
or settled for.

53. No clearance shall be granted to any ship liable to pilotage dues at any port in Canada where there is a duly constituted pilotage authority which collects the pilotage dues, and at which pilotage dues are payable, until there has been produced to the customs officer granting such clearance, a certificate from the pilotage authority of the district or some officer or person authorized by such authority to grant the same, that all pilotage dues in respect of such ship have been paid or settled for to the satisfaction of such authority. 40 V., c. 20, s. 4.

Settlement of
difference as
to draught of
ship.

54. Whenever any difference arises between the master and the licensed pilot of any ship trading to or from any port in Canada, as to her draught of water, the pilotage authority at such port shall, upon application by either party made,—in case of a ship inward bound either within twelve hours after her arrival or at some time before she begins to discharge her cargo, and in the case of a ship outward bound before she quits her moorings—appoint some proper person who shall measure the ship, and settle the difference accordingly; and there shall be paid to the person measuring such ship, by the party against whom he decides, such remuneration for his services as the pilotage authority appoints. 36 V., c. 54, s. 53.

Penalty for
making a false
declaration of
draught of
ship.

55. If, upon any licensed pilot offering or beginning to pilot a ship, the master thereof refuses or neglects to declare to such pilot her draught of water, or makes or is privy to any other person making a false declaration to such pilot as to such draught, he shall incur a penalty for every such offence, not exceeding double the amount of pilotage dues payable by such ship to such pilot or to any corporation of pilots of which such pilot is a member. 36 V., c. 54, s. 54.

Penalty for
falsifying
marks on ship.

56. Every master or person interested in a ship who makes or is privy to the making of a fraudulent alteration in the marks on the stern or stem post of such ship, denoting her draught of water, is guilty of a misdemeanor. 36 V., c. 54, s. 55.

EMPLOYMENT OF PILOTS NOT COMPULSORY.

57. No owner or master of any ship shall, in any case, be compelled to employ or to give his ship into the charge of a pilot, either on the ground of his being compelled to pay pilotage dues to any person or otherwise; and nothing in this Act shall exempt any owner or master of any ship from liability for any loss or damage occasioned by his ship to any person or property, on the ground either of such ship being in the charge of a licensed pilot, or of such loss or damage being occasioned by the act or default of a licensed pilot, or on any other ground. 36 V., c. 54, ss. 56 and 69.

Employment of pilot not compulsory.

No owner to be free from liability by reason of employing a licensed pilot.

COMPULSORY PAYMENT OF PILOTAGE DUES, AND EXEMPTIONS THEREFROM.

58. Every ship which navigates within either of the pilotage districts of Quebec, Montreal, Halifax or St. John, or within any pilotage district within the limits of which the payment of pilotage dues is, for the time being, made compulsory by Order in Council under this Act, shall pay pilotage dues, unless either—

Compulsory payment of pilotage dues in certain districts.

(a.) Such ship is on her inward voyage and no licensed pilot offers his services as a pilot, or—

Special exceptions.

(b.) She is exempted under the provisions of this Act, from payment of such dues :

2. If such ship is on her outward voyage and the owner or master of such ship does not employ a pilot or give his ship into the charge of a pilot, such dues shall be paid, if in the pilotage district of Quebec, to the corporation of pilots for and below the harbor of Quebec, and if in any other pilotage district, to the pilotage authority of such district. 36 V., c. 54, s. 57, *part*.

To whom payable.

59. The following ships, called in this Act exempted ships, shall be exempted from the compulsory payment of pilotage dues :—

Exempted ships.

(a.) Ships belonging to Her Majesty ;

Her Majesty's ships.

(b.) Ships wholly employed in Her Majesty's service, while so employed, the masters of which have been appointed by Her Majesty's Government, either in the United Kingdom or in Canada ;

Ships employed by Her Majesty.

(c.) Ships propelled wholly or in part by steam employed in trading from port to port in the same Province, or between any one or more of the Provinces of Quebec, New Brunswick, Nova Scotia or Prince Edward Island, and any other or others of them, or employed on voyages between any port or ports in the said Provinces or any of them and the port of New York or any port of the United States of America on the Atlantic, north of New York ; except only in the ports of Halifax, Sydney pilotage district, Miramichi and Pictou,—as respects each of which ports the pilotage authorities of the district may, from time to time, determine, with the approval

What steamships shall be exempt from pilotage dues.

Exception as to Halifax, Sydney, Miramichi and Pictou.

of the Governor in Council, whether any, and which, if any, of the steam-ships so employed shall or shall not be wholly or partially, and, if partially, to what extent and under what circumstances, exempt from the compulsory payment of pilotage dues ;

Ships of 80 tons and under.

Ships with certificated master.

Certain ships under 250 tons

Proviso.

(d.) Ships of not more than eighty tons, registered tonnage ;

(e.) Any ship of which the master or any mate has a certificate granted under the provisions of this Act and then in force, authorizing him to pilot such ship within the limits within which she is then navigating ;

(f.) Ships of such description and size, not exceeding two hundred and fifty tons, registered tonnage, as the pilotage authority of the district, with the approval of the Governor in Council, from time to time, determines to be exempt from the compulsory payment of pilotage in such district: Provided always, that this paragraph shall not apply to the river St. Lawrence, where all ships registered in Canada, if not more than two hundred and fifty tons registered tonnage, shall be exempt. 36 V., c. 54, s. 57, *part*;—38 V., c. 28, s. 1 ;—40 V., c. 20, s. 3.

Master or mate of ship authorized by certificate to pilot her, to hoist a white flag on arrival at a district in which the payment of pilotage dues is compulsory.

Penalty for contravention.

60. When a ship arrives at the limits of any district in which the payment of pilotage dues is, for the time being, compulsory and within any part of which she is an exempted ship under paragraph (e) of the next preceding section of this Act, or is at a distance of five miles at least from the mouth of the harbor in any such district mentioned in the certificate of her master or mate (whichever first happens), such master or mate shall hoist a white flag not less than four feet by six feet at the main top mast head, with the number of his certificate, in black figures six inches long, in the centre as a signal that the ship has a certificated master or mate on board ; and every master or mate hoisting such flag without being authorized so to do at the time and place and on board the ship when and where he hoists the same, and every master or mate neglecting to hoist such flag when and where he is authorized so to do and not accepting the services of a licensed pilot, shall incur a penalty of twenty dollars ; and every ship in respect of which such penalty is incurred shall be liable to pay as pilotage dues the same sum as would have been payable to a licensed pilot if the services of a licensed pilot had been obtained or accepted ; and all such penalties shall be payable to and recoverable by the pilotage authority of the district. 36 V., c. 54, s. 58.

Certain exempted ships liable to pay pilotage dues.

If signal for pilot is displayed and

61. If the master of an exempted ship not belonging to Her Majesty, or not wholly employed in Her Majesty's service, arriving within the limits of a pilotage district in which the payment of pilotage dues is, for the time being compulsory,—

(a.) Displays and continues to display the signal for a pilot in this Act provided, whilst within the limits prescribed for

that purpose ; and does not accept the services of any licensed pilot offering them in consequence of such signal ; or—

(b.) Without displaying or continuing to display the signal for a pilot, in this Act provided, whilst within the limits prescribed for that purpose, employs any person not belonging to his crew and not being a licensed pilot, to pilot or guide such ship, whether or not a licensed pilot has offered his services,—

Such ship shall be liable to pay, if in the pilotage district of Quebec, to the corporation of pilots for and below the harbor of Quebec, and if elsewhere, to the pilotage authority of the district as pilotage dues the same sum as would have been payable to such licensed pilot if his services had been accepted. 36 V., c. 54, s. 59.

62. When a ship arrives at the limits of any district, in which the payment of pilotage dues is, for the time being, compulsory (unless she is an exempted ship or does not require the services of a pilot), the following provisions shall have effect :—

(1.) Until a licensed pilot has come on board, or until the ship has passed a point, line or place, from time to time fixed in this behalf by the pilotage authority of the district, the ship shall display such signal for a pilot as in this Act provided ; and the master thereof, upon sighting a pilot boat carrying the pilot flag or pilot lights shall, by lying to if the weather permits, or by shortening sail, or heaving to, or, if the ship is a steamer, stopping his engines or by any other practicable means, facilitate the coming on board of the pilot or one of the pilots of such boat ; and in default, such ship shall be liable to pay as pilotage dues to the pilotage authority of the district, if such district is not the district of Quebec, and if it is, then to the corporation of pilots for and below the harbor of Quebec, a sum not exceeding the amount of pilotage dues which would be payable for piloting such ship :

(2.) If the master of such ship—

(a.) Does not accept the services of the first licensed pilot who, by signal or otherwise, offers his services ; or—

(b.) If there are two or more pilots offering their services at the same time, does not accept the services of such one of them as is entitled by the law or regulations for the time being in force in such district to have his services accepted ; or—

(c.) Having signalled for a pilot, does not accept the services of any licensed pilot offering them in consequence of such signal—

Such ship shall be liable to pay, if in the pilotage district of Quebec, to the corporation of pilots for and below the harbor of Quebec, and if elsewhere, to the pilotage authority of the district, as pilotage dues, the same sum as would have been payable to such licensed pilot if his services had been accepted :

services are not accepted.

If person unauthorized is employed.

Ships to be liable for pilotage dues.

Non-exempted ship arriving where the payment of pilotage dues is compulsory.

Signal to be displayed.

Lying to.

Penalty in default.

Pilotage dues payable in certain cases.

And to whom.

Application of sums payable as aforesaid.

(3.) All sums received by any pilotage authority in pursuance of this and the next preceding section, shall be applied by it as follows:—

(a.) In paying all expenses incurred in obtaining payment of the same;

(b.) In paying to the pilot who offered his services to the ship, and if two pilots offered, to that one who was entitled to have his services accepted, such amount, if any, as it, by any by-laws made under this Act from time to time, makes payable to such pilot;

(c.) The residue shall be carried to and form part of the pilot fund of the district. 36 V., c. 54, s. 60.

Signals to be displayed by ships requiring pilots, &c.

63. If any ship requires the services of a pilot, or, not having a pilot, has entered or is in any district or part of a district where such ship is subject to a compulsory payment of pilotage dues, the master of such ship shall display the following signals, that is to say:—

(1.) In the day time, the Jack or other national color usually worn by merchant ships, having round it a white border one fifth of the breadth of the flag, hoisted at the fore;

(2.) At night,—

(a.) A blue-light every fifteen minutes; or—

(b.) A bright white light, flashed or shown at short or frequent intervals, just above the bulwarks, for about a minute at a time. 36 V., c. 54, s. 61.

Penalty for misuse of signals.

64. Every master of a ship who—

(a.) Displays such signals for any other purpose than that of summoning a pilot; or—

(b.) Uses any other signal for a pilot,— shall incur a penalty not exceeding one hundred dollars. 36 V., c. 54, s. 62.

No exemption from payment of dues when pilot is taken voluntarily.

65. No ship shall be exempt on any ground whatever from the liability to pay pilotage dues earned by any licensed pilot voluntarily taken on board of such ship by the master for the purpose of piloting her, whether the payment of pilotage dues is or is not, for the time being, otherwise compulsory in the district in which such pilotage dues are earned. 36 V., c. 54, s. 63.

Powers and duties of master of exempted ship, navigating her without a pilot.

66. Every master of an exempted ship, when navigating such ship without a pilot in any pilotage district, or part of a pilotage district, within the limits of which she is for the time being an exempted ship, shall, as regards the conduct and management of such ship within such limits, have all the powers and duties which are by law or usage possessed by or imposed upon any licensed pilot for such district. 36 V., c. 54, s. 64.

LICENSING OF MASTERS AND MATES.

67. A master or mate of any ship registered in Canada may, upon giving due notice and consenting to pay the usual expenses, apply to any pilotage authority (other than the pilotage authority of either of the pilotage districts of Quebec, Montreal, Halifax or St. John) to be examined as to his capacity to pilot the ship of which he is master or mate within any part of the district over which such pilotage authority has jurisdiction; and such master or mate shall thereupon be examined, and, if found competent, a pilotage certificate shall be granted to him, containing his name, a specification of the ship or ships in respect of which he has been examined, and a description of the limits within which he is to pilot the same,—which limits shall be within such jurisdiction. 36 V., c. 54, s. 65, *part*;—42 V., c. 25, s. 1, *part*.

Master or mate, if examined and passed, to receive a pilotage certificate enabling him to pilot particular ships in certain places.

68. Such certificate shall enable the person therein named to pilot the ship or any of the ships therein specified, of which he is acting as master or mate at the time, but no other, within the limits therein described, as if he was a licensed pilot, and may be in the form of the second schedule to this Act, or any like form:

Form of certificate.

2. No master or mate of any ship not registered in Canada shall be examined, or receive a pilotage certificate, under the next preceding section, or act as a pilot under this Act. 36 V., c. 54, s. 65, *part*;—42 V., c. 25, s. 1, *part*.

69. Such pilotage certificate shall not be in force for more than one year, unless the same is renewed, which may, from time to time, be done by an indorsement under the hand of the secretary or other officer of the authority by whom such certificate was granted. 36 V., c. 54, s. 66.

Renewal of pilotage certificate.

70. All masters or mates to or for whom any such pilotage certificates as aforesaid are granted or renewed by any pilotage authority, shall pay to such authority or as they direct, such fees upon their respective certificates and upon the renewals thereof, as are, from time to time, fixed for that purpose by such authority, with the consent of the Governor in Council. 36 V., c. 54, s. 67, *part*.

Fees to be paid upon such certificate, and the renewal thereof.

71. Such fees shall, in the case of certificates granted or renewed by a pilotage authority, be applicable either to paying the expense of the examinations, or any other general expenses connected with pilotage incurred by such authority, or to the pilot fund of the district, if any, or otherwise for the benefit of the pilots licensed by such authority, as such authority thinks fit. 36 V., c. 54, s. 67, *part*.

Application of such fees.

72. If at any time it appears to any pilotage authority that any master or mate to whom a pilotage certificate has been

Power to withdraw pilotage certificate.

granted by such authority, has been guilty of drunkenness or misconduct, or has shown himself incompetent to pilot his ship, they may thereupon withdraw his certificate; and such certificate shall thenceforth cease to be of any effect whatever, and shall be forthwith produced and delivered up by such master or mate to such pilotage authority; in default of which such master or mate shall incur a penalty of forty dollars; and any court of summary jurisdiction may, besides imposing such penalty, by summary order direct such license to be forthwith delivered up to such pilotage authority. 36 V., c. 54, s. 68.

OFFENCES OF PILOTS.

- 73.** Every licensed pilot who, either within or without the district for which he is licensed,—
- Offences by pilots.** (a.) Commits any fraud or offence in respect to the revenues of customs or inland revenue or the laws relating thereto,
- Fraud as to revenue.** (b.) Is in any way directly or indirectly concerned in any corrupt practices relating to ships, their tackle, cargoes, crews or passengers, or to persons in distress at sea or by shipwreck, or to their moneys, goods or chattels,
- Corrupt practices.** (c.) Lends his license,
- Lending license.** (d.) Acts as pilot whilst suspended,
- Suspension.** (e.) Acts as pilot when in a state of intoxication,
- Intoxication.** (f.) Employs or causes to be employed, on behalf of any ship of which he has the charge, any steam-boat, boat, anchor, cable, or other store, matter or thing, beyond what is necessary for the service of such ship, with the intent to enhance the expenses of pilotage for his own gain, or for the gain of any other person,
- Unnecessary expenditure.** (g.) Refuses or delays, when not prevented by illness or other reasonable cause, to take charge of any ship within the limits of his license, upon the signal for a pilot being made by such ship, or upon being required so to do by the master, owner, agent or consignee thereof, or by any officer of the pilotage authority of the district for which such pilot is licensed, or by any principal officer of customs—subject always in the case of a pilot for and below the harbor of Quebec, to the laws relating to the corporation of pilots for and below the harbor of Quebec,
- Neglect of duty.** (h.) Upon being so signalled or required, attempts to make any special bargain for salvage,
- Salvage.** (i.) Unnecessarily cuts or slips, or causes to be cut or slipped, any cable belonging to any ship,
- Cutting cables.** (j.) Refuses, when requested by the master to conduct the ship on board of which he is into any port or place into which he is licensed to conduct the same, except on reasonable ground of danger to the ship, or—
- Refusal to act.** (k.) Quits the ship which he has undertaken to pilot, before the service for which he was hired has been performed, without the consent of the master,—
- Quitting ship prematurely.**

Shall, for each offence, in addition to any liability for damages, be liable to a penalty not exceeding two hundred dollars, and suspension or dismissal by the pilotage authority of the district for which he is licensed; and every person who procures, abets or connives at the commission of such offence shall, for each offence, in addition to any liability for damages, be liable to a penalty not exceeding two hundred dollars, and if he is a licensed pilot, to suspension or dismissal by the pilotage authority of the district for which he is licensed. 36 V., c. 54, s. 70.

