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REPORT
OF THE
COMMISSIONERS

APPOINTED TO
CONSOLIDATE AND REVISE

THE
STATUTES OF CANADA.

PART II.

Printed by Order of Parliament.



OTTAWA:
PRINTED BY MACLEAN, ROGER & CO., WELLINGTON STREET,
1885.

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OF THE
COMMISSIONERS

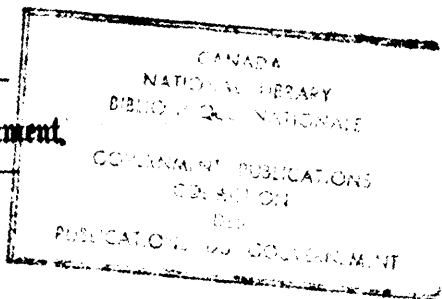
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PART II.

CHAPTER 95.

An Act respecting Weights and Measures.

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

SHORT TITLE.

Short title. **1.** This Act may be cited as the "*Weights and Measures Act.*" 42 V., c. 16, s. 1.

THE LAW OF WEIGHTS AND MEASURES.

Uniformity of Weights and Measures.

To be the same throughout Canada. **2.** Except as herein otherwise provided, the same weights and measures shall be used throughout Canada. 42 V., c. 16, s. 3.

Standards of Measure and Weight.

Certain standards to be the Dominion standards. **3.** The bronze bar and the platinum weights more particularly described in the first part of the first schedule to this Act, and deposited at the Department of Inland Revenue, in the custody of the Minister of Inland Revenue, as provided in the Act passed in the thirty-sixth year of Her Majesty's reign, intituled "*An Act respecting Weights and Measures,*" shall continue to be the Dominion standards of measure and weight:

Standard yard, pound and ounce, troy. **2.** The said bronze bar shall continue to be the Dominion standard for determining the standard yard for Canada; and the said platinum weights shall respectively continue to be the Dominion standards for determining the standard pound and the standard troy ounce for Canada. 42 V., c. 16, s. 4.

Parliamentary copies. **4.** The two copies of the standards of measure and weight, described in the second part of the first schedule to this Act and deposited as therein mentioned, shall be deemed to be Parliamentary copies of the said Dominion standards. 42 V., c. 16, s. 5.

Renewal of Dominion standards in case of loss. **5.** If at any time either of the Dominion standards of measure and weight is lost, or in any manner destroyed, defaced or otherwise injured, the Minister of Inland Revenue may cause the same to be restored, by reference to or adoption of either of the Parliamentary copies of that

standard, or of such one of them as remains available for that purpose. 42 V., c. 16, s. 6.

6. If at any time either of the Parliamentary copies of either of the Dominion standards is lost, or in any manner destroyed, defaced or otherwise injured, the Minister of Inland Revenue may cause the same to be restored, by reference either to the corresponding Dominion standard, or to the other Parliamentary copy of that standard. 42 V., c. 16, s. 7. Renewal of Parliamentary standards.

7. The departmental standards of measure and weight which, having been derived from the Dominion standards, are in use under the direction of the Minister of Inland Revenue, and are mentioned in the second schedule to this Act, and no others (save as hereinafter mentioned), shall be secondary standards of measure and weight, and shall be called departmental standards: Secondary or Departmental standards.

2. If at any time any of such standards is lost, or in any manner destroyed, defaced or otherwise injured, the Minister of Inland Revenue may cause the same to be restored, by reference either to one of the Dominion standards or to one of the Parliamentary copies of those standards: Renewal in case of loss.

3. The Minister of Inland Revenue shall, from time to time, cause such new denominations of standards, being either equivalent to or multiples or aliquot parts of the Dominion weights and measures ascertained by this Act, as are required in addition to those mentioned in the second schedule to this Act to be made and duly verified, and such new denominations of standards, when approved by the Governor in Council, shall be departmental standards in like manner as if they were mentioned in the said schedule: Standards of new denominations.

4. The Governor in Council may declare that a departmental standard for the time being, of any denomination, whether mentioned in the said schedule or approved by the Governor in Council, shall cease to be such standard. 42 V., c. 16, s. 8. Cancellation of a departmental standard.

8. The standards of measure and weight which are lawfully in use by inspectors or deputy inspectors of weights and measures, for the purpose of verification or inspection, and all copies of the departmental standards which are compared with those standards and verified by the Minister of Inland Revenue for the purpose of being used by inspectors of weights and measures under this Act as standards for the verification or inspection of weights and measures, shall be called local standards. 42 V., c. 16, s. 9. Local standards.

Dominion Measures of Length.

Standard
yard defined.

9. The straight line or distance between the centres of the two gold plugs or pins (as mentioned in the first schedule to this Act) in the bronze bar by this Act declared to be the Dominion standard for determining the Dominion standard yard, measured when the bar is at a temperature of sixty-one degrees and ninety-one hundredths of Fahrenheit's thermometer, and when it is supported on bronze rollers placed under it in such manner as best to avoid flexure of the bar and to facilitate its free expansion and contraction from varying temperature, shall be the legal standard measure of length and shall be called the Dominion standard yard, and shall be the only unit or standard measure of extension from which all other measures of extension, whether linear, superficial or solid, shall be ascertained. 42 V., c. 16, s. 10.

Standard
foot, inch, rod,
chain, link,
furlong
and mile.

10. One third part of the Dominion standard yard shall be a foot, and the twelfth part of such foot shall be an inch ; and the rod, pole or perch in length, shall contain five such yards and a-half ; and the chain shall contain twenty-two such yards, and the link shall be the one hundredth part of the chain ; the furlong shall contain two hundred and twenty such yards, and the mile one thousand seven hundred and sixty such yards. 42 V., c. 16, s. 11.

Standard
rod and acre.

11. The rood of land shall contain one thousand two hundred and ten square yards, according to the Dominion standard yard ; and the acre of land shall contain one hundred thousand square links,—being four thousand eight hundred and forty such square yards, or one hundred and sixty square rods, poles or perches. 42 V., c. 16, s. 12.

As to
seigniorial
lands in the
Province of
Quebec.

12. In the Province of Quebec, the measures of length and superficies for all lands comprised in those parts of the Province originally granted under the seigniorial tenure, shall be French measures, the ratio and proportion of which shall be to the Dominion standard measures as follows, that is to say :—

French foot.

(a) The foot—"French measure" or "Paris foot"—shall be held to contain twelve inches and seventy-nine hundredths of an inch, standard measure ;

Arpent.

(b) The "arpent," when used as a measure of length, shall be one hundred and eighty French feet ; and when used as a measure of superficies, shall contain thirty-two thousand four hundred square French feet ; and the "perch," as a measure of length, shall contain eighteen French feet ; and as a measure of superficies, three hundred and twenty-four square French feet ;

Perch.

(c) Provided, that the provisions of this section shall apply only to territorial measurement; and the French measures "toise" and "ell" (*aune*) shall not be used as standard measures, but the standard yard, as described in the *ninth* section of this Act, shall be used instead thereof. 42 V., c. 16, s. 13. French measure to be used only for such lands.

Dominion Measures of Weight and Capacity.

13. The Imperial pound, as established by the Act passed by the Parliament of the United Kingdom, in the session held in the forty-first and forty-second years of Her Majesty's reign, known as "*The Weights and Measures Act of 1878*," as represented by the platinum iridium weight mentioned in the first schedule to this Act, and hereby declared to be the Dominion standard for determining the Dominion standard pound, shall be the legal standard measure of weight and of measure, having reference to weight, and shall be called the Dominion standard pound, and shall be the only unit or standard measure of weight from which all other weights, and all measures having reference to weight, shall be ascertained. 42 V., c. 16, s. 14. Standard pound.

14. One-sixteenth part of the Dominion standard pound shall be an ounce, and one-sixteenth part of such ounces shall be a dram, and one seven-thousandth part of the Dominion standard pound shall be a grain : Standard ounce, dram and grain.

One hundred standard pounds shall be a cental or hundredweight, and twenty centals or two thousand pounds shall be a ton : Cental or cwt., and ton.

Four hundred and eighty grains shall be an ounce troy : Troy ounce.

All the foregoing weights, except the ounce troy, shall be deemed to be avoirdupois weights. 42 V., c. 16, s. 15. All other weights. avoirdupois.

15. The unit or standard measure of capacity, from which all other measures of capacity, as well for liquids as for dry goods shall be derived, shall be the gallon containing ten Dominion standard pounds weight of distilled water weighed in air against brass weights with the water and the air at the temperature of sixty-two degrees of Fahrenheit's thermometer, and with the barometer at thirty inches : Standard gallon.

The quart shall be one-fourth part of the gallon, and the pint shall be one-eighth part of the gallon : Quart and pint.

Two gallons shall be a peck, eight gallons shall be a bushel, and twenty-five gallons shall be a barrel. 42 V., c. 16, s. 16. Peck, bushel and barrel.

Bushel of certain articles determined by weight.

16. In contracts for the sale and delivery of any of the undermentioned articles, the bushel shall be determined by weighing, unless a bushel by measure is specially agreed upon—the weight equivalent to a bushel being as follows:—

Wheat, sixty pounds ;
 Indian corn, fifty-six pounds ;
 Rye, fifty-six pounds ;
 Peas, sixty pounds ;
 Barley, forty-eight pounds ;
 Malt, thirty-six pounds ;
 Oats, thirty-four pounds ;
 Beans, sixty pounds ;
 Clover seed, sixty pounds ;
 Timothy seed, forty-eight pounds ;
 Buckwheat, forty-eight pounds ;
 Flax seed, fifty pounds ;
 Hemp seed, forty-four pounds ;
 Blue grass seed, fourteen pounds ;
 Castor beans, forty pounds ;
 Potatoes, turnips, carrots, parsnips, beets and onions, sixty pounds :

Standard weights of hay and straw in Quebec.

2. In the Province of Quebec, the following shall be the standard weights for hay and straw, unless the same is sold by the ton, or unless it appears that the parties to the contract agreed to the contrary:—

A bundle of timothy, clover or other hay with a timothy band.....	15 lbs.
A bundle of timothy, clover or other hay bound with a withe.....	16 "
A bundle of straw.....	12 "

42 V., c. 16, s. 17 ;—C. S. L. C., c. 63, ss. 8 and 9.

Heaped measure forbidden.

17. In using a Dominion measure of capacity the same shall not be heaped, but either shall be stricken with a round stick or roller straight and of the same diameter from end to end, or if the article sold, cannot from its size or shape, be conveniently stricken, shall be filled in all parts as nearly to the level of the brim as the size and shape of the article admits of. 42 V., c. 16, s. 18.

Table in third schedule to be used for equivalents in metric system.

18. The table in the third schedule to this Act shall be deemed to set forth the equivalents in Dominion weights and measures of the weights and measures therein expressed in terms of the metric system, and such table may be lawfully used for computing and expressing, in weights and measures, weights and measures of the metric system. 42 V., c. 16, s. 19.

Use of Dominion Weights and Measures.

19. Every contract, bargain, sale or dealing made or had in Canada in respect of any work, goods, wares or merchandise, or other thing which has been or is to be done, sold, delivered, carried or agreed for by weight or measure, shall be deemed to be made and had according to one of the Dominion weights or measures ascertained by this Act, or to some multiple or part thereof, and if not so made or had, shall be void, except when made according to the metric system; and all tolls and duties charged or collected according to weight or measure shall be charged and collected according to one of the Dominion weights or measures ascertained by this Act, or to some multiple or part thereof:

Contracts to be by standard weights and measures: all others void.

Exception as to metric system.

Tolls and duties.

2. Such contract, bargain, sale, dealing and collection of tolls and duties, as is in this section mentioned, is in this Act referred to under the term "trade":

"Trade," what to be deemed.

3. The use of local or customary measures, or of heaped measures, shall not be lawful:

Local weights, &c., unlawful.

4. Every person who sells by any denomination of weight or measure other than one of the Dominion weights or measures, or some multiple or part thereof, and every public weigher or measurer who uses any weight or measure, or who uses, in any certificate as to the weight or measure of any article weighed or measured by him, any other than one of the Dominion weights or measures, or some multiple or part thereof, shall be liable to a penalty not exceeding twenty dollars for every such sale, weighing or certificate. 42 V., c. 16, s. 20.

Penalty for using other than Dominion weights and measures.

20. All articles sold by weight shall be sold by avoirdupois weight, except that,—

Weight to be avoirdupois;—

Gold and silver, platinum and precious stones, and articles made thereof, may be sold by the ounce troy or by any decimal part of such ounce, and all contracts, bargains, sales and dealings in relation thereto shall be deemed to be made and had by such weight, and when so made or had shall be valid:

Except certain articles which may be sold by troy weight.

2. Every person who violates this section shall be liable to a penalty not exceeding twenty-five dollars for each offence. 42 V., c. 16, s. 21.

Penalty for contravention.

21. No contract or agreement shall be invalid or open to objection on the ground that the weights or measures expressed or referred to therein are weights or measures of the metric system, or on the ground that decimal sub-

Proviso: as to metric weights or measures, or decimal divisions.

divisions of Dominion weights and measures, whether metric or otherwise, are used in such contract or dealing. 42 V., c. 16, s. 22.

As to sales
of articles
in vessels.

22. Nothing in this Act shall prevent the sale, or subject a person to a penalty under this Act for the sale of an article in any vessel, such vessel being included in the sale, when such vessel is not represented as containing any amount of Dominion measures, nor subject a person to a penalty under this Act for the possession of a vessel when it is shown that such vessel is not used or intended for use as a measure. 42 V., c. 16, s. 23.

Unjust Weights, Measures and Weighing Machines.

Penalty for
having false
or unjust
weights,
scales or
measures

23. Every person who uses or has in his possession for use, in trade, any weight, measure, scale, balance, steelyard or weighing machine, which is false or unjust, shall incur a penalty not exceeding twenty-five dollars and not less than ten dollars, or, in the case of a subsequent offence, of fifty dollars; and any contract, bargain, sale or dealing made by the same shall be void; and the weight, measure, scale, balance, steelyard or weighing machine shall be forfeited, and shall be forthwith seized as being so forfeited. 47 V., c. 36, s. 1.

Forfeiture.

Penalty for
fraud by the
use of false
weights, &c.

24. When any fraud is wilfully committed in the using of any weight, measure, scale, balance, steelyard or weighing machine, the person committing such fraud, and every person party to the fraud, shall incur a penalty of twenty-five dollars, or in the case of a subsequent offence, of fifty dollars; and the weight, measure, scale, balance, steelyard or weighing machine shall be forfeited, and shall be forthwith seized as being so forfeited. 47 V., c. 36, s. 2.

Forfeiture.

Penalty for
making or
selling false
weights, &c.

25. Every person who wilfully makes or sells, or causes to be made or sold, any false or unjust weight, measure, scale, balance, steelyard or weighing machine, shall incur a penalty not exceeding fifty dollars and not less than twenty-five dollars, or in the case of a subsequent offence, of one hundred dollars. 47 V., c. 36, s. 3.

Canned goods
sealed to have
weight
marked on
packages.

26. Every hermetically sealed package of canned goods, such as fruit, vegetables, fish and the like, shall have the weight of the contents of the tin, can, or package containing the same, legibly marked on it; and every packer or other person found guilty of selling or exposing for sale such goods in any such tin, can or package, on which the weight of the contents is not marked, or on which such weight is misrepresented, shall, for the first offence, incur a penalty of two dollars for each such tin, can or package, and for each subsequent offence, a penalty not exceeding twenty dollars and

Penalty, if
not so
marked.

not less than three dollars for each such tin, can or package.
47 V., c. 36, s. 4.

Stamping and Verification of Weights and Measures.

27. Every weight, except when the small size of the weight renders it impracticable, shall have the denomination of such weight stamped or engraved on the top or side thereof in legible figures and letters ; Lawful measures and weighing contrivances to be stamped.

Every measure of capacity shall have the denomination thereof stamped or engraved on the outside of such measure in legible figures and letters ;

Every beam, steelyard or other weighing machine shall have marked upon some essential part of it the maximum weight which it is constructed to weigh, and also on the weights or poises used with it, their actual weight when truly adjusted, in parts or multiples of the avoirdupois pound ;

A weight or measure not in conformity with this section shall not be stamped with such stamp of verification under this Act, as is herein mentioned. 42 V., c. 16, s. 27. And no other.

28. Every trader, manufacturer, carrier, public weigher, gauger, measurer, surveyor, or other person, who uses, for any purpose of buying, selling or charging for the carriage of any goods, wares, merchandise or thing, or of measuring any land, goods, materials or other thing, for the purpose of charging for or ascertaining the amount or price to be paid, or the charge to be made therefor, any weight or measure, or weighing machine which has not been duly inspected and stamped according to this Act, is guilty of an offence against this Act, and shall, on conviction, incur a penalty not exceeding fifty dollars and not less than five dollars for each such offence ; and every such unstamped weight, weighing machine or measure so used, found in his possession, shall, on being discovered by the inspector or his assistant, be forfeited and forthwith seized and broken by him, without suit or authority other than this Act : Penalty for using unstamped weights or measures or weighing machines, in business

2. Provided that no manufacturer of or dealer in weights, measures or weighing machines, who has in his possession for sale, any weight, measure or weighing machine, shall be bound to have the same inspected and stamped according to this Act, so long as the same remains in his manufactory or warehouse ; but no such weight, measure or weighing machine shall be removed from his premises, sold or taken into use for trade without being inspected and stamped : Forfeiture, &c

3. Every trader who is not a manufacturer of or dealer in weights, measures or weighing machines, and who has in Exception as to makers or dealers in weights, measures, &c. Penalty on trader having unlawful

weights, &c., in possession. his possession any unstamped weight, measure or weighing machine, shall incur a penalty not exceeding fifty dollars and not less than five dollars for the first offence, and for each subsequent offence a penalty of fifty dollars; and such weights, measures or weighing machines shall be forfeited, and shall be forthwith seized by the inspector or his assistant. 42 V., c. 16, s. 28;—47 V., c. 36, s. 5.

Forfeiture.

29. No weight made of lead or pewter, or of any mixture thereof, shall be stamped with a stamp of verification, or used for trade, unless it is wholly and substantially cased with brass, iron or copper, and legibly stamped or marked "*cased* :

As to weights of lead or pewter.

2. Every person who violates any of the provisions of this section shall incur a penalty not exceeding twenty-five dollars, and in case of a second offence fifty dollars:

Penalty for violation.

3. Nothing in this section shall prevent the insertion into a weight of such a plug of lead or pewter as is *bonâ fide* necessary for the purpose of adjusting it, and of affixing thereto the stamp of verification. 42 V., c. 16, s. 29.

Proviso: as to plugs

30. Every person who forges or counterfeits any stamp used for the stamping, under this Act, of any weight, balance, weighing machine or measure, or used before the commencement of this Act for the stamping of any weight, balance, weighing machine or measure under any enactment repealed by this Act, or who wilfully increases or diminishes any weight or measure so stamped, or in any way alters or tampers with any balance, weighing machine or measure, which has been so stamped, so as to cause it to weigh or measure unjustly, shall incur a penalty of forty dollars for the first offence, and for each subsequent offence he shall be liable to a penalty of one hundred dollars and to imprisonment for a term of two months:

Penalty for forging or counterfeiting stamps used under this Act.

2. Every person who knowingly uses, sells, utters, disposes of, or exposes for sale, any weight, balance, weighing machine or measure, with such forged or counterfeit stamp thereon, or any weight, balance, weighing machine or measure so increased, diminished, falsified or tampered with, shall incur a penalty, for the first offence, not exceeding fifty dollars and not less than twenty-five dollars, and for each subsequent offence a penalty of one hundred dollars, and the weight, balance, weighing machine or measure shall be forfeited, and shall be forthwith seized as being so forfeited. 47 V., c. 36, s. 6.

Or for knowingly using counterfeits.

Forfeiture.

ADMINISTRATION.

Central.

Minister of Inland Revenue to have

31. The Minister of Inland Revenue shall have the custody of the Dominion standards of measure and weight,

and of the departmental standards, and of all balances, apparatus, books, documents and things used in connection therewith or relating thereto. 42 V., c. 16, s. 31. custody of standards, &c.

32. The Parliamentary copies of the Dominion standards of measure and weight, mentioned in part two of the first schedule to this Act, shall continue to be deposited as therein mentioned : Deposit of Parliamentary standards.

2. The Minister of Inland Revenue shall cause the Parliamentary copies of the Dominion standards of measure and weight to be compared with each other once in every five years, and once in every ten years with the Dominion standards of measure and weight. 42 V., c. 16, s. 32. Periodical comparison of such standards.

33. Once, at least, in every five years, the Minister of Inland Revenue shall cause the departmental standards, for the time being, to be compared with the Parliamentary copies of the Dominion standards of measure and weight made and approved in pursuance of this Act, and with each other, and to be adjusted or renewed if requisite : And of departmental standards.

2. A record shall be kept by the Minister of Inland Revenue of all standards verified or re-verified, showing full particulars of the results of such verification or re-verification. 42 V., c. 16, s. 33. Record of verification.

34. The copies of the metric standards mentioned in the fourth schedule to this Act having been obtained and deposited in the custody of the Minister of Inland Revenue, the minister may cause to be compared with the said standards and verified, all metric weights and measures which are submitted to him for the purpose, and which are of such shape and construction as are, from time to time, directed under any Order in Council in that behalf, and which the minister is satisfied are intended to be used for the purpose of science or of manufacture, or for any lawful purpose within the meaning of this Act. 42 V., c. 16, s. 34. Copies of metric standards and their use for lawful purposes.

35. All comparisons, verifications and other operations with reference to standards of length, weight and capacity, shall be conducted under the supervision of the Commissioner of Inland Revenue, and generally he shall have such powers and duties in relation thereto as are assigned to him by the Governor in Council. The Commissioner of Inland Revenue shall also conduct all such comparisons, verifications and other operations with reference to standards of measure and weight in aid of scientific researches, or otherwise, as the Minister of Inland Revenue deems expedient ; and in consideration of the special qualifications and knowledge necessary for the proper discharge of such duties, the said commissioner may be paid, in addition to his salary as Comparisons, verifications, &c., how made
Duty of Commissioner of Inland Revenue with respect to them, and as to standards generally.
Compensation for such service

commissioner, such further allowance, out of any moneys voted by Parliament for the purposes of this Act, as is directed by the Governor in Council. 42 V., c. 16, s. 35.

Local.

Appointment
and duties of
inspectors.
And of assis-
tants.

36. The Governor in Council may, from time to time, appoint one or more inspectors of weights and measures for each Province, and such number of assistants to each inspector as is, from time to time, found necessary, and may, from time to time, assign them inspection divisions, and their powers and duties shall be as defined by this Act, by the regulations made under it, and by instructions from the Minister of Inland Revenue; and the Governor in Council may assign to each inspector or assistant so appointed such remuneration or salary as is deemed expedient, not exceeding the amount voted by Parliament, and may also allow to each such inspector or assistant such further sum as will suffice to meet his actual expenses in the performance of his official duties. 42 V., c. 16, s. 36.

Remunera-
tion.

District
inspectors.

37. The Governor in Council may appoint any officer of the Department of Inland Revenue to the office of district inspector under this Act, and such officer shall discharge the duties assigned to him under this Act, in conjunction with and in addition to his other official duties. 42 V., c. 16, s. 37, *part.*

Oath of office.

38. Each inspector or assistant inspector shall, on appointment, take an oath for the faithful discharge of his duties, and shall give a bond, in a sum fixed by the Governor in Council, for the safe custody and preservation of the standard weights and measures and other apparatus intrusted to him, for their delivery over to his successor in case of his resignation or removal from office, and for the duly accounting for all moneys collected by him. 42 V., c. 16, s. 37, *part.*

Inspector to
be provided
with local
standards.

39. Each inspector shall be furnished by the Minister of Inland Revenue with one or more sets of standards, to be called "the local standards," carefully verified and authenticated by comparison with the departmental standards in the custody of the Minister of Inland Revenue, and with such apparatus as is requisite to enable him to perform his duties under this Act. 42 V., c. 16, s. 37, *part.*

Officers not
to be makers
or sellers of
weights or
measures, &c.

40. No officer appointed under this Act shall be a maker or seller of weights, balances, measures or weighing machines, but, under special departmental instructions in that behalf, he may be allowed to adjust or alter any weight verified by him or submitted to him for verification, and to collect, therefor, such compensation as is authorized by the Governor in Council. 42 V., c. 16, s. 38, *part.*

41. The "standards" and other apparatus shall be used by the inspector or assistant into whose custody they are given solely for the purpose of comparing and verifying weights, measures, balances and weighing machines used for purposes of trade. 42 V., c. 16, s. 38, *part.*

Sole use of standards by inspectors.

42. The inspector or his assistant shall perform such duties incident to the verification of weights and measures, and of beams, scales, steelyards and other weighing machines, comparing and trying the same with the standard weights and measures, and other apparatus in his possession, as are assigned to him under departmental regulations :

Duties of inspectors and assistants.

2. He shall, at all proper times, carefully examine and compare all weights and measures, and all beams, scales or other weighing machines of any kind, presented to him within his division; and when found correct and just he shall mark, stamp or brand the same in such manner as is, from time to time, directed by the Minister of Inland Revenue, who shall furnish such stamps, brands and implements as he thinks proper for that purpose. 42 V., c. 16, s. 39.

Examination and marking of weights, &c.

43. Every inspector or his assistant shall, upon such days and at such places within his district as he, from time to time, appoints in pursuance of such departmental regulations as are made in that behalf—and of which days or places public notice shall be given in the manner provided by such regulations,—attend with his inspection standards and other apparatus for the purpose of inspecting all weights, balances, measures and weighing machines, and shall then and there inspect and verify, and if found correct, shall stamp and certify all weights and measures, balances and other weighing machines. 42 V., c. 16, s. 40.

Times and places of inspection and verification.

Stamping, &c., when found correct.

44. The inspector or his assistant may, at all reasonable times, without notice, enter any shop, store, warehouse, stall, yard or place whatsoever, within his division, where any commodity is bought, sold, exposed or kept for sale, or where a charge is made for the carriage or conveyance thereof by weight or measure, and there examine all weights, measures, beams, scales, steelyards or other weighing machines, and compare and try the same with the local standards of weight and measure in his possession; and he shall do so from time to time, and without previous notice, so as best to ensure compliance with the provisions of this Act, and the discovery and punishment of any violation thereof; and he shall attend at any reasonable time and place, and when not otherwise engaged in the performance of his duties, for the purpose of inspecting and verifying any fixed and non-portable weighing machine in his division; and he may also,

Power of inspectors to enter shops, &c.

Without previous notice.

To inspect when called on if not otherwise on duty.

Inspection, on request subject to regulations. subject to regulations made by the Governor in Council in that behalf, at any time when not so engaged, as aforesaid, inspect, verify, stamp and certify any weights, measures or weighing machines, at the request of the owner thereof, and at any place in his division. 42 V., c. 16, s. 41.

Penalty for obstructing inspector or assistant. **45.** Every person who wilfully obstructs or impedes any inspector or assistant inspector in the performance of his duty under this Act, or under any Order in Council or departmental regulation lawfully made under it, and every person who aids or assists him in so doing, shall incur a penalty of one hundred dollars. 47 V., c. 36, s. 7.

Inspector to keep a record of inspections, &c. **46.** The inspector shall keep a book in which he shall enter minutes of all verifications made by him or his assistant, and at the time of every inspection he or his assistant shall deliver to the owner of any weight or measure, or weighing machine verified, or to the person procuring the verification, a certificate under his hand, setting forth the fact and date of such verification, and specifying the weight, measure or weighing machine inspected. 42 V., c. 16, s. 42.

Re-inspection at certain periods. **47.** Within four months after the expiration of two years from the first verification and stamping, and within a period of two years after each subsequent verification, every weight, measure and weighing machine shall be again inspected and verified, and a new certificate of such inspection and verification obtained from the proper inspector; and the production of the certificate shall be *prima facie* evidence of the verification or stamping, or re-verification having taken place within the period prescribed by law. 42 V., c. 16, s. 43.

Refusing to produce weights, &c., for inspection. **48.** Every person, not being a manufacturer, dealer in or importer of weights, measures or weighing machines, who refuses to produce for inspection, when required so to do by any inspector or inspector's assistant appointed under this Act, all weights, measures and weighing machines in his possession, and used for any purpose of trade; and—

Or refusing to permit inspection. Every manufacturer of, dealer in or importer of weights, measures or weighing machines, who refuses to permit the inspection, when required in the manner herein provided, of any weights, measures or weighing machines about to be removed from his premises to be used for purposes of trade, or who permits any such weights, measures or weighing machines to be so removed without having been first inspected and stamped as herein required,—

Penalty. Shall, for a first offence, incur a penalty not exceeding twenty-five dollars and not less than five dollars, and for each subsequent offence a penalty of fifty dollars:

Provided always, that the provisions of this section shall not be construed as imposing any penalty on a manufacturer of, dealer in, or importer of weights, measures or weighing machines in respect of any dormant scales, which cannot be properly verified until set upon a fixed foundation. 47 V., c. 36, s. 8.

Proviso: as to dormant scales.

49. No weight, measure or weighing machine duly stamped by any inspector, or other person hereby authorized to examine and stamp the same, shall be subject to be re-stamped, although the same is used beyond the limits of the inspection division within which it was originally stamped, but shall be considered as a lawful weight or measure or weighing machine throughout Canada, unless found defective or unjust on any subsequent periodical or other inspection—to which it remains subject, as provided by this Act—by the inspector or his assistant for the division in which it then is. 42 V., c. 16, s. 45.