Liability to damages and penalty.

74. Every pilot who, when on board any ship for the purpose of piloting her, by breach or neglect of duty, or by reason of drunkenness, either—

Penalty on pilots endangering ship, or life, or limb of any person on board.

(a) Does any act tending to the immediate loss, destruction or serious damage of such ship, or tending immediately to endanger the life or limb of any person on board such ship, or—

(b.) Refuses or omits to do any lawful act proper and requisite to be done by him for preserving such ship from loss, destruction, or serious damage, or for preserving any person belonging to or on board of such ship from danger to life or limb,—

Is guilty of a misdemeanor and liable to imprisonment for a term not exceeding twelve months, with or without hard labor and, if a licensed pilot, to suspension or dismissal by the pilotage authority of the district for which he is licensed. 36 V., c. 54, s. 71.

75. A pilot shall be liable to suspension or dismissal by the pilotage authority of the district, for any of the offences mentioned in the next preceding section of this Act, upon such evidence as the said authority deems sufficient, and whether he has or has not been convicted of or indicted for such offence:

Evidence as to pilots guilty of certain offences.

2. In the pilotage district of Quebec any pilot shall have the right to appeal to the Superior Court for Lower Canada, from any judgment rendered against him by the pilotage authority; and for the purposes of such appeal the provisions contained in section seventy-three of the Act of the legislature of the late Province of Canada, passed in the twelfth year of Her Majesty's reign, chapter one hundred and fourteen, shall apply. 38 V., c. 28, s. 2.

Appeal in Quebec.

76. Whenever the pilotage authority of Quebec has power to dismiss or suspend a branch pilot for and below the harbor of Quebec, it may, instead of such punishment, fine such pilot in a sum not exceeding one hundred dollars, if it deems it advisable so to do in lieu of dismissing or suspending him. 40 V., c. 51, s. 7.

Power to substitute fine for suspension of a pilot.

Penalty on person endangering ship by misrepresentation of circumstances.

77. Every person who, by any misrepresentation of circumstances upon which the safety of a ship depends, or by using a license to which he is not entitled, becomes employed or endeavors to be employed to pilot such ship, or enables or endeavors to enable any other person to be so employed, or obtains or endeavors to obtain for himself or any other person the charge of such ship, shall, in addition to any liability for damages, be liable to a penalty not exceeding two hundred dollars, and, if a licensed pilot, to suspension or dismissal by the authority by whom he is licensed. 36 V., c. 54, s. 72.

Penalty on pilot demanding or receiving more than his legal dues.

78. Every licensed pilot who demands or receives any sum in respect of pilotage services greater than the dues for the time being demandable by law shall, for each offence, incur a penalty not exceeding forty dollars. 36 V., c. 54, s. 73.

PILOT BOATS.

Pilot boats to be licensed.

79. Every pilot boat regularly employed (elsewhere than in the pilotage district of Quebec) shall be approved and licensed by the pilotage authority of the district in which it is employed. 36 V., c. 54, s. 74.

Characteristics of decked pilot boat.

80. Every pilot boat, wholly or partly decked, shall have the following characteristics:—

Name.

(a.) On her stern, her name, the name of the owner, or if owned by more than one person the name of her managing owner, or if owned by a corporation the name of that corporation, and the port to which she belongs, painted in white letters at least one inch broad and three inches long, and on each bow the number of her license;

Color.

(b.) In all other parts, a black color, painted or tarred outside, or such other color or colors as the pilotage authority of the district, with the consent of the Minister, directs;

Flag.

(c.) When afloat during the day time, a flag (in this Act called a pilot flag) of large dimensions compared with the size of the pilot boat, and of two colors, the upper horizontal half white, and the lower horizontal half red; and at night one white light (in this Act called a pilot light),—such pilot flag or pilot light respectively to be placed at the mast head, or on a sprit or staff, or in some other equally conspicuous situation:

Responsibility of master.

And the master of every such wholly or partly decked pilot boat shall be responsible for the following particulars:—

(a.) That the pilot boat possesses all the above characteristics, and that the pilot flag and pilot light are kept clean and distinct, so as to be easily discerned at a reasonable distance;

(b.) That the names and numbers aforesaid are not at any time concealed or altered:

Penalty in default.

And if default is made in any of these particulars, he shall, for every such offence, incur a penalty not exceeding eighty dollars. 36 V., c. 54, s. 75;—40 V., c. 20, s. 1.

81. Every pilot boat, neither wholly nor partly decked, shall have the following characteristics :—

Characteristics of open pilot boat.

(a.) On her bow or stern her name, the name of her owner, the port or place at which her owner resides, and the number of her license, painted in white letters, at least two inches long, on a dark ground ;

(b.) When afloat during the day time, a flag (in this Act called a pilot flag) of large dimensions compared with the size of the pilot boat, and of two colors, the upper horizontal half white, and the lower horizontal half red :

And the master or person in charge of every such pilot boat shall be responsible for the following particulars :—

Responsibility of master.

(a.) That the pilot boat possesses all the last above mentioned characteristics, and that the pilot flag is kept clean and distinct, so as to be easily discerned at a reasonable distance ;

(b.) That the names and numbers aforesaid are not at any time concealed or altered :

And if default is made in any of these particulars, he shall, for every such offence, incur a penalty not exceeding forty dollars. 36 V., c. 54, s. 76.

Penalty in default.

82. Every pilot, when on board and in charge of any ship, as such pilot, shall display a pilot flag under the ensign of such ship, or in some other equally conspicuous situation, and if he fails so to do, shall incur a penalty not exceeding eighty dollars ; and the master of every such ship shall permit such flag to be displayed, and in default shall incur a penalty not exceeding eighty dollars. 36 V., c. 54, s. 77.

Pilot flag under ensign of ship piloted.

83. Whenever a licensed pilot, in the exercise of his calling as pilot, goes off in a boat or ship not in the pilotage service, he shall exhibit during the day time a pilot flag, and at night a pilot light, in order to show that such boat or ship has a licensed pilot on board ; and if he fails so to do, without reasonable cause (proof whereof shall lie on him), he shall, for every such offence, incur a penalty not exceeding two hundred dollars. 36 V., c. 54, s. 78 ;—40 V., c. 20, s. 2, *part.*

Licensed pilot to exhibit pilot flag and lights, though not in pilot boat.

84. If a boat or ship, not having a licensed pilot on board, displays a pilot flag or a pilot light, the owner or master of such boat or ship shall, for every such offence, incur a penalty not exceeding two hundred dollars. 36 V., c. 54, s. 79 ;—40 V., c. 20, s. 2, *part.*

Penalty on boat or ship not having a pilot on board displaying pilot flag or pilot lights.

PILOT FUND.

85. Every pilot for and above the harbor of Quebec, shall contribute to the Montreal Decayed Pilots' Fund five per cent. out of every sum of money he is entitled to receive for pilotage, until the Montreal Harbor Commissioners by by-law otherwise determine ; after which every such pilot shall

Contributions to Montreal Decayed Pilots' Fund.

contribute to the said fund, so much—not exceeding seven per cent. of all moneys, to which he is entitled under this Act for pilotage, as the Montreal Harbor Commissioners, by by-law from time to time, determine. 36 V., c. 54, s. 80.

Contributions
to the pilot
fund at
Quebec.

86. The treasurer of the corporation of pilots for and below the harbor of Quebec shall, on the first day in each month, set apart seven per cent. on all sums received by him during the then next preceding month for pilotage dues or dues for other services provided for by the pilots' tariff, earned by members of the said corporation; and may, from time to time, examine any such member on oath (which oath he is authorized and empowered to administer) as to the amount of any such dues received by him; and all sums so set apart by the said treasurer under this section shall form part of the pilot fund. 36 V., c. 54, s. 81.

Decayed
pilot fund
transferred to
corporation
of pilots.

87. The administration of the fund created by the Act of the late Province of Canada, passed in the twelfth year of Her Majesty's reign, chapter one hundred and fourteen, and other Acts relating thereto, for the support and maintenance of decayed pilots, their widows and children, shall be vested in the corporation of pilots for and below the harbor of Quebec, which shall have the same rights and powers as the Trinity House of Quebec possessed on the eighth day of April, one thousand eight hundred and seventy-five, in relation to the said fund, and shall administer the same conformably to the Acts hereinbefore referred to. 38 V., c. 55, s. 4.

Proviso: as to
investments.

88. The said corporation shall not invest any moneys belonging to the said fund otherwise than in Dominion stock or securities, or in stock of one or more of the chartered banks of Canada, or in such other way as is approved by the Minister. 38 V., c. 55, s. 5, *part*;—45 V., c. 32, s. 10.

Corporation
of pilots to
account to
the Minister
for pilot
fund.

89. The corporation of pilots for and below the harbor of Quebec shall, within seven days after the first day of January in each year, make a report to the Minister of their doings in relation to the Decayed Pilots' Fund, with an account of the assets and liabilities of the said fund and showing in detail their receipts and expenditure with respect to the same, and their investments of any moneys belonging thereto, with such further information and in such manner and form as the Minister, from time to time, prescribes. 38 V., c. 55, s. 5, *part, and* s. 15.

Penalty on
pilot giving
a false
account of his
earnings.

90. Every pilot, by or upon whom any contribution to any pilot fund is to be made or levied in proportion to his earnings, under any by-law of any pilotage authority duly confirmed and published, who gives a false account of his earnings or makes default in payment of any sum due from him as such contribution, shall forfeit double the amount so

payable, and shall also be liable, in the discretion of the pilotage authority of his district, to suspension or dismissal. 36 V., c. 54, s. 82.

91. Every pilot fund shall be applied as follows and in the following order, that is to say :— Application of pilot funds.

(a.) In payment of such necessary expenses as are duly incurred in the administration of such fund ;

(b.) In the payment of superannuation allowances, or other relief, for the benefit of those pilots licensed by the pilotage authority of the district, who are incapacitated by reason of age, infirmity or accident, and of the widows and children of pilots so licensed, or of such incapacitated pilots only. 36 V., c. 54, s. 83.

92. Every sum of money belonging to any pilot fund which has not been employed in such payments as aforesaid, including sums of money forming part of pilot funds now existing of which re-investment becomes necessary, shall be invested in Dominion stock or other Government securities, approved by the Governor in Council, in the name of the pilotage authority having control of the fund to which such sum of money belongs. 36 V., c. 54, s. 84. Investment of surplus of pilot funds.

CORPORATION OF PILOTS FOR AND BELOW THE HARBOR OF QUEBEC.

93. The chairman of the corporation of pilots for and below the harbor of Quebec shall be *ex-officio* a member of the corporation of the Quebec Harbor Commissioners, so far as respects pilotage matters, to which alone his powers as a commissioner shall extend. 38 V., c. 55, s. 7. Chairman to be a member of Harbor Commission for pilotage matters.

94. The board of directors of the corporation of pilots for and below the harbor of Quebec, shall have power, from time to time, to select any of the pilots, members of the said corporation, to be masters of any schooners under their control, and to remove them ; and every such pilot so selected who refuses or neglects to serve as such master until removed as aforesaid, shall incur a penalty of one hundred dollars, which shall be recoverable in the same manner and as other penalties incurred by pilots, and shall form part of the pilot fund. 36 V., c. 54, s. 85. Directors may appoint and remove masters of schooners belonging to the corporation.

95. Any pilot in charge as such master of a schooner employed in the pilotage district of Quebec, may, for neglect or omission in the discharge of his duties, on complaint brought against him by any person aggrieved, be condemned by the Quebec Harbor Commissioners to pay a penalty not exceeding forty dollars and costs,—recoverable and applicable in the same manner and form as other penalties incurred by pilots. 36 V., c. 54, s. 86. Penalty on master of schooner neglecting or omitting to do his duty as such.

Payment of directors and masters.

96. The board of directors of the corporation of pilots for and below the harbor of Quebec may pay out of the funds of the said corporation, to each of its directors, and shall pay to each of the masters of the schooners of the said corporation a remuneration not exceeding in any one year one hundred dollars over and above his share in the net income of the said corporation. 36 V., c. 54, s. 87.

One director to be always on duty at one of the pilot stations.

97. At all times during the season of navigation in the river St. Lawrence below Quebec, there shall be on duty and personally present at one of the pilot stations, one of the directors of the said corporation, whose duty it shall be—

Conduct of pilots.

(a.) To enforce the execution of the duties in regard to the embarkation and disembarkation of pilots, and the conduct of pilots and apprentices on board the pilot schooners;

Journal of such director.

(b.) To keep a journal of occurrences, and note therein the absence of any schooner from its station, and the time and cause and duration of such absence, and every time when and place where such schooner anchors, and the length of time she remains at anchor:

Copy for Harbor Commissioners.

2. Such journal, or a copy thereof, shall be transmitted monthly by the said board of directors to the Quebec Harbor Commissioners. 36 V., c. 54, s. 88.

INVESTIGATIONS.

Pilotage authorities may examine witnesses, &c., on oath.

98. The pilotage authority for any district shall, in all cases of inquiry or investigation made by them under this Act, or under any other Act or law, have full power to examine any person appearing before them to give evidence in such case on oath; and such oath may be administered by any member of such pilotage authority present at such inquiry or investigation. 45 V., c. 32, s. 1.

Inquiry into pilots' conduct above Harbor of Quebec.

99. Whenever any ship sustains damage through the fault of any branch pilot for and above the harbor of Quebec, the pilotage authority of the pilotage district of Montreal may, in its discretion, and upon such information as it deems expedient, and with or without complaint by any person, investigate the matter and declare the branch of such pilot forfeited: Provided, that in the case of inward bound ships no investigation shall be had after the expiry of thirty days from the happening of the damage or cause of complaint, or ten days from the arrival of the ship at its destination; and provided also, that in the case of outward bound ships, no investigation shall be had after the expiry of thirty days from the happening of the damage or cause of complaint, unless the owner or master of the ship, within six days after the arrival of the ship at its destination, mails a complaint to the pilotage authority aforesaid,—which complaint shall be investigated within thirty days after coming to the knowledge of the said pilotage authority. 45 V., c. 32, s. 3.

Proviso: in case of inward bound ships.

And in case of outward bound ships.

100. When any ship meets with any accident by reason of the fault of and while in charge of a pilot for and below the harbor of Quebec, the master, owner or consignee thereof, or other interested person may submit his complaint in respect thereto at any time thereafter, and the pilotage authority of the pilotage district of Quebec may, upon such information as it deems expedient and with or without complaint by any person, investigate the matter and declare the branch of such pilot forfeited: Provided, that in the case of inward bound ships, no investigation shall be had after the expiry of thirty days from the happening of the damage or cause of complaint, or ten days from the arrival of the ship at its destination; and provided also, that in the case of outward bound ships, no investigation shall be had after the expiry of thirty days from the happening of the damage or cause of complaint, unless the owner or master of the ship within six days after the arrival of the ship at its destination, mails a complaint to the pilotage authority aforesaid, which complaint shall be investigated within thirty days after coming to the knowledge of the said pilotage authority. 45 V., c. 32, s. 4.

Inquiry into pilots' conduct below harbor of Quebec.

Proviso: in case of inward bound ships.

And in case of outward bound ships.

RECOVERY AND APPLICATION OF PENALTIES.

101. Every penalty imposed by this Act or by any by-law made under this Act, or under any by-law existing at the time of the coming into force of this Act, may be recovered or enforced with costs by civil action or proceeding at the suit of the Crown only, or of any person suing as well for the Crown as for himself,—before any court having jurisdiction to the amount of the penalty, or in a summary manner before a stipendiary magistrate, police magistrate or two justices of the peace, under the Act intituled "*An Act respecting summary proceedings before Justices of the Peace*,"—upon the evidence of any one credible witness other than the plaintiff or person prosecuting: Provided always, that all penalties incurred under this Act shall, within the limits of the pilotage authority of Quebec, be sued for and recovered before the Quebec Harbor Commissioners, in the same manner as penalties were heretofore recovered and suits brought before the late Trinity House of Quebec. 36 V., c. 54, s. 18, part;—40 V., c. 51, s. 6, part.

Recovery of penalty.

In Quebec.

102. Every pecuniary penalty paid by a licensed pilot for an offence against the provisions of this Act, or a breach of any by-law made under this Act, or under any by-law existing at the time of the coming into force of this Act, shall be paid into and form part of the pilot fund of the pilotage district in which the offence or breach is committed, and if there is no such fund in such district, shall be paid and applied in such manner as the Governor in Council, from time to time, directs; and every pecuniary penalty paid by any person, other than a licensed pilot for any such offence

Penalties paid by pilots to go to pilot funds, if any.

Those paid by others to be applied as the Governor in Council directs.

or breach, shall be paid and applied in such manner as the Governor in Council, from time to time, directs, except in the pilotage district of Quebec, in which every such last mentioned pecuniary penalty shall be paid into and form part of the funds of the Quebec Harbor Commissioners. 36 V., c. 54, s. 89.

LIMITATION OF SUITS AND PROSECUTIONS.

No suit, &c., to be brought after twelve months from commission of offence.

103. No suit shall be brought or proceeding instituted for the recovery of any penalty or the infliction of any punishment for any offence against the provisions of this Act, or for any breach of any by-law made under this Act, or existing at the time of the coming into force of this Act, after six years from the date of the commission of such offence or breach. 36 V., c. 54, s. 90.

FIRST SCHEDULE.

FORM OF LICENSE TO PILOT.

CANADA.

Pilotage District of

We, being the pilotage authority having by law power to examine and license pilots for the pilotage district of , do hereby certify that of , having been duly examined by us, has been found in all respects duly qualified, and is deemed by us a fit person to undertake the pilotage of vessels of every description, within and throughout the said pilotage district of , and on this day of A.D., 18 , is by us licensed to act in that capacity.

This license shall not be lent or transferred.

Description of of

Age.	Height.	Complexion.	Color of Hair.	Color of Eyes.	Marks.	Remarks.

SECOND SCHEDULE.

FORM OF PILOTAGE CERTIFICATE.

CANADA.

Pilotage District of .

We, . being the pilotage authority having by law power to license pilots for the pilotage district of . do hereby certify that of . Master (*or Mate as the case may be*) of the . having been duly examined by us, has been found in all respects duly qualified, and is deemed by us a fit person to undertake the pilotage of the said . and of any vessel of her class of which he is acting as master (*or mate as the case may be*) at the time, but no other, within and throughout the following limits in the said pilotage district of . , that is to say (*here describe the limits*), and on this . day of A.D., 18 . , is by us licensed in that capacity.

This certificate is good for one year only, and shall not be lent or transferred.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 81.

An Act respecting Wrecks, Casualties and Salvage. A.D. 1886.

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

SHORT TITLE.

1. This Act may be cited as "*The Wrecks and Salvage Act.*" 36 V., c. 55, s. 1.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—
- (a.) The expression "the Minister" means the Minister of Marine and Fisheries ; Interpretation.
"Minister."
 - (b.) The expression "master" includes every person having command or charge of any vessel ; "Master."
 - (c.) The expression "ship" includes every description of vessel used in navigation not propelled by oars ; "Ship."
 - (d.) The expression "vessel" includes every description of vessel used in navigation ; "Vessel."
 - (e.) The expression "tackle" used in relation to a vessel, includes all furniture and apparel thereof ; "Tackle."
 - (f.) The expression "goods" includes wares and merchandise of every description ; "Goods."
 - (g.) The expression "receiver" means receiver of wreck ; "Receiver."
 - (h.) The expression "shipwrecked persons" includes persons belonging to or on board of any British or foreign vessel wrecked, stranded or in distress at any place within the limits of Canada ; "Shipwrecked
persons."
 - (i.) The expression "wreck" includes cargo, stores and tackle of any such vessel and of all parts of the vessel separated therefrom, and also the property of shipwrecked persons. 32-33 V., c. 38, s. 14 ;—36 V., c. 55, s. 3, s. 4, *part*, and s. 5, *part*. "Wreck."

SUPERINTENDENCE.

3. The Minister of Marine and Fisheries shall, throughout Canada, have the general superintendence of all matters relating to wrecks and to shipping casualties. 36 V., c. 55, s. 4, *part*. Minister to
have superin-
tendence.

INQUIRIES INTO WRECKS.

Inquiry to be instituted in cases of wreck and casualty.

4. In any of the cases following, that is to say :—

(a.) Whenever any ship is lost, abandoned or materially damaged on or near the lake, river or sea coasts of Canada, or any island or place adjacent thereto ;

(b.) Whenever any ship causes loss or material damage to any other ship on or near such coasts, island or place ;

(c.) Whenever, by reason of any casualty happening to or on board of any ship on or near such coast, island or place, loss of life ensues ;

(d.) Whenever any such loss, abandonment, damage or casualty happens elsewhere, and any competent witnesses thereof arrive or are found at any place in Canada ;

Who shall make it

The principal officer of customs residing at or near the place where such loss, abandonment, damage or casualty occurred, if the same occurred on or near the coasts of Canada, or any island or place adjacent thereto, but if elsewhere, at or near the place where such witnesses as aforesaid arrive, or are found, or can be conveniently examined, or any officer of the Government of Canada whom the Minister by his name or title of office, and without otherwise naming or designating him, appoints, or any other person appointed by the Minister, may make inquiry respecting such loss, abandonment, damage or casualty. 32-33 V., c. 38, s. 1 ;—37 V., c. 29, s. 4, *part.*

Powers as to inquiry.

5. Every such officer or person as aforesaid shall have the following powers, that is to say :—

Inspection of ship.

(a.) He may go on board any ship, and may inspect the same or any part thereof, or any of the machinery, boats, equipments, or articles on board thereof, the boarding or inspection of which appears to him to be requisite for the purpose of the inquiry he is required to make, not unnecessarily detaining any such ship from proceeding on any voyage ;

Entry.

(b.) He may enter and inspect any premises, the entry and inspection of which appears to him requisite for the purpose of the inquiry he is to make ;

Witnesses.

(c.) He may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him and examine for such purpose, and may require answers or returns to any inquiries he thinks fit to make ;

Documents.

(d.) He may require and enforce the production of all books, papers or documents which he considers important for such purpose ;

Oaths.

(e.) He may administer oaths, or may, in lieu of requiring and administering an oath, require every person examined by him to make and subscribe a solemn affirmation or declaration of the truth of the statement made by him in his examination :

2. Every witness so summoned shall be allowed such expenses as would be allowed to any witness attending on subpoena to give evidence before any court of record in the same Province of Canada; and in case of any dispute as to the amount of such expenses, the same shall be referred by such officer or person to the nearest prothonotary, clerk, master, or other taxing officer of any court of record within the jurisdiction of which the attendance is required, who, on a request made to him for that purpose under the hand of such officer or person, shall ascertain and certify the proper amount of such expenses :

Witness to be allowed expenses.

3. Every person who refuses to attend as a witness before any such officer or person, after having been required so to do in the manner hereby directed, and after having had a tender made to him of the expenses, if any, to which he is entitled as aforesaid, or who refuses or neglects to make any answer, or to give any return, or to produce any document in his possession, or to make or subscribe any solemn affirmation or declaration which any such officer or person requires, shall for each such offence incur a penalty not exceeding forty dollars; but no such witness shall be compelled to answer, or incur any penalty for refusing to answer, any question by his answer to which he might render himself liable to a criminal prosecution. 32-33 V., c. 38, s. 2.

Penalty for refusing to give evidence.

Proviso.

6. Every person who wilfully impedes any such officer or person in the execution of his duty, whether on board any ship or elsewhere, shall incur a penalty not exceeding forty dollars, and may be seized and detained by such officer or person, or by any person whom the said officer or person calls to his assistance, until such offender can be conveniently taken before some justice of the peace or other officer having jurisdiction. 32-33 V., c. 38, s. 3.

Penalty for obstructing officers in the execution of their duty.

7. Upon the conclusion of any such inquiry the officer or person who made the same shall send to the Minister, for the information of the Governor in Council, a report containing a full statement of the case, and of his opinion thereon, accompanied by such report of or extracts from the evidence and such observations as he thinks fit. 32-33 V., c. 38, s. 4.

Report to the Minister.

8. If it appears to the Governor in Council in any such case as aforesaid, either upon or without any such preliminary inquiry as aforesaid, or in any case of a charge of misconduct or incapacity brought by any person against any master or mate of any ship, that a formal investigation is requisite or expedient, the Governor in Council may appoint any officer or officers of the Government of Canada or any body corporate, commissioner or commissioners, constituted for any public purpose subject to the legislative authority of the Parliament of Canada, by his, its or their name or names or title or titles of office, or any other competent person or

Formal investigations in certain cases.

persons, to be a court or tribunal for the purpose of such investigation. 32-33 V., c. 38, s. 5;—37 V., c. 29, s. 4, *part.*

Powers of court or tribunal making investigation.

9. Such court or tribunal shall have the power of summoning before it any persons, and of requiring them to give evidence on oath, orally or in writing (or on solemn affirmation, if they are persons entitled to affirm in civil matters), and to produce such documents and things as such court or tribunal deems requisite to the full investigation of the matters into which it is appointed to examine; and such court or tribunal shall have the same power to enforce the attendance of witnesses and to compel them to give evidence, as is vested in any court of justice in civil cases; but no such witness shall be compelled to answer any question by his answer to which he might render himself liable to a criminal prosecution; and the proceedings of such court shall be assimilated as far as possible to those of ordinary courts of justice, with the like publicity. 32-33 V., c. 38, s. 6.

Privilege of witness.

Proceedings.

Such a court to be a court under section 242 of Merchant Shipping Act.

10. Every court or tribunal constituted under this Act, shall be in all respects a court or tribunal under sub-section five of the two hundred and forty-second section of "*The Merchant Shipping Act, 1854*," and the amendment made by the twenty-third section of the Act of the Parliament of the United Kingdom, known as "*The Merchant Shipping Act Amendment Act, 1862*." 32-33 V., c. 38, s. 7.

Members to take oath of office.

11. Every member of such court or tribunal so constituted, as aforesaid, before entering upon his duties as such shall take and subscribe an oath before a justice of the peace, well, faithfully and impartially, to execute the duties assigned to him by this Act. 32-33 V., c. 38, s. 8.

Report to Minister.

12. Upon the conclusion of every such investigation or as soon afterwards as possible, the court or tribunal shall send to the Minister a full report upon the case investigated, together with the evidence, and its judgment and opinions thereon, and such observations, as the court or tribunal thinks fit to make, and shall state in open court the decision to which it has come with respect to cancelling or suspending any certificate; and the Minister of Marine and Fisheries shall, upon the receipt of the evidence and the opinion of the court thereon, after due notice has been given and a copy of the opinion of the court has been supplied to the person interested, or his agent, if he is found, confirm, alter or set aside the judgment, as he thinks fit; and his decision shall be final, unless the casualty to which the investigation relates affects a ship registered elsewhere than in Canada, or the certificate to which the suspension or cancellation relates has been granted under the authority of "*The Merchant Shipping Act, 1854*," or any Act amending the same, or of "*The Merchant Shipping (Colonial) Act, 1869*,"—in any of which

Decision to be stated in open court.

Minister may confirm, alter or set aside judgment.

cases "*The Merchant Shipping (Colonial Inquiries) Act, 1882*," shall apply. 32-33 V., c. 38, s. 9;—47 V., c. 22, s. 1.

13. Every such court or tribunal may, if it thinks proper, require any master or mate possessing a certificate of competency or service, whose conduct is called in question, or appears to it likely to be called in question in the course of any investigation before it, to deliver such certificate to it, and it shall hold the certificate so delivered until the conclusion of the investigation, and shall then forward the same to the Minister; and if any master or mate fails to deliver his certificate when so required, he shall incur a penalty not exceeding two hundred dollars. 32-33 V., c. 38, s. 10.

Masters or mates may be required to give up certificates to be held until close of investigation.

14. The Governor in Council may, from time to time, by warrant, order and direct that any expenses incurred under the provisions of this Act shall be defrayed out of any moneys appropriated by Parliament for that purpose, or for the purpose of defraying unforeseen expenses. 32-33 V., c. 38, s. 11.

Expenses, how to be defrayed.

APPOINTMENT OF RECEIVERS OF WRECK.

15. The Governor in Council may, from time to time, appoint any officer of customs or, when it appears to him more convenient, any other person, to be a receiver of wreck, and may, from time to time, remove any such receiver, and may also, from time to time, by Order in Council, establish, alter or abolish districts for the purposes of this Act, and assign a district to any receiver, and vary such district, from time to time, and may, from time to time, make and vary regulations for the conduct of receivers, subject to the provisions of this Act:

Appointment of receivers of wreck.

2. If, at any time, there is not any receiver appointed for any district in which the city of Quebec, the city of Halifax, or the city of St. John is included, then the agent of the Department of Marine and Fisheries at such city shall be the receiver for such district; and if, at any time, there is not any receiver appointed for any other district, then the principal officer of customs at the principal port in such district, shall be the receiver for such district. 36 V., c. 55, s. 4, *part.*

Receivers *ex officio* where none specially appointed.

16. A receiver acting in execution of his duties, in pursuance of this Act, shall have all the powers and authorities of a principal officer of customs or other person acting or appointed under the foregoing provisions of this Act, and any person who wilfully impedes a receiver in the execution of his duty or makes default in appearing or giving evidence before him, shall be subject to the like penalties as if the receiver was a principal officer of customs or other person acting or appointed under the said provisions. 36 V., c. 55, s. 4, *part.*

Powers of receivers as to inquiries.

VESSELS WRECKED OR IN DISTRESS.

Powers as to vessels stranded or in distress.

17. When any British or foreign vessel is wrecked, stranded or in distress at any place within the limits of Canada, the receiver shall, upon being made acquainted with such stranding or distress, forthwith proceed to such place; and upon his arrival there he shall take the command of all persons present, and shall assign such duties and issue such directions to each person as he thinks fit for the preservation of such vessel, and of the lives of shipwrecked persons, and of the wreck:

Penalty for disobeying him.

2. Every person who disobeys such directions of the receiver shall incur a penalty not exceeding two hundred dollars. 36 V., c. 55, s. 5, *part.*

Not to take charge contrary to wish of master or owner.

18. Nothing in this Act shall be construed to authorize the receiver to take charge of any ship, cargo or materials contrary to the expressed wish of the master or owner of such ship or cargo, or of their agents. 36 V., c. 55, s. 5, *part.*

Further power of the receiver.

19. The receiver may, with a view to the preservation of the vessel, or of the shipwrecked persons or wreck, do all or any of the following things, that is to say:—

(a.) Require such persons as he thinks necessary to assist him;

(b.) Require the master of any vessel near at hand to give such aid with his men or vessel as is in his power;

(c.) Demand the use of any wagon, cart, horses, tackle, ropes or appliances that are near at hand:

Penalty for disobedience.

2. Every person who refuses, without reasonable cause, to comply with any such requisition or demand, so made as aforesaid, shall for every day on which he refuses, incur a penalty not exceeding twenty dollars. 36 V., c. 55, s. 6.

Passage over adjoining lands.

20. Whenever any vessel is wrecked, stranded or in distress within the limits of Canada, all persons may, for the purpose of rendering assistance to such vessel, or of saving the lives of the shipwrecked persons or any wreck, unless there is some public road equally convenient, pass and re-pass, either with or without carriages or horses, over any adjoining lands, without being subject to interruption by the owner or occupier,—so that they do as little damage as possible; and may also, on the like condition, deposit on such lands any wreck saved. 36 V., c. 55, s. 7, *part.*

As to damages by such passage.

21. All damage sustained by any owner or occupier in consequence of any such passing, repassing or deposit as aforesaid, shall be a charge on the vessel or wreck in respect of or by which such damage was occasioned, and shall, in default of payment, be recoverable in the same manner as salvage is by this Act made recoverable; and the amount payable in respect thereof shall, in case of dispute, be deter-

mined in the same manner as the amount of salvage is by this Act, in case of dispute, directed to be determined: Proviso. Provided, that no such compensation shall be recoverable in respect of damage to any gate, wall, fence or other obstruction which has been unreasonably erected or placed by such owner or occupier so as to impede such passing, repassing or deposit. 36 V., c. 55, s. 7, *part.*

22. Every owner or occupier of any land over which any person is hereby authorized to pass or repass, who does any of the acts following, by himself or his servants, that is to say:— Penalty for certain acts of obstruction.