As to weights and measures, &c., stamped in any division and used in another.

50. If any inspector or inspector's assistant stamps or marks any balance, beam, weight or measure, or weighing machine, without having first duly compared and verified the same with the standard or other authorized instrument in his possession for the purpose, he shall, on conviction, incur a penalty not exceeding fifty dollars for each offence. 42 V., c. 16, s. 46.

Penalty for stamping any weight, &c., without verifying it.

51. Every inspector or assistant inspector, who, without authority from the Minister of Inland Revenue, knowingly stamps any balance, weight, measure or weighing machine, belonging to any person residing within the limits of any inspection division for which another inspector has been lawfully appointed, shall, on conviction, incur a penalty not exceeding five dollars for every balance, weight, measure or weighing machine so stamped. 47 V., c. 36, s. 9.

Penalty on inspector or assistant stamping out of his proper division.

Delivery of Liquids in Casks.

52. For the purpose of the following sections of this Act, the expression "cask" means and includes every vessel constructed for holding liquids, and made of staves and headings bound together by hoops. 38 V., c. 36, s. 2.

Interpretation.

53. The capacity of any cask shall, in all cases of dispute, be determined by the weight of rain water it holds, the water being at a temperature of sixty-two degrees of Fahrenheit's thermometer, and ten pounds of such water being reckoned as equal to one gallon; and the determination by such weighing by an inspector or deputy inspector of weights and measures, or by an officer of Inland Revenue, authorized thereto under departmental regulations, of the contents of any cask, shall be final and conclusive. 38 V., c. 36, s. 4.

How the capacity shall be ascertained in case of dispute.

- Capacity of cask containing liquids subject to excise, to be marked on bung stave. **54.** No malt liquors or any other liquids subject to excise that have been put into any cask in Canada, shall be delivered in the cask to the purchaser unless the capacity of the cask in which delivery is made is legibly marked in gallons, and parts of a gallon, on the bung stave thereof; and such marking shall be cut or branded in the wood, in characters not less than one inch and a-quarter in height; except only that such marking shall not be necessary on casks on which the quantity of liquid then contained in them has been marked or verified in compliance with excise regulations then in force. 38 V., c. 36, s. 1.
- Exception.
- Offences. **55.** Every public gauger or other person who—
- Wrongfully marking cask. (a) Marks or causes to be marked on any cask as its capacity, a quantity greater than such cask will hold; or—
- Using falsely marked cask. (b) Who uses or causes to be used, for the delivery to a purchaser of any malt liquors or any other liquid subject to excise, put into a cask in Canada, any cask so falsely marked; or—
- Or unmarked cask. (c) Who, except as herein provided, delivers any such liquid put into a cask in Canada, in a cask not marked as herein required,—
- Penalty for such offences. Is guilty of an offence against this Act, and shall incur a penalty of ten dollars for every cask so falsely marked or so used without being first properly marked, and a penalty of double the amount for every subsequent offence. 38 V., c. 36, s. 3.

GENERAL PROVISIONS.

- Regulations by Governor in Council for certain purposes. **56.** The Governor in Council may, from time to time, make regulations concerning any of the subjects following, that is to say:—
- (a) The guidance of the inspectors and their assistants in the performance of their duties;
- (b) The replacement and use of the standards;
- (c) The methods of verifying local standards or weights, measures, weighing machines and balances, and of certifying such verification;
- (d) The amount of error that may be tolerated in weights, measures, balances and weighing machines;
- (e) The shapes, dimensions and proportions to be required in weights, weighing machines and measures, and the materials of which they may be made;

(f) The marking on weights and measures authorized under this Act, of their several denominations :

And such regulations shall be published in the *Canada Gazette*. 42 V., c. 16, s. 48.

57. The Governor in Council may, from time to time, make a tariff of fees to be paid to the inspectors or their assistants for inspecting and stamping weights and measures, balances, beams and other weighing machines, under this Act ; and the Order in Council containing such tariff and regulations, and any repeal or amendment thereof, shall be published in the *Canada Gazette* ; and the said fees shall form part of the Consolidated Revenue Fund of Canada. 42 V., c. 16, s. 49.

Governor in Council may make tariff of fees.

Publication.

Application of fees.

58. Such fees shall be paid at the time of the inspection, stamping or verification, to the inspector or his assistant, who shall affix to the certificate given by him an adhesive stamp or stamps to the amount of such fee, and shall, at the time of affixing the same, write or mark thereon, in such manner as is directed by departmental regulations, the date at which it is affixed ; and no certificate shall be valid or avail for any purpose whatsoever unless the requisite stamp or stamps have been duly affixed and remain affixed thereto and cancelled. 42 V., c. 16, s. 50.

When and how such fees shall be paid.

Stamp to be affixed to certificate.

59. If any person refuses to pay the inspection fees payable by him, on demand of the inspector or assistant inspector, such inspector or assistant inspector may seize sufficient of the weights, measures or weighing machines, for the inspection whereof such fees are due, to secure the same, and retain them until the fees and all expenses incurred are paid, and shall forthwith institute proceedings for the recovery thereof and costs, as provided by section *sixty-two*. 47 V., c. 36, s. 10.

Power to seize weights, &c., if the inspector's fees are not paid.

60. The Governor in Council may, from time to time, direct adhesive stamps, bearing such device as he thinks proper, to be prepared for the purposes of this Act, and may defray the cost thereof out of any unappropriated moneys forming part of the Consolidated Revenue Fund of Canada :

Adhesive stamps for use under this Act.

2. The device on such adhesive stamp shall express the value thereof, that is to say, the sum at which it is to be reckoned in payment of the duty hereby imposed. 42 V., c. 16, s. 51.

Device thereon.

61. Separate accounts shall be kept of all expenditure incurred and of all fees and duties collected and received under the authority of this Act ; and a correct annual state-

Accounts under this Act.

ment of the same up to the thirtieth day of June then last past, shall be laid before Parliament within the first fifteen days of the then next session thereof. 42 V., c. 16, s. 52.

PROCEDURE.

Recovery of penalties and enforcement of forfeitures.

62. All penalties imposed by this Act, or by any regulation made under its authority, shall be recoverable, with costs, before any civil court of competent jurisdiction, or before any justice of the peace for the district, county or place in which the offence is committed, if such penalty does not exceed fifty dollars, and before any two such justices, if it exceeds fifty dollars,—upon proof by confession, or by the oath of one credible witness; and the amount may, if not forthwith paid, be levied by execution or distress and sale of the goods and chattels of the offender, by warrant, under the hand and seal of such justice or justices,—by whom also any imprisonment to which the offender is liable may be awarded; and the provisions of the "*Act respecting summary proceedings before Justices of the Peace*," shall, subject to the provisions of this Act, apply to all proceedings thereunder. 42 V., c. 16, s. 53, *part*.

How levied, if not forthwith paid.

Application of penalties.

63. A moiety of every penalty so recovered shall belong to the person who sues for the same, not being an inspector or an assistant inspector, and the other moiety or, if the person suing is an officer acting in pursuance of this Act, the whole penalty, shall belong to Her Majesty. 42 V., c. 16, s. 53, *part*.

Sub-section 3, of 43 V., c. 16, s. 53, omitted as inconsistent with sub-section 2.

Disposal of forfeited weights, &c.

64. All false weights, beams, balances and weighing machines seized as forfeited under this Act, shall be delivered to the district inspector, for the district in which the offence is committed, in whose custody they shall remain, subject to the order of the Minister of Inland Revenue. 42 V., c. 16, s. 53, *part*.

Remedy of person aggrieved by false weights, &c.

65. Every person aggrieved by the use of any weight or measure, or weighing machine, which has not been duly inspected and stamped according to this Act, or which is found light, deficient or otherwise unjust, may recover treble damages and treble costs. 42 V., c. 16, s. 53, *part*.

Limitation of suits.

66. No action or prosecution shall be brought against any person for any penalty imposed by this Act, unless the same is commenced within six months after the offence is committed. 47 V., c. 36, s. 11.

SCHEDULES.

FIRST SCHEDULE.

PART I.

DOMINION STANDARDS.

The following standards were constructed under the direction of the Commissioner of Inland Revenue:—

The Dominion standard for determining the length of the Dominion standard yard is a solid square bar, thirty-eight inches long and one inch square in transverse section, the bar being of bronze or gun metal (known as Baily's metal); near to each end a cylindrical hole is sunk (the distance between the centres of the two holes being thirty-six inches) to the depth of half an inch; at the bottom of each hole is inserted in a smaller hole a gold plug or pin, about one-tenth of an inch in diameter, and upon the surface of each pin are cut, a fine line transverse to the axis of the bar, and two lines at an interval of about one-hundredth of an inch parallel to the axis of the bar; the measure of length of the Dominion standard yard is given by the interval between the transverse line at one end and the transverse line at the other end, the part of each line which is employed being the point midway between the longitudinal lines; and the said points are in this Act referred to as the centres of the said gold plugs or pins, and such bar is marked "Mr. Baily's metal," "Standard Yard" "A," "Troughton and Simms, London." There are also, on the upper side of the bar, two holes for the insertion of the bulbs of suitable thermometers for the determination of the temperature.

The Dominion standard for determining the weight of the Dominion standard pound is of platinum-iridium, the form being that of a cylinder nearly 1.35 inch in height and 1.15 inch in diameter, with a groove or channel round it, the middle of which is about 0.34 inch below the top of the cylinder, for insertion of the points of the ivory fork by which it is to be lifted; the edges are carefully rounded off, and such standard pound is marked "A." The weight of this standard in terms of the Imperial standard is 6999.97694 grains when both are weighed *in vacuo* and 6999.98387 grains when both are weighed in air at the temperature of 62° of Fahrenheit's thermometer, the barometer being at 30 inches, and for which due allowance is to be made when comparing other standards.

The Dominion standard for determining the weight of the Dominion standard Troy ounce is of platinum-iridium, the form being that of a truncated cone, with a knob, nearly

$\frac{1}{8}$ of an inch in height, including the knob, the knob being nearly $\frac{1}{4}$ inch and the base of the cone $\frac{1}{2}$ inch in diameter respectively, and such standard Troy ounce is marked "A." The weight of this standard in terms of the Imperial standard is 479·99197 grains when both are weighed *in vacuo*, and 480·03648 grains when both are weighed in air at the temperature of 62° of Fahrenheit's thermometer, the barometer being at 30 inches, for which due allowance is to be made when comparing other standards.

PART II.

PARLIAMENTARY COPIES OF DOMINION STANDARDS.

The following copies of the standards above mentioned in part one of this schedule were constructed at the same time as the above standards. They are of the same construction and form as the above standards, and they are respectively marked and deposited as follows:—

(1) One of the copies of the Dominion standard for determining the Dominion standard yard, being a bronze bar marked "Mr. Baily's metal," "Standard Yard," "B," "Troughton and Simms, London," one of the copies of the Dominion standard for determining the Dominion standard pound, marked "B," and one of the copies of the Dominion standard for determining the Dominion standard Troy ounce marked "B," have been deposited with the Speaker of the Senate. This copy of the standard yard is standard at a temperature of 62·16° of Fahrenheit's thermometer, and the weight of this copy of the standard pound, in terms of the Imperial standard, when both are weighed *in vacuo*, is 6999·98312 grains.

(2) One of the copies of the Dominion standard for determining the Dominion standard yard, being a bronze bar marked "Mr. Baily's metal," "Standard Yard," "C," "Troughton and Simms, London," one of the copies of the Dominion standard for determining the Dominion standard pound, marked "C," and one of the copies of the Dominion standard for determining the Dominion standard Troy ounce, marked "C," have been deposited with the Speaker of the House of Commons. This copy of the standard yard is standard at a temperature of 61·45° of Fahrenheit's thermometer, and the weight of this copy of the standard pound, in terms of the Imperial standard, when both are weighed *in vacuo*, is 6999·98367 grains. 42 V., c. 16, 1st sch.

SECOND SCHEDULE.

DEPARTMENTAL STANDARDS.

Measures of Length.		Measures of Capacity.
No. of each.	Denomination of Standard.	Denomination of Standard
		<i>Set marked "a."</i>
1	100 feet.	Bushel.
1	66 feet or chain of 100 links.	Half-bushel.
2	10 feet end measures, with bed.	Peck.
1	6 feet end measure, with bed.	Gallon.
1	3 feet or 1 yard.	Half-gallon.
1	1 inch divided into 10 decimal parts, one of which is again divided into ten subdivisions of $\frac{1}{100}$ th of an inch each.	Quart.
		Pint.
		Half-pint.
		Gill.
		Half-gill.
		<i>Set marked "b."</i>
		Bushel.
		Half-bushel.
		Peck.
		Gallon.
		Half-gallon.
		Quart.
		Pint.
		Half-pint.
		Gill.
		Half-gill.

WEIGHTS.

Denomination of Standard.	Denomination of Standard.	Denomination of Standard.
Avoirdupois Weights.	Troy Bullion Weights.	Decimal Grain Weights.
<i>Set marked "a."</i>	<i>Set marked "a."</i>	<i>Set marked "a."</i>
50 pounds.	500 ounces.	1,000 grains.
30 do	300 do	600 do
20 do	200 do	300 do
10 do	100 do	200 do
5 do	50 do	100 do
3 do	30 do	60 do
2 do	20 do	30 do
1 pound.	10 do	20 do
8 ounces.	5 do	10 do
4 do	3 do	6 do
2 do	2 do	3 do
1 ounce.	1 do	2 do
8 drams.	5 do	1 do
4 do	3 do	6 do
2 do	2 do	3 do
1 dram.	1 do	2 do
$\frac{1}{2}$ do	.05 do	1 do
.5 pound.	.03 do	.06 do
.3 do	.02 do	.03 do
.2 do	.01 do	.02 do
.1 do	.005 do	.01 do
.05 do	.003 do	
.03 do	.002 do	
.02 do	.001 do	
.01 do		
.005 do		
.003 do		
.002 do		
.001 do		
<i>Set marked "b."</i>	<i>Set marked "b."</i>	<i>Set marked "b."</i>
50 pounds.	500 ounces.	1,000 grains.
30 do	300 do	600 do
20 do	200 do	300 do
10 do	100 do	200 do
5 do	50 do	100 do
3 do	30 do	60 do
2 do	20 do	30 do
1 pound.	10 do	20 do
8 ounces.	5 do	10 do
4 do	3 do	6 do
2 do	2 do	3 do
1 ounce.	1 do	2 do
8 drams.	.5 do	1 do
4 do	.3 do	6 do
2 do	.2 do	3 do
1 dram.	.1 do	2 do
$\frac{1}{2}$ do	.05 do	1 do
.5 pound.	.03 do	.06 do
.3 do	.02 do	.03 do
.2 do	.01 do	.02 do
.1 do	.005 do	.01 do
.05 do	.003 do	
.03 do	.002 do	
.02 do	.001 do	
.01 do		
.005 do		
.003 do		
.002 do		
.001 do		

THIRD SCHEDULE.

TABLES of the Values of the principal denominations of Measures and Weights of the Metric System, expressed in terms of the Standard Measures and Weights of Canada.

1.—MEASURES OF LENGTH.

Metric Denominations and Values.		Equivalents expressed in terms of the Standard of Canada.		
—	Metres	In Standard yards and decimal parts of a yard.	In feet and decimal parts of a foot.	In links and decimal parts of a link.
Miriometre.....	10000	10939·44444	32818·33333	49724·74747
Kilometre.....	1000	1093·94444	3281·83333	4972·47475
Hectometre.....	100	109·39444	328·18333	497·24747
Decametre.....	10	10·93944	32·81833	49·72475
Metre.....	1	1·09394	3·28183	4·97247
Decimetre.....	$\frac{1}{10}$	·109394	·328183	·49725
Centimetre.....	$\frac{1}{100}$	·010939	·032818	·04973
Millimetre.....	$\frac{1}{1000}$	·001094	·003282	·00497

2.—MEASURES OF SURFACE.

Metric Denominations and Value.		Equivalents expressed in terms of the Standard of Canada.		
—		Square Metres.	In square yards and decimal parts of a square yard.	In square links and decimal parts of a square link.
Hectare.....	100 ares.	10000	11967·1444	247255·0511
Decare.....	10 do	1000	1196·7144	24725·5051
Are.....	1 do	100	119·6714	2472·5505
Centiare.....	$\frac{1}{100}$ do	1	1·1967	24·7255

3.—WEIGHTS.

Metric Denominations and Value.		Equivalents expressed in terms of the Standard of Canada.	
—	Grams.	In pounds Avoirdupois and decimal parts of a pound.	In grains and decimal parts of a grain Troy.
Millier.....	1000000	2204·62125	
Quintal.....	100000	220·46212	
Myriagramme.....	10000	22·046212	
Kilogramme.....	1000	2·204621	
Hectogramme.....	100	·220462	
Decagramme.....	10	·022046	
Gramme.....	1	·002204	15·4323487
Decigramme.....	$\frac{1}{10}$	·0002204	1·5432349
Centigramme.....	$\frac{1}{100}$	·0000220	·1543235
Milligramme.....	$\frac{1}{1000}$	·0000022	·0154323

4.—MEASURES OF CAPACITY.

Metric Denominations and Value.			Equivalents expressed in terms of the Standard of Canada.	
	Cubic Metres.	Litres.	In Imperial gallons and decimal parts of an Imperial gallon.	
Kilolitre	1	1000	220·2443	
Hectolitre	$\frac{1}{10}$	100	22·0244	
Decalitre	$\frac{1}{100}$	10	2·2024	
Litre	$\frac{1}{1000}$	1	·2202	
Decilitre.....	$\frac{1}{10000}$	$\frac{1}{10}$	·0220	
Centilitre.....	$\frac{1}{100000}$	$\frac{1}{100}$	·0022	

42 V., c. 16, 3rd Sch.

FOURTH SCHEDULE.

METRIC STANDARDS.

List of Metric Standards in the custody of the Inland Revenue Department.

MEASURES OF LENGTH.

Metre.

The Dominion standard for determining the length of the metre is a solid square bar, forty-one and a-half inches long, and one inch square in transverse section, the bar being of bronze or gun metal (known as Baily's metal); near to each end a cylindrical hole is sunk (the distance between the centres of the two holes being one metre or thereabout) to the depth of half an inch; at the bottom of each hole is inserted in a smaller hole a gold plug or pin, about one-tenth of an inch in diameter, and upon the surface of each pin is cut a fine line transverse to the axis of the bar, and two lines at an interval of about one hundredth of an inch parallel to the axis of the bar. The measure of length of the metre is given by the interval between the transverse line at one end and the transverse line at the other end, the part of each line employed being the point midway between the longitudinal lines; and the said points are in this Act referred to as the centres of the said gold plugs or pins, and such bar is marked "Mr. Baily's metal," "Standard Metre," "Troughton & Simms, London." There are also on the upper side of the bar two holes for the insertion of the bulbs of suitable thermometers for the determination of the temperature. This standard is shorter than the French standard "Metre des archives," by ·00147 of a millimetre at 0° Centigrade, or 32° Fahrenheit, or is standard at 32·16° Fahrenheit.

WEIGHTS.

Kilogramme.

The Dominion standard for determining the weight of the Kilogramme is of bronze, the form being that of a cylinder with a knob, the cylinder having a groove cut in it at about two-thirds of its height. Its value as compared with the French Standard Kilogramme is 100002.45 milligrammes, or 1.0000245 of a Kilogramme.

METRIC WEIGHTS.

No. of each.	Denomination.	No. of each.	Denomination.
1	20 Kilogrammes.	1	5 Decigrammes.
1	10 do	1	2 do
1	5 do	2	1 Decigramme.
2	2 do	1	5 Centigrammes.
1	1 Kilogramme.	1	2 do
1	500 Grammes.	2	1 Centigramme.
2	200 do	1	5 Milligrammes.
1	100 do	2	2 do
1	50 do	1	1 Milligramme.
2	20 do		
1	10 do		
1	5 do		
1	2 do		
2	1 Gramme.		

42 V., c. 16, 4th Sch.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
38 V., c. 36	The whole except s. 5.	s. 5.		
42 V., c. 16.....	The whole except s. 2, sub-s. 2 of s. 16, s. 55 and sub-s. 3 of s. 53.	s. 2, sub-s. 2 of s. 16, s. 55 and sub-s. 3 of s. 53.		
47 V., c. 36. C. S. L. C., c. 63.	The whole. ss. 8 and 9.			

CHAPTER 96.

An Act respecting the Traffic in Intoxicating Liquors.

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

SHORT TITLE.

Short title. **1.** This Act may be cited as “*The Canada Temperance Act.*” 41 V., c. 16, s. 1.

INTERPRETATION.

Interpreta- **2.** In this Act, unless the context otherwise requires:—
tion.

“Intoxicating (a) The expression “intoxicating liquors” means and in-
liquors.” cludes any and every spirituous or malt liquor, and every wine, and any and every combination of liquors or drinks that is intoxicating, and any mixed liquor capable of being used as a beverage, and part of which is spirituous or otherwise intoxicating;

“County.” (b) The expression “county” includes every town, town-
ship, parish and other division or municipality, except a city, within the territorial limits of the county, and also a union of counties united for municipal purposes; *and as respects the Province of Manitoba, the expression “county” means the electoral districts therein, as designated by “The Representation Act.”* 41 V., c. 16, s. 2;—42 V., c. 50, ss. 2 and 4.

Provision as
to the word
“County” as
respects the
Province of
Manitoba.

This section has been amended in consequence of the passing of the Representation Act, 45 V., c. 3, defining the electoral districts of Manitoba, since the passing of 42 V., c. 50.

DIVISION OF ACT.

Division of **3.** This Act is divided into three parts,—
Act.

The first part relating to proceedings for bringing the second part of this Act into force :

The second part relating to the prohibition of traffic in intoxicating liquors :

The third part relating to penalties and prosecutions for offences against the second part.

New.

FIRST PART.

PROCEEDINGS FOR BRINGING THE SECOND PART OF THIS
ACT INTO FORCE.*Mode of obtaining Poll.*

4. Any petition to the Governor in Council for the bringing of the second part of this Act into force in any county or city, may be in the form A in the schedule to this Act, or in words to the same effect. 41 V., c. 16, s. 4.

Form of petition to Governor in Council.

5. Such petition may be embodied as in form A in the schedule to this Act, in a notice in writing addressed to the Secretary of State of Canada and signed by electors qualified and competent to vote at the election of a member of the House of Commons in the county or city, to the effect that the signers desire that the votes of all of such electors, hereinafter termed electors, be taken for and against the adoption of the petition. 41 V., c. 16, s. 5.

Form of notice of desire to have votes of electors taken.

6. There shall be laid before the Secretary of State, together with, or in addition to, every such notice, evidence that there are appended to it the genuine signatures of at least one-fourth in number of all the electors in the county or city named in it, and that such notice has been deposited for public examination by any person, for ten days preceding its being laid before the Secretary of State, in the office of the sheriff or registrar of deeds of or in the county or city, or in the Province of Manitoba, in any registry office in the respective electoral districts, or in any sheriff's office in such districts, and that two weeks' previous notice of such deposit has been given in two newspapers published in or nearest to the county or city, and by at least two insertions in each paper. 41 V., c. 16, s. 6;—42 V., c. 50, s. 3.

Evidence of notice being given by one-fourth of electors.

7. If it appears by evidence to the satisfaction of the Governor in Council that any such notice has appended to it the genuine signatures of one-fourth or more of all the electors in the county or city named in it, and has been duly deposited as aforesaid, after notice as aforesaid, the Governor in Council may issue a proclamation under this part of this Act. 41 V., c. 16, s. 7.

In that case a proclamation may issue.

8. Such proclamation shall be inserted at least three times in the *Canada Gazette*, and three times in the official Gazette of the Province in which the county or city is situated. 41 V., c. 16, s. 8.

Proclamation to be published.

9. In such proclamation there may be set forth,—

What may be set forth in the proclamation.

(a) The notice in full, with the proposed petition embodied in it;

Notice.

- Signatures. (b) The number of the signatures to the notice ;
- Day of poll. (c) The day on which the poll for taking the votes of the electors for and against the petition will be held ;
- Hours. (d) That such votes will be taken between the hours of nine o'clock in the forenoon and five o'clock in the afternoon of that day, by ballot ;
- Returning officer. (e) The name of the sheriff, registrar or other person appointed returning officer for the purpose of taking, on that day, the votes of the electors for and against the petition, and of afterwards summing up the same and making a return of the result to the Governor in Council ;
- Deputies. (f) The power of the returning officer to appoint a deputy returning officer at and for each polling place or station ;
- Representatives. (g) The place where, and the day and hour when, the returning officer will appoint persons to attend at the various polling stations, and at the final summing up of the votes on behalf of the persons interested in, and promoting or opposing respectively, the adoption of the petition ;
- Place and date of final summing up. (h) The place where, and the day and hour when, the votes of the electors will be summed up, and the result of the polling declared by the returning officer ;
- Date when second part will go into force. (i) The day on which, in the event of the petition being adopted by the electors, the second part of this Act will go into force in the county or city in question ;
- General matters. And any such further particulars with respect to the taking and summing up of the votes of the electors as the Governor in Council sees fit to insert therein :

No polling on certain days. 2. No polling of votes under this Act shall be held in any city or county on the same day that any election takes place in such city or county for a member to serve in the Parliament of Canada or in any of the local Legislatures of any of the Provinces of Canada. 41 V., c. 16, s. 9.

Returning Officers and their Duties.

Who may be appointed returning officers. **10.** Either the sheriff or the registrar of deeds, or one of the sheriffs, or one of the registrars of deeds, for the county or city, or for a portion of the county or city in which the poll is to be held, or the nearest sheriff or registrar, or any other person, may be appointed returning officer in any case under this part of this Act ; and the naming of any person in any proclamation issued under this Act shall be a sufficient appointment and sufficient evidence of the ap-

pointment of such person as returning officer for the purposes mentioned in the proclamation. 41 V., c. 16, s. 10.

11. On receiving a copy of the proclamation, the returning officer shall forthwith indorse thereon the date on which he receives the same; and before taking any further action thereon he shall take, before a justice of the peace, the oath of office in the form B in the schedule to this Act. 41 V., c. 16, s. 11.

Returning officer to take oath of office.

12. All persons qualified to vote at the election of a member of the House of Commons, in the county or city to which any proclamation issued under this Act relates, on the day on which a poll is held in compliance with such proclamation, and no others, shall be qualified to vote and to have their votes polled on that day, for or against the adoption of the petition mentioned in such proclamation. 41 V., c. 16, s. 12.

Qualification of voters.

13. The returning officer shall ascertain from the lists of voters which, under the provisions of this Act, are to be used at the polling of votes—and, in any county or city where there are voters entitled to vote but there are no lists of voters, from such other information as is within his reach—the number of, or probable number of persons qualified to vote in each town, parish, township, local municipality or other locality in the county, or ward in the city where voters are so entitled to vote; and if such town, parish, township, local municipality or other locality or such ward, has not been subdivided for electoral purposes into polling districts by the Legislature, or by the local authorities under the legislation of the Province wherein such county or city is situate, or by the returning officer at the then last election of a member of the House of Commons in the county or city, he shall subdivide such town, parish, township, local municipality or other locality in the county, or ward in the city, into polling districts in a convenient manner, so that there shall be at least one polling district for every two hundred voters; and he shall also fix a polling station in a central and convenient place in each polling district; and the returning officer may, in his discretion, grant such additional polling places in such polling districts as the extent of the district and the remoteness of any body of its voters from the polling place renders necessary, although the voters thereof are less than the number above specified. 41 V., c. 16, s. 13, *part.*

Returning officer to ascertain who are qualified to vote.

To subdivide localities into polling districts.

And fix a polling station, or more, in each polling district.

14. The returning officer shall, eight days at least before the day on which the poll for taking the votes of the electors for and against the petition is to be held, by a notice under his hand, indicate, with reference to the holding of such poll, the several polling stations fixed by him, and the territorial limits to which they shall respectively apply, and

Returning officer to post up notices indicating polling stations and limits of polling districts.

shall cause the said notice to be posted up at four of the most prominent and conspicuous places in each polling district. 41 V., c. 16, s. 13, *part*.

- Further duties.** **15.** Every person so appointed returning officer shall—
- Deputies.** (a) Appoint, by a commission under his hand, in the form C in the schedule to this Act, one deputy returning officer for each polling district comprised in the county or city, who shall, before acting as such, take before the returning officer or a justice of the peace, the oath of office, in the form D in the schedule to this Act ;
- Lists of voters.** (b) Furnish each deputy returning officer with a copy of the list or of such portion of the list of voters as contains the names, arranged alphabetically, of the electors qualified to vote at the election of a member of the House of Commons, at the polling station for which he is appointed,—such copy being first certified by himself or by the proper custodian of the lists from which such copies are taken ;
- Ballot boxes.** (c) Deliver to each deputy returning officer, eight 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 ;
- Ballot papers.** (d) Furnish each deputy returning officer with a 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 ;
- Directions.** (e) Furnish to each deputy returning officer, at least ten copies of printed directions, 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. 41 V., c. 16, s. 14.
- Obtaining lists of voters.** **16.** The returning officer shall obtain the different lists of voters, or copies or extracts thereof, from the registrars, city or town clerks, clerks of the peace, clerks of the municipalities or such other officers as are, by law, the proper custodians of such lists, or of duly certified duplicates or copies thereof ; and the lists of voters which would be used at an election of a member of the House of Commons, in the same district at the same time, shall be the lists of voters which shall be used at every polling of votes under the provisions

of this Act; and every such officer who omits or refuses to furnish such lists, copies or extracts of the voters' lists, within a reasonable time, to the returning officer requiring the same, shall incur a penalty not exceeding two thousand dollars and not less than two hundred dollars. 41 V., c. 16, s. 15.