(a.) Impedes or hinders such person from so passing or repassing, with or without carriages, horses and servants, by locking his gates, or refusing, upon request, to open the same, or otherwise howsoever; or—

(b.) Impedes or hinders the deposit of any wreck; or—

(c.) Prevents such wreck from remaining so deposited for a reasonable time until the same can be removed to a safe place of public deposit,—

Shall for every such act incur a penalty not exceeding four hundred dollars. 36 V., c. 55, s. 7, *part.*

23. Whenever any vessel is wrecked, stranded or in distress within the limits of Canada, and any person plunders, creates disorder or obstructs the preservation of the vessel, or of the shipwrecked persons or wreck, the receiver may cause such person to be apprehended and kept in custody until he can conveniently be taken before a justice of the peace to be dealt with according to law; and may use force for the suppression of any such plundering, disorder or obstruction, and may command all Her Majesty's subjects to assist him in the use of such force; and if, when the receiver or any person acting under his orders is engaged in the execution of the duties by this Act committed to the receiver, any person resists such receiver or person, and is killed, maimed or hurt by reason of such resistance, such receiver and other person are hereby fully indemnified as well against Her Majesty as against every person so maimed or hurt, and the representatives of any person so killed. 36 V., c. 55, s. 8. Power of receiver to suppress plunder and disorder by force.

24. Whenever any vessel is wrecked, stranded or in distress within the limits of Canada, every person not being a receiver, or a person acting for or under the orders of a receiver, who, without the leave of the master of such vessel, endeavors to board the same, may be repelled by force; and the master and every person under his orders so repelling such person by force are hereby indemnified for so doing. 36 V., c. 55, s. 9. Provision as to persons killed, &c., while resisting.

25. When a receiver is not present, the following officers or persons in succession, each in the absence of the other, in Certain officers to exercise powers of

receiver in
his absence.

the order in which they are named, that is to say, any principal officer of customs, fishery officer, or stipendiary magistrate on board of any vessel belonging to or in the service of the Government of Canada and employed in the service of protecting the fisheries, officer of inland revenue, sheriff, justice of the peace, commissioned officer on full pay in the naval service of Her Majesty, or commissioned officer on full pay in the military service of Her Majesty, or lighthouse keeper employed by the Government of Canada, may do all matters and things by this Act authorized to be done by the receiver, for the preservation of vessels, shipwrecked persons and wreck, with this exception,—that, with respect to any wreck, the delivery of which to the receiver is hereby required, any officer or person so acting shall be considered as the agent of the receiver, and shall place the same in the custody of the receiver; and he shall not be entitled to any fees payable to receivers, or be deprived by reason of his so acting of any right to salvage to which he would otherwise be entitled :

Saving of fees
and right to
salvage.

Persons act-
ing under *ex*
officio re-
ceivers.

2. Every person acting under the orders of an officer or person acting in pursuance of the provisions of this section shall, for the purposes of this Act, be deemed to be acting under the orders of a receiver. 36 V., c. 55, s. 10.

WRECK.

Rules for per-
sons finding
wreck in
Canada.

26. Whenever any person takes possession of wreck within the limits of Canada, he shall, as soon as possible, deliver the same to the receiver: Provided, that the Minister may, if he thinks fit, dispense with such delivery in the case of any wreck, upon such conditions, as he thinks fit. 36 V., c. 55, s. 11, *part.*

Penalty for
failing to
deliver wreck,
&c.

27. Every person taking possession of wreck within the limits of Canada, who—

(a.) Fails to deliver the same to the receiver, in pursuance of the next preceding section; or—

(b.) Whenever the Minister has dispensed with such delivery upon any conditions, does not either comply with such conditions or deliver the wreck to such receiver as soon as possible,—

Shall forfeit any claim to salvage, and shall be liable to pay as a penalty double the value of such wreck, and a further sum not exceeding four hundred dollars. 36 V., c. 55, s. 11, *part.*

Notice of
wreck to be
given by
receiver.

28. Every receiver shall, within forty-eight hours after taking possession of any wreck, cause to be posted up in the custom house nearest to the place where such wreck was found or was seized by, or delivered to him, a description of the same and of any marks by which it is distinguished; and shall also transmit a similar description to the Minister,

who may give such publicity to the same as he sees fit.
36 V., c. 55, s. 12.

29. The owner of any wreck in the possession of the receiver, upon establishing his claim to the same to the satisfaction of the Minister, within one year from the time at which such wreck came into the possession of the receiver, shall, upon paying the salvage, fees and expenses due, be entitled to have such wreck or the proceeds thereof delivered up to him or his agent; and if any such wreck is proved, to the satisfaction of the Minister, to belong to a foreign owner, the consul general in Canada of the country to which the owner of such wreck belongs, or any consular officer of that country authorized in that behalf by any treaty or arrangement with such country, shall, in the absence of the owner or his agent, be deemed to be the agent of the owner, so far as relates to the custody and disposal of the wreck. 36 V., c. 55, s. 13.

Owner may claim wreck within one year.

Foreign consul to be deemed agent

30. The following provisions shall have effect with respect to the sale of wreck, that is to say:—

(a.) If in the opinion of the receiver it is for the advantage of all parties to sell wreck in his custody or if such wreck consists of goods of a dangerous nature, he may sell the same; and the proceeds of such sale, after defraying the expenses thereof, shall be held by the receiver for the same purposes and subject to the same claims, rights and liabilities as if the wreck had remained unsold;

(b.) If the owner of any wreck is known or has established his title to the same, but neglects to pay the salvage, fees or expenses due thereon for twenty days after notice in writing from the receiver, the receiver may sell such wreck, or a sufficient part thereof, and may, out of the proceeds of such sale, after defraying the expenses of sale, pay the salvage, fees and expenses due, and shall pay or deliver the surplus, if any, of the proceeds or of the wreck to the persons entitled to receive the same. 36 V., c. 55, s. 14.

Power to receiver to sell wreck:

If for general advantage or if goods are dangerous.

If salvage is not paid.

UNCLAIMED WRECK.

31. If no owner establishes a claim to wreck before the expiration of a year from the date at which the same has come into the possession of the receiver, such wreck, if unsold, shall be sold by such persons and in such manner as the Minister directs;—and the proceeds thereof, after payment of expenses, costs, fees and salvage, shall be paid over to the Minister of Finance and Receiver General, to form part of the Consolidated Revenue Fund of Canada. 36 V., c. 55, s. 15.

Sale of unclaimed wreck.

CLAIMS TO WRECK.

32. Upon delivery of wreck or payment of the proceeds of wreck by a receiver, in pursuance of the provisions of

Delivery of wreck by receivers not to

prejudice
title.

this Act, such receiver shall be discharged from all liability in respect thereof; but such delivery or payment shall not prejudice or affect any question which is raised by third parties concerning such wreck. 36 V., c. 55, s. 16.

Interpleader
in case of
wreck.

33. Whenever two or more persons claim any wreck or proceeds of wreck of any value or amount in the possession of a receiver, any court sitting, and having jurisdiction in civil matters to the value or amount of the wreck or proceeds in question, in the district of such receiver, may, on the application of such receiver, or of any of such persons, summon such persons before it, and may hear and adjudicate upon their claims, and may make such order between the parties in respect thereof, and of the costs of the proceedings, as to such court seems fit; and such order may be enforced in like manner as any order made in any suit brought in the same court. 36 V., c. 55, §. 17.

MARINE STORE DEALERS.

Regulations
for marine
store dealers.

34. Every person dealing in, buying and selling any of the articles following, that is to say: old anchors, cables, sails, junk or iron, or marine stores of any kind, shall be subject to the following provisions:—

Name to be
painted on
shop.

(a) He shall have his name, together with the words "dealer in marine stores," distinctly painted, in letters of at least three inches in length and two inches in breadth, on some conspicuous part of each warehouse, shop, store or place of deposit belonging to him;

Books to be
kept.

(b.) He shall keep a book or books fairly written, and shall enter therein an account of all such articles as he, from time to time, becomes possessed of, and a statement in respect of each article, describing the character thereof and of any marks thereon, and of the time at which and the person from whom he purchased or received the same, and a description of the business and place of abode of such person;

Production of
books.

(c.) He shall, at all times when required by the receiver for the district in which he carries on business, whether or not the receiver has a warrant for search or inspection, produce and deliver up to the receiver every book kept in pursuance of the provisions of this Act, and shall allow such receiver to inspect and take copies of the same:

Penalty for
infraction.

2. Every person who makes default in observing the provisions aforesaid, shall, for the first offence, incur a penalty not exceeding forty dollars; and for every subsequent offence a penalty not exceeding two hundred dollars. 36 V., c. 55, s. 18.

Not to pur-
chase from
certain per-
sons.

35. Every person who deals in the purchase of old marine stores of any description, including anchors, cables, sails, junk, iron, copper, brass, lead and other marine stores, and who, by himself or his agent, purchases any old marine

stores from any person under the age of sixteen years, shall, on summary conviction, be liable to a penalty of four dollars for the first offence and of six dollars for every subsequent offence :

2. Every such person who, by himself or his agent, purchases or receives any old marine stores into his shop, premises or places of deposit, except in the day time, between sunrise and sunset, shall, on summary conviction, be liable to a penalty of five dollars for the first offence and of seven dollars for every subsequent offence :

3. Every person purporting to be a dealer in old marine stores, on whose premises any such stores which were stolen are found secreted, is guilty of a misdemeanor. 32-33 V., c. 21, s. 109.

OFFENCES IN RESPECT OF WRECK.

36. Every person who does within the limits of Canada any of the acts following, that is to say :—

(a.) Prevents, impedes or endeavors to prevent or impede any shipwrecked person in his endeavor to save his life, or prevents, impedes or endeavors to prevent or impede any person in his endeavor to save the life of any shipwrecked person,

(b.) Prevents, impedes or endeavors to prevent or impede the saving of any vessel which is wrecked, stranded, abandoned, or in distress, or prevents, impedes or endeavors to prevent or impede, any person in his endeavor to save such vessel,

(c.) Steals or maliciously destroys any wreck, or—

(d.) Sells any vessel or wreck found within the limits of Canada, not having a lawful title thereto,—

Is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 20, s. 16 ;—32-33 V., c. 21, s. 66 ;—32-33 V., c. 22, s. 57 ;—36 V., c. 55, s. 19.

37. Every person who within the limits of Canada does any of the acts following, that is to say :—

(a.) Boards any vessel which is wrecked, stranded or in distress, against the will of the master, unless the person so boarding is, or acts by command of, the receiver,

(b.) Assaults any receiver or any person acting as a receiver in the exercise of his duty for the preservation or assistance of any such vessel, or of wreck, or assaults any person acting by command of a receiver in the exercise of his duty as aforesaid,

(c.) Prevents, impedes or endeavors to prevent or impede the saving of any wreck,

(d.) Secretes any wreck, or defaces or obliterates the marks thereon, or uses means to disguise the fact that it is wreck, or in any manner conceals the character thereof, or the fact

that the same is such wreck, from any person entitled to inquire into the same,

Illegally receiving wreck.

(e.) Receives any wreck, knowing the same to be wreck, from any person other than the owner thereof or the receiver, and does not within forty-eight hours inform the receiver thereof,

Or offering wreck for sale.

(f.) Offers for sale or otherwise deals with any wreck knowing it to be wreck, not having a lawful title to sell or deal with the same, or—

Or retaining wreck.

(g.) Keeps in his possession any wreck, knowing it to be wreck, without a lawful title so to keep the same, for any time longer than the time reasonably necessary for the delivery of the same to the receiver,—

Punishment.

Is guilty of a misdemeanor and liable to two years' imprisonment,—or of an offence against this Act, and liable, on summary conviction before any two justices of the peace, to a penalty not exceeding four hundred dollars, or to imprisonment for any term not exceeding six months. 32-33 V., c. 20, s. 38 ;—36 V., c. 55, s. 20.

Venue and evidence in prosecutions for offences in respect of wreck.

38. Any person charged with a felony or misdemeanor under this Act may be indicted and prosecuted, and the venue may be laid in any county or district; and in any indictment or prosecution under this Act, for any felony or misdemeanor in respect of wreck, it shall not be necessary to lay the property in any person, or to identify the alleged wreck as part of any particular vessel or wreck coming from any particular vessel, or as the property of any particular person. 36 V., c. 55, s. 21, *part.*

Trial of offenders.

39. Every penalty, forfeiture or punishment, for any offence against this Act, not hereby declared to be a felony or misdemeanor, may be imposed, adjudged and recovered, on summary conviction, before any two justices of the peace, or any magistrate having the powers of two justices of the peace. 36 V., c. 55, s. 21, *part.*

Indictments for certain offences.

40. In any indictment or prosecution for receiving, secreting or disguising any wreck, or for having the possession thereof, or for selling or dealing therewith, or for defacing or obliterating marks thereon (unless the accused shows that he was possessed of the same for more than twelve months before the date of the indictment or the commencement of the prosecution), it shall lie upon the accused to show that he did not know, and had not the means of knowing the same to be such wreck, or that he was lawfully possessed of or entitled to sell or deal with the same; and in any indictment or prosecution for secreting, defacing, receiving, possessing, selling, dealing with or concealing the character of any wreck, evidence may be given, either before or after verdict, of any former conviction of the accused for any of the said offences. In any proceeding under this section the

Accused may be examined.

accused may, if he thinks fit, be sworn and examined as a witness in the case. 36 V., c. 55, s. 21, *part*.

41. When a receiver suspects that any wreck is secreted or concealed by or is wrongfully in the possession of any person, he may apply to any justice of the peace for a search warrant, and such justice shall have power to grant such warrant, by virtue whereof it shall be lawful for the receiver to enter (and if need be by force) any house, building and place, whether enclosed or unenclosed, and any vessel, and to search for, remove and detain any wreck there kept or secreted; and if any wreck is discovered, and the person in whose possession and on whose premises the same is found fails, on being summoned, to appear before two justices of the peace, to prove to the satisfaction of such justices that he was lawfully entitled to the possession of such wreck, he shall be liable to a penalty not exceeding eighty dollars for the first offence,—and for every subsequent offence shall be liable, at the discretion of the justices, either to a penalty not exceeding two hundred dollars or to imprisonment, with hard labor, for any term not exceeding three months; but the justices may, if they think fit, commit him for trial for a misdemeanor under this Act: if any such discovery as aforesaid is made in consequence of information given by any person to the receiver, the informer shall be entitled, by way of salvage, to such sum not exceeding eighty dollars as the receiver allows under instructions from the Minister. 36 V., c. 55, s. 22.

Summary procedure for concealment of wreck.

Penalty.

Subsequent offence.

Salvage to informer.

SALVAGE.

42. When services are rendered within the limits of Canada in saving life from any vessel, there shall be payable to the salvor by the owner of the vessel, freight, cargo, stores and tackle, a reasonable sum for salvage and expenses, in priority to all other claims for salvage; and in cases in which such vessel, stores, tackle and cargo are destroyed, or the value thereof, with the freight, if any, is insufficient, after payment of the actual expenses incurred to pay the amount of such salvage, the Minister may, in his discretion, award to the salvor, out of any funds at his disposal for that purpose, such remuneration as he thinks fit. 36 V., c. 55, s. 23

Salvage to be payable for saving life.

43. When, within the limits of Canada, any vessel is wrecked, abandoned, stranded or in distress, and services are rendered by any person in assisting such vessel, and when services are rendered as aforesaid by any person in saving any wreck, there shall be payable to the salvor by the owner of such vessel or wreck, as the case may be, a reasonable amount of salvage, including expenses properly incurred. 36 V., c. 55, s. 24.

Salvage of cargo or wreck.

PROCEDURE IN SALVAGE.

Jurisdiction
in case of dis-
putes as to
salvage.

If amount
claimed does
not exceed
\$100 or value
\$250.

Appeal.

Proviso.

In other cases.

As to costs.

Definitions.

Proceedings
for salvage,
how to be
commenced.

Valuation of
property.

44. Disputes as to salvage, whether of life or property, shall be heard and determined as follows, and not otherwise, that is to say:—

(a.) If either the amount claimed does not exceed one hundred dollars, or the value of the property liable or alleged to be liable for the salvage does not exceed two hundred and fifty dollars, or if the parties consent in writing, the dispute shall be heard and determined by the receiver of the district where the services were rendered or where the property liable is, at the time of the making of the claim, and his award shall include fees and costs: but if any party feels aggrieved by the award of such receiver, the party so aggrieved may appeal to the Minister, within thirty days after the decision of the receiver from which the appeal is made: Provided always that the appellant shall, within seven days after the cause of appeal has arisen, give notice to the other party and to the receiver of his intention to appeal, and of the grounds of such appeal:

(b.) In other cases, the dispute may be heard and determined by any court having jurisdiction in civil matters to the amount of the claim or value of the property liable, in the place where the services were rendered, or where the property is at the time of the making of the claim:

2. If in any suit or proceeding for salvage in any court the claimant recovers an amount less than the maximum amount which might be claimed before the receiver, then, unless the court certifies that such suit or proceeding was unfit to be determined by the receiver, the claimant shall have no costs, charges or expenses incurred by him in the prosecution of his claim, and shall pay to the other party such costs, charges and expenses, if any, as the court directs:

3. The amount of the claim means, for the purposes of this section, the amount claimed in the proceeding or suit before the receiver, or in the court in which the suit or proceeding is taken; and the value of the property liable means the value of the property when first brought into safety by the salvors. 36 V., c. 55, s. 25.

45. Every dispute as to salvage which arises in Canada, when the services have been rendered therein, may be heard and determined, on the application either of the salvor or of the owner of the property liable to the claim for salvage, or when the property is in the custody of the receiver, on his application; and if no proceedings have been brought by the salvor, the owner may make application as aforesaid to the receiver or court having jurisdiction, according to the value of the property liable. 36 V., c. 55, s. 26.

46. When any dispute as to salvage arises in Canada, the receiver of the district where the property liable is situate shall, on the application of either party, appoint a valuer to

value such property, and shall give copies of the valuation to both parties; and any copy of such valuation, purporting to be signed by the valuer, and to be certified as a true copy by the receiver, shall be admissible as evidence in any subsequent proceeding, and shall, for the purpose of giving jurisdiction in salvage, be conclusive evidence of the value at the time of such valuation; and there shall be paid in respect of such valuation such fee as the Minister, from time to time, directs. 36 V., c. 55, s. 27.

47. A receiver may seize any property found within his district and alleged to be liable for salvage; and may detain such property until either the salvage, fees and costs due thereon are ascertained and paid, or process is issued for the arrest or detention thereof by some competent court, or security is given to his satisfaction for such salvage, fees and costs. 36 V., c. 55, s. 28, *part.*

Property liable for salvage may be seized and detained by receiver.

48. If the value of the property does not exceed two hundred and fifty dollars, any question as to the amount of the security to be given, or as to the sufficiency of the sureties, may be determined by the receiver; or if such value exceeds two hundred and fifty dollars, any such question may be determined upon the application either of the owner of the property or of the salvors or any of them, or of such receiver, by any court having, in the district of such receiver, jurisdiction in civil matters to the amount of the value of the property in question: Security.

2. If the property has not been valued, the value for the purposes of this section shall be determined by such receiver, or by a valuer appointed by him as aforesaid. 36 V., c. 55, s. 28, *part.* Value.

49. Security given for salvage in pursuance of the two sections next preceding may be enforced by a court competent to entertain a suit for such salvage, in the same manner as if bail had been given in such court; and whenever under the provisions of this Act, the determination of disputes as to such salvage is to be made by a receiver, any such security may be enforced in the manner aforesaid by any court competent to entertain a suit for such salvage, having jurisdiction in the district of such receiver. 36 V., c. 55, s. 28, *part.* Enforcing security.

50. Whenever any dispute as to salvage arises before a receiver under the provisions of this Act, the receiver shall hear and determine the same; and if, after he has made and published his award, the salvage, fees and costs by him awarded to be paid, are not paid within fourteen days, he may sell the property liable for such salvage, fees and costs, or a sufficient part thereof, and out of the proceeds defray the expenses of the sale and the salvage, fees and costs awarded, Procedure in disputes as to salvage before a receiver.

and shall pay or deliver up the surplus, if any, to the owners of the property or other persons entitled thereto. 36 V., c. 55, s. 29.

Apportionment of salvage.

51. Whenever the aggregate amount of salvage payable in respect of any services has been finally determined by a receiver or court, or by admission or agreement, such amount may be apportioned and distributed as follows, that is to say :—

When determined by a receiver.

(a.) If the amount has been determined by a receiver, the receiver may apportion the same among the persons entitled thereto in such manner as he thinks just; but any person aggrieved may appeal from his decision to the Minister;

When determined by a court.

(b.) If the amount has been determined by any court having jurisdiction, such court may direct the amount to be apportioned among the persons entitled thereto in such manner as such court thinks just, and may appoint any person to carry the apportionment into effect; and such court may compel any person in whose hands or under whose control such amount is, to distribute the same, or to bring the same into court, to be dealt with as the court directs, and may for the purposes aforesaid issue such orders as the court thinks fit,

When disputes arise after admission or agreement.

(c.) If the amount has been finally ascertained by admission or agreement, but a dispute arises or is apprehended as to the apportionment thereof among several claimants, the person liable to pay such amount may pay the same, if it does not exceed one hundred dollars (or in any case if the claimants so agree), to a receiver, or, if it exceeds one hundred dollars, into any court having jurisdiction; and such receiver or court shall receive and apportion the same, and shall grant to the person paying the same a certificate of the amount paid and of the services in respect of which it is paid; and such certificate shall be a full discharge and indemnity to such person, and to all his property liable in respect of such services, against all persons, parties to or bound by such admission or agreement. 36 V., c. 55, s. 30.

Enforcement of salvage when the property is under arrest in another suit.

52. When any salvage, fees, charges or costs, in relation to salvage, are awarded or declared to be due by a receiver or any court having jurisdiction in salvage, and the property liable or the proceeds thereof is or are under arrest in a different suit, in a court not being the same court by which such salvage, fees, charges or costs have been awarded, then such salvage, fees, charges and costs shall be enforced against the property or proceeds so under arrest, by the court in which the same is or are under arrest. 36 V., c. 55, s. 31.

FEEES OF RECEIVERS OF WRECK.

Receiver's fees.

53. There shall be paid to every receiver the expenses properly incurred by him in the performance of his duties, and also in respect of the several matters specified in the schedule to this Act, such fees, chargeable as therein men-

tioned, and not exceeding the amounts therein mentioned, as are, from time to time, directed by the Governor in Council ; and the receiver shall, in addition to all other rights and remedies for the recovery of such expenses or fees, have the same rights and remedies which a salvor has in respect of salvage due to him ; and may, if the property in respect of which any such expenses or fees are due, is not under arrest in any court, seize or detain such property until the same are paid, or until security is given for the same to his satisfaction. 36 V., c. 55, s. 32, *part.*

Recovery thereof.

54. Whenever any dispute arises in any part of Canada as to the amount payable to any receiver in respect of expenses or fees, such dispute shall be determined by the Minister, whose decision shall be final ; and all fees received by any receiver appointed under this Act, in respect of any of the matters in the schedule to this Act mentioned, may be retained by him for his own remuneration. 36 V., c. 55, s. 32, *part.*

Disputes as to fees or expenses, how settled.
Fees to receivers under schedule.

GENERAL PROVISIONS.

55. The jurisdiction conferred by this Act on any civil court may be exercised either by proceedings *in rem* or by proceedings *in personam*. 36 V., c. 55, s. 34.

Proceedings *in rem* or *in personam*.

56. Nothing in this Act shall be construed to affect the jurisdiction of any court of Vice Admiralty in Canada in any matter or case, civil or criminal. 32-33 V., c. 38, s. 13 ;— 36 V., c. 55, s. 35.

Jurisdiction of Vice Admiralty saved.

57. The Ministers of Customs and of Inland Revenue may permit all goods saved from any vessel stranded or wrecked within the limits of Canada on its inward voyage to be forwarded to the port of its original destination, and all goods saved from any ship stranded or wrecked within Canada on her outward voyage to be returned to the port at which the same were shipped,—taking such security for the due protection of the revenue in respect of such goods as they think proper. 36 V., c. 55, s. 36.

Duties on wreck.

Security.

SCHEDULE.

FEEs OF RECEIVERS.

Maximum fees to be charged by Receivers in addition to expenses properly and necessarily incurred.

	\$	cts.
1. For every inquiry instituted by a receiver with respect to any shipping casualty, whatever is the number of persons examined, a fee not exceeding.....	8	00
<i>To be charged on the vessel or cargo in respect of which the examination is instituted.</i>		

- | | \$ | cts. |
|---|----|------|
| 2. For furnishing copy of evidence per one hundred words | 0 | 20 |
| 3. For every salvage dispute heard and determined by the receiver, in which the claim does not exceed one hundred dollars, or the value of the property saved does not exceed two hundred and fifty dollars, a sum not exceeding..... | 5 | 00 |
| <i>To be charged on the property saved.</i> | | |
| 4. For all other cases in which salvage disputes are heard and determined by the receiver..... | 10 | 00 |
| <i>To be charged on the property saved.</i> | | |
| 5. For wreck received or taken by the receiver into his custody, a percentage of five per cent. upon the value thereof: | | |
| But so that in no case shall the whole amount of percentage so payable exceed eighty dollars. | | |
| <i>To be charged on the wreck or derelict.</i> | | |
| 6. For every sale of wreck conducted by a receiver, a sum not exceeding one per cent. on the value thereof. | | |
| <i>To be charged on the proceeds of sale.</i> | | |
| 7. For copies of certificates of valuation, when the value of the property is under three thousand dollars, a sum not exceeding..... | 4 | 00 |
| In other cases:..... | 8 | 00 |
| <i>To be charged on the property valued.</i> | | |
| 8. In cases where any services are rendered by a receiver in respect of any vessel in distress, not being wrecked, or in respect of the cargo or other articles belonging thereto, the following fees instead of a percentage; that is to say,— | | |
| If such vessel with her cargo, equals or exceeds in value three thousand dollars, the sum of eight dollars for the first, and the sum of four dollars for every subsequent day during which the receiver is employed on such service; but if such vessel, with her cargo, is less in value than three thousand dollars, one half of the above mentioned sum : | | |
| But so that in no case shall the whole amount exceed one hundred dollars. | | |
| <i>To be charged on such vessel or articles.</i> | | |

36 V., c. 55, 2nd sched



CHAPTER 82.

An Act respecting the liability of Carriers by Water. A.D. 1886.

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

1. In this Act, unless the context otherwise requires,—

(a.) The expression “goods” means and includes goods, wares, merchandise, and articles of any kind whatsoever; Interpretation. “Goods;”

(b.) The expression “valuable securities” includes every document forming the title or evidence of the title to any property of any kind whatsoever. “Valuable securities.” 37 V., c. 25, s. 3.

2. Carriers by water shall, at the times and in the manner and on the terms of which they have respectively given public notice, receive and convey according to such notice, all persons applying for passage, and all goods offered for conveyance, unless in either case there is reasonable and sufficient cause for not doing so: Carriers by water to receive and convey passengers and goods.

2. They shall be responsible not only for goods received on board their vessels, but also for goods delivered to them for conveyance by any such vessel, and they shall be bound to use due care and diligence in the safe keeping and punctual conveyance of such goods, subject to the provisions hereinafter made: Responsibility as to goods received by and delivered to them.

3. They shall be liable for the loss of or damage to goods intrusted to them for conveyance as aforesaid: Loss or damage.

4. Provided, that they shall not be liable to any extent whatsoever to make good any loss or damage happening without their actual fault or privity, or the fault or neglect of their agents, servants or employees,— Proviso: exception in certain cases.

(a.) To any goods on board any such vessel, or delivered to them for conveyance therein, by reason of fire or the dangers of navigation; Fire, &c.

(b.) Arising from any defect in or from the nature of the goods themselves,—or from armed robbery or other irresistible force; Nature of goods. Robbery.

(c.) To any gold, silver, diamonds, watches, jewels or precious stones, money or valuable securities or article of great value not being ordinary merchandise, by reason of any robbery, theft, embezzlement, removal or secreting thereof, unless the true nature and value thereof has, at the time of delivery for conveyance, been declared by the owner or Valuables, unless value has been declared.

shipper thereof to the carrier or his agent or servant, and entered in the bill of lading or otherwise in writing. 37 V., c. 25, s. 1.

As to loss or
damage to
personal
baggage of
passengers.

Liability
limited.

3. Carriers by water shall be liable for the loss of or damage to the personal baggage of passengers by their vessels; and the oath or affirmation of any such passenger shall be *prima facie* evidence of the loss of or damage to such articles, and of their value: Provided that such liability shall not extend to any greater amount than five hundred dollars, or to the loss of or damage to any such valuable articles as are mentioned in the next preceding section, unless the true nature and value of such articles so lost or damaged have been declared and entered, as provided by the said section. 37 V., c. 25, s. 2.

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CHAPTER 83.

An Act respecting the Coasting Trade of Canada. A.D. 1886.

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

1. In this Act, unless the context otherwise requires, the expression "British ships," means and includes all ships belonging wholly to persons qualified or entitled to be owners of British ships, under the provisions of "*The Merchant Shipping Act, 1854*," or any other Act of the Parliament of the United Kingdom in that behalf, in force for the time being. 33 V., c. 14, s. 3, *part*;—38 V., c. 27, s. 4.

Interpretation.

"British ships."

2. No goods or passengers shall be carried by water, from one port of Canada to another, except in British ships; and if any goods or passengers are so carried, as aforesaid, contrary to this Act, the master of the ship or vessel so carrying the same, shall incur a penalty of four hundred dollars; and any goods so carried shall be forfeited, as smuggled; and such ship or vessel may be detained by the collector of customs, at any port or place to which such goods or passengers are brought, until such penalty is paid, or security for the payment thereof given to his satisfaction, and until such goods are delivered up to him, to be dealt with as goods forfeited under the provisions of "*The Customs Act*." 33 V., c. 14, s. 1, *part*.

No goods or passengers to be carried coastwise, &c., in Canada, except in British ships. Penalty for contravention.

3. The master of any steam-vessel, not being a British ship, engaged, or having been engaged, in towing any ship, vessel or raft, from one port or place in Canada to another, except in case of distress, shall incur a penalty of four hundred dollars; and such steam-vessel may be detained by the collector of customs at any port or place to or in which such ship, vessel or raft is towed, until such penalty is paid. 38 V., c. 27, s. 1, *part*.

Penalties on foreign steamers towing vessels, &c., from place to place in Canada.

4. Penalties and forfeitures under this Act may be recovered and enforced in the manner provided by "*The Customs Act*," with respect to penalties and forfeitures incurred under it, and as if imposed by it; and this Act shall accordingly be construed with reference to the said Act, and as forming one Act with it, and all words and expressions in

Penalties and forfeitures, how recoverable and enforceable.

this Act shall have the same meaning as the like words and expressions in the said Act. 33 V., c. 14, s. 1, *part*;—38 V., c. 27, s. 1, *part*.

Governor in Council may declare this Act not to apply to ships of certain countries.

5. The Governor in Council may, from time to time, declare that the foregoing provisions of this Act shall not apply to the ships or vessels of any foreign country in which British ships are admitted to the coasting trade of such country, and to carry goods and passengers from one port or place to another, in such country. 33 V., c. 14, s. 2;—38 V., c. 27, s. 2, *part*.

Imp. Act,
32 V., c. 11.

As to foreign vessels privileged by treaty.

6. In cases in which by treaty made before the passing of the Act of the Parliament of the United Kingdom, in the thirty-second year of Her Majesty's reign, intituled "*An Act for amending the Law in respect to the Coasting Trade and Merchant Shipping in British Possessions*," Her Majesty has agreed to grant to any ships of any foreign state, any rights or privileges in respect of the coasting trade of Her Majesty's possessions, such rights and privileges shall be enjoyed by such ships, for so long as Her Majesty has already agreed, or hereafter agrees to grant the same,—anything in this Act to the contrary notwithstanding. 33 V., c. 14, s. 3, *part*;—38 V., c. 27, s. 2, *part*.

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CHAPTER 84.

An Act respecting the Government Harbors, Piers and Breakwaters. A.D. 1886.

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

1. All harbors, wharves, piers and breakwaters constructed or completed at the expense of Canada, or otherwise the property of Canada, except only such as are on or connected with canals, shall be under the control and management of the Minister of Marine and Fisheries respecting the use, maintenance and ordinary repairs thereof, the making and enforcing of regulations concerning such use, maintenance and ordinary repairs, and the collection of tolls and dues for such use :

Certain works to be under the control of the Minister of Marine and Fisheries.

2. The construction and repairs, and the works connected therewith, other than maintenance and ordinary repairs, shall be under the control and direction of the Minister of Public Works. 40 V., c. 17, s. 1.

Construction and repairs under Minister of Public Works.

2. The Governor in Council may appoint or direct such officers or persons as he thinks proper, who shall have, under the direction of the Minister of Marine and Fisheries, the charge of the works hereby placed under the management and control of the said minister, and who shall collect the tolls and dues thereon ; and the Governor in Council may determine the remuneration to be allowed them respectively for such services. 40 V., c. 17, s. 2.

Appointment of officers to collect tolls, &c.

3. The Governor in Council may, from time to time, on the recommendation of the Minister of Marine and Fisheries, make rules and regulations for the use and management of such harbors, wharves, piers and breakwaters, and a tariff or tariffs of the tolls and dues to be paid for the use of the same, and levied on persons or vessels using them, and on goods, wares or merchandise landed or shipped on or from off them, and may, by such rules and regulations, impose penalties not exceeding two hundred dollars, and punishment by imprisonment not exceeding sixty days, for any violation thereof ; and such tolls, dues and penalties shall be a lien on the goods and on the vessels with their tackle in respect of which they are payable or incurred ; and the officer or person appointed to collect the same may detain

Governor in Council may make regulations for use of works and tariff of tolls ; and may impose penalties for contravention.