Penalty for refusing to furnish lists.

17. Whenever the returning officer fails to furnish to the deputy returning officer in any polling district, the ballot box, within the time prescribed by this Act, such deputy returning officer shall cause one to be made. 41 V., c. 16, s. 16.

If ballot box is not furnished.

18. The ballot of each voter shall be a printed paper, in this Act called a ballot paper, with a counterfoil, and the ballot paper and counterfoil shall be according to the form E in the schedule to this Act. 41 V., c. 16, s. 17.

Form of ballot papers.

19. The printed directions to be furnished to the deputy returning officers shall be according to the form F in the schedule to this Act. 41 V., c. 16, s. 18.

Form of directions.

20. At the place and time named for that purpose in the proclamation, the returning officer shall, by an instrument in writing, signed by him, appoint from and out of such persons as apply to him to be so appointed, one person to attend at each polling station, and two persons to attend at the final summing up of the votes, as agents on behalf of the persons interested in and desirous of promoting the adoption of the petition, and one person to attend at each polling station, and two persons to attend at the final summing up of the votes, as agents on behalf of the persons interested in and desirous of opposing the adoption of the petition. 41 V., c. 16, s. 19.

Appointment of agents in each interest.

21. Before any person is so appointed, he shall make and subscribe before the returning officer or any deputy returning officer, a declaration, in the form G in the schedule to this Act, to the effect that he is interested in and desirous of promoting, or of opposing (as the case may be) the adoption of the petition. 41 V., c. 16, s. 20.

Form of oath of person to be appointed agent.

22. Every person so appointed, before being admitted to the polling station, or to the final summing up of the votes, as the case may be, shall produce to the deputy returning officer his written appointment. 41 V., c. 16, s. 21.

Agent to produce appointment.

23. In the absence of any person authorized, as aforesaid, to attend at any polling station, or at the final summing up of the votes, any elector in the same interest as the person so absent may, upon making and subscribing before the deputy returning officer at the polling station, or the returning officer at the final summing up of the votes, as the case

Appointment and oath of substitute for agent.

may be, a declaration in the form G in the schedule to this Act, be admitted to the polling station, or to the final summing up of the votes, as the case may be, to act for the person so absent. 41 V., c. 16, s. 22.

Provision re-
specting at-
tendance of
agents.

24. Whenever in this part of 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 persons interested, such expressions shall be deemed to refer to the presence of such agents 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. 41 V., c. 16, s. 23.

The Poll.

Polls to be
held; votes by
ballot.

25. On the day and at the hour fixed by proclamation, a poll shall be held at each polling station in such county or city, and the votes shall be taken by ballot. 41 V., c. 16, s. 24.

Description of
buildings in
which polls
shall be held.

26. The poll 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. 41 V., c. 16, s. 25.

Hours for
opening and
closing polls.

27. 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. 41 V., c. 16, s. 26.

Who may be
present at the
polling of
votes.

28. In addition to the deputy returning officer, such persons as have been appointed or admitted under this Act, as agents, and no others, shall be permitted to remain in the room where the votes are given, during the time the poll remains open. 41 V., c. 16, s. 27.

Agent's oath
of secrecy.

29. Every agent, on being admitted to the polling station, shall take an oath to keep secret the space on the ballot paper in which any of the voters marks his ballot paper in his presence, as hereinafter required; which oath shall be in the form H in the schedule to this Act. 41 V., c. 16, s. 28.

30. At the hour fixed for opening the poll the deputy returning officer shall, in the presence of such of the electors and agents 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. 41 V., c. 16, s. 29. Opening, examining and locking ballot box.

31. Immediately after the ballot box is locked, as above provided, the deputy returning officer shall call upon the electors to vote. 41 V., c. 16, s. 30. Calling voters.

32. Each elector shall vote at the polling station of the polling district in which he is qualified to vote, and no other; and the deputy returning officer shall secure the admittance of every elector into the polling station, and see that he is not impeded or molested at or about the polling station. 41 V., c. 16, s. 31. Where electors shall vote.

33. 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 who is appointed to attend as agent at a polling station other than the one where he is entitled to vote, shall give to such elector a certificate that such elector is entitled to vote at such polling of votes at the polling station where such elector is stationed during the polling day, and on the production of such certificate such elector 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 or agent during the day of polling. 41 V., c. 16, s. 32. Provision as to deputy returning officer or agent entitled to vote.
Proviso.

34. Each elector, being introduced, one at a time for each compartment, into the room where the poll is held, shall declare his name, surname and addition, which shall be entered or recorded in the voters' list to be kept for that purpose by the deputy returning officer, and if the same is found on the list of electors 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 opposite the voter's name on the voters' list: Proceedings preparatory to voting.

2. Such elector, if required by the deputy returning officer, or by any elector or agent, as aforesaid, present, Elector may be sworn.

shall, before receiving his ballot paper, take the oath or oaths of qualification required by the laws in force in the Province where the election is held, from a voter at the election of a member of the House of Assembly of that Province; the words "House of Commons of Canada" being in such case substituted for "House of Assembly," or such other change being made as is required to make the oath applicable to the election of a member of the House of Commons of Canada, *and which oath the deputy returning officer is hereby authorized to administer :*

Deputy returning officer to instruct elector.

3. *The deputy returning officer shall instruct him how and where to affix his mark, and how to fold his ballot paper, but without inquiring or seeing whether the elector intends to vote for or against the petition, except in the case provided for in section thirty-nine of this Act.* 41 V., c. 16, s. 33.

Declaration and form of oath of voter where no lists of voters are required by law.

35. If the county or city is one in or for which the election law of the Province where such county or city is situate does not require lists of voters to be made to entitle them to vote, any elector claiming his ballot paper shall declare his name, surname, addition and qualification, which shall be entered on a list kept for that purpose by the deputy returning officer; and before receiving his ballot paper such elector may be required by the deputy returning officer, or by any elector or agent present, to take the oath of qualification required by the law in force in such Province from a voter at the election of a member of the House of Assembly; the words "House of Commons of Canada" being in such case substituted for "House of Assembly," or such other change being made as is required to make the oath applicable to the election of a member of the House of Commons of Canada, *and which oath the deputy returning officer is hereby authorized to administer.* 41 V., c. 16, s. 34.

Mode of voting.

36. 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 in any part of the upper space if he votes for the petition, and in any part of the lower space if he votes against the petition, after which he shall fold it up 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 that 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. 16, s. 35.

Electors to vote without delay.

37. 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. 41 V., c. 16, s. 36.

38. No elector shall be allowed to take his ballot paper out of the polling station; and every one who does so shall incur a penalty not exceeding two hundred dollars, and not less than fifty dollars. 41 V., c. 16, s. 37. Ballot paper not to be taken out of station.

39. 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 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: Case of voter unable to mark his voting paper provided for.

2. 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:— Such voter to be sworn.

“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.” Form of oath.

3. Whenever the deputy returning officer does not understand the language spoken by any 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: Interpreter to be sworn in certain cases.

4. The returning officer shall cause a list to be kept of the names of voters whose ballot papers have been so marked, in pursuance of this section, with the reason why each ballot paper was so marked: Duty of D. R. O. in such cases.

5. The deputy returning officer shall enter opposite the names of the voters whose ballots have been so marked, in addition to what is required in the next following section of this Act, the reason why each ballot paper was marked by him. 41 V., c. 16, ss. 38 and 39. List of such voters to be kept.

Re-drafted, in order to conform to the “Dominion Elections Act.”

40. The deputy returning officer shall enter on the voters' list to be kept by him (in the form I in the schedule to this Act), 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 on the same list the word “*Sworn*” or “*Affirmed*” opposite the name of each elector to whom the oath or affirmation of qualification has been administered, and the words “*Refused to be sworn*,” or Entry of names of electors voting on voters' lists.

"*Refused to affirm*" opposite the name of each elector who has refused to take the oath or to affirm. 41 V., c. 16, s. 40.

If no voters' lists are required by law such names to be entered on a list made for the purpose.

41. When no lists of voters are required by the law in force in the county or city for which the voting takes place, the deputy returning officer shall cause the name, surname, and addition of every voter to be entered on a list to be made and kept for that purpose; upon which list shall be entered the word "*Voted*" opposite the name of each voter who has voted; or "*Sworn*" or "*Affirmed*" or "*Refused to be sworn*" or "*Refused to affirm*," as the case may be, as above provided. 41 V., c. 16, s. 41.

Voter refusing to swear or affirm not to vote.

42. No voter who has refused to take the oath or affirmation of qualification required as aforesaid by this Act, when requested so to do, shall receive a ballot paper or be admitted to vote. 41 V., c. 16, s. 42.

No elector to vote more than once.

43. No person shall vote more than once at the same polling of votes under the provisions of this Act. 41 V., c. 16, s. 43.

Case of elector in whose name another has voted.

44. If a person, representing himself to be a particular elector named on the register or 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 J in the 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 a number entered on the list of voters opposite the name of such voter, and he shall thereupon be entitled to vote as any other elector:

Entry on list.

2. The name of such voter shall be entered on the list of voters, and a note shall be made of his having voted on a second ballot issued under the same name, and of the oath or affirmation of qualification having been required and made, as well as of any objections made by any of the agents. 41 V., c. 16, s. 44.

Electors spoiling his ballot paper may obtain another.

45. 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. 16, s. 45.

Proceedings after close of the Poll.

Counting of votes by deputy returning officer.

46. Immediately after the close of the poll, the deputy returning officer shall, in the presence of the agents, and if the agents are absent, then in the presence of at least three

electors, open the ballot box and proceed to count the number of votes given for and against the petition; and in doing so he shall reject all ballot papers which have not been supplied by the deputy returning officer, and all those upon which there is any writing or mark by which the voter could be identified. 41 V., c. 16, s. 46.

47. The other ballot papers being counted, and lists kept of the number of votes given for and of the number of votes given against the petition, and of the number of rejected ballot papers, all the ballot papers indicating the votes given for and the votes given against the petition, respectively, shall be put into separate envelopes or parcels, and those rejected, *those spoiled and those unused*, shall also be put, respectively, into separate envelopes or parcels, and all such parcels, being indorsed so as to indicate their contents, shall be put into the ballot box. 41 V., c. 16, s. 47.

Duty of deputy returning officer after counting the votes.

48. The deputy returning officer shall take a note of any objection made by any agent or any elector present to any ballot paper found in the ballot box, and shall decide any question arising out of the objection; and the decision of such deputy returning officer shall be final, subject only to reversal on a scrutiny as hereinafter provided. 41 V., c. 16, s. 48.

Objections to ballot papers.

49. 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. 41 V., c. 16, s. 49.

To be numbered and initialed.

50. The deputy returning officer shall make out a statement of the accepted ballot papers, of the number of votes given each way, 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 statement, together with the voters' lists and a certificate, at the foot of each list, of the total number of electors who voted on such list, and such other lists and documents as have been used at such election:

Statement to be inclosed in ballot box for returning officer.

2. The ballot box shall then be locked and sealed, and shall be delivered to the returning officer, who shall receive or collect the same, and in case of his being 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 K in the schedule to this Act. 41 V., c. 16, s. 50.

Delivery to returning officer.

Oath of person appointed to deliver ballot box.

51. The deputy returning officer shall take the oath in the form L in the schedule to this Act, which shall be annexed to the statement above mentioned. 41 V., c. 16, s. 51.

Oath to be annexed to statement.

Certificates to agents.

52. The several deputy returning officers, on being requested so to do, shall deliver to each of the agents, or in the absence of such agents, to the electors present representing them, a certificate of the number of votes given in each interest, and of the number of rejected ballot papers. 41 V., c. 16, s. 52.

Summing up the votes and returns.

Summing up of votes by returning officer.

53. The returning officer, at the place, day and hour appointed by the proclamation, and after having received all the ballot boxes, shall proceed to open them in the presence of the agents, if present, and of at least three electors if the agents are not present, and to add together the number of votes given in each interest, from the statements contained in the ballot boxes returned by the deputy returning officers. 41 V., c. 16, s. 53.

Adjournment if ballot boxes are missing.

54. If the ballot boxes are not all returned on the day fixed for adding up the number of votes given, 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. 41 V., c. 16, s. 54.

Provision in case of loss of ballot boxes.

55. If the ballot boxes, or any of them, have been destroyed or 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 in each interest, 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 in each interest at the several polling places, and he shall make his return accordingly, 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 in each interest. 41 V., c. 16, s. 55.

Special mention in return.

Petition not adopted.

56. If one half or more of all the votes polled are against the petition, the same shall be held not to have been adopted; and the returning officer shall make his return to the Governor in Council accordingly. 41 V., c. 16, s. 56.

Petition adopted.

57. If more than half of all the votes polled are for the petition, the same shall be held to have been adopted; and

the returning officer shall make his return to the Governor in Council accordingly. 41 V., c. 16, s. 57.

58. Within two weeks after the summing up of the votes, if no judge has appointed a day or place within the county or city for entering into a scrutiny of the ballot papers, as hereinafter provided for, and in case of such a scrutiny being entered into, then forthwith after the judge has determined whether the majority of the votes given was or was not in favor of the petition, the returning officer shall transmit his return to the Secretary of State, and shall send with it a report of his proceedings, in which he shall make any observations he thinks proper as to the state of the ballot boxes or ballot papers as received by him; and in the event of a judge having determined, after a scrutiny of the ballot papers, that the majority of the votes given was or was not in favor of the petition, such return shall be based upon, and shall be conformable to such decision. 41 V., c. 16, s. 58.

Return to be sent to Secretary of State.

59. The returning officer shall also transmit to the Secretary of State, with his return, the original statements of the several deputy returning officers referred to in section *fifty* of this Act, together with the voters' lists used in the several polling districts, and any other lists and documents used or required at such election, or which have been transmitted to him by the deputy returning officers:

What shall be transmitted with return.

2. Such return and report shall be sent through the post office, after being registered. 41 V., c. 16, s. 59.

How transmitted.

60. The property of the ballot boxes, ballot papers, and marking instruments procured for or used at any polling of votes under this Act, shall be in Her Majesty. 41 V., c. 16, s. 60.

Property of ballot boxes, &c.

Scrutiny.

61. Within one week after the returning officer has summed up the votes and declared the result of the voting, any elector may apply for a scrutiny upon petition,—

A scrutiny may be had on application to a Judge.

(a) In the Province of Quebec, to any judge of the Superior Court ordinarily discharging his duties in any judicial district in which the county or city is situated, in whole or in part;

In Quebec.

(b) In the Province of British Columbia, to a judge of the Supreme Court of that Province, or to a judge of the county court of any county or district within which the county or city is situate, in whole or in part;

In British Columbia.

In any other Province. (c) In any other Province, to the judge of the county court of any county or district within which the county or city for which the polling of votes takes place is situate, in whole or in part :

Notice of application to be given. 2. The petitioner shall give such notice of the application and to such persons as the judge directs, and shall show, by affidavit to the judge reasonable grounds for entering into a scrutiny of the ballot papers :

And recognizance entered into. 3. The petitioner shall also enter into a recognizance to Her Majesty before the judge in the sum of one hundred dollars, with two sureties, to be allowed as sufficient by the judge upon affidavit of justification, in the sum of fifty dollars each, conditioned to prosecute the petition with effect, and to pay any costs which are adjudged against the petitioner, or shall deposit with the prothonotary or clerk of such court the sum of one hundred dollars as a security for such costs :

Date and place of scrutiny. 4. The judge shall thereupon appoint a day and place within the county or city for entering into the scrutiny :

Notice of scrutiny. 5. At least one week's notice of the scrutiny shall be given by the petitioner to such persons as the judge directs. 41 V., c. 16, s. 61 and s. 62, part.

Amended.

Proceedings upon application for scrutiny. **62.** On the day and at the hour and place appointed, the returning officer shall attend before the judge, with the ballot papers in his custody, and the judge upon inspecting the ballot papers and hearing such evidence as he deems necessary, and on hearing the parties, or such of them as attend, or their counsel, shall, in a summary manner, determine whether the majority of the votes given was or was not in favor of the petition to the Governor in Council. 41 V., c. 16, s. 62, part.

Decision final; costs. **63.** The decision of the judge shall be final, and the costs shall be in his discretion, or he may apportion the costs as to him seems just. 41 V., c. 16, s. 63.

Secrecy of Voting.

Provisions for maintenance of secrecy. **64.** Every officer and agent in attendance at a polling place shall maintain and aid in maintaining the secrecy of the voting at such polling place; and shall not communicate, before the poll is closed, to any person any information as to whether any person on the voters' list has or has not applied for a ballot paper or voted at that polling place :

No interference. 2. No officer or agent, and no person whosoever, shall interfere with or attempt to interfere with a voter when

marking his vote, or otherwise attempt to obtain, at the polling place, information as to how any voter at such polling place is about to vote or has voted :

3. No officer, agent or other person shall communicate, at any time, to any person, any information obtained at a polling place as to how any voter at such polling place is about to vote or has voted : No information to be communicated.

4. Every officer and agent in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting ; and shall not attempt to ascertain, at such counting, or communicate any information obtained at such counting, as to how any vote is given in any particular ballot paper : Secrecy at counting of votes.

5. No person shall, directly or indirectly, induce any voter to display his ballot paper after he has marked the same, so as to make known to any person how he has so marked his ballot paper : Inducing voters to display their ballots.

6. Any violation of this section shall be punishable by a penalty not exceeding two hundred dollars, or by imprisonment for any term not exceeding six months, with or without hard labor, in default of payment of such penalty. 41 V., c. 16, s. 66. Punishment for violation.

Preservation of the Peace and good order.

65. Every returning officer and every deputy returning officer, from the time he takes the oath of office until the day after the summing up of the votes, shall be a conservator of the peace, invested with all the powers appertaining to a justice of the peace. 41 V., c. 16, s. 71. Returning officers, &c., to be conservators of the peace.

66. 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 polling ; and may also, on a requisition made in writing by any agent, or by any two electors, swear in such special constables as he deems necessary. 41 V., c. 16, s. 72. May require assistance and swear in special constables.

67. 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 polling, and may cause such person to be imprisoned under an order signed by him until any hour on that day, not later than the close of the poll. 41 V., c. 16, s. 73. May arrest disturbers of the peace.

68. The returning officer or deputy returning officer may, during any day whereon any poll is begun, holden or May demand offensive weapons.

proceeded with, require any person within half a mile of the polling station, to deliver to him any fire-arm, sword, staff, bludgeon or other offensive weapon in the hands or personal possession of such person, and any person refusing 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. 41 V., c. 16, s. 74.

Punishment
for battery.

69. Every person convicted of a battery committed during any day whereon any poll is begun, holden, or proceeded with, within the distance of two miles of the place where such poll is begun, holden or proceeded with, is guilty of an aggravated assault, and shall be punished accordingly. 41 V., c. 16, s. 75.

Entering poll-
ing district
armed.

70. Except the returning officer or his deputy, or one of the constables or special constables appointed by the returning officer or his deputy, for the orderly conduct of the 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 polling, 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, as fire-arms, 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 weapons, 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 by lawful authority so to do. 41 V., c. 16, s. 76.

Approaching
polling sta-
tion armed.

Treating elec-
tors forbid-
den.

71. No person shall, at any polling, either provide or furnish drink or other refreshment at the expense of such person, to any elector during such polling, or pay for, procure or engage to pay for, any such drink or other refreshment. 41 V., c. 16, s. 77.

Flags, &c.,
not to be
furnished or
carried.

72. No 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 the intent that the same should be carried or used in the county or city on any day of polling under this Act, or within eight days before such day, or during the continuance of such 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 the opinions entertained, or supposed to be entertained, by such person in either interest; and no person shall, for any reason, carry or use any such ensign, standard, set of colors or other flag as a party flag in either interest, within any county or city on the day of any such polling,

or within eight days before such day, or during the continuance of such polling. 41 V., c. 16, s. 78.

73. Every person who offends against any of the provisions of the *three* sections next preceding is guilty of a misdemeanor, and liable to a fine not exceeding one hundred dollars, or to imprisonment for a term not exceeding three months, or to both, in the discretion of the court. 41 V., c. 16, s. 79. Punishment for violation.

74. No intoxicating, spirituous or fermented liquors or strong drinks shall be sold or given at any hotel, tavern, or shop or other place within the limits of any polling district, during the whole of any day on which any poll is begun, holden or proceeded with; and every one who violates the provisions of this section shall, for each offence, be liable to a penalty of one hundred dollars, and to imprisonment for a term not exceeding six months, at the discretion of the court or judge, in default of payment of such penalty. 41 V., c. 16, s. 80. Sale, &c., of liquor on polling day prohibited.
Penalty for violation.

Prevention of corrupt practices and other illegal acts.

75. 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, or 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 to refrain from voting, or corruptly does any such act as aforesaid on account of such voter having voted or refrained from voting at any poll under this Act; Giving or lending money.

(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 to refrain from voting, or who corruptly does any such act as aforesaid, on account of any voter having voted or refrained from voting at any polling under this Act; Procuring office or employment.

(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, or to prevent, or endeavor to Gifts or promises to induce or to prevent the adoption of the second part of this Act.

prevent, the adoption of any petition under the provisions of this Act, or to procure or to endeavor to procure the vote of any elector at any poll under this Act, or to prevent or endeavor to prevent any elector from voting at any polling under this Act ;

Accepting the same.

— (d) Every person who, upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procures or prevents, or engages, or promises or endeavors to procure or prevent the adoption of any petition under the provisions of this Act, or the vote of any voter at any poll under this Act ;

Paying 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 poll under this Act, 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 poll under this Act :

Punishment for bribery.

2. Every person so offending is guilty of a misdemeanor and shall also incur a penalty of two hundred dollars which may be recovered by any one who sues for the same to and for his own use, with full costs of suit :
 Provided always, that the actual personal expenses of any agent in either interest, his expenses for actual professional services performed, and *bonâ 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. 41 V., c. 16, s. 81.

Proviso : certain payments excepted.

Certain acts to be deemed bribery.

76. The following persons are also guilty of bribery, and shall be punishable accordingly :—

Receiving gifts or promises during polling.

(a) Every voter who, before or during any polling of votes under this Act, directly or indirectly, by 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 for any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at any poll under this Act ;

And after the polling.

(b) Every person who, after any polling under this Act directly or indirectly, by 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 polling under this Act :

Punishment for such offences.

2. Every person so offending is guilty of a misdemeanor, and shall also incur a penalty of two hundred dollars,

which may be recovered by any one who sues for the same to and for his own use, together with full costs of suit. 41 V., c. 16, s. 82.

77. Every person who, corruptly, by himself, or by or with any person, or by any other ways or means on his behalf, at any time either before or during any polling of votes under this Act, 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 procure or prevent, or for having procured or prevented, the adoption of any petition under the provisions of this Act, or for the purpose of corruptly influencing such person, or any other person, to give, or refrain from giving, his vote at such polling of votes, is guilty of the offence of treating, and shall incur a penalty of two hundred dollars, which may be recovered by any one who sues for the same to and for his own use, with full costs of suit, in addition to any other penalty to which he is liable under any other provision of this Act. 41 V., c. 16, s. 83.

Offence of treating defined.

Penalty.

78. The giving or causing to be given to any voter on the 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 an unlawful act, and the person so offending shall incur a penalty of ten dollars for each offence, which may be recovered by any one who sues for the same to and for his own use, with full costs of suit. 41 V., c. 16, s. 84.

Giving meat or drink to electors to be deemed an unlawful act.

Penalty.

79. Every person 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 to refrain from voting, or on account of such person having voted or refrained from voting at any polling under this Act, 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 polling under this Act, shall be deemed to have committed the offence of undue influence and is guilty of a misdemeanor, and shall also incur a penalty of two hundred dollars, which may be recovered by any one who sues for the same to and for his own use, with full costs of suit. 41 V., c. 16, s. 85.

Threats of violence, &c., forbidden.

Undue influence.

Penalty.

Paying for conveyance of voters to poll illegal.

80. The hiring or promising to pay or paying for any horse, team, carriage, cab or other vehicle, by any agent or other person in either interest, to convey any voter or voters to or from the poll, or to or from the neighborhood thereof, at any polling of votes under this Act, or the payment by any agent or other person in either interest of the travelling and other expenses of any voter, in going to or returning from any polling of votes under this Act, are unlawful acts; and the person who so offends shall incur a penalty of one hundred dollars, which may be recovered by any one who sues for the same to and for his own use; and any voter hiring any horse, cab, cart, wagon, sleigh, carriage or other conveyance for any such agent, 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 polling of votes under this Act, and for every such offence shall incur a penalty of one hundred dollars, which may be recovered by any one suing for the same to and for his own use. 41 V., c. 16, s. 86.

Penalty.

Personation defined.

81. Every one is, for all the purposes of this Act, guilty of the offence of personation, who, at any polling of votes under this Act,—

(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) Who, having voted once at any such polling, afterwards applies at the same polling for a ballot paper in his own name. 41 V., c. 16, s. 67.

Punishment for personation.

82. The offence of personation, or of aiding, abetting, counselling or procuring the commission of the offence of personation by any person, shall be punishable by a penalty not exceeding two hundred dollars and by imprisonment for a term not exceeding six months. 41 V., c. 16, s. 68.

Subornation of perjury or personation.

83. Every agent or other person in either interest, 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, incur a penalty of two hundred dollars which may be recovered by any one who sues for the same to and for his own use. 41 V., c. 16, s. 87.

Penalty.

Certain offences to be deemed corrupt practices.

84. The offences of bribery, treating or undue influence, or any of such offences as defined by this Act, personation or the inducing any person to commit personation, or any

wilful offence against any of the *nine sections* next preceding, shall be corrupt practices within the meaning of the provisions of this Act. 41 V., c. 16, ss. 69 and 88.

85. Every one who,—

(a) Forges or counterfeits, or fraudulently alters, defaces or fraudulently destroys, any ballot paper or the initials of the deputy returning officer signed thereon ; or—

Certain offences with respect to ballot papers.

(b) Without authority supplies any ballot paper to any person ; or—

(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 poll ; or—

(f) Attempts to commit any offence specified in this section,—

Is guilty of a misdemeanor and liable, if he is a returning officer, deputy returning officer or other officer engaged at the polling, 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 payment of 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 payment of such fine. 41 V., c. 16, s. 64.

How punishable.

86. Every returning officer or deputy returning officer 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, incur a penalty of two hundred dollars, which may be recovered by any person who sues for the same to and for his own use. 41 V., c. 16, s. 91.

Penalty for neglect of duty by an election officer.

87. Every officer who is guilty of any wilful misfeasance or any wilful act or omission in violation of this part of this Act, shall forfeit to any person aggrieved by such misfeasance, act or omission, a penal sum not exceeding five hundred dollars, in addition to the amount of all actual damages thereby occasioned to such person. 41 V., c. 16, s. 65.

Contravention by election officer, how punishable.

Procedure.

Enforcement of penalties.

88. All penalties and forfeitures (other than fines in cases of misdemeanor) imposed by this part of 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: 41 V., c. 16, s. 92.

No suit for penalty to be brought unless security is given for costs.

2. 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.

The last paragraph is suggested in consequence of an amendment in the "*Dominion Elections Act.*" See 46 V., c. 4.

What it shall suffice to state in declaration.

89. 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. 41 V., c. 16, s. 93.

Time for bringing action or suit limited.

90. Every prosecution for any misdemeanor under this part of 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 six months 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. 41 V., c. 16, s. 94.

General Provisions.

Mistakes of form only not fatal.

91. No polling of votes under this Act shall be declared invalid by reason of a non-compliance with the rules contained in this Act, as to the taking of the poll or the counting of the votes, 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 polling of votes 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 polling. 41 V., c. 16, s. 70.

No excuse of privilege, &c., allowed for

92. 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 polling of votes under this Act, 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. 41 V., c. 16, s. 89.

not answering questions.

Such evidence not to be used against the witness.

93. Every executory contract, or promise or undertaking, in any way referring to, arising out of, or depending upon, any polling of votes under this Act, even for the payment of lawful expenses or the doing of some lawful act, shall be void in law; but this provision shall not enable any person to recover back any money paid for lawful expenses connected with such polling. 41 V., c. 16, s. 90.

Contracts or promises relating to polling of votes under this Act to be void.

EFFECT OF DECISION.

94. When in any county or city one half or more of all the votes polled have been against the adoption of any petition embodied, as aforesaid, in any notice and in any proclamation under the first part of this Act, no similar petition shall be put to the vote of the electors of such county or city for a period of three years from the day on which such vote was taken. 41 V., c. 16, s. 95.

Effect of non-adoption of petition.

95. When any petition embodied, as aforesaid, in any notice and in any proclamation under this part of this Act, has been adopted by the electors of the county or city named therein and to which the same relates, the Governor in Council may, at any time after the expiration of sixty days from the day on which the same was adopted, by Order in Council published in the *Canada Gazette*, declare that the second part of this Act shall be in force and take effect in such county or city upon, from and after the day on which the annual or semi-annual licenses for the sale of spirituous liquors then in force in such county or city will expire, provided such day is not less than ninety days from the day of the date of such Order in Council; and if it is less, then on the like day in the then following year; and upon, from and after that day, the second part of this Act shall become and be in force and take effect in such county or city accordingly:

If petition is adopted, the second part of this Act may be brought into force by Order in Council.

2. If in any county or city there are no licenses in force when the petition mentioned in the first part of this Act is adopted, the second part of this Act shall become

If there are no licenses in force in the county or city.

and be in force and take effect in such county or city after the expiration of thirty days from the day of the date of such Order in Council to that effect, published in the *Canada Gazette* : 41 V., c. 16, s. 96 ;—47 V., c. 31, s. 1.

Notice of Order in Council to be taken by all courts, &c.

3. All courts and magistrates shall take judicial notice of every such Order in Council, and it shall not be necessary in any proceeding under this Act to allege or prove that the second part of this Act is in force in any county or city.

New.

No Order in Council to be revoked for three years, and then only on similar petition, notice and other proceedings.

96. No Order in Council issued under this Act shall be revoked until after the expiration of three years from the day of the coming into force under it of the second part of this Act, nor until a petition to the Governor in Council, praying for such revocation, has been embodied in a notice in writing addressed to the Secretary of State and signed by one fourth or more of the whole number of the electors then qualified and competent to vote at the election of a member of the House of Commons, in the county or city named in such Order in Council, and such proceedings have been had thereon as are by this Act required to be had on a notice and petition for the bringing of the second part of this Act into force, and more than one half of all the votes polled have been found to be for the petition for the revocation of such Order in Council ; and each and all of the provisions of the preceding sections of this Act shall apply, *mutatis mutandis*, to every case of a petition and notice for the revocation of an Order in Council under this section, and to the proceedings to be had and taken thereon, and *in respect to* the powers to be exercised and the offences that may be committed, and the penalties that may be incurred in the course of and in connection with such proceedings. 41 V., c. 16, s. 97.

Application of provisions of the preceding sections.

REPEAL OF BY-LAWS PASSED UNDER THE TEMPERANCE ACT OF 1864, AND REPEAL OF CERTAIN SECTIONS OF THAT ACT.

Proceedings for repeal of by-law under Temperance Act, 1864.

97. If a petition to the Governor in Council, praying for the repeal of a by-law passed by the council of any county or city in the Provinces of Ontario or Quebec under the authority and for the enforcement of the Act of the Legislature of the late Province of Canada, passed in the session thereof held in the twenty-seventh and twenty-eighth years of Her Majesty's reign, chaptered eighteen, and known as "*The Temperance Act of 1864*," is embodied in a notice addressed to the Secretary of State and signed by one fourth or more of the electors of such county or city, and such proceedings are had thereon as are, by this Act, required to be had on a notice and petition for bringing the second part of this Act into force, and more than one half of the votes polled are found to be for the petition, the Governor in Council may, by Order

in Council, repeal such by-law, and thereupon such by-law shall become and be repealed, upon, from and after the day of the publication of such Order in Council in the *Canada Gazette*, and each and all the provisions of the preceding sections of this Act shall apply, *mutatis mutandis*, to every case of a petition and notice for the repeal of any such by-law, and to the proceedings to be had and taken thereon, and *in respect to* the powers to be exercised, and the offences that may be committed, and the penalties that may be incurred in the course of and in connection with such proceedings. 41 V., c. 16, s. 98.

Application of provisions of preceding sections.

98. Sections one to ten, both inclusive, of the said "*Temperance Act of 1864*," are repealed as to every municipality within the limits of the said late Province of Canada in which no by-law passed and approved, or adopted and passed under the authority and for the enforcement of the said Act, is in force :

Repeal of certain sections of Temperance Act, 1864, as to certain municipalities.

2. As to every municipality within the limits of the said late Province of Canada in which a by-law passed and approved, or adopted and passed, under the authority and for the enforcement of the said Act is in force, the said sections of the said Act shall be repealed forthwith, upon, from and after the day next following the day on which such by-law is repealed under the provisions of the said Act, or of this Act :

As to municipalities in which a by-law has been passed.

3. Provided always, that if such municipality is included in the limits of, or has the same limits as any county or city in which the second part of this Act is brought into force before the repeal of such by-law, then such by-law shall thereupon *ipso facto* become and be null and void and of no effect whatsoever, and the said sections shall be repealed, upon, from and after the day on which the said second part of this Act comes into force and takes effect in such county or city. 41 V., c. 16, s. 3, *part* ;—42 V., c. 50, s. 1.

Proviso: if such municipality is included in a county or city in which the second part of this Act is brought into force.

SECOND PART.

PROHIBITION OF TRAFFIC IN INTOXICATING LIQUORS.

99. From the day on which this part of this Act comes into force and takes effect in any county or city, and for so long thereafter as the same continues in force therein, no person shall, within such county or city, by himself, his clerk, servant or agent, expose or keep for sale, or directly or indirectly, on any pretence or upon any device, sell or barter, or in consideration of the purchase of any other property, give to any other person any intoxicating liquor :

No liquor to be sold, &c., when and where this part of this Act is in force, except for certain purposes.

Possession
of certain
licenses not
to render act
lawful.

2. No act done in violation of this section shall be rendered lawful by reason of—

(a) Any license issued to any distiller or brewer ; or—

(b) Any license for retailing on board any steamboat or other vessel, brandy, rum, whisky, or other spirituous liquors, wine, ale, beer, porter, cider, or other vinous or fermented liquors ; or—

(c) Any license for retailing on board any steamboat or other vessel, wine, ale, beer, porter, cider, or other vinous or fermented liquors, but not brandy, rum, whisky or other spirituous liquors ; or—

(d) Any license of any other description whatsoever :

Re-drafted.

Proviso :
sales for
sacramental
purposes.

3. Provided always, that the sale of wine for exclusively sacramental purposes may, on the certificate of a clergyman affirming that the wine is required for sacramental purposes, be made by druggists and vendors thereto specially licensed by the Board of License Commissioners appointed under “ *The Liquor License Act* ; ” but the number of such licensed druggists and vendors shall not exceed one in each township or parish, or two in each town, or one for every four thousand inhabitants in each city :

And for
medicinal
and mechanical
purposes.

4. Provided also, that the sale of intoxicating liquor for exclusively medicinal purposes or for *bonâ fide* use in some art, trade or manufacture, may be made by such licensed druggists and vendors ; but such sale, when for medicinal purposes, shall be in quantities of not less than one pint, to be removed from the premises, and shall be made only on the certificate of a medical man having no interest in the sale, affirming that such liquor has been prescribed for the person named therein ; and when such sale is for its use in some art, trade or manufacture, the same shall be made only on a certificate, signed by two justices of the peace, of the good faith of the application, accompanied by the affirmation of the applicant, that the liquor is to be used only for the particular purposes set forth in the affirmation ; and such druggist or vendor shall file the certificates and keep a register of all such sales, indicating the name of the purchaser and the quantity sold, and shall make an annual return of all such sales, on the thirty-first day of December in every year, to the collector of inland revenue within whose revenue division the county or city is situated :

Certificate to
be produced.

Annual re-
turn to be
furnished.

Distiller, or
brewer, &c.,
may sell

5. Provided also, that any producer of cider in the county may, at his premises, and any licensed distiller or brewer, having his distillery or brewery within any county or city,

may, at such distillery or brewery, expose and keep for sale such liquor as he manufactures thereat, and no other ; and may sell the same thereat, but only in quantities not less than ten gallons, or in the case of ale or beer, not less than eight gallons at any one time, and only to druggists and vendors licensed as aforesaid, or to such persons as he has good reason to believe will forthwith carry the same beyond the limits of the county or city, and of any adjoining county or city in which this part of this Act is then in force, and to be wholly removed or taken away in quantities not less than ten gallons, or in the case of ale or beer, not less than eight gallons at a time :

liquor of his own manufacture in wholesale quantities and to certain persons only.

6. Provided also, that any incorporated company authorized by law to carry on the business of cultivating and growing vines and of making and selling wine and other liquors produced from grapes, having their manufactory within such county or city, may thereat expose and keep for sale such liquor as they manufacture thereat, and no other ; and may sell the same thereat, but only in quantities not less than ten gallons at any one time, and only to druggists and vendors licensed as aforesaid, or to such persons as they have good reason to believe will forthwith carry the same beyond the limits of the county or city and of any adjoining county or city in which this part of this Act is then in force, and to be wholly removed and taken away in quantities not less than ten gallons at a time :

As to sales by vine-growing companies.

7. Provided also, that manufacturers of pure native wines made from grapes grown and produced by them in Canada, may, when authorized so to do, by license from the municipal council, or other authority having jurisdiction where such manufacture is carried on, sell such wines at the place of manufacture in quantities of not less than ten gallons at one time, except when sold for sacramental or medicinal purposes, when any number of gallons, from one to ten, may be sold :

As to sales by manufacturers of pure native wines.

8. Provided also, that any merchant or trader, exclusively in wholesale trade and duly licensed to sell liquor by wholesale, having his store or place for sale of goods within such county or city, may thereat keep for sale and sell intoxicating liquor, but only in quantities not less than ten gallons at any one time, and only to druggists and vendors licensed as aforesaid, or to such persons as he has good reason to believe will forthwith carry the same beyond the limits of the county or city, and of any adjoining county or city, in which this part of this Act is then in force, to be wholly removed and taken away in quantities not less than ten gallons at a time :

Merchants and traders may sell liquor in wholesale quantities and to certain persons only.

9. In any prosecution against a producer, distiller, brewer, manufacturer, merchant or trader, under this section, it

Burthen of proof of reasons of

belief of intention to remove the liquor sold.

shall lie upon the defendant to furnish satisfactory evidence of having good reason for believing that such liquor would be forthwith removed beyond the limits of the county or city, and of any adjoining county or city in which this part of this Act is then in force, for consumption outside the same. 41 V., c. 16, s. 99;—47 V., c. 32, s. 24.

Re-drafted.

THIRD PART.

PENALTIES AND PROSECUTIONS FOR OFFENCES AGAINST THE SECOND PART.

Punishment of sale, &c., in violation of second part of this Act.

100. Every one who, by himself, his clerk, servant or agent, exposes or keeps for sale, or directly or indirectly, on any pretence or by any device, sells or barter, or in consideration of the purchase of any other property, gives to any other person any intoxicating liquor, in violation of the second part of this Act, shall, on summary conviction, be liable to a penalty of not less than fifty dollars for the first offence, and not less than one hundred dollars for the second offence, and to imprisonment for a term not exceeding two months for the third and for every subsequent offence :

Punishment of employee who sells.

2. Every one who, in the employment or on the premises of another, so exposes or keeps for sale, or sells, or barter, or gives in violation of the second part of this Act, any intoxicating liquor, is equally guilty with the principal, and shall, on summary conviction, be liable to the same penalty or punishment :

Forfeiture.

3. All intoxicating liquors, in respect to which any such offence has been committed, and all kegs, barrels, cases, bottles, packages or receptacles of any kind whatever in which the same are contained, shall be forfeited. 41 V., c. 16, s. 100.

By whom penalties may be sued for.

101. Any prosecution for any such penalty or punishment may be brought by or in the name of any person. 41 V., c. 16, s. 101.

Duties of license commissioners under this Act.

102. The Board of License Commissioners, and the inspectors of licensed premises appointed under "*The Liquor License Act*," shall exercise and discharge all their respective powers and duties *under the said Act*, for the enforcement of the provisions of this Act, and of "*The Temperance Act of 1864*," so far as the same apply, within the limits of any county, city, incorporated village, or township or parish, in which *the second part of this Act* or any by-law, under "*The Temperance Act of 1864*," is in force. 41 V., c. 16, s. 102;—46 V., c. 30, s. 143.

JURISDICTION AND PROCEDURE.

103. Such prosecution may be brought,—

Prosecutions.

(a) In the Province of Quebec, if the offence was committed in the city of Montreal or in the city of Quebec, before the recorder or judge of the sessions of the peace at Montreal or Quebec, as the case may be; or, if the offence was committed in any other part of the Province, then before a stipendiary magistrate, or before any two justices of the peace for the district wherein the offence was committed; or, if the district is other than that of Quebec or that of Montreal, before the sheriff of such district;

(b) In the Province of Ontario, before any stipendiary magistrate or before any two justices of the peace for the county, city or district wherein the offence was committed; or, if the offence was committed in any county, city or town having a police magistrate, then before such police magistrate or, in his absence, before the mayor or any two justices of the peace; or, if the offence was committed in any city or town not having a police magistrate, then before the mayor thereof, or before any two justices of the peace;

(c) In the Province of Nova Scotia, before a stipendiary magistrate or before any two justices of the peace in and for the county in which the offence was committed;

(d) In the Province of New Brunswick, before any police, stipendiary or sitting magistrate or commissioner of a parish court, or before any two justices of the peace in and for the county in which the offence was committed;

(e) In the Province of Manitoba, before the police magistrate within whose territorial jurisdiction the offence was committed, or before any two justices of the peace in and for the county in which the offence was committed;

(f) In the Province of British Columbia, before any stipendiary magistrate or before any two justices of the peace in and for the territorial division or jurisdiction within the limits of which the offence was committed;

(g) In the Province of Prince Edward Island, before the stipendiary magistrate for the city or town, or before any two justices of the peace in and for the county in which the offence was committed. 41 V., c. 16, s. 103.

104. If such prosecution is brought before any such stipendiary magistrate, recorder, judge of the sessions of the peace, sheriff, police magistrate, sitting magistrate, commis-

If before certain magistrates no other justice to sit.

sioner or mayor, no other justice shall sit or take part therein. 41 V., c. 16, s. 104.

If before two justices, summons shall be signed by one of them, &c.

105. If such prosecution is brought before any two other justices of the peace, the summons shall be signed by at least one of them; and no justice, other than such two justices, shall sit or take part therein, except in the case of their absence or the absence of one of them, and not in the latter case except with the assent of the other of them. 41 V., c. 16, s. 105.

Limitation of prosecution.

106. Every such prosecution shall be commenced within three months after the alleged offence, and shall be heard and determined in a summary manner, either upon the confession of the defendant or upon the evidence of a witness or witnesses. 41 V., c. 16, s. 106.

Provisions of Summary proceedings Act to be applicable to such prosecutions.

107. Every offence against the second part of this Act may be prosecuted in the manner directed by the "*Act respecting summary proceedings before Justices of the Peace*," so far as no provision is hereby made for any matter or thing which is required to be done with respect to such prosecution; and all the provisions contained in the said Act shall be applicable to such prosecutions and to the judicial and other officers before whom the same are hereby authorized to be brought, in the same manner as if they were incorporated in this Act, and as if all such judicial and other officers were named in the said Act. 41 V., c. 16, s. 107.

DESTRUCTION OF LIQUOR.

Magistrate, &c., may grant a warrant to search for liquor, on receiving certain information on oath.

108. If a credible witness proves, upon oath, before the stipendiary, police or sitting magistrate, commissioner of a parish court, recorder, judge of the sessions of the peace, justices of the peace, sheriff or mayor, or before one of the justices of the peace before whom any prosecution for an offence against the provisions of the second part of this Act is brought, that there is reasonable cause to suspect that any intoxicating liquor, in respect to which such offence has been committed, is in any dwelling house, store, shop, warehouse, outhouse, garden, yard, croft or other place or places, such stipendiary, police or sitting magistrate, commissioner of a parish court, recorder, judge of the sessions of the peace, justices of the peace, sheriff or mayor, may grant a warrant to search such dwelling house, store, shop, warehouse, outhouse, garden, yard, croft or other place or places, for such intoxicating liquor, and if the same, or any part thereof, is there found, to bring the same before him; and any information to obtain a warrant under this section may be in the form M in the schedule to this Act; and any search warrant under this section may be in the form N in the said schedule. 41 V., c. 16, s. 108.

109. When any person is convicted of any offence against any of the provisions of the second part of this Act, the stipendiary, police or sitting magistrate, commissioner of a parish court, recorder, judge of the sessions of the peace, justices of the peace, sheriff or mayor, before whom such person is convicted, may adjudge and order, in addition to any other penalty or punishment, that the intoxicating liquor in respect to which the offence was committed, and which has been brought before him under a search warrant as aforesaid, whether the same is or is not the property of such person, or not more than twenty gallons thereof, if there is more of it than twenty gallons, be forfeited, and that any and all kegs, barrels, cases, boxes, bottles, packages and other receptacles of any kind whatsoever found containing the same, or not more than twenty gallons thereof, if there is more of it than twenty gallons, be broken up and utterly destroyed, and the said intoxicating liquor, or not more than twenty gallons thereof, if there is more of it than twenty gallons, poured out, spilled, wasted and utterly destroyed; and thereupon such barrels, kegs, cases, boxes, bottles, packages and other receptacles of any kind whatsoever, as aforesaid, may be forthwith broken up and utterly destroyed, and the said intoxicating liquor, or not more than twenty gallons thereof, if there is more of it than twenty gallons, poured out, spilled, wasted and utterly destroyed, by the constable or peace officer who executed the search warrant under which the same was found, or in whose custody the same was afterwards placed by the convicting magistrate, commissioner, recorder, judge, justices, sheriff or mayor. 41 V., c. 16, s. 109.

Convicting Magistrate, &c., may order that liquor seized on a search warrant be destroyed.

NECESSARY ALLEGATIONS IN PROCEEDINGS.

110. In describing offences respecting the sale or other unlawful disposal of intoxicating liquor, or the keeping thereof for sale, in any information, summons, conviction, warrant or proceeding under "*The Temperance Act of 1864*," or under this Act, it shall be sufficient to state the unlawful sale, barter, disposal or keeping of intoxicating liquor simply, without stating the name or kind of such liquor, or the price thereof, or any person to whom it was sold, bartered or disposed of; and it shall not be necessary to state the quantity of liquor so sold, bartered, disposed of or kept, except in the case of offences where the quantity is essential, and it shall then be sufficient to allege the sale or disposal of more or less than such quantity, and it shall not be necessary, in any such summons, conviction, warrant, or proceeding, to negative the circumstances, the existence of which would make the act complained of lawful, but upon any such circumstances being proved in evidence, the defendant shall be acquitted; and this provision shall apply, whether such circumstances are stated by way of exception

What it shall suffice to state in describing offences.

Certain facts need not be alleged.

Exception.

in the section under which the offence is laid or in a substantive section or otherwise. 41 V., c. 16, s. 115.

PROOF.

The keeping of liquor for sale shall be inferred under certain circumstances.

111. When in any house, shop, room or other place in any municipality in which the second part of this Act or in which any prohibitory by-law passed under the provisions of "*The Temperance Act of 1864*," is in force, a bar, counter, beer pumps, kegs or any other appliances or preparations similar to those usually found in taverns and shops where intoxicating liquors are usually sold or trafficked in are found, and intoxicating liquor is also found in such house, shop, room or place, such liquor shall be deemed to have been kept for sale contrary to the provisions of this Act or of "*The Temperance Act of 1864*," as the case may be, unless the contrary is proved by the defendant in any prosecution; and the occupant of such house, shop, room or other place shall be taken conclusively to be the person who keeps therein such liquor for sale. 41 V., c. 16, s. 119.

Passing of money need not be proved.

112. In proving the sale or barter or other unlawful disposal of liquor for the purpose of any proceeding relative to any offence under "*The Temperance Act of 1864*," or under this Act, it shall not be necessary to show that any money actually passed, or that any liquor was actually consumed, if the justices, magistrate or other officer or court hearing the case is or are satisfied that a transaction, in the nature of a sale or barter or other unlawful disposal, actually took place. 41 V., c. 16, s. 120.

What evidence shall be necessary for a conviction.

113. In any prosecution under "*The Temperance Act of 1864*," or under this Act, for the sale or barter or other unlawful disposal of intoxicating liquor, it shall not be necessary that any witness should depose directly to the precise description of the liquor sold or bartered, or the precise consideration therefor, or to the fact of the sale or other disposal having taken place, with his participation or to his own personal and certain knowledge, but the justices or magistrate or other officer trying the case, so soon as it appears to them or him that the circumstances in evidence sufficiently establish the violation of law complained of, shall put the defendant on his defence, and in default of his rebuttal of such evidence, shall convict him accordingly. 41 V., c. 16, s. 121.

Wife or husband, a competent witness.

114. On the trial of any proceeding, matter or question under any of the Acts or laws in the *one hundred and twentieth section* of this Act mentioned or under this Act, the person opposing or defending, or the wife or husband of such person opposing or defending, shall be competent and compellable to give evidence in such proceeding, matter or question. 41 V., c. 16, s. 123.

SUBSEQUENT OFFENCE.

115. The proceedings upon any information for committing an offence against any of the provisions of this Act, in case of a previous conviction or convictions being charged, shall be as follows:—

Proceedings upon information for subsequent offence.

(a) The justices or magistrate or other officer shall, in the first instance, inquire concerning such subsequent offence only, and if the accused is found guilty thereof, he shall then, and not before, be asked whether he was so previously convicted, as alleged in the information, and if he answers that he was so previously convicted, he may be convicted accordingly; but if he denies that he was so previously convicted, or stands mute of malice, or does not answer directly to such question, the justices or police magistrate or other officer shall then inquire concerning such previous conviction or convictions;

Subsequent offence to be first inquired into, and then previous convictions.

(b) The number of such previous convictions shall be provable by the production of a certificate under the hand of the convicting justices or magistrate, or officer, or of the clerk of the peace, without proof of his signature or official character, or by other satisfactory evidence;

Proof of previous convictions.

(c) A conviction may, in any case, be had as for a first offence, notwithstanding that there has been a prior conviction or convictions for the same or any other offence;

Conviction may be for first offence only.

(d) Convictions for several offences may be made under this Act, although such offences have been committed on the same day; but the increased penalty or punishment hereinbefore imposed shall only be recoverable or be liable to be imposed in the case of offences committed on different days, and after information laid for a first offence;

Conviction for several offences on same day.

(e) In the event of any conviction for any second or subsequent offence becoming void or defective after the making thereof, by reason of any previous conviction being set aside, quashed, or otherwise rendered void, the justices or magistrate or other officer by whom such second or subsequent conviction was made, may, by summons under his or their hand, require the person convicted to appear at a time and place to be named in such summons, and may thereupon, upon proof of the due service of such summons, if such person fails to appear, or on his appearance, amend such second or subsequent conviction, and adjudge such penalty or punishment as might have been adjudged had such previous conviction never existed, and such amended conviction shall thereupon be held valid, to all intents and purposes, as if it had been made in the first instance;

Amendment of second conviction in event of first being set aside.

What shall be deemed a conviction for a second or subsequent offence.

(f) If any person who has been convicted of a violation of any provision of the second part of this Act is afterwards convicted of an offence against such provision or against any other provision of the second part, such conviction shall be deemed a conviction for a second offence, within the meaning of section *one hundred* of this Act, and may be dealt with and punished accordingly, although the two convictions may be for acts of different descriptions; and if any such person is afterwards again convicted of a violation of any provision of the second part, whether similar or not to the previous offences, such conviction shall, in like manner, be deemed a conviction for a third offence, within the meaning of section *one hundred* of this Act, and may be dealt with and punished accordingly. 41 V., c. 16, s. 122.

VARIANCES, DEFECTS AND AMENDMENTS.

Amendment of information and adjournment.

116. In the event of any variance between the information and evidence adduced in support thereof, the justices or magistrate or other officer may amend or alter such information, and may substitute, for the offence charged therein, any other offence against the provisions of "*The Temperance Act of 1864*," or of this Act, as the case may be; but if it appears that the defendant has been materially misled by such variance, such justices, magistrate or other officer shall thereupon adjourn the hearing of the case to a future day, unless the defendant waives such adjournment. 41 V., c. 16, s. 116.

Variance or defect of form not to affect conviction.

117. No conviction or warrant enforcing the same or other process or proceeding under either of the said Acts shall be held insufficient or invalid by reason of any variance between the information and conviction, or by reason of any other defect in form or substance, if it can be understood from such conviction, warrant, process or proceeding that the same was made for an offence against some provision of such Act, within the jurisdiction of the justices or magistrate or other officer who made or signed the same, and if there is evidence to prove such offence, and if no greater penalty is imposed than is authorized by such Act. 41 V., c. 16, s. 117.

Application to quash conviction to be decided upon the merits.

118. Upon any application to quash such conviction or warrant enforcing the same, or other process or proceeding, or to discharge any person in custody under such warrant, whether such application is made in appeal or upon *habeas corpus*, or otherwise, the court or judge to whom such appeal is made, or to whom such application is made upon *habeas corpus*, or otherwise, shall dispose of such appeal or application upon the merits, notwithstanding any such variance or defect as aforesaid; and such court or judge may, in any case, amend the same if necessary; and

in all cases in which it appears that the merits have been tried and that the conviction, warrant, process or proceeding is sufficient and valid under this section or otherwise, such conviction, warrant, process or proceeding shall be affirmed, or shall not be quashed, as the case may be; and any conviction, warrant, process or proceeding so affirmed, or affirmed and amended, may be enforced in the same manner as convictions affirmed on appeal, and the costs thereof shall be recoverable as if originally awarded. 41 V., c. 16, s. 118.

The words "or by way of *certiorari*" are omitted because they are unnecessary.

CERTIORARI AND APPEAL RESTRICTED.

119. No conviction, judgment or order, *in respect of any offence against the second part of this Act*, shall be removed by *certiorari* or otherwise into any of Her Majesty's courts of record: No *Certiorari*.

2. No appeal shall be allowed from any such conviction, judgment or order to any court of general sessions, or other court whatsoever, if the conviction has been made by a stipendiary magistrate, recorder, judge of the sessions of the peace, sheriff, police magistrate, sitting magistrate or commissioner of a parish court. 41 V., c. 16, s. 111. No appeal in certain cases.

COMPOUNDING OFFENCES.

120. Every one who, having violated any of the provisions of this Act or of any Act in force in any Province, respecting the issue of licenses for the sale of fermented or spirituous liquors, or of "*The Temperance Act of 1864*," compromises, compounds or settles, or offers or attempts to compromise, compound or settle the offence with any person or persons, with the view of preventing any complaint being made in respect thereof, or if a complaint has been made, with the view of getting rid of such complaint, or of stopping or having the same dismissed for want of prosecution or otherwise, is guilty of an offence against this Act, and on conviction thereof, shall be liable to imprisonment at hard labor in the common gaol of the county or district in which the offence was committed, for any term not exceeding three months: Compound-
ing offence
and penalty
therefor.

2. Every one who is concerned in or is a party to the compromise, composition or settlement mentioned in this section, is guilty of an offence against this Act, and on conviction thereof, shall be liable to imprisonment in the common gaol of the county or district in which the offence was committed, for any term not exceeding three months. 41 V., c. 16, ss. 112 and 113. Punishment
of parties to
compromise.

TAMPERING WITH WITNESSES.

Penalty for tampering with witnesses.

121. Every one who, on any prosecution under any of the said Acts, tampers with a witness, either before or after he is summoned or appears as such witness on any trial or proceeding under any such Act, or by the offer of money, or by threats, or in any other way, either directly or indirectly, induces or attempts to induce any such witness to absent himself, or to swear falsely, shall incur a penalty of fifty dollars for each offence. 41 V., c. 16, ss. 110 and 114.

APPLICATION OF PENALTIES.

Application of penalties.

122. All penalties enforced and recovered under the provisions of this Act shall be paid and applied in like manner as penalties under "*The Liquor License Act*" are directed to be paid and applied. 47 V., c. 32, s. 25.

 SCHEDULE.

FORM A.

Forms of Notice and Petition for the bringing of the second part of this Act into force.

To the Honorable the Secretary of State of Canada :

SIR,—We the undersigned electors of the county (or city) of _____ request you to take notice that we propose presenting the following petition to His Excellency the Governor General, namely :—

To His Excellency the Governor General of Canada in Council.

The petition of the electors of the county (or city) of _____, qualified and competent to vote at the election of a member of the House of Commons in the said county (or city),—

Respectfully shows, that your petitioners are desirous that the second part of "*The Canada Temperance Act*," should be in force and take effect in the said county (or city).

Wherefore your petitioners humbly pray that Your Excellency will be pleased, by an Order in Council under the *ninety-fifth* section of the said Act, to declare that the second part of the said Act shall be in force and take effect in the said county (or city).

And your petitioners will ever pray, &c.

And that we desire that the votes of all the electors of the said county (or city) be taken for and against the adoption of the said petition. 41 V., c. 16.

FORM B.

Oath of the Returning Officer.

I, the undersigned, A. B., returning officer, under "*The Canada Temperance Act*," for the county (or city) of _____, solemnly swear (or if he be one of the persons permitted by law to affirm in civil cases, solemnly affirm) 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, under "*The Canada Temperance Act*," for the county (or city) of _____, took and subscribed before me the oath (or affirmation) of office, in such case required of a returning officer, by section eleven of "*The Canada Temperance Act*."

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

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

41 V., c. 16.

FORM C.

Commission of a Deputy Returning Officer.

To G. H. (insert his legal addition and residence):

Know you, that in my capacity of returning officer, under "*The Canada Temperance Act*," for the county (or city) of _____, I have appointed and do hereby appoint you to be deputy returning officer for the polling district number _____, of the said county (or city) 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, under the said Act, 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, voters' list, 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.

41 V., c. 16.

FORM D.

Oath of Deputy Returning Officer.

I, the undersigned, G. H., appointed deputy returning officer for the polling district, No. _____, of the county (*or city*) 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 county (*or city*) of _____, took and subscribed the oath (*or affirmation*) of office, required in such case of a deputy returning officer, by section fourteen of "*The Canada Temperance Act.*"

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

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

41 V., c. 16.

FORM E.

Form of Ballot Paper.

18

Voting on the petition to the Governor General for the bringing into force of the second part of "*The Canada Temperance Act.*"

For the Petition. +	
Against the Petition.	+

N.B.—The crosses are for illustration.