Collection of tolls, &c., how enforced.

such vessel or goods until they are paid; and no vessel leaving any port at which any such tolls or dues are payable shall receive a clearance at the custom house thereat, unless the master produces to the collector or proper officer of the customs a certificate that the tolls or dues on such vessel have been paid, or that none are payable thereon: but no such regulations shall be in force until they are published in the *Canada Gazette*. 40 V., c. 17, s. 8.

How unpaid tolls may be levied.

4. If any tolls or dues imposed, and payable on any goods under this Act, remain unpaid during four weeks after they are due, the officer or person to whom they are payable may apply to any justice of the peace for an order to levy the same; and, upon such application, accompanied by the oath or solemn affirmation of the applicant, made before such justice, that such tolls or dues, stating the amount thereof, are due on such goods,—describing them sufficiently to identify them,—and have remained unpaid during twenty-eight days or more, as the case may be, the said justice shall issue his warrant to some constable to sell such goods or so much thereof as is sufficient to pay the sum due, with reasonable costs, not exceeding five dollars,—which such constable shall accordingly do, and shall pay over the amount made, less the costs, to the officer or person authorized to collect such tolls or dues. 40 V., c. 17, s. 5.

Sale of goods liable.

Application of tolls.

5. All tolls and dues received under this Act shall belong to Her Majesty for the public uses of Canada, and shall be paid over by the person receiving them to the Minister of Finance and Receiver General, at such times and in such manner as the Governor in Council directs; but an account thereof shall also be rendered to the Minister of Marine and Fisheries, at such times and in such manner as he directs; and an account of all such moneys, and of all expenditure incurred in the collection thereof, or otherwise under this Act, shall be laid before Parliament at the session next after the close of the fiscal year in which the same have been received or incurred. 40 V., c. 17, s. 6.

Accounts to be rendered.

Recovery and application of penalties.

6. All pecuniary penalties imposed under the authority of this Act, may be recovered with costs, under the "*Act respecting summary proceedings before Justices of the Peace*," and shall belong to Her Majesty for the public uses of Canada. 40 V., c. 17, s. 4.

Certain powers of Minister of Public Works not impaired: nor that of Governor in Council to make regulations.

7. Nothing in this Act shall be construed to impair or affect any of the powers or duties of the Minister of Public Works under the "*Act respecting the Public Works of Canada*," respecting the construction, improvement, repair or maintenance of the works hereinbefore mentioned, or the power of the Governor in Council to make regulations for the proper use of the said works, concerning their safety

and protection from injury, and the prevention of, or liability for damages done to them, or to avoid or impair the effect of any Order in Council made under the said Act imposing or providing for the collection of tolls or dues for the use of such works, until such order is revoked, or other provisions made for the same purpose under this Act. 40 V., c. 17, s. 7.

S. Nothing in this Act shall apply to the harbor of Quebec, Montreal, Toronto, St. John, N. B., Halifax, or Pictou, or any harbor under the management of commissioners appointed under any Act of the Parliament of Canada. 40 V., c. 17, s. 8.

Act not to
apply to cer-
tain harbors.

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CHAPTER 85.

An Act respecting Port Wardens.

A. D. 1886.

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

SHORT TITLE.

1. This Act may be cited as "*The Port Wardens' Act.*" Short title. 37 V., c. 32, s. 30.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—
(a.) The expression "the harbor" means the harbor for which the port warden is appointed; Interpretation. "Harbor."
(b.) The expression "the board of trade" or "chamber of commerce" means the board of trade or chamber of commerce for the city or town or place adjoining the harbor for which the port warden is appointed. 37 V., c. 32, s. 29. "Board of Trade," &c.

PORT WARDENS AND DEPUTIES.

3. The Governor in Council may, from time to time, determine at what ports in Canada port wardens shall be appointed; and at and for every such port a port warden may be appointed. 37 V., c. 32, s. 1, part. Governor may appoint port wardens.

4. The port warden may appoint a deputy or deputies, for whose conduct as such deputy or deputies he shall be responsible; and whenever the port warden is mentioned in any provision in this Act, such provision shall be deemed to apply to every deputy he appoints. 45 V., c. 46, s. 2. Power to appoint deputies.

5. The port warden shall receive no fees other than such as strictly appertain to the business of his office; all such fees shall be entered in his books; and he shall, within seven days after the thirty-first day of December in each year, make to the Minister of Marine and Fisheries a certified annual return of the receipts and expenses of his office and a report of the proceedings therein. 37 V., c. 32, s. 2. Fees to port warden. Annual return.

6. The port warden shall, at his own expense, keep an office during the season of navigation, and shall have a seal His office, books and seal.

of office, and the necessary books, in which all his acts as port warden shall be recorded, which books shall be open for inspection on payment of a fee of twenty-five cents. 37 V., c. 32, s. 3.

DUTIES AND POWERS OF PORT WARDEN.

Port warden on request to examine and note the condition of cargo, &c., on any vessel.

7. The port warden shall, at the request of any person interested, proceed in person on board of any vessel for the purpose of examining the condition and stowage of her cargo; and if there are any goods damaged on board of such vessel, he shall inquire, examine and ascertain the cause of such damage, and make a memorandum thereof, and enter the same in full on the books of his office. 37 V., c. 32, s. 4.

Survey if bulk has been broken before arrival in port.

8. The master of any vessel which has broken bulk for the purpose of lightening such vessel or other necessary purpose, previous to her arrival in any harbor for which there is then a port warden, shall, immediately on the discovery of any damaged cargo, proceed to have a survey held on the same in the manner herein prescribed, before the same is moved out of the place in which it was originally stowed; and if, after the arrival in port of any vessel from beyond the seas, or from a passage over any of the great lakes contiguous to the Province of Ontario, which has not had occasion to lighten, break bulk, or otherwise discharge any portion of her cargo before coming into the harbor, the hatches of such vessel have been first opened by any person not a port warden, and the cargo or any part thereof comes from on board such ship in a damaged condition, such facts shall be *prima facie* evidence that such damage occurred in consequence of improper stowage or negligence on the part of the persons in charge of the vessel; and such default shall, until the contrary is shown, be chargeable to the owner, master or other person interested as part owner or master of the said vessel. 37 V., c. 32, s. 5.

What shall be *prima facie* evidence of improper stowage.

Port warden on request to ascertain cause of damage to any goods.

9. The port warden shall, when required, proceed to any ship, steamer or other vessel, warehouse, dwelling or wharf, and examine any merchandise, vessel, material, produce or other property, said to have been damaged on board of any vessel, and inquire, examine and ascertain the cause of such damage, make a memorandum thereof, and of such property, and record, in the books of his office, a full and correct statement thereof. 37 V., c. 32, s. 6.

To be surveyor of wrecks or damaged vessels.

10. The port warden shall, when required, be surveyor on any vessel which has suffered wreck or damage, or which is deemed unfit to proceed on her voyage; he shall examine the hull, spars, rigging and all appurtenances thereof, shall specify what damage has occurred, and record, in the books of his office, a full and particular account of all surveys

held on such vessel; he shall call to his assistance, if necessary in such survey, one or more carpenters, sail-makers, riggers, shipwrights or other persons skilled in their calling, each of whom shall be entitled to a fee not exceeding five dollars, but no such surveyor shall act in any case in which he is interested:

2. The port warden shall also, if required, be surveyor of the repairs necessary to render such vessel seaworthy, and his certificate that such repairs have been properly made shall be evidence that the vessel is seaworthy. 37 V., c. 32, s. 7. To see that vessels are seaworthy.

11. The port warden shall have cognizance of all matters relating to the surveys of vessels and cargoes arriving in port damaged, and when requested shall, on payment of the regular fee, give certificates of such surveys. 37 V., c. 32, s. 8. Surveys of damaged vessels and cargoes.

b12. The master of any vessel intending to load grain in bulk, for any port not within the limits of inland navigation and not within Canada, shall, before taking in any of such grain, notify the port warden, from time to time, while the different chambers are being prepared, to survey and inspect the said vessel as well as the dunnage and lining boards: the port warden shall, in such case, ascertain whether such vessel is in a fit state to receive and carry the cargo intended for her to its destination; he shall record in his books the condition of the vessel; if he finds she is not fit to carry the cargo in safety, he shall state what repairs are necessary to render her seaworthy; before beginning to load each chamber he shall see that it is properly dunnaged and lined, and provided with shifting boards, and shall also see that the boards and planks used for such purposes have been properly seasoned; he shall examine the pumps and see that they are properly lined and dunnaged; he shall enter in the books of his office all particulars connected with such surveys, and grant the necessary certificates: Duty of master of vessel loading with grain in bulk, for port out of Canada, &c.

2. Every person who violates any of the provisions of this section shall incur a penalty of eight hundred dollars. 37 V., c. 32, s. 9 and s. 26, part. Duty of port warden.

13. The port warden shall, when required, decide what amount of dunnage is necessary to be placed below the cargo, — and also between wheat or other grain, and the flour stowed over it; and his certificate that such dunnage has been used shall be *prima facie* evidence of the good stowage of the cargo so far as these facts are concerned. 37 V., c. 32, s. 10 Penalty for violation.

14. The master of any vessel wholly or partly laden with grain bound to any port not within the limits of inland navigation or within Canada, shall, before proceeding on his voyage, or clearing at the custom house, notify the port Duty of port warden as to dunnage.

laden with grain.

warden, who shall then proceed on board such vessel, and examine whether she is in a fit state to proceed to sea or not; if she is found unfit, the port warden shall state in what particulars, and on what conditions only she will be deemed in a fit state to leave, and shall notify the master not to leave the port until the required conditions are fulfilled:

2. If the master refuses or neglects to fulfil such conditions, the port warden shall notify the collector of customs, in order that no clearance may be granted for the vessel until the same are fulfilled, and a certificate to that effect is granted by the port warden:

Penalty for violation.

3. Every person who violates any of the provisions of this section shall incur a penalty of eight hundred dollars. 37 V., c. 32, s. 11 and s. 26, part.

Clearance not to be granted to any vessel carrying grain, unless the requirements of this Act have been complied with.

15. No officer of customs shall grant a clearance to any vessel wholly or partly loaded with grain, for the purpose of enabling her to leave the harbor for any port not within the limits of inland navigation and not within Canada, unless the master of such vessel produces to him a certificate from the port warden, that all the requirements of this Act have been fully complied with if such grain is laden in bulk,—nor unless such master produces to him a certificate from the port warden, that all the requirements of this Act have been complied with, if such vessel is wholly or partly laden with grain, otherwise than wholly or partly in bulk; and if any vessel wholly or partly loaded with grain attempts to leave the harbor for any port not within the limits of inland navigation and not within Canada, without a clearance, any officer of customs, or the chief officer of the river police, or any person acting under the direction of the Minister of Marine and Fisheries, may detain such vessel until such certificate is produced to him. 37 V., c. 32, s. 28.

Vessel may be detained.

Valuing and measuring vessels by port warden.

16. The port warden shall, when required, estimate the value and measurement of any vessel, when the same is in dispute or otherwise needed, and shall record the same in the books of his office. 37 V., c. 32, s. 12.

Duty of auctioneer selling condemned vessels, materials or goods.

17. Every auctioneer who makes a sale of any condemned vessel, or ship's materials, or goods damaged on board a ship or vessel, whether sea-going or navigating inland waters, sold for the benefit of underwriters or others concerned, in any harbor for which there is a port warden, shall file a statement of the same at the office of the port warden, within ten days after such sale:

Notice and time of sale.

2. No such sale shall take place until after at least two days' public advertisement or notice is given, and such sale shall not take place at an hour earlier than eleven o'clock in the forenoon, or later than three o'clock in the afternoon:

3. Every person who violates any of the provisions of this section shall incur a penalty of twenty dollars. 37 V., c. 32, s. 13 and s. 26, *part*. Penalty for violation.

18. The port warden, when required in writing by all parties in interest, shall hear and arbitrate upon any difficulty or matter in dispute between the master or consignee of any vessel, and any proprietor, shipper or consignee of the cargo, and shall keep a record of the proceedings. 37 V., c. 32, s. 14. Port warden to arbitrate between master and consignee, &c.

19. No goods, vessels or other property at a place where there is a port warden, shall be sold as damaged for the benefit of underwriters or others concerned, unless there has been a regular survey and condemnation; and the port warden shall, in all such cases, be one of the surveyors. 37 V., c. 32, s. 15. Sale of damaged vessels or goods on account of underwriters.

20. Before proceeding to act in any case in the performance of his duties, the port warden shall give reasonable notice, when practicable, to all parties interested or concerned in the case. 37 V., c. 32, s. 16. Notice by port warden.

21. All notices, requests or requirements to or from the port warden, shall be given in writing a reasonable time before action is required or taken. 37 V., c. 32, s. 17. And to him.

22. If the consignee of a vessel or cargo, or other person upon whose requisition any proceedings should be taken under this Act, cannot be found or cannot be communicated with by the port warden before or at the time at which it is necessary that such proceedings should be taken to avoid loss or damage to the persons interested in such vessel or cargo, the port warden may initiate proceedings in such case and hold surveys and obtain process under this Act, as if required by the proper persons under this Act. 45 V., c. 46, s. 1. When the port warden may initiate proceedings.

23. If any dispute arises between the port warden and any person interested in any case where his presence has been required, either party may appeal to the council of the board of trade or chamber of commerce, if there is one at the port; and the secretary of such board or chamber, on a requisition being presented to him to that effect, shall summon forthwith a meeting of the said council,—who, or not less than three of whom, shall immediately investigate and report on the case submitted to them; and the determination of a majority of them, made in writing, shall be final and conclusive. 37 V., c. 32, s. 22. Disputes with port warden, to be settled by board of trade.

24. The person against whom the council of the board of trade or chamber of commerce decides, shall pay all the expenses; and the council shall determine the amount of fees Costs in such case.

or charges payable in each case,—but such fees and charges shall never exceed twenty dollars. 37 V., c. 32, s. 23.

Further duties of port warden, under regulations of Governor in Council.

25. The port warden shall perform such other duties as are assigned to him, from time to time, by regulations made by the Governor in Council; and the council of the board of trade or chamber of commerce may, from time to time, make suggestions to the Governor in Council with respect to any such other duties, or any modification of the duties herebefore assigned to the port warden for the harbor; and such other duties may be assigned or such modification made by the Governor in Council accordingly; and every regulation made under this Act shall have the force of law. 37 V., c. 32, s. 27.

Port warden to furnish copies of documents, &c., in his office.

26. On the demand of any person interested, the port warden shall furnish certificates in writing, under his hand, of any matters of record in his office; and he shall also furnish, when required, copies of any entries in his books or documents filed in his office, upon payment of a reasonable compensation. 37 V., c. 32, s. 19.

Certificates of port warden to be evidence.

27. All certificates issued under the hand of the port warden, and sealed with the seal of his office, referring to matters recorded in his books, shall be received as *prima facie* evidence of the existence and contents of such record in any court of justice. 37 V., c. 32, s. 24.

Copies of harbor regulations to be furnished.

28. On application the port warden shall supply, once in each year, to any master of a vessel arriving in the harbor, a copy of the regulations relating to the office of port warden. 37 V., c. 32, s. 20.

Regulations of Lloyd's to govern.

29. In all matters regarding surveys, and other matters concerning the value, state or classification of vessels and like subjects, the port warden shall conform to, and be governed by, the regulations of Lloyd's, so far as they are applicable to the circumstances of the case. 37 V., c. 32, s. 21.

FEEES.

Tariff of fees, to be paid to port warden, to be made by board of trade or Governor in Council.

30. The council of the board of trade or chamber of commerce, if there is one at the port, may, from time to time, establish a tariff of fees to be paid to the port warden for services performed by him and his deputies, by the masters or owners of sea-going vessels, and by others in respect of whom the duties of the said port warden are required to be performed,—which tariff shall be subject to the approval of the Governor in Council; and when there is no board of trade or chamber of commerce, the Governor in Council shall make such tariff; but such fees shall not exceed the rates hereinafter mentioned, that is to say:—

Maximum rates.

(a.) For every survey and the certificate thereof by the port warden and his assistant, of the hatches and cargo of any vessel, or of the hull, spars and rigging thereof, or of damaged goods, a fee not exceeding eight dollars,—and such further sum, not exceeding five dollars, as is payable to each shipwright or other skilled person employed by him ;

Survey of vessel, damaged goods, &c.