N.B.—The crosses are for illustration.

The dotted line will be a line of perforation for easily detaching the counterfoil. 41 V., c. 16.

FORM F.

Directions for the Guidance of Electors in Voting.

The voter will go into one of the compartments, and with a pencil there provided, place a cross thus ×, in the upper

space if he votes for the adoption of the petition, and in the lower space if he votes against the adoption of the petition.

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, and 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 can return it to the proper officer, who, on being satisfied of the fact, will give him another.

If the voter places on the ballot paper more than one mark, or places any mark on it 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 or by imprisonment for a term not exceeding six months, with or without hard labor. 41 V., c. 16.

FORM G.

Form of Declaration of Agent.

I, the undersigned E. F., solemnly declare that I am desirous of promoting (*or* opposing) the adoption of a petition to the Governor General for the bringing into force in the said county (*or* city) of the second part of "*The Canada Temperance Act.*"

(*Signature*) A. B.

Made and declared at this day of
A.D., , before me.

C. D.,
Returning Officer.

41 V., c. 16. .

FORM H.

Form of Oath of Secrecy.

I, the undersigned E. F., agent for the electors of the county (*or* city) of , interested in promoting (*or* opposing) the adoption of a petition to the Governor General for the bringing into force in the said county (*or* city) of the

second part of "*The Canada Temperance Act*," solemnly swear (or if he be one of the persons permitted by law to affirm in civil cases, solemnly affirm, promise and declare), that I will keep secret the way in which any of the voters at the polling station in the polling district No. , marks his ballot in my presence, at this polling of votes for or against such petition. So help me God.

(Signature,) E. F.

Sworn (or affirmed) at this day of A.D., , before me.

A. B.,
Returning Officer,
(or) C. D.

41 V., c. 16.

FORM I.

Form of Voters' List.

Number of the Voters.	Names of the Voters.	Their legal addition.	Their place of residence.	Owners.	Tenants or occupants.	Residence or other qualification.	Objections.	Sworn or affirmed.	Voters refusing to be sworn or affirmed.	Voters voting after others voted in their names.

NOTE.—*The qualification need not be inserted except where there are no provincial lists of voters.* 41 V., c. 16.

FORM J.

Oath of identity by Voter receiving a Ballot Paper after another has voted in his name.

I solemnly swear (or, if he be one of the persons permitted by law to affirm in civil cases, solemnly affirm), that I am A.B., of (as on the voters' list) whose name is entered on the voters' list now shown me. So help me God. 41 V., c. 16.

FORM K.

Oath of Messenger sent to collect the Ballot Boxes

I, A. B., of _____, messenger appointed by C. D., returning officer for the county (or city) of _____, in the Province of _____, do solemnly swear 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 polling of votes, in the said county (or city, or by—*here insert the names of the deputy returning officers who have delivered said boxes*), that they have not been opened by me, nor 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.

41 V., c. 16.

FORM L.

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 county (or city) of _____, do solemnly swear (or, *if he be 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 voters' list kept for the said polling district under my direction, has been so kept correctly; and that the total number of votes polled in the said list 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 interest, in the manner by law provided, and performed all duties required of me by law, and that the report, 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.

41 V., c. 16.

FORM M.

Information to obtain a Search Warrant.

CANADA,
PROVINCE OF _____ }
DISTRICT (*or* County, *or*, as the }
case may be) of _____ }

The information of K. L., of the _____ of _____ in the
said district (*or*, county, &c., *yeoman*), taken this _____ day of _____
in the year _____, before me

W. S., Esq., _____ a justice of the peace, in
and for the district (*or*, county, *or*, united counties, *or* as the
case may be) of _____, who says that he has just and
reasonable cause to suspect, and does suspect, that intoxicating liquor, in respect to which an offence against the second part of "*The Canada Temperance Act*," has been committed, is concealed in the (*dwelling house*, &c.), of P. Q., of _____ in the said district (*or* county, &c.), (*here add the causes of suspicion and the particulars of the offence, whatever they may be.*)

Wherefore he prays that a search warrant may be granted him to search the (*dwelling house*, &c.) of the said P. Q., as aforesaid, for the said intoxicating liquor.

Sworn (*or* affirmed) on the day and year first above mentioned, at _____ in the said district (*or* county, &c.) of _____, before me.

(Signature) W. S.,
J.P.

1 V., c. 16.

FORM N.

Form of Search Warrant.

CANADA, }
 PROVINCE OF }
 DISTRICT (or County, or, as the }
 case may be) of }

To all or any of the constables or other peace officers, in the district (or county, or as the case may be) of

Whereas, K. L., of the of in the said district (or county, &c.), has this day made oath before me the undersigned, a justice of the peace in and for the said district (or county, &c.) of that he has just and reasonable cause to suspect, and does suspect, that intoxicating liquor, in respect to which an offence against the second part of "*The Canada Temperance Act,*" has been committed, to wit, in respect to which (here describe the offence, in the words of the information) is concealed in the (dwelling house, &c.) of one P. Q., of in the said district (or, county, &c.) of

These are, therefore, in the name of Our Sovereign Lady the Queen, to authorize and require you, and each and every of you, with necessary and proper assistance, to enter in the day time into the said (dwelling house, &c.) of the said P.Q., and there diligently search for the said intoxicating liquor: and if the same, or any part thereof, is found upon such search, that you bring the intoxicating liquor so found, or gallons thereof, if there are more than twenty gallons so found, and also all barrels, kegs, cases, boxes, packages and other receptacles of any kind whatsoever containing the same, before me, to be disposed of and dealt with according to law.

Given under my hand and seal at in the said district (or county, &c.), this day of in the year

(Seal)

W. S.,

J. P.

41 V., c. 16.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Unconsolidated elsewhere.	To be Consolidated with.
41 V., c. 16.	The whole, except s. 124.	.....	s. 124 forms part of the Temperance Act of 1864.	
42 V., c. 50.	The whole.			
46 V., c. 30.	s. 143. ....	.....	Remainder.	Liquor License Act.
47 V., c. 31.	s. 1.	Remainder.		
47 V., c. 32.	ss. 24 and 25. ....	.....	Remainder.	Liquor License Act.

CHAPTER 97.

An Act respecting the sale of Intoxicating Liquors, and the issue of licenses therefor.

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 Liquor License Act.*" Short title. 46 V., c. 30, s. 1.

INTERPRETATION.

2. In this Act, unless the context otherwise requires :—
- (a) The expression "district" means a license district, established by the Governor in Council for the purposes of this Act ; Interpretation.
- (b) The expression "board" means the Board of License Commissioners ; "Board."
- (c) The expression "inspector" means an inspector of licensed premises, and includes every person having the authority of such inspector ; "Inspector."
- (d) The expression "hotel license" means a license authorizing the holder thereof to sell and dispose of, under the provisions of this Act, any liquor in quantities not exceeding one quart, which may be drunk on the premises ; "Hotel license."
- (e) The expression "saloon license" means a license authorizing the holder thereof to sell and dispose of any liquors, not exceeding one quart, on the premises therein specified, and which may be drunk on the premises ; "Saloon license."
- (f) The expression "licensed premises" means the premises in respect of which a license under this Act has been granted and is in force, and includes every room, closet, cellar, yard, stable, outhouse, shed, or any other place whatsoever of, belonging, or in any manner appertaining to, such house or place ; "Licensed premises."
- (g) The expression "licensee" means a person holding a license under this Act ; "Licensee."

- “Public bar.” (h) The expression “public bar,” or “bar,” means and includes any room, passage or lobby in any licensed premises into which the public may enter and purchase liquors, and which opens immediately to any street, highway, public place or public thoroughfare ;
- “Liquors.” (i) The expression “liquors,” or “liquor,” means and includes all spirituous and malt liquors, and all combinations of liquors and drinks and drinkable liquids, which are intoxicating ;
- “Magistrate.” (j) The expression “magistrate” means the judge of the sessions of the peace, police, stipendiary or sitting magistrate, recorder, justice or justices of the peace, or commissioner of a parish court who has jurisdiction to entertain a complaint in respect of a violation of the provisions of this Act ;
- “Justice.” (k) The expression “justice,” or “justices,” means justice of the peace, or justices of the peace, as the case may be ;
- “Electors.” (l) The expression “electors” means persons who are entitled to vote at an election for a member of the House of Commons. 46 V., c. 30, s. 2 and s. 4, *part.*

EXTENSION OF TIME.

Governor in Council may extend time in certain cases.

3. Whenever in this Act it is provided that any application shall be filed, any meeting held, or any other matter or thing done at a specified date, or within a fixed time, and whenever from the geographical position of the part of Canada in respect of which any license is applied for, it appears to the Governor in Council that it is expedient that a date or limit other than that fixed by this Act should be substituted for the filing of such application, the holding of such meeting, or the doing of such matter or thing, the Governor in Council may fix such date or define such time or limit in such manner as he deems fit. 47 V., c. 32, s. 22.

EXEMPTIONS.

Exceptions.

4. Nothing in this Act shall apply,—

As to makers of native wines.

(a) To persons who manufacture native wines from grapes grown and produced in Canada, and who sell such wines in quantities of not less than one gallon, or two bottles of not less than three-half pints each, at one time, at the place of manufacture ;

Auctioneers.

(b) To any person who holds a license as auctioneer, and who sells liquor at public auction in quantities of not less than two gallons at any one time ;

(c) To any person who sells liquor in any refreshment room at the Senate or House of Commons, or the Legislative Council or House of Assembly of any of the Provinces, by the permission and under the control of the Senate, House of Commons, Legislative Council or House of Assembly respectively. 46 V., c. 30, s. 3.

Refreshment rooms in Legislative buildings.

LICENSE DISTRICTS.

5. The Governor in Council may, from time to time, alter and re-define license districts, and the same when so altered and re-defined, shall be announced by proclamation in the *Canada Gazette* :

Establishment of license districts.

2. Such districts shall, as far as possible and convenient, be identical and co-terminous with existing and future—

Boundaries thereof.

(a) Counties, or

(b) Electoral Districts, or

(c) Cities. 46 V., c. 30, s. 4.

LICENSE COMMISSIONERS.

6. There shall be a Board of License Commissioners, composed of three persons for each district :

Board of commissioners; of whom composed.

2. The first commissioner shall be, in the Provinces of Ontario, Nova Scotia, New Brunswick, Manitoba and Prince Edward Island, a judge of a county court, or a junior judge of a county court, as the Governor in Council directs; and in the Province of Quebec, the judge of a judicial district, a judge of the sessions of the peace, the prothonotary, sheriff or district magistrate, or a registrar of the county or registration division, as the Governor in Council directs; in the Province of Quebec, the first commissioner shall hold office for one year, or the portion of the year yet unexpired in which he is appointed, but he shall nevertheless continue to hold office until his successor is appointed :

First commissioner in the several Provinces.

3. The second commissioner shall be the warden of the county, or the mayor of the city; but whenever there are within the district both a warden and a mayor, the former shall be the commissioner; and whenever within the district there are two or more wardens, the second commissioner shall be such of the wardens as the Governor in Council appoints. In the cities of Montreal and Quebec, in the Province of Quebec, the recorder, and in the city of St. John, New Brunswick, the mayor, and in the counties of the Province of Prince Edward Island, the sheriff of the county, shall be the second commissioner :

Second Commissioner.

Third commissioner.

4. The third commissioner shall be a person appointed by the Governor in Council, who shall hold office for one year, or for the portion of the year yet unexpired in which he is appointed, but he shall continue to hold office until his successor is appointed :

Commissioners in certain counties in Quebec and in British Columbia.

5. In the counties of Chicoutimi and Saguenay, Gaspé and Bonaventure, in the Province of Quebec, the Governor in Council may appoint a second and a third commissioner, who, with the warden, shall form the board ; and in any unorganized district, and in the districts in the Province of British Columbia, the Governor in Council may appoint a first, a second and a third commissioner :

Chairman and quorum.

6. The first commissioner shall be chairman of the board, and two of the said commissioners shall form a quorum ; and in the absence of the first commissioner, the second commissioner shall be the chairman :

Power of Governor in Council in case of inability, &c., of commissioner.

7. If any first or second commissioner has an interest in any business, in consequence whereof he is disqualified to act, or is subject to a penalty for so acting, or if any commissioner refuses to act, the Governor in Council may assign his duties to a commissioner of an adjacent district, or may appoint another commissioner to act in his stead ; and such substituted commissioner shall have all the powers and shall perform all the duties of the commissioner for whom he is so substituted. 46 V., c. 30, s. 5 ;—47 V., c. 32, s. 1.

LICENSE INSPECTORS.

Chief inspector and inspectors for each district.

7. A chief inspector of licenses, and one or more inspectors, shall be appointed by the board, from time to time, for each district, as the board sees fit, and every inspector shall, before entering upon his duties, give such security as the board requires for the due performance of his duties, and for the payment over of all sums of money received by him under the provisions of this Act ; and the salaries of the inspectors shall be fixed by the board, subject to the approval of the Governor in Council :

Security and salaries.

Bond.

2. The security required by this section shall be given by bond to Her Majesty :

Secretary-Treasurer.

3. The chief license inspector shall be the secretary-treasurer of the board, and all moneys payable to the board shall be paid to him. 46 V., c. 30, s. 6.

LICENSES.

Description and form of license.

8. The Governor in Council may direct the issue of licenses, written or printed, or partly written and partly

printed, of the several kinds or descriptions following, that is to say:—

- (a) Hotel licenses ;
- (b) Saloon licenses ;
- (c) Shop licenses ;
- (d) Vessel licenses ;
- (e) Wholesale licenses :

2. Every license shall be issued by the Department of Inland Revenue, and countersigned by the chief inspector of licenses of the district, and shall be in such one of the forms in the first schedule to this Act, as is applicable, and, except when otherwise provided, shall be in force to the thirtieth day of April inclusive, following the date thereof:

How signed ;
form and
duration of
license.

3. An hotel license or saloon license shall authorize the licensee to sell and dispose of any liquors in quantities not exceeding one quart, which may be drunk in the hotel or saloon in which the same is sold :

Hotel or
saloon
license.

4. A shop license shall authorize the licensee to sell and dispose of any liquors not to be drunk in or upon the premises for which the license is granted, but not less than one pint in quantity shall be sold or disposed of at any one time to any one person :

Shop license.

5. A vessel license shall authorize the master of the vessel, being a vessel by which passengers are conveyed from one place to another within or beyond Canada, to sell or dispose of liquor during the passage of the vessel between such places, to any passenger on board such vessel: Provided always, that it shall not permit the selling or disposing of any liquor, except at the regular meals served on board such vessel, and then only to actual passengers: and provided further, that it shall not authorize the opening or keeping of a bar or place on board such vessel, where liquors are sold or drunk :

Vessel
license.

Proviso.

Proviso.

6. A wholesale license shall authorize the licensee to sell and dispose of liquors in his warehouse, store, shop or place defined in the license, in quantities of not less than two gallons in each cask or vessel; and whenever such selling by wholesale is in respect of bottled ale, porter, beer, wine or other fermented or spirituous liquor, each such sale shall be in quantities of not less than one dozen reputed quart bottles: no liquors sold under a wholesale license

Wholesale
license.

As to sale in
bottles.

Not to be consumed on the premises.
 Proviso. shall be consumed in or upon the house or premises in respect of which the license is granted: Provided, that persons importing or dealing in liquors in unbroken packages in bond, shall not be required to have defined in their licenses any other place than the general office wherein their business is conducted:

Duty imposed by Provincial Legislatures, under B.N.A. Act, s. 92, to be paid. 7. Hotel, saloon and shop licenses and such other of the licenses by this Act authorized to be issued, as to which a Provincial Legislature may impose a tax in order to the raising of a revenue, shall be subject to the payment of such duty as the Legislature of the Province, under the power conferred on it by the ninth enumerated class of subjects in section ninety-two of "*The British North America Act, 1867,*" imposes for the purpose of raising or in order to raise a revenue for provincial, local or municipal purposes. 46 V., c. 30, s. 7;—47 V., c. 32, s. 3.

Under authority of what Board license shall issue. 9. Every license shall be issued by the authority and under the direction of the board for the district in which the premises to which the license is to apply are situate, except in the case of licenses for vessels, which may be issued under the authority of the board for any district of which the port from or to which the vessel sails, or any port at which she calls, forms part. 46 V., c. 30, s. 8.

MEETINGS OF THE BOARD.

Resolutions for certain purposes at meeting of board. 10. The board shall hold a meeting during the month of March in each year, of which notice shall be given as hereinafter provided, and may thereat pass a resolution or resolutions for regulating the matters following:—

Qualifications and conditions for licenses. (a) For defining the conditions and qualifications requisite to obtain hotel or saloon licenses for the retailing, within the district or any part thereof, of liquors, and also shop licenses for the sale, by retail, within the district or any part thereof, of liquors in shops or places other than hotels, taverns, inns, ale-houses, beer-houses or places of public entertainment, not contrary to, or inconsistent with the provisions of this Act;

Number of licenses and times and localities for issuing. (b) For limiting the number of hotel, saloon and shop licenses, respectively, within the maximum prescribed by this Act, and for defining the respective times and localities within which and the persons to whom such limited number may be issued within the year, from the first day of May, of one year, until the thirtieth day of April, inclusive, of the next year;

Number of saloon licenses. (c) For declaring the number of saloon licenses that may be issued in any year;

(d) For regulating the hotels, saloons and shops to be licensed ; Regulation.

(e) For fixing and defining the duties, powers and privileges of the inspectors for its district : Duties of inspectors.

2. The resolution or resolutions so adopted shall have effect only as respects the licenses of the succeeding year : Effect of resolutions.

3. Any resolution or resolutions adopted by the board, shall be promulgated within ten days thereafter, in such manner as it determines : How promulgated.

4. The board shall also, at such meeting, take into consideration all applications for certificates for such licenses as by this Act are authorized to be granted : Applications to be considered.

5. If, for any reason, a quorum of the board is not present on the day fixed for the meeting, or at any adjournment of a meeting on the appointed day, the said meeting or adjourned meeting shall stand adjourned from day to day, until a quorum is present to hold such meeting : Adjournment for want of a quorum.

6. The chief inspector of any district in which an annual meeting is to be held, shall, one month at least before the holding of such meeting, cause a notice thereof to be affixed to the *outside of the* outer door of the court house or other building where the meeting of the board is to be held, and shall also cause an advertisement of the time and place of holding such meeting to be inserted at least three times, in at least one newspaper published in the district, or if no newspaper is published therein, then in the newspaper published nearest to the said district : Notice of meeting by Chief Inspector.

7. At all meetings of the board, the chairman shall have the same rights as to moving and seconding resolutions and voting thereon as the other members of the board ; but in no case shall he have a second or casting vote, and every resolution in respect of which there is an equality of votes, shall be declared lost. 46 V., c. 30, ss. 9 and 10 ;—47 V., c. 32, s. 2. Powers of chairman at meetings.

APPLICATIONS FOR LICENSES.

11. Every application for a license to sell liquors, by wholesale or retail, shall be by petition of the applicant to the board of the district in which the license is to have effect. 46 V., c. 30, s. 11. How applications shall be made.

12. Every petition for an hotel, saloon or shop license, shall be filed with the chief inspector for the district wherein the license is to have effect, on or before the first And when.

day of March next preceding the day when it is to come into force :

To be filed with chief inspector.

2. Every petition for any other license authorized to be granted by this Act shall be filed with the chief inspector five days, at least, before the day upon which the meeting of the board is to be held. 46 V., c. 30, s. 12.

Certificate required with application in case applicant is not a licensee.

13. In the case of an application for an hotel, saloon or shop license, by a person who is not, at the time of the making of such application, a holder of a license of a like description under this Act, or under any Act of a Provincial Legislature or as to premises which are not then licensed, the petition shall be accompanied by a certificate signed by one third of the electors entitled to vote in the polling sub-division in which the premises sought to be licensed are situated ; except that in districts in the Province of Manitoba, until the first day of March, one thousand eight hundred and eighty-seven, the signatures of one third of the resident qualified electors to such certificate shall be sufficient :

Polling sub-division defined.

2. Such polling sub-division shall be that established by law for the purposes of an election for the House of Commons ; or if none such is established, then the polling sub-division used for the next preceding election for the House of Commons :

As to unorganized districts.

3. In unorganized districts the said certificate shall be signed by at least ten out of the twenty householders who reside nearest to the premises in which the applicant proposes to carry on the business for which the license is required. 47 V., c. 32, s. 5.

Form and requisites of certificate.

14. Such certificates shall be in the form in the second schedule to this Act, or to the like effect, in respect of the fitness of the applicant to have such license, and the premises in which it is proposed to carry on the business, and the desirability, on the ground of public convenience, of having a license granted therefor. 46 V., c. 30, s. 14.

Notice by chief inspector as to applications for licenses.

15. The chief inspector shall cause to be published, at least fourteen days before the meeting of the board, in some newspaper published in the district, or if no newspaper is therein published, then in a newspaper published near thereto, the name of each applicant for an hotel, saloon or shop license, the description of license applied for, and the place (described with sufficient certainty) where such applicant proposes to sell. He shall also cause a notice containing similar information to be fixed to the outside of the outer door of the court house or other building where the meeting of the board is to be held. 47 V., c. 32, s. 6.

Posting up notice.

16. The applicant shall, with his application, deposit a fee of ten dollars to cover expenses of inspection and advertising. 46 V., c. 30, s. 16. Deposit by applicant.

17. Any ten or more electors of such polling subdivision, and, in unorganized districts, any five or more out of the twenty householders residing nearest to the premises for which a license is applied for, may object, by petition or in any similar manner, to the granting of any license : Objections to applications for licensee.

2. The objections which may be taken to the granting of a license may be one or more of the following :— Nature of objections.

(a) That the applicant is of bad fame and character, or of drunken habits, or has previously forfeited a license, or that the applicant has been convicted of selling liquor without a license within a period of three years ; or— As to character of applicant.

(b) That the premises in question are out of repair, or have not the accommodation required by this Act, or reasonable accommodation, if the premises are not subject to the said requirements ; or— As to his premises.

(c) That the licensing thereof is not required in the neighborhood, or that the premises are in the immediate vicinity of a place of public worship, hospital or school, or that the quiet of the place in which such premises are situate will be disturbed if a license is granted. 46 V., c. 30, s. 17. As to the neighborhood.

18. Every petition which relates to the granting of a license shall contain, in addition to each signature thereon, a statement of the approximate distance from the premises to which such petition refers, of the residence or property of each person who signs the same. 46 V., c. 30, s. 18. Particulars as to persons signing.

19. Every petition against the granting of a license shall be lodged with the chief inspector, not less than four clear days before the day appointed for the meeting of the board. 46 V., c. 30, s. 19. Time for filing.

20. The chief inspector shall keep a list posted in his office for three days previous to the meeting of the board, of all certificates and petitions lodged with him as aforesaid, and every such petition or memorial shall be open to public inspection without fee. 46 V., c. 30, s. 20. Posting list of petitions, &c.

21. The board shall, when it receives any petition as aforesaid, erase therefrom all names in respect of which the particulars hereby required to be set forth are not appended. 46 V., c. 30, s. 21. Examination of signatures.

Hearing and determining objections.

22. Every application for a license, and all objections to every such application, shall be heard and determined at a meeting of the board for the district wherein the premises in respect of which the license is sought, or to which it relates, are situate :

Proceedings at hearings.

2. Every such hearing shall be open to the public, and every applicant for a license shall attend personally at such hearing, unless hindered by sickness or infirmity ; and the board may summon and examine on oath such witnesses as they think necessary, and as nearly as may be in the manner directed by the "*Act respecting summary proceedings before Justices of the Peace*:" Provided always, that the personal attendance of the applicant may be dispensed with by the board, in cases in which the report of the inspector has been dispensed with under the following provisions of this Act :

Proviso.

Adjourning meetings.

3. Any such meeting may, in the discretion of the board, be adjourned, from time to time, to the same or any other court house or building within the district. 46 V., c. 30, s. 22 ;—47 V., c. 32, s. 7.

Report of inspector on applications.

23. The inspector shall report, in writing, to the board on every application for a license, and such report shall contain,—

As to premises.

(a) A description of the house, premises and furniture ;

Conduct of applicant if previously licensed.

(b) If the application is made by a person who held a license for the same premises during the preceding year, a statement as to the manner in which the house has been conducted during the existence of the previous license, and the character of persons frequenting the house ;

As to licensed houses in the neighborhood.

(c) A statement of the number, position and distance from the house in respect of which a license is applied for, of other licensed houses in the neighborhood ;

Fitness of applicant.

(d) A statement whether the applicant is a fit and proper person to have a license, and is known to be of good character and repute ;

Necessity of licensed house.

(e) A statement whether the house or premises sought to be licensed are or are not, in his opinion, required for public convenience ;

Whether applicant owns the business.

(f) A statement whether the applicant is or is not the true owner of the business of the hotel, saloon or shop proposed to be licensed. 46 V., c. 30, s. 23.

Report to be for information of board.

24. The report of the inspector shall be for the information of the board, who shall, nevertheless, exercise its own discretion on each application. 46 V., c. 30, s. 24.

DUTIES OF THE BOARD.

25. The board shall ascertain that the requirements of this Act, as to the petition of the applicant, the certificate of the electors when necessary, and the report of the inspector, have been complied with : To see that requirements are complied with.

2. If the said pre-requisites have been complied with, but not otherwise, the board shall entertain the application : Entertaining application or not.

3. If the applicant for an hotel or shop license resides in a remote part of the district, or if for any other reason the board sees fit, it may dispense with the report of the inspector, and act upon such information as satisfies it in the premises : Applicants in remote parts.

4. The board shall hear and determine all applications, and also all objections which are made to such applications, on such evidence as seems to it sufficient, whether the same is strictly legal evidence or not : Hearing and determining applications.

5. Any person who has signed a petition against the granting of a license, may be heard in opposition thereto : Hearing objectors.

6. The council of any city, town or incorporated village, or of any municipality or parish, may authorize any person to appear in a similar manner on behalf of the ratepayers of such city, town, incorporated village, municipality or parish, as to the granting of a license, and such person so authorized shall be entitled to be heard before the board against the granting of such license : And those authorized by municipalities.

7. No objection in respect of the character of any applicant shall be entertained, unless three days' notice has been given to the applicant : As to objections to character.

8. No objection from an inspector shall be entertained, unless the nature of the objection has been stated in the report furnished to the board : Objections by inspectors.

9. Notwithstanding anything in this Act contained, the board may, of its own motion, take notice of any matter or thing which, in its opinion, would be an objection to the granting of a license, although no notice or objection has been given or made, as by this Act provided ; and in any such case the board shall notify the applicant, and shall adjourn its hearing of the application, if requested by him, for any period not exceeding fourteen days and not less than seven days, in order that any person affected by the objection may have an opportunity of answering the same : Board may notice matters not mentioned by objectors. Notice to applicant in such case.

Decision of
board final.

10. The decision of the board, when once announced by the chairman, shall not be questioned or reconsidered :

Applicants
refused as un-
fit disqualified
for two years.

11. If any applicant for a license has, at any time or in any place, been refused on the ground that he is not a fit person to hold a license, no application by such applicant shall be entertained by any board within a period of two years of the last of such refusals. 46 V., c. 30, s. 29.

Certificates
to applicants
found entitled
to license.

26. If it appears that the applicant is the true owner of the business of such hotel, saloon or shop, and has complied with the requirements of the law and with the regulations and requirements of the board, the board may grant such applicant a certificate under the hands of any two members of the board, stating that he is entitled to a license for a certain time, and for a certain hotel, saloon or shop within the district. 46 V., c. 30, s. 30.

Entrance to
hotel to be
separate from
bar.

27. No hotel license shall be granted in respect of any house in any city, town or incorporated village, unless such house has a separate front entrance, in addition to the entrance to the bar or place where liquors are sold. 46 V., c. 30, s. 31.

Two-thirds
majority of
electors may
prevent
license.

28. No license shall be granted if two-thirds of the electors in the *polling* sub-division petition against it, on the grounds hereinbefore set forth, or on any of such grounds. 46 V., c. 30, s. 32.

No license to
person dis-
qualified.

29. No license shall be granted to any person declared, in pursuance of this Act, to be a disqualified person, during the continuance of such disqualification; and any license issued to a person so disqualified shall be void. 46 V., c. 30, s. 33.

Nor to a com-
missioner
or inspector.

30. No license shall be granted under the provisions of this Act to or for the benefit of any person who is a license commissioner or license inspector; and any license so issued shall be void. 46 V., c. 30, s. 34.

Nor if com-
missioner
or inspector
owns the
premises.

31. No hotel, saloon or shop license or *certificate for any such license* shall be issued under the provisions of this Act for premises within any district of which any of the license commissioners or of the inspectors for such district is the owner; and every license commissioner who knowingly *assents to the issue of a certificate for a license*, and every license inspector who knowingly recommends the issue of a *certificate for a license* for any such premises, contrary to the provisions of this section, is guilty of a misdemeanor :

As to joint
stock com-
panies.

2. The provisions of this section shall not extend or apply to premises owned or occupied by a joint-stock company in

which a license commissioner is a shareholder, but in every such case such license commissioner shall not vote upon any question affecting the granting of a license to such company, or for premises owned or occupied by it. 46 V., c. 30, s. 35.

32. No shop license shall be granted to any person to sell liquors in any store, shop, place or premises where groceries or other merchandise are sold, or exposed for sale, or in any store, place or premises connected by any internal communication with such first mentioned store, shop, place or premises; but this section shall not apply to any licensee who held a license on the twenty-fifth day of May, one thousand eight hundred and eighty-three, in a city or town, prior to the first day of May in the year one thousand eight hundred and ninety, and elsewhere, prior to the first day of May in the year one thousand eight hundred and eighty-seven. 46 V., c. 30, s. 75, *part*.

Conditions for obtaining a shop license.

Proviso.

33. The board may also direct to be issued licenses for vessels, or wholesale licenses which have been applied for within the time hereinbefore prescribed. 46 V., c. 30, s. 36.

Licenses for vessels or for wholesale.

34. No wholesale license shall be granted to any person who does not carry on the business of selling by wholesale or in unbroken packages. 46 V., c. 30, s. 37.

Condition of wholesale license.

35. Wholesale licenses may be issued in the name of a co-partnership, when two or more persons are carrying on business as one, but a separate license shall be required in every district wherein the firm carries on its business. 46 V., c. 30, s. 38.

As to partnerships.

36. If the board of any district does not think fit, or is unable to grant a new license to any applicant who has been licensed during the preceding twelve months, or any part thereof, it may, nevertheless, by resolution, provide for extending the duration of the existing license for any specified period of the year, not exceeding three months, in the discretion of the board; and such license, when a certificate of the extension aforesaid has been indorsed thereon, under the hand of the chief inspector for the district, shall remain valid for the period specified in the resolution of the board, and no longer; but this provision shall not be construed to confer on the board any authority to exceed the limit prescribed by this Act as to the number of licenses to be granted in any year. 46 V., c. 30, s. 39.

Extension of licenses in certain cases.

Proviso.

37. The board shall report annually to the Minister of Inland Revenue, and its report shall contain,—

(a) A statement of the number and description of licenses and of the names of applicants to whom licenses were granted during the year;

Annual reports of boards to Minister of Inland Revenue; and what they must show.

(b) The names of those to whom licenses were not granted ;

(c) Any other statement required to be entered in the register of licenses *hereinafter mentioned* ;

(d) The prosecutions for violation of this Act, and the result of the same ;

(e) General remarks as to the working of the law within the district ;

(f) Also any other matters in respect of which a report is asked by the Minister of Inland Revenue :

Moneys received and expended.

2. The board shall also report in respect to and account for the moneys received and expended during the year. 46 V., c. 30, s. 61.

ISSUE OF LICENSES.

Issue of license and fee.

38. Upon the obtaining by the applicant of the certificate authorizing the issuing of a license, the chief inspector shall, on the demand of the applicant so authorized, and upon the payment of a fee of five dollars, and when it is an hotel, saloon or shop license that has been directed to issue, upon his giving security by bond as hereinafter provided, issue to him the license to which he is entitled :

Proviso ; applicant must have paid or tendered any lawful provincial duty.

2. Provided always, that in any Province in which, in order to the raising of a revenue for provincial, local or municipal purposes, a duty has been imposed under the authority of "*The British North America Act, 1867*," on any license, before the license issues, the person entitled thereto shall establish, to the satisfaction of the chief inspector, that he has paid or tendered the amount of such duty. 46 V., c. 30, s. 40.

License to apply to person and premises.

39. Subject to the provisions of this Act as to removals and the transfer of licenses, every license for the sale of liquor shall be held to be a license only to the person therein named, and for the premises therein described, and shall remain valid only so long as such person continues to be the occupant of the said premises and the true owner of the business there carried on. 46 V., c. 30, s. 48.

SECURITY TO BE GIVEN.

Form, amount and conditions of bond.

40. Before any hotel, saloon or shop license is granted, the person applying for the same shall enter into a bond to Her Majesty, in the sum of five hundred dollars, with two good and sufficient sureties, approved of by the chief in-

spector, in the sum of one hundred and fifty dollars each, conditioned for the payment of all fines and penalties which such person is condemned to pay in respect of any offence against any Act, by-law or provision in the nature of law, relative to hotels, taverns, inns or houses of public entertainment, then and thereafter in force, and to do, perform and observe all the requirements thereof, and to conform to all by-laws and regulations established by competent authority in such behalf; and such bond shall be in the words or to the effect of the third schedule to this Act, and when executed shall be filed in the office of the chief inspector, and shall be by him transmitted to the Secretary of State. 46 V., c. 19, s. 41.

Form of bond.

ACCOMMODATION.

41. Every hotel authorized to be licensed under the provisions of this Act, shall contain, and during the continuance of the license shall continue to contain, in addition to what is needed for the use of the family of the hotel keeper, in cities and towns, not less than six bed rooms, and in other places, not less than three bed rooms, together with, in every case, a suitable complement of bedding and furniture; and except in cities and incorporated towns, there shall also be attached to the said hotel, proper stabling for at least six horses, besides those belonging to the hotel keeper :

Accommodation required in and at an hotel.

2. No hotel or saloon shall form a part of or communicate by any entrance with any shop or store wherein any goods or merchandise are kept for sale; but in cities and towns the board may, by resolution, authorize the chief inspector, with regard to any hotel license, to indorse thereon that this sub-section is not applicable to such license, and on such indorsement being made, this sub-section shall not apply thereto. 46 V., c. 30, s. 25;—47 V., c. 32, s. 8.

Not to communicate with a shop.

Proviso.

42. Every hotel and saloon shall be shown, to the satisfaction of the board, to be a well appointed and sufficient eating house, with the appliances requisite for daily serving meals to travellers; and the requirements of this section shall apply to all hotels or saloons, subject to the provisions of the next following sub-section, and continuously for the whole period of the license :

Hotel or saloon must have sufficient eating accommodation, and for serving meals.

2. The board may, by resolution passed before the first day of May in any year, dispense, as to a certain number of saloons in any city or town, with the necessity of their having the accommodation in this section mentioned. 47 V., c. 32, s. 9.

Board may dispense with such accommodation in certain cases.

43. The council of any city, incorporated village, town, township or parish may, by by-law passed before the

Municipal council may

require additional accommodation.

first day of March in any year, prescribe for the then ensuing license year beginning on the first day of May, any requirements in addition to those in the two sections next preceding mentioned, as to accommodation to be possessed by hotels and saloons, which the council sees fit; and the board, upon receiving a copy of such by-law, shall be bound to observe the provisions thereof; and such by-law shall continue in full force for such year, and any future year until repealed. 46 V., c. 30, s. 27.

Stabling to be provided with hay, &c.

44. Every hotel keeper to whom a license is granted in respect of premises which are required to be provided with stabling, shall, at all times, keep upon his licensed premises a sufficient supply of hay, corn or other provender, for the accommodation of travellers. 46 V., c. 30, s. 28.

NUMBER OF LICENSES.

Number of licenses limited.

45. The aggregate number of hotel and saloon licenses to be granted, except as hereinafter provided, in the respective municipalities or parishes, shall not, in any year, be in excess of the following limitations:—

In municipalities generally.

(a) In cities, towns and incorporated villages respectively, according to the following scale, that is to say, one for each full two hundred and fifty of the first one thousand of the population, and one for each full five hundred over one thousand of the population: Provided, that two hotel licenses may be granted in any town or incorporated village wherein the population is less than five hundred;

Proviso.

In villages being county towns.

(b) In incorporated villages, being county towns, five licenses may be granted, notwithstanding that according to the population that number could not be issued;

Niagara Falls.

(c) In the town of Niagara Falls, in the Province of Ontario, three hotels near the Falls of Niagara may be licensed, in addition to the number which would otherwise be the maximum limit under this Act;

Where there is no municipal organization.

(d) In townships, local municipalities and parishes, and in places where there is no municipal organization, the board of the district shall, by resolution passed at their first meeting in each year, limit the number of licenses to be issued in such year;

Places of summer resort.

(e) The board may authorize the granting of two additional hotel licenses beyond the number limited by this Act in a locality largely resorted to in summer by visitors, but such licenses shall only be for a period of six months, commencing on the first day of May in each year; and this provision shall not apply to the town of Niagara Falls;

Proviso.

(f) In incorporated villages, and in townships and parishes, no saloon licenses shall be granted. 46 V., c. 30, s. 42;—47 V., c. 32, s. 11. No saloon licenses in certain places.

46. The number of shop licenses which may be granted in the respective municipalities shall not, in any year, be in excess of the following scale:— Number of shop licenses.

(a) One for each full four hundred up to twelve hundred of the population; and,

(b) One for each full one thousand beyond twelve hundred of the population. 46 V., c. 30, s. 43.

47. The council of any city, town or village may, by by-law to be passed before the first day of March in any year, reduce, within any limit by this Act provided, the number of hotel, saloon and shop licenses to be issued therein for the then ensuing year, or for any future license year until such by-law is altered or repealed: Municipal council may further limit the number of licenses.

2. The council shall cause a certified copy of such by-law to be sent, immediately after the passing thereof, to the chief inspector of the district in which the municipality is situate. 46 V., c. 30, s. 44. Notice to chief inspector.

48. The number of the population by which the number of licenses shall be, at any time, determined under this Act, shall be that shown by the then last preceding census, except when the board is at any time of opinion that, owing to a large increase of population since such census, an increased number of licensed hotels is needed for the convenience and accommodation of travellers; and in such case, if the board so certifies, and the council of the municipality petitions the Governor in Council for an increase of the number of hotels, the Governor in Council may authorize a new census to be taken at the expense of the municipality, and the limit for the number of licenses shall thereafter, upon each such new census, be one for each full two hundred and fifty of the population under one thousand, and one for each five hundred over one thousand of the population: How population shall be computed for purposes of this Act.

2. In case of the alteration or formation of any municipality subsequent to the taking of any census, the population of such municipality, for the purposes of this Act, may be ascertained by the board by reference to the enumeration on which such census took place, or by a new census taken under the provisions of this section: New census in certain cases, under O.C.

3. When, since the general census, a census has been taken in any municipality under the authority of the council The same.

having jurisdiction, the limit may be the same as in the case of a census taken under this section for the purposes of this Act. 46 V., c. 30, s. 46.

Certain powers of municipal councils in Quebec, at time of Confederation, saved.

49. No provision in this Act contained shall affect the powers conferred on the municipal councils in the Province of Quebec, of each county, city, town, village, parish and township, by the laws in force in the said Province on the first day of July, one thousand eight hundred and sixty-seven, to restrict or prohibit the sale of intoxicating liquors within the limits of their respective territorial jurisdictions, and the said powers, and the by-laws now in force passed under the authority of the said laws, are hereby preserved and confirmed :

Restrictions in that Province.

2. In every town, village, parish and township in the Province of Quebec, the municipal council thereof may, by by-law, restrict or prohibit, within the limits of such town, village, parish or township, the sale of intoxicating liquors :

Certain by-laws confirmed.

3. In every such town, village, parish or township, in which, since the first day of July, one thousand eight hundred and sixty-seven, the council thereof has, under color of any statute of the Province of Quebec, passed a by-law restricting or prohibiting the sale of liquor within the limits of the said town, village, parish or township, such by-law shall be and is hereby confirmed : Provided always, that nothing herein contained shall apply to any by-law the validity of which is now in question in any court of law. 46 V., c. 30, s. 45 ;—47 V., c. 32, s. 12.

Proviso.

TRANSFER OF LICENSES.

Conditions on which transfer shall be allowed.

50. If any person who has lawfully obtained a license under this Act dies before the expiration of his license, or sells, or by operation of law or otherwise assigns his business, or removes from the house or place in respect of which the said license applies, his said license shall, *ipso facto*, become forfeited, and be absolutely null and void to all intents and purposes whatsoever—unless such person, his assigns or legal representatives, within one month after the death, assignment or removal of, or sale by the original holder of such license, or some other period in the discretion of the board of the district in which the said license has effect, obtain its written consent or the consent of the chairman, countersigned by the inspector, either for the continuance of the said business or the transfer of such license to some other person, and thereupon forthwith transfer the same to such other person, who, under such transfer, may exercise the rights granted by such license, subject to all the duties and obligations of the original holder thereof, until the expiration thereof, in the house or place for which

Effect of transfer.

such license was issued and to which it applies, but in no other house or place :

2. In every such case of transfer of an hotel license, the person in whose favor any such transfer is to be made shall first produce to the board, or to the chairman thereof, a report of the inspector, similar in effect to that mentioned in section *twenty-three* of this Act :

Report of in-
spector re-
quired.

3. Except in case of the death of the licensee, no transfer of any license shall be made, nor shall any application for leave to transfer a license be entertained until the expiration of three months from the time of the granting of such license. 46 V., c. 30, s. 49.

When to be
applied for.

51. When a licensee has been lawfully ejected from any licensed premises, the board or the chairman may, notwithstanding the non-production of the license, on the application in writing of the owner of the premises and the proposed new tenant, grant a special certificate of transfer of such license to such new tenant, in such form as it or he thinks applicable, and such certificate shall be countersigned by the chief inspector. 46 V., c. 30, s. 50.

Case of
licensee
ejected.

52. Any two members of the board may, by order, authorize any person it thinks entitled to the benefit of any license to carry on the business in the licensed premises for the remainder of the term for which the license was granted, in the same manner as if such license had been formally transferred to such person, in any of the following cases, that is to say :—

Authority to
continue
business for
remainder of
term in cer-
tain cases.

(a) Whenever any person to whom a license has been granted deserts the licensed premises, or refuses or neglects to transfer the license when lawfully required so to do ; or—

Desertion of
premises.

(b) If, during the currency of any such license, the holder thereof ceases to occupy the premises in respect whereof the license is held, or his tenancy of such premises is determined by effluxion of time, or by notice to quit, or by any other means whatsoever. 46 V., c. 30, s. 51.

Ceasing occu-
pation.

53. When any licensed person is convicted of any offence and, in consequence, either becomes personally disqualified or forfeits his license, any two members of the board, upon the application by or on behalf of the owner of the premises in respect of which the license was granted (when the owner is not the occupier), and upon being satisfied that such owner was not privy nor a consenting party to the act of his tenant, and that he has legal power to eject the tenant of such premises, may, by order, authorize an agent to carry on the business specified in the license relating to

Case of
licensee con-
victed of an
offence dis-
qualifying
him or entail-
ing forfeiture
of license.

such premises, until the end of the period for which such license was granted, in the same manner as if such license had been formally transferred to such agent. 46 V., c. 30, s. 52.

Case of marriage of female licensee.

54. In case of the marriage of any female who is a licensee, the license held by her shall confer on her husband the same privileges, and shall impose on him the same duties, obligations and liabilities as if such license had been granted to him originally: Provided, that the chairman of the board, on the application of the husband of the licensed woman, has confirmed to him his wife's license for the remainder of the term of the duration thereof, and granted him a certificate to that effect, which shall be countersigned by the chief inspector:

Proviso.

When confirmation may be granted.

2. Such confirmation shall be granted if the chairman is satisfied that no objection can be made to the character of the husband, and that he has not forfeited a license within the three years next preceding. 46 V., c. 30, s. 53.

REMOVAL OF LICENSEE.

Grant of leave to remove.

55. The chief inspector may, after resolution allowing the same by the board, or permission in writing granted by the chairman thereof, indorse on any hotel, saloon or shop license, a permit to the holder thereof to remove from the house to which his said license applies, to another house described in the indorsement, which shall be made by the chief inspector on the said license: Provided always, that the house to which the licensee proposes to remove has all the accommodation required by law:

Proviso.

Effect of leave to remove.

2. Such permit shall authorize the holder of the said license to sell the like liquors in the house mentioned in the indorsement, during the unexpired portion of the term for which the said license was granted, in the same manner and upon the same terms and conditions as he might do in the premises to which the license originally applied; but no such permit shall be granted unless the person applying therefor has filed in the office of the chief inspector, a report of the inspector containing the information required by law in case of an application for a license; and any bond or security which has been given by such holder of a license for any purpose in relation to such license, shall apply to the house or place to which such removal is authorized:

Proviso; report of inspector required.

Bonds to apply.

No sale at any other place.

3. No such permit shall entitle the licensee to sell at any other than the place mentioned in the permit:

Certificate of electors required.

4. Every application for such permit for removal, in respect of any hotel, saloon or shop license, shall be accompanied by

a certificate signed by one third of the electors of the polling sub-division in the same manner as is required by section *thirteen*, as to applications for a license. 46 V., c. 30, s. 54.

Re-drafted.

FEEs FOR TRANSFER, &C.

56. There shall be paid a fee of ten dollars for every transfer of a license ; for every certificate permitting the continuance of the business ; for every certificate of confirmation of a license to the husband of a licensed woman ; and for every indorsement of permission to remove to other premises. 46 V., c. 30, s. 55.

Fees in cases of removal, &c.

REVOCATION OF LICENSES IMPROPERLY OBTAINED.

57. The judge of the county court of the county or the judge of the superior court having jurisdiction in the county in which a municipality is situate, in any part of which a license granted is intended to take effect, shall, upon the complaint of any person that such license has been issued contrary to any of the provisions of this Act, or of any by-law in force in the said municipality, or that such license has been obtained by any fraud, summon the person to whom such license has been issued to appear before him, and shall proceed to hear and determine the matter of the said complaint in a summary manner ; and may, upon such hearing, or in default of appearance of the person summoned, determine and adjudge that such license, for any of the causes aforesaid, ought to be revoked, and thereupon shall order and adjudge that such license is and stands revoked and cancelled accordingly, and such license shall then be and become inoperative and void ; and the person to whom such license issued shall thereafter, during the full period of three years, be disqualified from obtaining any further or other license under this Act. 46 V., c. 30, s. 58.

Proceedings for revocation of license and powers of judge.

Hearing and judgment, and its effect.

REGISTER OF LICENSES.

58. The chief inspector of each district shall keep, in such form as is prescribed by the board,—

Register, &c., to be kept.

(a) A register, to be called "The Register of Licenses," containing the particulars of all licenses granted in the district, the premises in respect of which they are granted, the names of the licensees, and the names of the sureties to any bond given by such licensee in pursuance of the provisions of this Act ; and all forfeitures of licenses, disqualifications of licensees, records of convictions and other matters relating to the licenses then on the register, shall also be entered on the register ;

Particulars required.

Applications
to board.

(b) A record of all applications made to the board, showing the names of the applicants, the nature of the applications, the premises in respect of which the applications are made, the date on which the applications were heard, and the manner in which the same were disposed of, including, in cases of refusal, the cause thereof :

Furnishing
extracts.

2. Every chief inspector shall, when requested so to do forthwith transmit extracts from any such register of licenses or record of applications, to any other inspector or to the clerk of any court. 46 V., c. 30, s. 60.

PERMITS TO SELL IN MUNICIPALITIES WHERE NO LICENSE
IS GRANTED.

Permits to sell
for certain
purposes only.

59. In municipalities, parishes or townships in which "*The Canada Temperance Act*" is not in force, and where there is no person licensed under an hotel, saloon or shop license to retail liquors, such liquors may be sold, as hereinafter provided, for medicinal or sacramental purposes only, on the certificate of a physician or of a clergyman, residing in the municipality or parish, and not otherwise; or for *bonâ fide* use in some art, trade or manufacture, on the certificate of two justices of the peace :

Certificate by
and to whom
to be given.

2. Such certificate may be given by a resident physician, but only to a patient under his immediate care, or by a clergyman, but only to a person whose spiritual adviser he *bonâ fide* is, and every person who violates the provisions of this sub-section shall, for each offence, incur a penalty of thirty dollars :

Conditions
of issue of
certificate.

3. Before a certificate is granted by two justices of the peace to a person authorizing the sale to him of liquor for use in any art, trade or manufacture, such justices shall cause a declaration to be made before them by the applicant to the effect that the liquor is to be used only for the purpose set forth in the declaration, and they shall attach the said declaration to their certificate :

Limit of
quantity
to be sold.

4. Not more than one pint shall, in any case, be sold at any one time, in virtue of such certificate, and no liquor so sold shall be allowed to be drunk on the premises, and every person who violates the provisions of this sub-section shall, for each offence, incur a penalty of forty dollars :

By whom
to be sold.

5. The sale of liquor permitted by this section shall be made by such person only as is appointed for that purpose by a resolution of the board, and the board may grant to such person a permit to sell for medicinal or sacramental purposes only, or for use in any art, trade or manufacture :

6. The person so permitted to sell shall, on the first day of each month, make a report to the chief inspector, sworn to before a justice of the peace, showing the names of the persons to whom he has sold liquor during the previous month, the quantity sold in each case, and upon whose certificate the sale was made, and such certificates shall accompany the report; and every person who violates the provisions of this sub-section shall, for each offence, incur a penalty of twenty dollars. 46 V., c. 30, s. 59.

Report by person so selling.

LICENSE FUND.

60. All sums received on applications for and on the issue of licenses, or received by the inspector for fines and penalties, shall form the license fund of the district :

License fund, how formed.

2. The license fund shall be applied, under regulations made by the Governor in Council, to the payment of the salary and expenses of the commissioners and inspectors, and of the expenses of the office of the board, or otherwise incurred in carrying the provisions of the law into effect; and the residue, on the thirtieth day of June in each year, and at such other times as are prescribed by the regulations made by the Governor in Council, shall be paid over to the treasurer of the city, town, village, parish or township municipality in which the licensed premises are respectively situate, for the public uses of the municipality; and in the Province of Prince Edward Island, except in the cities and towns thereof, to the treasurer of that Province; and in unorganized districts, the residue shall be paid to the Minister of Finance and Receiver General for the public uses of Canada :

How to be applied.

In P. E. Island and unorganized districts.

3. Cheques upon the license fund account shall be drawn by the chief inspector, and countersigned by the chairman, or any two of the license commissioners, subject to the regulations made by the Governor in Council. 46 V., c. 30, s. 56.

Cheques upon the fund.

61. Two thirds of every penalty in money recovered under this Act, in cases in which an inspector is the prosecutor or complainant, shall be paid by the convicting magistrate to the inspector, and paid in by him to the credit of the license fund account :

Application of pecuniary penalties.

2. If the whole amount of the penalty and costs is not recovered, the amount recovered shall be applied, first, to the payment of the costs, and the balance shall be appropriated as herein provided :

If not all recovered.

3. Whenever the inspector has prosecuted and obtained a conviction, and has been unable to recover the amount of costs, the same shall be paid out of the license fund :

Conviction but no recovery of costs.

Indemnity
of inspector
in cases of
no conviction.

4. Whenever the inspector has prosecuted and failed to obtain a conviction, he shall be indemnified against all costs, out of the license fund, if the magistrate before whom the complaint is made, certifies that such officer had reasonable and probable cause for instituting such prosecution or preferring such complaint. 46 V., c. 30, s. 57.

PROHIBITION.

No license to
be issued
when prohibi-
tion has been
voted for by
three-fifths of
the electors.

62. No license shall be granted by the board for the sale of liquors within the limits of a town, parish, incorporated village, township or other municipality, except counties and cities, when it has been made to appear to the board in manner hereinafter provided, that three fifths of the duly qualified electors therein, who have voted at a poll taken as hereinafter specified, have declared themselves to be in favor of a prohibition of the sale of intoxicating liquors in their locality, and against the issue of licenses therefor :

Proceedings
or requisition
that poll may
be taken.

2. When a requisition is presented to any commissioner from one fifth of the electors of any town, parish, incorporated village, township, or other municipality, except counties and cities, requiring a vote to be taken as to whether or not such license shall issue or be granted therein, such commissioner shall, upon the receipt of such requisition, scrutinize the names of the electors attached to such requisition, and if he is satisfied that the said electors whose names are attached to the said requisition are duly qualified, and after the person or persons, who witnessed the signatures to the said requisition, have sworn, before a justice of the peace or a notary public, that he the said witness or they the said witnesses were present and saw the said electors sign the said requisition, and that the signers constitute one fifth of the electors of such town, parish, incorporated village, township or other municipality, shall issue a notice of the holding of a poll to determine whether the prohibition of the sale of liquors shall prevail within the limits of the said town, parish, township, incorporated village, or other municipality, as aforesaid :

Notice of poll,
by commis-
sioner.

Time for and
notice of poll.

3. Such poll shall be held in the month of February or March, and the notice of the holding of the same shall be given by the insertion thereof in some newspaper published in the municipality or district, or if there is no newspaper published within the municipality or district, then in some newspaper published as near thereto as may be, and such publication shall be continued in at least one issue of such newspaper in each week for three successive weeks, and also by posting up a printed notice of such poll, in at least six of the most public places within the said municipality or district :

Notice to be
posted up.

4. The votes of the electors shall be taken by ballot in the manner provided by "*The Canada Temperance Act*," and the sections thereof numbered *nine* and *eleven to ninety-three*, both inclusive, and the schedules to the said Act referred to in any of the said sections, shall be read and construed as part of this Act, except where the same are inconsistent with any of the provisions herein contained:

Vote shall be taken under the Canada Temperance Act.

5. The notice to be issued by the commissioner shall conform to the requirements of the proclamation which the Governor General is by the *ninth* section of the said Act permitted to issue, with such alterations as are necessary to make it answer the provisions of this section; and the returning officer named shall be the chief inspector, the sheriff or the registrar of the county or district, within which the municipality is situate, or the clerk of the municipality *and such returning officer shall make his return to the board*:

Form of notice.

Returning officer.

6. Objections to any act or proceeding under this section shall be made in writing and filed in the office of the board within eight days after the *return* is deposited in the said office: such objections shall be considered and adjudicated upon by the board at its next regular meeting, and the decision of the board shall be final; and in the event of the objections being maintained, the board shall have the power to cause another poll to be taken on the question whether or not licenses shall be granted:

Objections to be heard and determined.

Decision of board to be final.

7. Nothing in this section shall be construed as permitting any of the proceedings had, or paper writings filed, or notices required therein, to be vitiated or set aside by reason of any mere want or defect of form, or any irregularity in the drawing up or execution of the same:

Want of form not to invalidate proceeding.

8. The decision of the three fifths of the electors against the granting of licenses as declared at the poll, shall come into force in the then ensuing license year, beginning on the first day of May, and such prohibition shall continue in full force for such year and any future year until repealed; and all of the provisions of this section shall apply to the proceedings to be taken in reference to such repeal. 46 V., c. 30, s. 47;—47 V., c. 32, s. 13.

When the decision shall take effect, and for how long.

NO LIQUOR TO BE SOLD WITHOUT LICENSE.

63. No person shall sell by wholesale or by retail any liquors without having first obtained a license under this Act authorizing him so to do:

License required.

2. No person, unless he is duly licensed, shall by any sign or notice give the public cause to believe that he is so licensed. 46 V., c. 30, s. 83.

False signs or notices prohibited.

Having liquors in possession without license.

64. No person shall keep or have in any house, building, shop, eating-house, saloon or house of public entertainment, or in any room or place whatsoever, any liquors for the purpose of selling, bartering or trading therein, unless he is duly licensed for that purpose under the provisions of this Act. 46 V., c. 30, 's. 84.

Provision as to licensed manufacturers of liquors.

65. The two sections next preceding shall not be construed to prevent any brewer, distiller or other person duly licensed by the Government of Canada under the laws respecting the Inland Revenue, to manufacture fermented, spirituous or other liquors, from keeping, having or selling any liquor manufactured by him in any building wherein such manufacture is carried on, provided such building forms no part of and does not communicate by any entrance with any shop or premises wherein any article authorized to be manufactured under such license is sold by retail, or wherein any broken package of such article is kept :

Provision as to duly licensed druggists.

2. The said sections shall not be construed to prevent any chemist or druggist duly registered as such under and by virtue of "*The Pharmacy Act*" of the Province of Ontario, or any similar Act in force in any of the other Provinces, from keeping, having or selling liquors for strictly medicinal purposes; but no such sale shall be made in packages of more than six ounces at any one time, except under certificate from a registered medical practitioner; and every such chemist or druggist shall record in a book, which shall be open to the inspection of the commissioners and inspector, every sale or other disposal by him of liquor; and such record shall show, as to every such sale or disposal, the time when, the person to whom, and the quantity sold, and the certificate of the medical practitioner, if any; and every such sale or disposal which is not so placed on record, shall, *prima facie*, be held to be a violation of the provisions contained in the said sections :

Obligations of such persons; record to be kept by them.

No such liquor to be consumed on the premises.

3. No person authorized to sell liquors, as provided by the next preceding sub-section, shall allow any liquors sold by him or on his premises, to be consumed within his shop or the premises of which such shop forms part. 46 V., c. 30, ss. 85 and 86.

REGULATIONS AND PROHIBITIONS.

Licenses to be kept exposed.

66. All licenses shall be constantly and conspicuously exposed in the warehouses and shops, in the bar rooms of hotels, saloons or other places of public entertainment, and in the saloon or cabin of vessels, to which the licenses respectively relate; and every licensee, and master, captain or owner of a vessel, who violates the provisions of this section, shall incur a penalty of five dollars; with costs, for every

Penalty for default.

day's wilful or negligent omission so to expose them. 46 V., c. 30, s. 62.

67. Every person who keeps an hotel or saloon or any other licensed place in respect of which an hotel or saloon license has duly issued and is in force, shall exhibit over the door of such hotel, saloon or other licensed place, in large letters, the words: "*Licensed to sell spirituous or fermented liquors,*" and in default thereof, shall incur a penalty of five dollars, besides costs, for each and every day on which such default continues. 46 V., c. 30, s. 63.

Inscription
over door of
licensed
premises.

68. Every hotel keeper shall keep a lamp affixed over the door of his licensed premises, or within twenty feet thereof, lighted during the whole of every night, from sunset to sunrise, during the time of his holding such license:

Lamps
over doors.

2. Every person who violates, or who fails to comply with any provision of this section, shall, for each such offence, incur a penalty not exceeding five dollars:

Penalty for
default.