(b.) For every valuation of a vessel for average, and every inspection of a vessel intended to load, a fee to be graduated according to the tonnage of such vessel, but in no case to exceed ten dollars ;

Valuation and inspection of vessel.

(c.) For hearing and settling disputes of which the port warden is authorized to take cognizance, and for the fees on appeal to the council of the board of trade or chamber of commerce, a sum to be graduated according to the value of the thing or the amount in dispute, but in no case to exceed twenty dollars :

Hearing and settling disputes.

2. The foregoing maximum rates, including the fees for incidental proceedings, certificates and copies, may be altered and a portioned, and the particular service distinguished, and the fee therefor assigned, and the person by whom the same shall be paid may be indicated in such a way as the council of the board of trade or chamber of commerce, from time to time, appoints ; and all rates and fees so established shall be subject to the approval of the Governor in Council, who may, from time to time, disallow or alter such rates and fees. 37 V., c. 32, s. 25.

Rates may be altered, &c., by board of trade or Governor in Council.

GENERAL PROVISIONS.

31. The whole of any penalty recovered under this Act shall belong to the Crown, and shall be paid over to the Minister of Finance and Receiver General by the officer or person receiving it. 37 V., c. 32, s. 26, *part*.

Recovery and application of penalties.

32. This Act shall not apply to the ports of Quebec, Montreal and St. John, N B. 37 V., c. 32, s. 1, *part*.

Ports excepted.



CHAPTER 86.

An Act respecting Harbor Masters.

A.D. 1886.

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

1. This Act may be cited as "*The Harbor Masters' Act.*" Short title.

2. In this Act, unless the context otherwise requires,—

(a.) The expression "ship" includes every description of vessel used in navigation, not propelled by oars ; Interpretation.
"Ship."

(b.) The expression "master" includes every person (except a pilot) having command or charge of a ship ; "Master."

(c.) The expression "harbor master" means a harbor master appointed under this Act ; "Harbor
"master."

(d.) The expression "port" means a port to which this Act applies. 36 V., c. 9, s. 1 ;—37 V., c. 34, s. 1. "Port."

3. This Act shall apply to such ports only as are, from time to time, designated for that purpose by proclamation ; but this Act shall not apply to the ports of Quebec, Montreal and Three Rivers, in the Province of Quebec, the port of Toronto, in the Province of Ontario, the ports of Halifax and Pictou, in Nova Scotia, and the port of St. John, in New Brunswick. 36 V., c. 9, s. 14 ;—37 V., c. 34, s. 14. Application
of foregoing
provisions.
Ports
excepted.

4. The Governor in Council may, from time to time, appoint a fit and proper person to be harbor master for any port to which this Act applies. 36 V., c. 9, s. 2 ;—37 V., c. 34, s. 2. Governor may
appoint har-
bor masters.

5. Every harbor master shall be under the control of the Minister of Marine and Fisheries, to whom he shall, as soon as possible after the thirty-first day of December in each year, furnish a report in writing, on oath, of his doings in office, and of the fees of office received by him during such year. 36 V., c. 9, s. 3 ;—37 V., c. 34, s. 3. Annual report
of harbor
masters to
Minister of
Marine, &c.

6. The Governor in Council may, from time to time, by regulation, define the rights, powers and duties of the harbor master for any port in respect of the government of his office and of the port for which he is appointed, and his remuneration. 36 V., c. 9, s. 4 ;—37 V., c. 34, s. 4. Duties and
powers of
harbor
master, how
defined.

Penalties
for breach of
regulations.

7. The Governor in Council may, in and by any regulation made under the next preceding section, impose any penalty, not exceeding in any case one hundred dollars, for the violation of such regulation,—and, in case of a continuing violation, a further penalty, not exceeding in any case ten dollars for every twelve hours during which such violation continues,—but no such regulation shall impose a minimum penalty; and every violation of any such regulation shall be deemed a violation of this Act, and every such penalty shall be held to be a penalty imposed by this Act. 36 V., c. 9, s. 5;—37 V., c. 34, s. 5.

Copies of
regulations to
be furnished
to pilots and
ship masters.

8. The harbor master of any such port shall furnish copies of such regulations to every licensed pilot of the port, who shall give one of such copies to the master of every ship which he takes in charge. 36 V., c. 9, s. 6;—37 V., c. 34, s. 6.

Prosecution
for violation
of regulations.

9. The harbor master of any such port shall prosecute every person violating any such regulation. 36 V., c. 9, s. 7;—37 V., c. 34, s. 7.

Duties of
harbor
masters as to
buoys, &c.

10. Each harbor master appointed under this Act shall direct and superintend the placing, maintaining and taking up of buoys in the port for which he is appointed, and perform such other services and duties connected with such port or harbor as he is directed to perform by the Minister of Marine and Fisheries, or by the proper officer, without any additional remuneration beyond the amount allowed him out of fees received by him under this Act. 38 V., c. 30, s. 3.

Fees to har-
bor masters,
and on what
ships and
where pay-
able.

11. The harbor master shall be remunerated for his services solely by the fees hereinafter mentioned, or such portion thereof as he is, from time to time, authorized to retain by the regulations made by the Governor in Council under this Act: and for and in respect of all ships entering a port to which this Act applies, and at which a harbor master is appointed, and discharging or taking in cargo, ballast, stores, wood or water, there shall be paid the following fees, that is to say:—

For every ship of fifty tons register or under—fifty cents;

For every ship over fifty tons and not over one hundred tons register—one dollar;

For every ship over one hundred tons and not over two hundred tons register—one dollar and fifty cents;

For every ship over two hundred tons and not over three hundred tons register—two dollars;

For every ship over three hundred tons and not over four hundred tons register—two dollars and fifty cents;

For every ship over four hundred tons and not over five hundred tons register—three dollars;

For every ship over five hundred tons and not over seven hundred tons register—four dollars;

For every ship over seven hundred tons register—five dollars. 38 V., c. 30, s. 1, *part*.

12. Such fees shall also be payable for ships with cargo and steamers passing through or arriving at the harbors of Sorel, St. John's, Three Rivers or Lachine, in the Province of Quebec; and the Governor in Council may, from time to time, appoint a fit and proper person to be harbor master at each of the said harbors. 38 V., c. 30, s. 1, *part*. As to certain harbors.

13. Such fees shall not be payable for any ship more than twice in each calendar year (that is the year commencing on the first day of January and ending on the last day of December), whatever is the number of ports at which she arrives or through which she passes, or the number of times of her so arriving or passing; such fees shall be payable by the master of the ship to the harbor master immediately on her entering or arriving at the first and second ports where there is a harbor master; and the collector or principal officer of customs thereat shall not grant any clearance, transire or let-pass to any ship on which they are payable, until the master thereof produces to him a certificate of the payment of such fees or certificates of the payment of fees under this Act, once or twice within the then current year, as the case requires. 38 V., c. 30, s. 2. When and how often fees are payable.

14. The salary or remuneration of each harbor master shall, from time to time, be fixed by the Governor in Council, but shall not exceed the rate of six hundred dollars per annum, and shall be subject to the provisions hereinafter made. 36 V., c. 9, s. 9;—37 V., c. 34, s. 9. Salary of harbor master, how fixed.

15. The harbor master of each port shall pay over, as soon as possible after the thirty-first day of December in each year, to the Minister of Finance and Receiver General, to form part of the Consolidated Revenue Fund, all moneys received by him for fees under this Act during such year, after deducting therefrom the sum allowed him as aforesaid for his own remuneration; and if the moneys received by him for fees in any year amount to a less sum than is so allowed him, then such less sum shall be his remuneration for that year. 36 V., c. 9, s. 10;—37 V., c. 34, s. 10. Balance of fees received to be paid over to Con. Rev. Fund.

16. The harbor master of each port shall keep a book in which he shall enter, from day to day, the name of every ship, not exempt from the payment of fees under this Act, entering such port, the name of her master, her registered tonnage, the date of her entering the port and the sum, if any, received by him for his fee on her entering; and such book shall be at all times, during office hours, open for inspection by any person, on demand, without fee or reward. 36 V., c. 9, s. 12;—37 V., c. 34, s. 12. Book to be kept by harbor master, and what it must show.

Penalties imposed under Order in Council, how recoverable, &c.

17. The penalty imposed by any regulation made by the Governor in Council under this Act, and incurred by any violation or continuing violation of such regulation, may be recovered under the "*Act respecting summary proceedings before Justices of the Peace*;" and a moiety of such penalty shall belong to the informer, not being the harbor master and the other moiety to Her Majesty; but if the harbor master is the informer, the whole shall belong to Her Majesty. 38 V c. 30, s. 4.

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CHAPTER 87.

An Act respecting tonnage dues levied in Canadian ports. A.D. 1886.

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

1. Whenever, under any Canadian Act or law, any tax, duty or due is to be levied on any ship in a Canadian port, according to the tonnage of such ship, such tonnage shall be exclusive of any space added to the ship's registered tonnage by the twenty-third section of the Act of the Parliament of the United Kingdom, known as "*The Merchant Shipping Act, 1876.*" 42 V., c. 24, s. 1. Tonnage, how calculated for payment, of dues.

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CHAPTER 88.

An Act respecting the Exemption of Transports from A.D. 1886.
Port and Harbor Dues.

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

1. All transports or vessels employed exclusively in carrying troops shall be exempt from any port or harbor duties, at any port or harbor in Canada, whether the same are imposed directly by the Parliament of Canada, or by any local or other authorities subject to its control. 37 V., c. 24, s. 1.

Transports exempted from all port and harbor dues.

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CHAPTER 89.

An Act respecting the Harbor and River Police of the A.D. 1886.
Province of Quebec.

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

- 1.** In this Act, unless the context otherwise requires, the expression "vessel" includes every description of vessel used in navigation not propelled by oars. 45 V., c. 48, s. 10.

Interpretation.
"Vessel."
- 2.** The Governor in Council may, from time to time, establish, at the ports of Montreal and Quebec respectively, a harbor and river police force, and may, from time to time, appoint one or more superintendents of such force, with jurisdiction over such part or parts of the Province of Quebec as are defined by the Governor in Council. 45 V., c. 48, s. 1.

Governor may establish police force at Montreal and Quebec.
Extent of jurisdiction.
- 3.** The Minister of Marine and Fisheries may, from time to time, appoint harbor and river police constables under and within the jurisdiction of such superintendents of harbor and river police; and such constables shall be subject to all lawful directions of the superintendents and shall have and be charged with all the powers, rights and responsibilities of police constables. 45 V., c. 48, s. 2.

Appointment of constables.
Their powers and duties.
- 4.** The Governor in Council may, from time to time, make rules and regulations for the government of the superintendents and constables of harbor and river police, and for the general management of the force. 45 V., c. 48, s. 3.

Rules and regulations.
- 5.** Every constable appointed under the authority of this Act who is guilty of any disobedience of orders, neglect of duty or any misconduct as such constable, and is convicted thereof in a summary way before any police magistrate, judge of the sessions of the peace, or two justices of the peace, shall be liable to a penalty not exceeding twenty dollars and costs, and in default of immediate payment thereof, to imprisonment for any term not exceeding three months, unless the penalty and costs are sooner paid. 45 V., c. 48, s. 4.

Penalty for disobedience of orders.
- 6.** Any superintendent of harbor and river police, and any constable appointed under the authority of this Act,

Superintendent or constable may

board
vessels for
certain pur-
poses.

may, at any time, board any vessel for the purpose of arresting or searching for any person for whose arrest a warrant has been issued, or for the purpose of assisting or protecting any officer of customs or other officer of the Government of Canada in the performance of his duties. 45 V., c. 48, s. 5.

Duty on
vessels at
Quebec and
Montreal.

7. There shall be levied upon every vessel, whether entering at the port of Quebec or at the port of Montreal, a tonnage duty of three cents per ton register of such vessel, for the purposes of this Act; and the said duty shall be a lien upon the vessel, and shall be payable by the master of such vessel to the collector of customs at the port: Provided, that any vessel of one hundred tons register, or less, shall be subject to the payment of such tonnage duty on her first entry in either of the said ports in any calendar year, but not on any subsequent entry at the same port in the same year; and that any vessel of more than one hundred tons register, shall be subject to the said duty on her first and second entry at either of the said ports in any one calendar year, but not on any subsequent entry in the same year, and that no vessel bound to or from the port of Montreal shall be liable to pay such duty at the port of Quebec for the same voyage. 45 V., c. 48, s. 7.

Proviso: as to
vessels not
over 100 tons

As to larger
vessels.

None to pay
at both ports.

No entry or
clearance till
duty is paid.

8. No entry inwards or clearance outwards at either of the said ports shall be granted by the collector of customs to any vessel which requires to make such entry or clearance until the tonnage duty payable on such vessel under this Act has been paid; and the master of any vessel liable to such duty, and not requiring any entry or clearance, who leaves the port at which it ought to be paid, without having paid it, shall incur a penalty of fifty dollars. 45 V., c. 48, s. 8.

Application
of moneys
levied.

9. All moneys arising from penalties under this Act, or levied at either of the said ports under the authority of this Act, shall be paid over by the collector receiving the same to the Minister of Finance and Receiver General, and shall form part of the Consolidated Revenue Fund. 45 V., c. 48, ss. 6 and 9.

Annual report
by Minister.

10. The Minister of Marine and Fisheries shall annually lay before Parliament, within fifteen days after the meeting thereof, a report of the receipts and expenditures under this Act during the year then next preceding. 45 V., c. 48, s. 11.



CHAPTER 90.

An Act respecting the discharging of the Cargoes of A.D. 1886.
Vessels arriving at Ports in Quebec.

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

1. Whenever any sailing vessel or steamer has arrived at its destination in any port in the Province of Quebec, and the master thereof or his agent has notified the person to whom the cargo is consigned or his agent, either by public advertisement or otherwise, that such cargo has reached the place designated in the bill of lading, the person to whom the cargo is consigned shall be bound to receive the same within twenty-four hours after notice to that effect has been given to him as aforesaid; and thereafter such cargo, as soon as placed on the wharf, either direct from the vessel or otherwise, shall be at the risk and charges of the consignee or owner. C. S. L. C., c. 60, s. 1.

Cargo to be received within 24 hours after notice of arrival.

To be at owner's risk thereafter.

2. When the cargo of any vessel or steam-ship arriving at any port in such Province consists of coal, such coal shall be discharged at the rate of fifty-one tons per diem; when the cargo consists of metal, the freight of which is estimated by the ton, not less than sixty tons shall in like manner be discharged daily; if the cargo consists of salt or grain, not less than two thousand one hundred and forty-six bushels shall be discharged daily; if it consists of salt in sacks, not less than one thousand sacks shall be discharged daily; if of sawed lumber, not less than fifty thousand feet shall be discharged daily; and if of bricks, not less than twenty thousand of such bricks shall be discharged daily. C. S. L. C., c. 60, s. 2.

What quantity of cargo shall be discharged daily.

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CHAPTER 91.

An Act respecting the Protection of Navigable Waters. A.D. 1886.

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

- 1.** In this Act, unless the context otherwise requires,—

(a.) The expression “vessel” includes every description of ship, boat or craft of any kind, and whether propelled by steam or otherwise, and whether used as a sea-going vessel or on inland waters only; Interpretation.
“Vessel.”

(b.) The expression “owner” means the registered owner. “Owner.”
49 V., c. 36, s. 1.
- 2.** If the navigation of any navigable water, over which the Parliament of Canada has jurisdiction, is obstructed, impeded or rendered more difficult or dangerous by the wreck, sinking, lying ashore or grounding of any vessel or part thereof or other thing, the owner, master or person in charge of such vessel or other thing, by which any such obstruction or obstacle is caused, shall forthwith give notice of the existence thereof to the Minister of Marine and Fisheries, or to the collector of customs at the nearest or most convenient port, and shall place and, as long as such obstruction or obstacle continues, shall maintain, by day a sufficient signal and by night a sufficient light to indicate the position thereof,—and in default of giving such notice and placing and maintaining such signal and light shall, on summary conviction before two justices of the peace, be liable to a penalty of forty dollars for every day during which he neglects so to do without lawful or reasonable excuse. 49 V., c. 36, s. 2. Notice of any obstruction to be given to the Minister of Marine and Fisheries.

Signal to be placed to indicate such obstruction.