3. The chief inspector may, by indorsement on the license, exempt any hotel keeper from compliance with this provision in cases where he thinks the street or particular place where the licensed premises are situate, is otherwise sufficiently lighted. 46 V., c. 30, s. 64.

Exemption by
Inspector.

69. Not more than one bar shall be kept in any house or premises licensed under this Act. 46 V., c. 30, s. 65.

One bar only.

70. No sale or other disposal of liquors shall take place in any place where intoxicating liquors are, or may be sold by wholesale or retail, or on the premises thereof, or out of or from the same, to any person or persons whomsoever, save as hereinafter provided, from and after the hour of seven of the o'clock on Saturday afternoon till six of the clock on Monday forenoon thereafter, nor from or after the hour of eleven o'clock in the afternoon until six o'clock the following forenoon, on all the other days of the week, except in cases where a requisition for medical purposes, signed by a licensed medical practitioner, or by a justice of the peace, is produced by the vendee or his agent; nor shall any such liquor, whether sold or not, be permitted or allowed to be drunk in any such places during the time when the sale of the same is prohibited by this Act: Provided always, that in hotels, liquor may be sold on Sundays to the guests *bonâ fide* residing or boarding in such houses, during meals, between the hours of one and three, and five and seven in the afternoon, respectively, to be drunk or used at their meals at the table, but this provision shall not permit the furnishing of liquor at the bar or place where liquor is usually sold in such houses:

Prohibition of
sales on cer-
tain days and
at certain
hours.

Provido; as to
guests in
hotels.

No sales on
polling days
of elections.

2. No sale or other disposal of liquor shall take place in any licensed place within the limits of a polling subdivision, on any polling day for or at any Parliamentary election, or election of a member for a Legislative Assembly, or any municipal election, from or after the time of six o'clock in the forenoon of the said day, until the following lawful day, at six o'clock in the forenoon :

Penalty for
violation.

3. Every person who violates any of the provisions of this section shall, for the first offence, incur a penalty of not less than twenty dollars, which shall be recoverable, with costs, from the person or persons who are the proprietors in occupancy, or the tenants or agents in occupancy of the licensed premises, and who are found by himself, herself, or themselves, or his, her or their servants or agents, to have violated the said provisions, or any of them ; and every such offender shall, for a subsequent offence, incur a penalty of not less than fifty dollars, with costs ; and in default of payment of the penalties in this section before set forth, the offender shall be liable to imprisonment for the following terms, that is to say :—in the case of a first conviction, to fifteen days of imprisonment with hard labor ; and in the case of a subsequent conviction, to one month's imprisonment with hard labor. 46 V., c. 30, ss. 66 *and* 88.

For subse-
quent offence.

Imprison-
ment in de-
fault of pay-
ment.

Re-drafted

As to mode of
payment for
liquor, &c.

71. Every hotel keeper who receives in payment, or as a pledge, for any liquor or entertainment supplied in or from his licensed premises, anything except current money, or the debtor's own cheque on a bank or banker, shall, for each such offence, incur a penalty not exceeding twenty dollars ; and the person to whom anything given as a pledge, as aforesaid, belongs, shall have the same remedy for recovering the article pledged or the value thereof, as if it had never been pledged :

Recovering
pledges.

Payment in
advance for-
bidden.

2. No hotel keeper shall receive payment in advance for any liquor to be supplied, and any payment so made in advance shall be recoverable, notwithstanding that any liquor has been supplied subsequently to such payment. 46 V., c. 30, s. 68.

Recovery of
certain arti-
cles purchased
or received in
pledge by
licensee.

72. If any licensee purchases from any person any wearing apparel, tools, implements of trade or husbandry, fishing gear, household goods or furniture, either by way of sale or barter, directly or indirectly, the consideration for which, in whole or in part, is any intoxicating liquor or the price thereof, or receives from any person any goods in pawn, any stipendiary or police magistrate, or any two justices of the peace, or any parish court commissioner, on sufficient proof on oath being made before him of the facts, may issue his warrant for the restitution of all such pro-

perty, and for the payment of costs ; and the warrant shall contain directions for levying by sale of the offender's goods to the value of such property so pawned, sold or bartered, and costs, in default of such restitution and payment of costs ; and the offender shall also incur a penalty not exceeding twenty dollars. 46 V., c. 30, s. 69.

Proceedings
in default of
restitution.

Penalty in
addition.

73. Every person licensed under this Act may refuse to admit to the premises, in respect of which his license is granted, any person who is intoxicated, and may refuse to admit to and may turn out of the premises, every person who is violent or quarrelsome, or disorderly, and every person whose presence on his premises would subject the licensee to a penalty under this Act ; and every such person who, upon being requested, in pursuance of this section, by such licensed person or his agent or servant, or any constable, to quit such premises, refuses or fails to do so, shall incur a penalty not exceeding twenty dollars ; and every constable is required, on demand of such licensed person, his agent or servant, to expel or assist in expelling every such person from such premises, and may use such force as is required for that purpose. 46 V., c. 30, s. 72.

Power to re-
fuse liquor to,
or to eject
any intoxic-
ated person.

Constables
to aid.

74. No person who has a shop license to sell by retail, shall allow any liquor sold by him or in his possession, and for the sale of which a license is required, to be consumed within his shop, or within any building, of which such shop forms part, or which communicates by any entrance with such shop, either by the purchaser thereof, or by any other person not usually resident within such building, and every such person who violates the provisions of this section, shall incur a penalty not exceeding fifty dollars. 46 V., c. 30, s. 75, *part.*

No liquor to
be consumed
on the prem-
ises of shop
licensee.

75. No person who has a license to sell by wholesale, shall allow any liquors sold by him or in his possession for sale, and for the sale or disposal of which such license is required, to be consumed within his warehouse or shop, or within any building which forms part of or is appurtenant to, or which communicates by any entrance with any warehouse, shop or other premises wherein any article to be sold or disposed of under such license is sold by retail, or wherein there is kept any broken package of such article. 46 V., c. 30, s. 76.

Wholesale
licensee not
to allow
liquor to be
consumed on
his premises.

76. If any person who has a license to sell liquors which are not to be drunk on the premises, himself takes or carries, or employs, or suffers any other person to take or carry any liquor out of or from the premises of such licensed person, for the purpose of being sold on his account or for his benefit or profit, and of being drunk or consumed in any other house, or in any tent, shed or other building of any

What shall be
deemed un-
lawful con-
sumption of
liquor on the
premises.

kind whatever, belonging to such licensed person, or hired, used or occupied by him, or on or in any place, whether enclosed or not, and whether or not a public thoroughfare, such liquor shall be deemed to have been consumed by the purchaser thereof, on the premises of such licensed person, with his privity and consent, and such licensed person shall be punished accordingly, in manner provided by this Act :

What proof of offence sufficient.

2. In any proceeding under this section, it shall not be necessary to prove that the premises, or place or places to which such liquor is taken to be drunk, belonged to or were hired, used or occupied by the seller, if proof is given to the satisfaction of the court hearing the case, that such liquor was taken to be consumed thereon or therein, with intent to evade the conditions of his license. 46 V., c. 30, s. 77.

Vessel license not to sell in port, &c.

77. When a vessel license is issued under this Act, no sale or other disposal of liquor shall take place thereon or therefrom, to be consumed by any person other than a passenger on the said vessel, whilst such vessel is at any port, pier, wharf, dock, mooring place or station :

Penalty for contravention.

2. If any such sale or other disposal of liquor takes place, the said license shall, *ipso facto*, be and become forfeited and void, and the captain or master in charge of such vessel, and the owner or person navigating the same, as well as the person actually selling or disposing of liquor contrary to this section, shall severally and respectively incur a penalty of one hundred dollars ; and every person who sells or disposes of any liquor contrary to the provisions of this section, shall also be liable to the same penalty and punishment therefor as is prescribed in the *seventieth* section of this Act. 46 V., c. 30, s. 78.

Power of justices to forbid sale of liquor to habitual drunkards.

78. If it is made to appear in open court that any person, by excessive drinking of liquor, misspends, wastes or lessens his estate, or greatly injures his health, or endangers or interrupts the peace and happiness of his family, the justices holding such court shall, by writing under the hands of two of such justices, forbid any licensed person to sell to him any liquor for the space of one year, and such justices or any other two justices, may, at the same or any other time, in like manner, forbid the selling of any such liquor to the said person by any such licensed person of any other city, town or district to which the said person resorts or is likely to resort for the same :

Effect of such prohibition.

2. Whenever the sale of liquor to any such person has been so prohibited, if any other person, with a knowledge of such prohibition, gives, sells, purchases or procures for or on behalf of such person to whom the sale of liquor is prohibited, or for his use, any liquor, such other person shall,

upon conviction, incur, for every such offence, a penalty not exceeding twenty dollars. 46 V., c. 30, s. 92.

79. (a) Any husband or wife, whose wife or husband has contracted the habit of drinking intoxicating liquor to excess,—

Certain persons may require inspector to forbid sale of liquor to habitual drunkards.

(b) The father, mother, curator, tutor or employer of any person under the age of twenty-one years, who has contracted the habit of drinking intoxicating liquor to excess,—

(c) The manager or person in charge of any asylum or hospital, or other charitable institution, in which any person so addicted resides or is kept,—

(d) The curator, guardian or committee of any interdicted person or lunatic; or—

(e) The father, mother, brother or sister, of the husband or wife of such person,—

May require the chief inspector to give notice in writing, signed by him, to any person licensed to sell liquors, that he is not to sell or deliver the same to the person addicted to such habit or to such interdicted person or lunatic:

2. If in the course of one year from the date of such notification, the person so notified, either personally or by his clerk, servant or agent, sells or delivers such liquors otherwise than on a certificate, for medicinal purposes, signed by a medical practitioner, to the person addicted to such habit, or to such lunatic or interdicted person, he shall incur, for every such offence, a penalty not exceeding fifty dollars. 46 V., c. 30, s. 93.

Penalty for selling in contravention of such prohibition.

80. No chief inspector, and no inspector of any district, shall, either directly or indirectly, receive, take or have any money whatsoever, for any license, report, matter or thing connected with or relating to any grant of any license, other than the sum payable therefor as the duty under the provisions of this Act, or shall receive, take or have any note, security or promise for the payment of any such money, or any part thereof, from any person whomsoever; and every person who is guilty of, or concerned in, or party to any act, matter or thing, contrary to the provisions of this section, or of sections *thirty and thirty-one*, is guilty of a misdemeanor, and shall be liable to a penalty not exceeding two hundred dollars, and to imprisonment for a term not exceeding twelve months. 46 V., c. 30, s. 95.

Punishment of persons concerned in bribery.

Amended.

ADULTERATION.

81. When a licensed person is convicted of any offence for adulteration of liquor, and his license is not forfeited for

Duty of inspector in case of conviction

of adulteration when license is not forfeited.

Notice to be affixed on premises.

Penalty for contravention.

such offence, the chief inspector or inspector, or any constable of the district, shall cause a placard, stating such conviction, to be affixed to the premises; such placard shall be of such size and form, and shall be printed with such letters, and shall contain such particulars, and shall be affixed to such part of the licensed premises, as the convicting justices think fit, and such licensed person shall keep the same affixed during two weeks after the same is first affixed; and, if he fails to comply with the provisions of this section with respect to keeping such placard affixed, or defaces or allows such placard to be defaced, or if the same is defaced and he fails forthwith to renew the same, he shall incur a penalty not exceeding fifty dollars for every day on which the same remains so defaced and unrenewed; and any inspector or any constable may affix or re-affix such placard during the said two weeks, or such further time as is directed by a court of summary jurisdiction. 46 V., c. 30, s. 79.

Proceedings for obtaining analysis of liquor suspected to be adulterated.

82. In order to obtain an analysis of any liquor, substance or thing, any justice of the peace may, on information on oath made to him that there is reason to believe that any such liquor is adulterated, or contains any deleterious ingredient, or that any substance, matter or thing of a deleterious character is to be found upon any licensed premises, authorize the seizure of such suspected liquor, substance, matter or thing, and cause the same, or a sample thereof, to be analyzed by some competent person, and order the forfeiture of the whole of the kind of liquor analyzed and found to be adulterated or to contain any deleterious ingredient, and also of any substance, matter or thing of a deleterious character, found in the possession or on the premises of the person offending; and the expense of such analysis and forfeiture shall be a portion of the costs which such justice shall have power to order to be paid by any person convicted:

Expenses.

What evidence shall be sufficient for conviction of person found in possession.

Proviso: what defendant may prove in defence.

2. In every proceeding under this section, proof of the fact that any liquor was adulterated or contained any deleterious ingredient, or that any substance, matter or thing of a deleterious character was found upon the premises, shall be *prima facie* evidence that the person in whose possession the same was found did knowingly sell, or offer, or expose or have for sale such liquor, or that such substance, matter or thing of a deleterious character was kept for adulterating or mixing with the liquor sold: Provided always, that any person charged with any offence against this section may give evidence on his own behalf to prove that such liquor was, when seized, in the same condition as it was when it came into his possession by a *bona fide* purchase, and was not adulterated or mixed with any deleterious ingredient by him or any person acting under his authority, and that such

substance, matter or thing was not kept for adulterating or mixing with the liquor sold :

3. Any inspector may, at all times during business hours, and after such hours for reasonable cause, enter on any licensed premises ; he may also examine every room and every part of such premises and take an account of all liquor therein, and may demand, select and obtain any samples of liquor which is in such house or premises, which samples shall be sealed by the inspector in the presence of the licensee or other person in charge of the house or premises, and if such licensee or other person so desires, with the seal of such licensee or other person ; and on payment or tender of payment for such samples of liquor, the inspector may remove the same for the purpose of analysis or otherwise. 46 V., c. 30, s. 80.

Power of inspector to search for and take samples of liquors.

POWERS OF INSPECTORS AND OTHER OFFICERS.

83. Any officer, policeman or constable, or inspector, may, for the purpose of preventing or detecting the violation of any of the provisions of this Act which it is his duty to enforce, at any time enter into any and every part of any hotel, tavern, or other house or place of public entertainment, shop, warehouse or other place wherein refreshments or liquors are sold, or reputed to be sold, whether under license or not, and may search every part thereof, and of the premises connected therewith, as he thinks necessary, for the purpose aforesaid :

Power to enter and search premises.

2. Every person who is therein, or who has charge thereof, and who refuses or fails to admit such officer, policeman or constable, or inspector, demanding to enter in pursuance of this section in the execution of his duty, or who obstructs or attempts to obstruct the entry of such officer, policeman, constable or inspector, or any such search as aforesaid, shall incur a penalty not exceeding fifty dollars. 46 V., c. 30, s. 81.

Penalty on persons obstructing search.

84. Any magistrate, if he is satisfied by information on the oath of any such officer, policeman, constable or inspector, that there is reasonable ground for belief that any spirituous or fermented liquor is kept for sale or disposal, contrary to the provisions of this Act, in any unlicensed house or place within the jurisdiction of the magistrate, may, in his discretion, grant a warrant under his hand, by virtue whereof the person named in such warrant may, at any time or times within ten days from the date thereof, enter, and, if need be, by force, the place named in the warrant, and every part thereof, or of the premises connected therewith, and examine the same and search for liquor therein ; and for such purpose such person may, with such assistance as he deems expedient, break open any door, lock or fastenings of such

Search warrant and powers and proceedings under it.

Forcing doors, &c.

premises, or any part thereof, or of any closet, cupboard, box or other article likely to contain any such liquor; and in the event of any liquor being so found unlawfully kept on the said premises, the occupant thereof shall, until the contrary is proved, be deemed to have kept such liquor for the purpose of sale, contrary to the provisions of section *sixty-four* of this Act :

Duty of officer finding liquor unlawfully kept. 2. When any inspector, policeman, constable or officer, in making or attempting to make any search under or in pursuance of the authority conferred by the next preceding section, or under the warrant mentioned in this section, finds in an unlicensed house or place any liquor which, in his opinion, is unlawfully kept for sale or disposal contrary to this Act, he may forthwith seize and remove the same, and the vessels in which the same is kept; and upon the conviction of the occupant of such house or place, or of any other person, for keeping liquor for sale in such house or place without license, the magistrate before whom such conviction is had may, in and by the said conviction, or by a separate or subsequent order, declare the said liquor and vessels, or any part thereof, to be forfeited to Her Majesty, and may order and direct that the said inspector, policeman, constable or officer, shall destroy the same or any part thereof, and the inspector or other person, as aforesaid, shall thereupon forthwith destroy the same or part thereof, as directed by such conviction or order. 46 V., c. 30, s. 82;—47 V., c. 32, s. 14.

Convicting magistrate may declare liquor forfeited, and order it to be destroyed.

Keeping disorderly house, and proceedings on complaint. **85.** The mayor or police magistrate of a town or city, the recorder or judge of the sessions of the peace having jurisdiction therein, any stipendiary magistrate, or the mayor or reeve of a township, with any one justice, or any two justices having jurisdiction in the township or village, or the commissioner of a parish court within his jurisdiction, with any one justice of the peace, or any two justices of the peace having jurisdiction in the township, parish or village, or, in Manitoba, the judge of the county court of the judicial district, upon information to him or them, or one of them respectively, that any keeper of any hotel, saloon or other house of public entertainment, situate within their jurisdiction, sanctions or allows gambling or riotous or disorderly conduct in his house or premises, may summon the keeper thereof to answer the complaint, and may investigate the same summarily, and either dismiss the complaint, with costs to be paid by the complainant, or convict the keeper of having an improper or a riotous or disorderly house, as the case may be; and such conviction shall, *ipso facto*, operate as a forfeiture of his license, with or without costs, as in the discretion of the convicting authority seems just; and if the keeper of any such hotel, saloon or place of public entertainment is convicted under this section and his license

Investigation into complaint.

annulled, he shall not be eligible to obtain a license for the period of two years thereafter. 47 V., c. 32, s. 15.

86. The chief inspector, or one of the inspectors shall, at least once in every three months, visit and inspect every licensed place within the district, and report forthwith to the board, or chairman of the board, every case of violation of the provisions of this Act; and every inspector shall at once, and in conformity with the provisions herein contained, prosecute any person so offending, and shall suffer no unnecessary delay to intervene between his obtaining the information and the prosecution :

Inspectors to visit and inspect licensed premises periodically.

2. The inspector shall institute prosecutions whenever he has reason to believe that this Act has been violated, and that such prosecutions can be successfully maintained, or that, at least, the costs can be recovered :

And institute prosecutions.

3. Whenever the inspector is called upon to institute a prosecution, he may, if he has reason to fear that the costs cannot be recovered from the defendant, exact from the person asking for the institution of such prosecution the deposit of a reasonable amount to cover the same. 46 V., c. 30, s. 87.

As to costs.

PENALTIES.

87. Every person who sells or barter liquors of any kind, without the license therefor by this Act required, or who violates the provisions of section *sixty-four*, shall, for the first offence, incur a penalty not exceeding fifty dollars and not less than twenty dollars and costs; and for a second or any subsequent offence, such person shall be liable to imprisonment, with hard labor, for a term not exceeding three months. 47 V., c. 32, s. 16.

Punishment for selling liquor without a license.

88. Every licensed person who knowingly harbors or knowingly suffers to remain on his premises, any constable during any part of the time appointed for such constable to be on duty, unless *such constable is present* for the purpose of keeping or restoring order, or in the execution of his duty, or who supplies any liquor or refreshment whatever by way of gift or sale, to any constable on duty, unless by authority of some superior officer of such constable, or who bribes or attempts to bribe any constable, shall incur a penalty not exceeding fifty dollars. 46 V., c. 30, s. 71.

Penalty for harboring constables when on duty.

89. Every person licensed under this Act who permits drunkenness, or any violent, quarrelsome, riotous or disorderly conduct to take place on his premises, or who sells or delivers intoxicating liquor to any drunken person, or who permits any drunken person to consume any intoxi-

Penalty for permitting drunkenness, &c.

cating liquor on his premises, or who permits persons of notoriously bad character to assemble or meet on his premises, or permits any gambling or any unlawful game to be carried on on his premises, shall incur a penalty not exceeding fifty dollars. 46 V., c. 30, s. 70.

Penalty for using prohibited internal communications.

90. Every person who makes or uses, or allows to be made or used, any internal communication between any licensed premises and any unlicensed premises which are used for public entertainments or resort, or as a refreshment house, shall incur a penalty not exceeding fifty dollars for every day during which such communication remains open. 46 V., c. 30, s. 73.

Penalty for allowing liquors to be consumed on the premises by a minor.

91. Every licensed person who allows any liquor to be supplied in his licensed premises, by purchase or otherwise, to any person apparently under the age of sixteen years, who is not resident on the premises or a *bonâ fide* guest, lodger or traveller, and the person who actually gives or supplies the liquor, shall respectively incur a penalty not exceeding twenty dollars for every such offence. 46 V., c. 30, s. 74.

Penalty for refusing lodging, &c.

92. Every hotel keeper who fails or refuses, either personally or through any one acting on his behalf, except for some valid reason, to supply lodging, meals or accommodation to travellers, shall, for each offence, incur a penalty not exceeding twenty dollars. 46 V., c. 30, s. 67.

Penalty for treating any person in a shop.

93. Every person who has a shop license and who gives or treats any person to any liquor on the licensed premises, shall incur a penalty not exceeding fifty dollars. 46 V., c. 30, s. 75, *part*.

Penalty for obtaining liquor on false pretences.

94. Every person who, by falsely representing himself to be a lodger, buys or obtains, or attempts to buy or obtain, at any premises, any liquor during the period when such premises are required to be closed as to the sale thereof, in pursuance of this Act, shall incur a penalty not exceeding twenty dollars. 46 V., c. 30, s. 94.

Interpretation.

95. For the purpose of this section, the expression "premises where the same is sold" includes any premises adjoining or near the premises where the liquor is sold, if they belong to the seller of the liquor, or are under his control, or are used by his permission :

Case of purchaser drinking liquor on premises where bought &c.

2. If any purchaser of any liquor from a person who is not licensed to sell the same to be drunk on the premises, drinks, or causes or permits any other person to drink such liquor on the premises where the same is sold, the seller of such liquor shall, if it appears that such drinking was

with his privity or consent, for the first offence, incur a penalty not exceeding twenty dollars, and for any subsequent offence a penalty not exceeding fifty dollars :

First offence.
Second or
subsequent.

3. Every purchaser of liquors in a house or premises, to which a shop or wholesale license applies, who drinks or causes any one to drink, or allows liquor to be drunk in the shop or premises where the same is sold, shall incur a penalty not exceeding twenty dollars. 46 V., c. 30, s. 89.

Penalty on
purchaser in
certain cases.

96. Every inspector, officer or other person who, contrary to the provisions of this Act, knowingly issues, or causes or procures to be issued, an hotel, saloon or shop license, or a certificate therefor, shall, for each offence, be liable to a penalty not exceeding one hundred dollars and not less than fifty dollars ; and in default of payment of such penalty, to imprisonment for a term not exceeding three months. 46 V., c. 30, s. 96.

Penalty for
illegally issu-
ing license.

97. Every person who, having violated any of the provisions of this Act, compromises, compounds or settles or offers or attempts to compromise, compound or settle the offence with any person, with the view of preventing any complaint being made in respect thereof, or—if a complaint has been made—with the view of defeating such complaint, or of stopping or having the same dismissed for want of prosecution or otherwise, shall incur a penalty not exceeding fifty dollars. 46 V., c. 30, s. 97.

Penalty for
compounding
offences
against this
Act.

98. Every person who is concerned in, or is a party to the compromise, composition or settlement mentioned in the next preceding section, is guilty of a misdemeanor and liable to a fine not exceeding fifty dollars. 46 V., c. 30, s. 98.

Punishment
of parties to
such offence.

99. Every one who knows or has reason to believe that an order to commit to gaol has been issued against any person under this Act, and who prevents the arrest of *such person*, or procures or facilitates, by any act or counsel, or in any other manner whatsoever, his avoidance of arrest, or who provides *such person* with the means of avoiding arrest, shall incur a penalty of fifty dollars. 46 V., c. 30, s. 99.

Penalty for
preventing
lawful arrest.

100. Every person who, on any prosecution under this Act, tampers with a witness, either before or after he is summoned or appears as such witness on any trial or proceeding under this Act, or by the offer of money, or by threats, or in any other way, either directly or indirectly, induces or attempts to induce any such person to absent himself, or to swear falsely, is guilty of a misdemeanor. 46 V., c. 30, s. 100.

Penalty for
tampering.
with wit-
nesses.

Punishment for second offences against certain sections of this Act.

101. Every second conviction for any offence against the provisions of sections *seventy, seventy-four, seventy-five, seventy-six, seventy-seven, seventy-eight, seventy-nine, eighty-one, eighty-eight, ninety, ninety-one or ninety-three*, and every conviction for an offence against the provisions of any one of the said sections, when there has been a previous conviction for an offence against the provisions of any other of them, and every third conviction for an offence against the provisions of this Act, or any of them, shall operate a forfeiture of the license of the offender :

Forfeiture for third offence.

Disqualification for third offence.

And every such third conviction shall disqualify the person convicted from obtaining a license for three years thereafter. 46 V., c. 30, ss. 101 and 125.

Penalty in cases not specially provided for.

102. Every person who violates any of the provisions of this Act, for which violation no penalty is herein specially provided, shall incur a penalty not exceeding twenty dollars 46 V., c. 30, s. 102.

Pecuniary penalties, how disposed of.

103. Every pecuniary penalty recovered under this Act shall be paid to the convicting magistrate, and two-thirds thereof shall, by him, in case an inspector is the prosecutor or complainant, be paid to the chief inspector, and the remaining third to the treasurer of the municipality wherein the offence was committed ; and in case such inspector is not the prosecutor or complainant, then a moiety thereof shall be paid to the treasurer of the municipality wherein the offence was committed, and the other moiety shall be paid to the prosecutor or complainant. 47 V., c. 32, s. 19.

PENALTIES NOT TO BE REMITTED.

No power to remit.

104. No magistrate, license commissioner or inspector, or municipal council or municipal officer, shall have any power or authority to remit, suspend or compromise any penalty or punishment inflicted under this Act. 46 V., c. 30, s. 103.

PROSECUTIONS.

Who may prosecute.

105. Any person may be prosecutor or complainant under this Act. 46 V., c. 30, s. 117.

Limitation of time for prosecutions.

106. All informations or complaints for the prosecution of any offence against any of the provisions of this Act shall be laid or made in writing within thirty days after the commission of the offence. 46 V., c. 30, s. 104.

Prosecutions, how brought.

107. Such prosecution may be brought,—

In Ontario.

(a) In the Province of Ontario, before any stipendiary magistrate or before any two other justices of the peace for

the county, city or district wherein the offence was committed ; or, if the offence was committed in any county, city or town having a police magistrate, then before such police magistrate, or, in his absence, before the mayor or any two justices of the peace—or if the offence was committed in any city or town not having a police magistrate, then before the mayor thereof, or before any two justices of the peace ;

(b) In the Province of Quebec, if the offence was committed in the city of Montreal or in the city of Quebec, before the recorder or judge of the sessions of the peace at Montreal or Quebec, as the case may be, or, if the offence was committed in any other part of the Province, then before a stipendiary magistrate, or before any two other justices of the peace for the district wherein the offence was committed ; or if the district is other than that of Quebec or that of Montreal, before the sheriff of such district ; In Quebec.

(c) In the Province of Nova Scotia, before a stipendiary magistrate or before any two other justices of the peace for the county in which the offence was committed ; In Nova Scotia.

(d) In the Province of New Brunswick, before any police, stipendiary or sitting magistrate or commissioner of a parish court, or before any two other justices of the peace in and for the county in which the offence was committed ; In New Brunswick.

(e) In the Province of Manitoba, before the police magistrate within whose territorial jurisdiction the offence was committed, or before any two justices of the peace in and for the county in which the offence was committed ; In Manitoba.

(f) In the Province of British Columbia, before any stipendiary magistrate or before any two other justices of the peace for the territorial division or jurisdiction within the limits of which the offence was committed ; In British Columbia.

(g) In the Province of Prince Edward Island, before the stipendiary magistrate for the city or town, or before any two other justices of the peace of or for the county in which the offence was committed. 46 V., c. 30, s. 105. In Prince Edward Island.

108. If such prosecution is brought before any such stipendiary magistrate, recorder, judge of the sessions of the peace, sheriff, police magistrate, sitting magistrate, commissioner or mayor, no other magistrate shall sit or take part therein. 46 V., c. 30, s. 106. Who may not sit in such case.

109. If such prosecution is brought before any two other justices of the peace, the summons shall be signed by at least one of them, and no justice, other than such two justices, shall sit or take part therein, except in the case of their No other justice to sit except by consent.

absence, or the absence of one of them, and not in the latter case except with the assent of the other of them. 46 V., c. 30, s. 107.

What description of the offence sufficient; and provision as to exemptions, &c.

110. The description of any offence under this Act in the words of this Act, or in words of like effect, shall be sufficient in law, and any exception, exemption, proviso, excuse or qualification, whether it does or does not accompany the description of the offence in this Act, may be proved by the defendant, but need not be alleged or denied in the information; but if it is so alleged or denied, no proof in relation to the matter so alleged or denied shall be required on the part of the informer or complainant. 46 V., c. 30, s. 108.

Several cases may be included in one complaint.

111. Several cases of violation of this Act, committed by the same person, may be included in one and the same information or complaint, if such information or complaint, and the summons issued thereon, contain specifically an allegation of the time and place of each violation. 46 V., c. 30, s. 109.

What shall be sufficient statement in the information, &c.