Penalty for neglect.
- 3.** The Minister of Marine and Fisheries may cause such signal and light to be placed and maintained, if the owner, master or person in charge of such vessel or other thing by which the obstruction or obstacle is caused fails or neglects so to do. 49 V., c. 36, s. 3. Minister may cause signal to be placed.
- 4.** If, in the opinion of the Minister of Marine and Fisheries, the navigation of any navigable water as aforesaid is obstructed, impeded or rendered more difficult or dangerous by reason of the wreck, sinking or lying ashore or ground- Minister may cause obstruction to be removed.

ing of any vessel or of any part thereof, or other thing, the said Minister may, under the authority of the Governor in Council (if such obstruction or obstacle continues for more than twenty-four hours), cause the same to be removed or destroyed in such manner and by such means as he thinks fit,—and may use gunpowder or other explosive substance for that purpose if he deems it advisable,—and may cause such vessel, or its cargo, or any thing causing or forming part of such obstruction or obstacle to be conveyed to such place as he thinks proper, and to be there sold by auction or otherwise as he deems most advisable,—and may apply the proceeds of such sale to make good the expenses incurred by him in placing and maintaining any signal or light to indicate the position of such obstruction or obstacle, or in the removal, destruction or sale of such vessel, cargo or thing,—paying over any surplus of such proceeds to the owner of the vessel or thing sold, or other persons entitled to such proceeds or any part thereof, respectively. 49 V., c. 36, s. 4.

Sale of vessel causing obstruction for costs incurred.

Recovery of cost if proceeds of sale are insufficient to defray it.

5. Whenever, under the provisions of this Act, the Minister of Marine and Fisheries has caused any signal or light to be placed and maintained to indicate the position of any obstruction or obstacle, or has, with the authority of the Governor in Council, caused to be removed or destroyed any obstruction or obstacle to the navigation of any navigable water occasioned by the wreck, sinking or lying ashore or grounding of any vessel, or part thereof, or other thing, and the cost of placing and maintaining such signal or light or of removing or destroying such vessel or part thereof or other thing has been defrayed out of the public moneys of Canada,—and the net proceeds of the sale under this Act of such vessel or its cargo, or the thing, which caused or formed part of such obstruction, are not sufficient to make good the expenses incurred for the purposes aforesaid and the costs of sale, the amount by which such proceeds fall short of the expenses so defrayed as aforesaid, and such costs—or the whole amount of such expenses, if there is nothing which can be sold as aforesaid—shall be recoverable with costs by the Crown from the owner of such vessel or other thing or from the managing owner or from the master or person in charge thereof at the time such obstruction or obstacle was occasioned, or from any person through whose act or default, or through the act or default of whose servants such obstruction or obstacle was occasioned or continued; and any sum so recovered shall form part of the Consolidated Revenue Fund of Canada. 49 V., c. 36, s. 5.

And from whom.

Existing rights and liabilities not impaired.

6. Nothing in this Act shall be construed to exempt any owner, master or person from any obligation or responsibility with respect to any obstruction or obstacle imposed on him by any other law, or to derogate from or impair any

power or right vested by any such law in the Quebec Harbor Commissioners, or Montreal Harbor Commissioners, or other authority, with respect to such obstruction or obstacle, and not incompatible with the powers hereby vested in the Minister of Marine and Fisheries. 49 V., c. 36, s. 6.

7. No owner or tenant of any saw-mill, or any workman therein or other person shall throw or cause to be thrown, or suffer or permit to be thrown, any sawdust, edgings, slabs, bark or rubbish of any description whatsoever, into any river, stream or other water, any part of which is navigable or which flows into any navigable water; and every person who violates the provisions of this section shall, on summary conviction, be liable, for a first offence, to a penalty of not less than twenty dollars, and for each subsequent offence, to a penalty of not less than fifty dollars:

No sawdust or saw-mill rubbish to be thrown into navigable waters.

2. The several fishery officers shall, from time to time, examine and report on the condition of such rivers, streams and waters, and prosecute all persons violating the provisions of this section; and for enforcing the said provisions, such officers shall have and exercise all the powers conferred upon them for like purposes by "*The Fisheries Act*:"

Fishery officers to enforce this provision.

3. The Governor in Council, when it is shown to his satisfaction that the public interest would not be injuriously affected thereby, may, from time to time, by proclamation published in the *Canada Gazette*, declare any such river, stream or water, or part or parts thereof, exempted from the operation of this section, in whole or in part, and may, from time to time, revoke such proclamation. 49 V., c. 36, s. 7.

Exemption by proclamation in certain cases.



CHAPTER 92.

An Act respecting certain works constructed in or over A.D. 1886.
Navigable Waters.

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

- 1.** In this Act, unless the context otherwise requires,—

(a.) The expression “work” means and includes any bridge, boom, dam, aboiteau, wharf, dock, pier or other structure, and the approaches or other works necessary or appurtenant thereto; Interpretation. “Work.”

(b.) The expression “lawful work” means and includes any “work” not contrary to the law in force at the place of the construction thereof at the time of such construction. “Lawful work.”

49 V., c. 35, s. 1.
- 2.** No bridge, boom, dam or aboiteau shall be constructed so as to interfere with navigation, unless the site thereof has been approved by the Governor in Council, and unless such bridge, boom, dam or aboiteau is built and maintained in accordance with plans approved by the Governor in Council. Certain structures not to be built hereafter in navigable waters unless authorized.

45 V., c. 37, ss. 1 and 2;—46 V., c. 43, s. 1.
- 3.** Any bridge to which this Act applies, which is built upon a site not approved by the Governor in Council, or which is not built in accordance with plans so approved, or which, having been so built, is not maintained in accordance with such plans, may, in so far as the same interferes with navigation, be lawfully removed and destroyed under the authority of the Governor in Council. Governor in Council may order removal of bridges built in contravention of this Act.

45 V., c. 37, s. 6.
- 4.** The provisions of the two sections next preceding shall not affect any bridge constructed before the seventeenth day of May, one thousand eight hundred and eighty-two, which hereafter requires to be rebuilt or repaired, if such bridge, when so rebuilt or repaired, does not interfere to a greater extent with navigation than on the said day or theretofore. As to certain bridges.

45 V., c. 37, s. 11.
- 5.** The local authority, company or person proposing to construct any work in navigable waters, for which no sufficient sanction otherwise exists, may deposit the plans thereof Plans with description of site, to be deposited.

and a description of the proposed site with the Minister of Public Works, and a duplicate of each in the office of the registrar of deeds for the district, county or province in which such work is proposed to be constructed,—and may apply to the Governor in Council for approval thereof,—and shall give one month's notice of the said deposit of plans and application, by advertisement in the *Canada Gazette*, and in two newspapers published in or near the locality where such work is to be constructed. 49 V., c. 35, s. 2.

Notice of deposit.

6. Any local authority, company or person may proceed in like manner to obtain the approval by the Governor in Council of the site and plans of any work heretofore constructed. 49 V., c. 35, s. 3.

Obtaining approval of work already constructed.

7. No approval shall be given under this Act of the site or plans of any bridge over the river St. Lawrence. 49 V., c. 35, s. 4.

Act not to apply to River St. Lawrence.

8. Any lawful work may be rebuilt or repaired if the interference with navigation is not increased by such rebuilding or repairing. 49 V., c. 35, s. 5.

Rebuilding or repairing.

9. Parliament may, at any time, annul or vary any order of the Governor in Council made under this Act; and any action of Parliament in that behalf shall not be deemed an infringement of the rights of the local authority, company or person concerned. 49 V., c. 35, s. 6.

Powers of Parliament reserved.

10. Nothing hereinbefore contained, except the provisions of the first and eighth sections hereof, shall apply to any work constructed under the authority of any Act of the Parliament of Canada, or of the legislature of the late Province of Canada, or of the legislature of any Province now forming part of Canada, passed before such Province became a part thereof. 49 V., c. 35, s. 7.

Exception as to works constructed under certain Acts.

11. The Governor in Council may, from time to time, make such orders or regulations as he deems expedient for the purpose of maintaining existing facilities for navigation, or for securing better facilities therefor, respecting any work to which this Act applies, or of which the plan and site have been or are hereafter approved under any Act of the Parliament of Canada; and the local authority, company or person constructing, owning or in possession of any such work shall be subject to such orders or regulations. 49 V., c. 35, s. 8.

Regulations to be made by Order in Council as to works.



CHAPTER 93.

An Act respecting Bridges.

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

INTERPRETATION.

- 1.** In this Act, unless the context otherwise requires,—
- (a.) The expression “bridge” means and includes every bridge to which this Act applies ;
 - (b.) The expression “railway committee” means the railway committee of the Privy Council appointed under “*The Railway Act.*” 35 V., c. 25, s. 2, *part.*
 - (c.) The expression “engineer” includes engineers, when more than one are appointed.

Interpretation.

“Bridge.”

“Railway Committee.”

“Engineers.”

APPLICATION OF ACT.

2. This Act applies to every bridge and the approaches thereto, and the appliances or works appurtenant thereto, built or constructed, whether before or after the passing of this Act, by any company incorporated under the authority of, or which is within the jurisdiction of the Parliament of Canada, and which is not a railway company or subject to the control of the railway committee of the Privy Council, under “*The Railway Act.*” 35 V., c. 25, s. 2, *part.*

To what works the Act applies.

GENERAL PROVISIONS.

3. No bridge shall be opened for public use, until one month after notice in writing of the intention to open the same has been given by the company to whom the bridge belongs, to the railway committee, nor until ten days after notice in writing has been given by the company to the railway committee, of the time when the bridge will, in the opinion of the company, be sufficiently completed for the use thereof with safety, and ready for inspection. 35 V., c. 25, s. 3.

Notice to be given before a bridge is opened.

4. The railway committee, upon receiving such notice, shall direct an engineer attached to or employed by the Department of Public Works, to examine the bridge proposed to be opened ; and if the inspecting engineer reports, in writing, to the railway committee, that, in his opinion, the opening of the bridge would be attended with danger

Proceedings on receipt of such notice.

Postponement if the bridge is reported unsafe.

to the public using the same, by reason of incompleteness or insufficiency thereof, together with the ground of such opinion, the railway committee, with the sanction of the Governor in Council (and so on, from time to time, as often as such engineer, after further inspection thereof, reports to the same effect) may order the company to whom the bridge belongs to postpone such opening for a period not exceeding one month at any one time, until it appears to the committee that such opening may take place without danger to the public. 35 V., c. 25, s. 5.

Copy of report to accompany order.

5. No such order shall be binding upon any bridge company unless a copy of the report of the inspecting engineer on which the order is founded is delivered to the company with the order. 35 V., c. 25, s. 7.

Inspection of bridge reported unsafe may be ordered.

6. The railway committee, whenever it receives information to the effect that any bridge is dangerous to the public using the same, through want of repair, insufficiency, or erroneous construction, or from any other cause, or whenever circumstances arise which, in its opinion, render it expedient, may direct any such engineer, as aforesaid, to examine and inspect the bridge, and upon the report of the engineer, may condemn the bridge or any portion thereof, or any of the works or appliances connected therewith,—and, with the approval of the Governor in Council, may require any change or alteration therein, or in any part thereof, or the substitution of a new bridge or of any portion thereof, or the use of any materials for any part of the said bridge; and thereupon the company to which such bridge belongs, or the company using or controlling the same, shall, after notice thereof in writing, signed by the chairman of the railway committee, and countersigned by the secretary thereof, proceed to make good or remedy the defects in the bridge, or portions of the bridge which have been reported as insufficient, or shall make the change, alteration or substitution required as aforesaid by the committee. 35 V., c. 25, s. 8.

Changes or alterations may be required to be made.

Power of engineer.

7. Any engineer authorized to inspect any bridge may, at all reasonable times, upon producing his authority, if required, enter upon and examine such bridge. 35 V., c. 25, s. 11.

Company to furnish information.

8. Every bridge company, and the officers and directors thereof, shall afford to the inspecting engineer such information as is within their knowledge and power, in all matters enquired into by him, and shall submit to such inspecting engineer, all contracts, plans, specifications, drawings and documents relating to the construction, repair, or state of repair of such bridge. 35 V., c. 25, s. 12.

Evidence of authority.

9. The production of instructions in writing signed by the chairman of the railway committee and countersigned

by the secretary thereof, shall be sufficient evidence of the authority of any such inspecting engineer. 35 V., c. 25, s. 13.

10. If, in the opinion of the inspecting engineer, it is dangerous for railway trains (if the bridge is intended for the passage of such trains) or vehicles, or passengers to pass over the bridge until alterations, substitutions or repairs are made therein, the engineer may forthwith forbid the running of any railway train or vehicle, as the case may be, or the passage of any passenger over such bridge, by delivering, or causing to be delivered to the president, managing director or secretary, or superintendent of the company owning, using or controlling such bridge, a notice in writing to that effect, and his reasons therefor, in which he shall distinctly specify the defects or the nature of the danger to be apprehended. 35 V., c. 25, s. 9.

Engineer may order use of bridge to be suspended.

11. The inspecting engineer shall forthwith report the circumstances of the case to the railway committee, who, with the sanction of the Governor in Council, may either confirm, modify or disallow the act or order of the inspecting engineer, and notice of such confirmation, modification or disallowance shall be duly given to the bridge company affected thereby. 35 V., c. 25, s. 10.

Report to the railway committee.

12. No inspection had under this Act, nor anything in this Act contained or done, or ordered, or omitted to be done, or ordered under or by virtue of the provisions of this Act, shall relieve or be construed to relieve any bridge company of or from any liability or responsibility resting upon it by law, either towards Her Majesty or towards any person, or the wife or husband, parent or child, executor or administrator, tutor or curator, heir or personal representative of any person, for anything done or omitted to be done by such company, or for any wrongful act, neglect or default, misfeasance, malfeasance or non-feasance of such company, or in any manner or way to lessen such liability or responsibility, or in any way to weaken or diminish the liability or responsibility of any such company, under the laws in force in the Province in which such liability or responsibility arises. 35 V., c. 25, s. 14.

Inspection not to relieve company from liability.

13. Every bridge company shall be deemed to have received sufficient information of any order of the railway committee, if a notice thereof, signed by the chairman and countersigned by the secretary of the committee, is delivered to the president, vice-president, managing director, secretary or superintendent of the company, or at the office of the company; and every such company shall be deemed to have received sufficient information of any order of the inspecting engineer, if a notice thereof signed by the engineer, is delivered, as hereinbefore provided. 35 V., c. 25, s. 15.

Orders of railway committee, how notified

Company to report accidents.

14. Every bridge company shall, as soon as possible and within at least forty-eight hours after the occurrence, upon the bridge belonging to such company, of any accident attended with serious personal injury to any person using the same, or whereby its bridge has been broken or so damaged as to render its bridge impassable or unsafe or unfit for immediate use, give notice thereof to the railway committee. 35 V., c. 25, s. 16, *part.*

Return of accidents to be made twice a year.

15. Every bridge company shall, within one month after the first days of January and July, in each year, make to the railway committee, under the oath of the president, secretary or superintendent of the company, a true and particular return of all accidents and casualties (whether to life or property) which have occurred on the bridge of the company during the half year next preceding each of the said periods respectively, setting forth,—

(a.) The causes and natures of such accidents and casualties ;

(b.) Whether they occurred by night or by day ;

(c.) The full extent thereof, and all the particulars of the same :

And the company shall also, at the same time, transmit a true copy of the existing by-laws of the company, and of its rules and regulations for the management of the company and of its bridge. 35 V., c. 25, s. 17.

Form of return.

16. The railway committee may, from time to time, order and direct the form in which such return shall be made up, and may order and direct any bridge company to make up and deliver to such committee, from time to time, in addition to the said periodical returns, returns of serious accidents occurring in the course of the public traffic upon the bridge belonging to such company, whether attended with personal injury or not, in such form and manner as the committee deems necessary and requires for its information, with a view to the public safety. 35 V., c. 25, s. 18.

Returns privileged.

17. All such returns shall be privileged communications, and shall not be evidence in any court whatsoever. 35 V., c. 25, s. 20.

PENALTIES.

Penalty for opening bridge without notice.

18. Every bridge company which opens its bridge contrary to the provisions of the third section of this Act, shall incur a penalty of two hundred dollars for every day during which the same continues open until the notices have been duly given and have expired. 35 V., c. 25, s. 4.

Or contrary to order of railway committee.

19. Every bridge company which opens its bridge contrary to an order of the railway committee, issued under the fourth section of this Act, shall incur a penalty of two hun-

dred dollars for every day during which the same continues open contrary to such order. 35 V., c. 25, s. 6.

20. Every bridge company which wilfully omits to give the notice to the railway committee required by this Act, of an accident on or to its bridge, shall incur a penalty of two hundred dollars for every day during which the omission to give such notice continues. 35 V., c. 25, s. 16, *part.*

For omitting to report accidents.

21. Every bridge company which neglects to deliver any return required by this Act, verified as herein provided, within the respective times herein prescribed, or within fourteen days after the same have been so required by the railway committee, shall incur a penalty of one hundred dollars for every day during which the company neglects to deliver the same. 35 V., c. 25, s. 19.

For neglecting to deliver returns.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.

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