112. It shall be sufficient, in describing offences respecting the sale or other disposal of liquor, or the keeping or the consumption of liquor, to state in any information, summons, conviction, warrant, or proceeding under this Act, the sale, disposal, keeping or consumption of liquor simply, without stating the name or kind of such liquor, or the price thereof, or the name of any person to whom it was sold or disposed of, or by whom it was consumed; and it shall not be necessary to state the quantity of liquor so sold, disposed of, kept or consumed, except in the case of offences where the quantity is essential, and in such case it shall be sufficient to allege the sale or disposal of more or less than such quantity, as the case requires. 46 V., c. 30, s. 110.

Amendment of variances.

113. In the event of any variance between the information and the evidence adduced in support thereof, the magistrate may amend or alter such information, and may substitute, for the offence charged therein, any other offence against the provisions of this Act; but if it appears that the defendant has been materially misled by such variance, the magistrate shall thereupon adjourn the hearing of the case to some future day, unless the defendant waives such adjournment. 46 V., c. 30, s. 111.

Adjournment if necessary.

Forms in schedule sufficient.

114. The forms set forth in the fourth and subsequent schedules to this Act, or any forms to the like effect, shall be sufficient in the cases thereby respectively provided for; and when no forms are prescribed by the said fourth and subsequent schedules, new ones may be framed in accord-

ance with those appended to the Act, intituled: "*An Act respecting summary proceedings before Justices of the Peace.*" 46 V., c. 30, s. 112.

115. No conviction or warrant for enforcing the same or any other process or proceeding under this Act shall be held insufficient or invalid by reason of any variance between the information and the conviction, or by reason of any other defect in form or substance, if it can be understood from such conviction, warrant, process or proceeding, that the same was made, *issued or had*, for an offence against some provision of this Act, within the jurisdiction of the justice, justices or magistrate who made or signed the same, and if there is evidence to prove such offence, and it can be understood from such conviction, warrant or process, that the appropriate penalty or punishment for such offence was intended to be thereby adjudged. 46 V., c. 30, s. 116, *part*.

Convictions &c., not void for defects, in certain cases.

116. No license commissioner or inspector, who is a justice of the peace, shall try or adjudicate upon any complaint for a violation of any of the provisions of this Act committed within the limits of the district for which he is a commissioner or inspector; but this section shall not be construed to apply to a judge *of the superior court, or a judge or junior judge or deputy judge of a county court, a judge of sessions, or a recorder.* 46 V., c. 30, s. 118.

Who shall not try a complaint under this Act.

117. Whenever a licensee is convicted of any offence against the provisions of this Act, a record thereof shall be indorsed on the license of the person convicted, and the following provisions shall have effect, that is to say:—

Indorsement of conviction on license, and its effect.

(a) The magistrate before whom any licensed person is accused shall require such person to produce and deliver to him the license under which such person carries on business, and the summons shall state that such production will be required;

Production of license.

(b) If such person is convicted, the court shall cause a summary of the particulars of such conviction and the penalty imposed to be indorsed on his license before it is returned to the offender;

Conviction and penalty imposed to be indorsed.

(c) The chief inspector shall enter the particulars respecting such conviction, or such of them as the case requires, in the register of licenses kept by him under this Act;

Entry in register of licenses.

(d) When the conviction of any such person has the effect of causing the forfeiture of the license or of disqualifying any person under this Act, the license shall be retained by the magistrate, and notice of such forfeiture or disqualification shall be sent to the chief inspector of the proper district. 46 V., c. 30, s. 120.

In case of conviction disqualifying licensee.

Certificate of conviction to be sent to Inspector.

118. When any licensed person is convicted of an offence against this Act, the convicting magistrate shall send, forthwith, to the chief inspector of the proper district, a certificate of such conviction. 46 V., c. 30, s. 121.

Allowance to magistrate.

119. The magistrate shall, for the duties imposed by the two sections next preceding, be entitled to charge, as costs in the proceedings, the sum of fifty cents for making out and forwarding the certificate of conviction to the chief inspector, and the sum of fifty cents for recording the conviction on the license. 46 V., c. 30, s. 122.

Summary proceedings Act to apply to proceedings under this Act.

120. All the provisions of the Act, intituled "*An Act respecting summary proceedings before Justices of the Peace,*" shall apply to all prosecutions and proceedings under this Act, so far as the same are consistent with this Act. 46 V., c. 30, s. 119.

PROCEDURE IN CASES WHERE PREVIOUS CONVICTION IS CHARGED.

Proceedings in case of previous conviction.

121. The proceedings upon any information for committing an offence against any of the provisions of this Act, in a case where a previous conviction or previous convictions are charged, shall be as follows:—

Last offence to be first tried.

(a) The magistrate shall, in the first instance, inquire concerning such subsequent offence only, and if the accused is found guilty thereof, he shall then, and not before, be asked whether he was so previously convicted, as alleged in the information, and if he answers that he was so previously convicted, he may be sentenced accordingly; but if he denies that he was so previously convicted, or stands mute of malice, or does not answer directly to such question, the magistrate shall then inquire concerning such previous conviction or convictions;

As to alleged previous convictions.

Proof thereof.

(b) The number of such previous convictions *may be proved* by the production of a certificate purporting to be under the hand of the convicting magistrate, or of the clerk of the peace, without proof of his signature or official character, or by other satisfactory evidence;

Case of second or subsequent conviction becoming void, provided for.

(c) In the event of any conviction for any second or subsequent offence becoming void or defective, after the making thereof, by reason of any previous conviction being set aside, quashed, or otherwise rendered void, the justices or other authority by whom such second or subsequent conviction was made, may, by warrant under their or his hand, summon the person convicted to appear at a time and place to be named in such warrant, and may thereupon, upon proof of the due service of such warrant, if such person fails

to appear, or on his appearance, amend such second or subsequent conviction, and adjudge such penalty or punishment as might have been adjudged had such previous conviction never existed; and such amended conviction shall thereupon be held valid for all intents and purposes, as if it had been made in the first instance;

(d) If any person who has been convicted of a violation of any of the provisions of any of the sections of this Act, mentioned in section *one hundred and one*, is afterwards convicted of an offence against any provision of any of the said sections, such conviction shall be deemed a conviction for a second offence, within the meaning of the said section, and may be dealt with and punished accordingly, although the two convictions have been for offences against different sections. 46 V., c. 30, s. 113.

Provision in case of convictions under several sections of this Act.

122. A conviction may in any case be had as for a first offence, notwithstanding that there has been a prior conviction or convictions for the same or any other offence. 46 V., c. 30, s. 114.

Conviction as for first offence *non obstante*.

123. Convictions for several offences may be made under this Act, although such offences were committed on the same day; but the increased penalty or punishment herebefore imposed shall only be incurred or awarded in the case of offences committed on different days, and after information laid for a first offence. 46 V., c. 30, s. 115.

Several offences on one day. Proviso.

EVIDENCE, &C.

124. In any prosecution or proceeding under this Act, in which proof is required respecting any license, a certificate purporting to be under the hand of the chief inspector of the district shall be *prima facie* evidence of the existence of a license, and of the identity of the person to whom the same was granted or transferred; and the production of such certificate shall be sufficient *prima facie* evidence of the facts therein stated and of the authority of the chief inspector, without any proof of his appointment or signature. 46 V., c. 30, s. 127.

Inspector's certificate to be evidence.

125. Any resolution of a board passed under this Act, shall be sufficiently authenticated if it is signed by the chairman of the board which passed the same; and a copy of any such resolution written or printed, and certified to be a true copy by any member of such board, shall be deemed authentic, and shall be received in evidence in any court of justice without proof of any such signature, unless it is specially pleaded or alleged that the signature to any such original resolution has been forged. 46 V., c. 30, s. 128.

Resolution of board, how authenticated. As to copies thereof.

What shall be deemed a place where liquor is sold.

126. Every house, shop, room or other place in which it is proved that there exist a bar, counter, beer pumps, kegs, jars, decanters, tumblers, glasses or any other appliances or preparations similar to those usually found in taverns and shops where liquors are *usually* sold or trafficked in, shall be deemed to be a place in which liquors are kept or had for the purpose of being sold, bartered or traded in, in violation of the *sixty-fourth* section of this Act, unless the contrary is proved by the defendant in any prosecution; and the occupant of such house, shop, room or other place shall be taken conclusively to be the person who has or keeps therein such liquors for sale, barter or traffic therein. 46 V., c. 30, s. 129;—47 V., c. 32, s. 20.

What shall be evidence of sale or disposal.

127. It shall not be necessary in proving the sale or disposal, gratuitous or otherwise, or consumption of liquor, for the purpose of any proceeding relative to any offence under this Act, to show that any money actually passed or any liquor was actually consumed, if the magistrate hearing the case is satisfied that a transaction, in the nature of a sale or other disposal, actually took place, or that any consumption of liquor was about to take place; and proof of consumption or intended consumption of liquor on premises under license, or in respect to which a license is required under this Act, by some person other than the occupier of the premises, shall be evidence that such liquor was sold to the person consuming, or being about to consume, or carrying away the same, as against the holder of the license or the occupant of the said premises. 46 V., c. 30, s. 130.

Evidence of sale during prohibited hours.

128. Whenever, in a city, a town or an incorporated village, any person other than a member of the family or household of the keeper of a licensed hotel or saloon, is found frequenting or present, or where gas or any other light is seen burning in the bar room of such hotel or saloon where liquor is trafficked in, at any time during which the sale or other disposal of liquors is prohibited by any provision of this Act, any such fact, when proved, shall be deemed and taken as *prima facie* evidence that a sale or other disposal of liquors by the keeper of such licensed place has taken place contrary to the provisions of the *seventieth* section of this Act; and such keeper may thereupon be convicted of an offence against the said section, and shall, upon conviction, be subject to the punishment prescribed in and by the *said seventieth* section. 46 V., c. 30, s. 131.

Responsibility of occupant of place where such sale is made.

129. The occupant of any house, shop, room or other place in which any sale, barter or traffic of liquors, or any matter, act or thing in violation of any of the provisions of this Act has taken place, shall be personally liable to the penalty and punishment prescribed in the *seventieth and*

ninety-fifth sections of this Act, as the case may be, notwithstanding that such sale, barter or traffic is made by some other person, who cannot be proved to have so acted under or by the directions of such occupant; and proof of the fact of such sale, barter or traffic, or other act, matter or thing, by any person in the employ of such occupant, or who is suffered to be or remain in or upon the premises of such occupant, or to act in any way for such occupant, shall be conclusive evidence that such sale, barter or traffic, or other act, matter or thing, took place with the authority and by the direction of such occupant. 46 V., c. 30, s. 132.

130. It shall not be necessary, in any prosecution under this Act, in respect of the sale or other disposal of liquor without the license required by law, that any witness should depose directly to the precise description of the liquor sold or bartered or the precise consideration therefor, or to the fact of the sale or other disposal having taken place with his participation or to his own personal and certain knowledge; but the justices or magistrate trying the case, so soon as it appears to them or him that the circumstances in evidence sufficiently establish the violation of law complained of, shall put the defendant on his defence, and in default of his rebuttal of such evidence, shall convict him accordingly. 46 V., c. 30, s. 133.

What particulars need not to be deposed to.

131. Whenever it appears, in any prosecution under this Act, that the defendant has done any act or been guilty of any omission in respect of which, if he was not duly licensed, he would be liable to some penalty under this Act, it shall be incumbent upon the defendant to prove that he is duly licensed, and that he did the said act lawfully. 46 V., c. 30, s. 134.

Proof of defendant's license to be given.

132. The fact that any person, who is not a licensed person, keeps up any sign, writing, painting or other mark, in or near to his house or premises, or has such house fitted up with a bar or other place containing bottles or casks displayed so as to induce a reasonable belief that such house or premises is or are licensed for the sale of any liquor, or that liquor is sold or served therein, or that there is on such premises more liquor than is reasonably required for the persons residing therein, shall be deemed *prima facie* evidence of the unlawful sale of liquor by such person. 46 V., c. 30, s. 135.

What shall be deemed evidence of unlawful sale.

133. The production of a license which, on its face, purports to be duly issued, and which, if it was duly issued, would be a lawful authority to the defendant for such act or omission, shall be *prima facie* evidence that the defendant is so authorized; and in all cases the signature to and upon any instrument purporting to be a valid license shall *prima facie* be taken to be genuine. 46 V., c. 30, s. 136.

Effect of production of license.

Evidence to be reduced to writing.

134. The magistrate shall, in all cases, reduce or cause to be reduced to writing, the evidence of the witnesses examined before him, and shall read the same over to such witnesses, who shall sign the same. 47 V., c. 32, s. 17.

WITNESSES.

Summoning and attendance of witnesses.

135. In any prosecution under this Act the magistrate may summon any person who is represented to him to be a material witness in relation thereto; and if such person refuses or neglects to attend, pursuant to such summons, the magistrate may issue his warrant for the arrest of such person; and he shall thereupon be brought before the magistrate, and if he refuses to be sworn, or to affirm, or to answer any question touching the case, he may be committed to the common gaol of the county or place or to a lock-up, there to remain until he consents to be sworn or to affirm and to answer. 46 V., c. 30, s. 137.

Party or witness may be required to produce books, &c.

136. Every person summoned as a party to or as a witness in any proceeding under this Act, may, by the summons, be required to produce, at the time and place appointed for his attendance, all books and papers, accounts, deeds and other documents in his possession, custody or control, relating to any matter connected with the said proceeding, saving all just exceptions to such production; and shall be liable to the same penalties for non-production of such books, papers or documents, as he would incur by refusal or neglect to attend, pursuant to such summons, or to be sworn or to answer any question touching the case. 46 V., c. 30, s. 138.

Penalty for non-production.

All questions pertinent to the issue must be answered.

137. Every person, other than the defendant, summoned or examined as a witness in any prosecution brought under this Act, shall answer all questions put to him and which are pertinent to the issue, notwithstanding that his answers may disclose facts tending to subject him to any penalty imposed by this Act; but such evidence shall not be used against him in any prosecution. 46 V., c. 30, s. 139.

Certain persons may be examined as witnesses.

138. On the trial of any information or complaint under the provisions of this Act, the person charged, or husband of such person, shall be competent and compellable to give evidence, as a witness, in the said matter. 46 V., c. 30, s. 140.

APPEALS.

Decision in cases under section 87 to be final.

139. In a prosecution for any offence against any of the provisions of this Act, for which any penalty or punishment is prescribed by the *eighty-seventh* section of this Act, the conviction or order of the justices or magistrate, as the

case may be, shall, except as hereinafter mentioned, be final and conclusive, and, except as hereinafter mentioned, there shall be no appeal against such conviction or order to the court of general sessions of the peace, or to any other court :

Exception.

2. An appeal shall lie from a conviction for any offence for which a penalty or punishment is prescribed by the *eighty-seventh* section of this Act, in Ontario, Nova Scotia, New Brunswick, Manitoba, British Columbia and Prince Edward Island, to the judge of the county court of the county in which the conviction is had, or to the judge of a superior court, sitting in chambers without a jury, and, in the Province of Quebec, to a judge of the superior court of the judicial district in which the conviction is had, provided a notice in writing of such appeal is given to the prosecutor or complainant within five days after the date of the said conviction, subject to the following provisions :—

Appeal in cases under section 87.

In Provinces other than Quebec.

In Quebec. Conditions.

(a) The person convicted, in case he is in custody, shall either remain in custody until the hearing of such appeal before the said judge or (if the penalty of imprisonment, with or without hard labor, is adjudged), shall enter into a recognizance with two sufficient sureties, in the sum of two hundred dollars each, before the convicting magistrate, conditioned personally to appear before the said judge, and to try such appeal and abide his judgment thereupon, and to pay such costs as he orders ; and if the appeal is against a conviction whereby only a penalty or sum of money is adjudged to be paid, the appellant may, although the order directs imprisonment in default of payment, instead of remaining in custody as aforesaid, give such recognizance as aforesaid, or may deposit with the convicting magistrate the amount of the penalty and costs and a further sum of twenty-five dollars, to answer the respondent's costs of appeal ;

Offender to remain in custody or give security

Provision for recognizance or deposit in certain cases.

(b) Upon such recognizance being given or deposit made, the magistrate shall liberate such person, if in custody, and shall forthwith deliver or transmit, by registered letter, post paid, the depositions and papers in the case, with the recognizance or deposit, as the case may be, to the clerk of the court of which the judge to whom the appeal is made is the judge or a member. 46 V., c. 30, s. 123.

Liberation of prisoner on recognizance or deposit.

140. The practice and procedure upon such appeal, and the proceedings thereon shall, as nearly as possible, be as follows :—

Procedure on appeal.

(a) Within ten days after the date of the conviction, but not afterwards, unless it is made to appear to the judge that the delay arose wholly from the default of the convict-

Summons for cause to be shown.

ing magistrate, the judge, if he is of opinion from the evidence that the conviction may be erroneous, may grant a summons calling upon the County Crown attorney, in any Province in which there is a County Crown attorney, and the prosecutor, to show cause why the conviction should not be quashed;

Time limited. (b) No such summons shall be granted in any case after the expiration of one month from the date of the conviction;

Proceedings on return of summons. (c) Upon the return of the summons the judge, upon hearing the parties, may either affirm or quash the conviction, or, if he thinks fit, may hear the evidence of such other witness or witnesses as are produced before him, or the further evidence of any witness already examined, and may then make an order affirming or amending and affirming or quashing the conviction as he thinks just, and may order the payment of costs, and may fix the amount thereof;

Effect of judge's order. (d) Upon the production of the judge's order affirming or amending and affirming the conviction, the magistrate before whom the conviction was had shall, if the case is one in which a recognizance has not been given, issue his warrant for payment of such further sum for costs as the sum deposited with him is insufficient to pay; and if the conviction is quashed the judge shall order a return of the money deposited; and may order payment of such sum for costs as he taxes and allows; and unless the sum is paid by the complainant, the magistrate shall issue his warrant to levy the costs;

Proceeding when imprisonment is awarded and conviction affirmed. Escheat of recognizance. (e) If, by the conviction, it is adjudged that the person convicted shall be imprisoned and the conviction is affirmed, or amended and affirmed, or if the person convicted fails duly to prosecute the appeal, the judge shall issue his warrant for the commitment to the proper gaol or other place of imprisonment of the person convicted; and unless such person, within one week thereafter, surrenders himself into the custody of the constable or other officer intrusted with the execution of the warrant, the condition of the recognizance shall be deemed broken and the recognizance forfeited, and upon proof of the default being made, by affidavit of the officer or otherwise, the judge may certify the default on the back of the recognizance, and shall thereupon transmit the recognizance to the clerk of the peace or to the proper officer in that behalf according to the practice of the court of which the judge is a member;

Proceedings in such case. (f) Such recognizance shall be thereafter proceeded upon at the general sessions of the peace or in the county court,

in the same manner as a recognizance taken upon an appeal to the sessions or to the county court from a summary conviction may be proceeded upon; and the said certificate shall be deemed *prima facie* evidence of the default of the defendant; but such proceedings shall not relieve the person convicted from undergoing the term of imprisonment to which he was sentenced, and the warrant of the judge issued in that behalf, or any new warrant issued by him, may be executed in any part of the Province in which the conviction was had, in the same manner and subject to the like conditions as a warrant of a justice for the apprehension of an offender;

Proviso :
offenders not
relieved from
punishment.

(g) If, by the conviction only a money penalty is imposed, the judge, upon being satisfied by affidavit or otherwise, that default has been made upon a recognizance given on an appeal in such a case, shall certify in like manner as is provided in paragraph (e) of this section, and similar proceedings shall thereupon be had in respect of such recognizance;

Proceeding
when money
penalty only
is imposed.

(h) If it is proved to the satisfaction of the judge that the person convicted had previously served a portion of his term, the judge shall only issue his warrant for the commitment of the defendant for the residue of the term of imprisonment to which he was sentenced; and the judge may, if he thinks fit, transmit his said warrant to the convicting magistrate, in order that he may place the same in the hands of a constable for execution;

Term of im-
prisonment.

(i) Any warrant issued under this section may be directed in the same manner, and executed by the like officers, as a warrant of commitment upon a summary conviction under the "*Act respecting summary proceedings before Justices of the Peace*";

Execution of
warrant.

(j) In all cases of appeal to a judge from any conviction under this Act, had before a magistrate, the judge to whom such appeal is made shall hear and determine the charge or complaint on which such conviction has been had, upon the merits, notwithstanding any defect of form or otherwise in such conviction; and if the person charged or complained against is found to have been guilty, the conviction shall be affirmed and the judge shall amend the same if necessary;

Appeal to be
heard on the
merits.

(k) The magistrate shall retain any moneys deposited with him as aforesaid for the period of six months, unless judgment is sooner given, and upon the judgment in appeal being given, or upon the expiration of six months from the day of the date of the conviction, the magistrate shall pay over such moneys to the person or persons entitled thereto, in accordance with the judgment; and if the judgment in

Disposal of
moneys
deposited.

Effect of de-
lay of
judgment.

appeal is not delivered within six months from the day of the date of the conviction, the conviction shall stand, but the respondent shall not be entitled to any costs of appeal; and if imprisonment was adjudged by the conviction, the convicting magistrate shall, or any other magistrate may, issue his warrant for the commitment of the person convicted for any portion of the term which he has not served, and no further proceedings shall be taken on the appeal;

No removal
by *certiorari*,
&c.

(l) No conviction affirmed or amended and affirmed on appeal by the judge shall be quashed for want of form, or be removed by *certiorari* into any of Her Majesty's superior courts of record; and no warrant or commitment 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;

Powers of the
judge.

(m) In every process and in all proceedings before a judge under this section, the judge shall, with reference to the matters herein contained, have all the powers which belong to or might be exercised by him in the court of which he is a member; and all necessary process may be issued from the office of the clerk of the court. 46 V., c. 30, s. 124;—47 V., c. 32, s. 18.

Proceedings
on applica-
tion to quash
conviction on
ground of
variance, &c.

141. Upon any application to quash any conviction, or the warrant for enforcing the same, or other process or proceeding, whether in appeal or upon *habeas corpus*, or by way of *certiorari* or otherwise, the court or judge to which such appeal is made, or to which such application has been made upon *habeas corpus* or by way of *certiorari* or otherwise, shall dispose of such appeal or application upon the merits, notwithstanding any variance between the information and the conviction or any other defect in form or substance, and if it appears that the merits have been tried, and that the conviction, warrant, process or proceeding is sufficient and valid under this Act or otherwise, such conviction, warrant, process or proceeding shall be affirmed, or shall not be quashed (as the case may be); and such court or judge may, in any case, amend the same, if necessary, and any conviction, warrant, process or proceeding so affirmed, or affirmed and amended, shall be enforced in the same manner as convictions affirmed on appeal, and the costs thereof shall be recoverable as if originally awarded. 46 V., c. 30, s. 116, *part*.

MUNICIPALITIES UNDER THE TEMPERANCE ACT.

Provisions of
Canada Tem-
perance Act
not impaired.

142. Nothing in the foregoing provisions of this Act shall be construed to affect or impair any of the provisions of "*The Canada Temperance Act*;" and no hotel, saloon or shop license shall be issued or take effect within any county,

city, town, incorporated village or township in Canada within which the second part of the said Act has been brought into force, as by the said Act provided, or within which any by-law for prohibiting the sale of liquor under "*The Temperance Act of 1864*," or any other Act, is in force; nor in the North-West Territories, nor in that part of the Province of Manitoba which was added thereto, by the Act passed in the forty-fourth year of Her Majesty's reign, chaptered fourteen and intituled "*An Act to provide for the extension of the Boundaries of the Province of Manitoba*." 46 V., c. 30, s. 141;—47 V., c. 32, s. 21.

As to N.W.T. and Manitoba.

143. A board of commissioners may, notwithstanding that "*The Canada Temperance Act*" or any such by-law under "*The Temperance Act of 1864*," or any other Act, affects the whole of any county, be nominated therefor; and the said board and the inspectors shall have, discharge and exercise all such powers and duties respectively, for preventing the sale or disposal of, or traffic in liquor, contrary to the said Acts or this Act, as they respectively have or should exercise or perform under this Act. 46 V., c. 30, s. 142.

Commissioners and inspectors may be appointed where Temperance Act is in force.

144. A wholesale license obtained under and subject to the provisions of this Act shall be necessary, in order to authorize or make lawful any sale of liquor in the quantities allowed under the provisions of "*The Canada Temperance Act*." 46 V., c. 30, s. 144.

As to wholesale license.

145. The sale of liquor without license in any municipality where "*The Canada Temperance Act*" is in force shall, nevertheless, be a violation of sections *sixty-three and sixty-four* of this Act, and the several provisions of this Act shall have full force and effect in every such municipality, except in so far as such provisions relate to granting licenses for the sale of liquor by retail. 46 V., c. 30, s. 145.

Sale without license a violation of this Act, notwithstanding Temperance Act.

THE FIRST SCHEDULE.

HOTEL (OR SALOON) LICENSE.

Whereas the Board of License Commissioners for the district have, by their certificate, dated the day of _____, authorized the issue to _____ of _____ of an hotel (or saloon) license, for the house to be known as _____, situate _____; and whereas the said _____ hath entered into the bond, with sureties, required by "*The Liquor License Act*," and paid the sum of five dollars as the fee on such license.

Now I do hereby declare that the said _____ is licensed to sell and dispose of liquors in quantities not exceeding one quart, which may be drunk on such premises between the hours of six of the clock in the morning and seven of the clock in the evening, on Saturday ; between six of the clock in the morning and eleven of the clock at night, on other week days (except on days on which polling may be had respecting the polling sub-division in which the said premises are situate, at a parliamentary election, or at an election for the House of Assembly, or a municipal election) ; and between 1 p.m. and 3 p.m., and 5 p.m. and 7 p.m., on Sunday, to guests *bonâ fide* residing or boarding in the said premises, to be drunk only at meals at the table.

And this license shall commence upon the _____ day of _____ and continue until midnight on the _____ day of _____ next ensuing.

Given under my hand this _____ day of _____ one thousand eight hundred and _____

Minister of Inland Revenue.

Chief Inspector.

SHOP LICENSE.

Whereas the Board of License Commissioners for the district of _____ have, by their certificate, dated the _____ day of _____, authorized the issue to _____ of _____ of a shop license for the house to be known as _____ situate _____ ; and whereas the said _____ hath entered into the bond, with sureties, required by "*The Liquor License Act,*" and paid the sum of five dollars as the fee on such license.

Now I do hereby declare that the said _____ is licensed to sell and dispose of liquors, not to be drunk in or upon the premises for which the license is granted, in quantities not less than one imperial pint, at any one time to any one person, between the hours of six of the clock in the morning and seven of the clock in the evening on Saturday ; between six of the clock in the morning and eleven of the clock at night, on other week days (except on days on which polling may be had, respecting the polling sub-division in which the said premises are situate, at a parliamentary election, or at an election for the House of Assembly, or a municipal election.).

This license shall commence on the _____ day of _____
and continue until midnight on the _____ day of _____ next
ensuing.

Given under my hand this _____ day _____ one
thousand eight hundred and _____

Minister of Inland Revenue.

Chief Inspector.

VESSEL LICENSE.

Whereas the Board of License Commissioners for the _____
district have, by their certificate, dated the _____
day of _____, authorized the issue
to _____, master of the _____ called
the _____, of a vessel license; and whereas
the said _____ hath paid the sum of five dollars as
the fee on such license.

Now I do hereby declare that the said _____ is
licensed to sell and dispose of liquor during the passage of
the said vessel between _____ and _____ to any
passenger at the regular meals served on board the said
vessel.

And this license shall commence at noon on the _____
day of _____, and continue until midnight on the _____ day
of _____ next ensuing.

Given under my hand this _____ day of _____, one
thousand eight hundred and _____

Minister of Inland Revenue.

Chief Inspector.

WHOLESALE LICENSE.

Whereas the Board of License Commissioners for the _____
district have, by their certificate, dated
the _____ day of _____, authorized the issue to
_____ of a wholesale license, for the house or premises
to be known as _____, situate _____;
and whereas the said _____ hath paid the sum
_____ dollars as the fee on such license.

Now I do hereby declare that the said
 is licensed to sell liquor, not to be consumed in or upon the
 premises to which this license applies, in quantities not less
 than two gallons in each cask or vessel at any one time, or,
 if bottled, in quantities not less than one dozen reputed
 quart bottles.

And this license shall commence at noon on the
 of and continue until mid-
 night on the day of next
 ensuing.

Given under my hand this day of , one
 thousand eight hundred and

Minister of Inland Revenue.

Chief Inspector.

46 V., c. 30, first sch.

THE SECOND SCHEDULE.

To the Board of License Commissioners of the License Dis-
 trict of :

We, the undersigned electors of polling sub-division
 number , of the , wherein
 are situate the premises in respect of which X. Y. is apply-
 ing for a license for the ensuing license year, do
 hereby certify that X. Y., the applicant for the said license,
 is a fit and proper person to be licensed to sell liquor and to
 keep a ; and that the premises in which
 the said X. Y. proposes to carry on the business for which he
 seeks a license, are, in our opinion, suitable therefor, and
 that the same are situate in a place where the carrying on of
 the said business will not be an annoyance to the public
 generally.

And we have hereunto appended our names, and the dis-
 tances, approximately, at which we respectively reside, or
 own property, from the said premises for which the license
 is sought.

Signatures,

	Distance of premises respectively from premises sought to be licensed.
--	--

CERTIFICATE OF THE BOARD OF LICENSE COMMISSIONERS TO
BE GRANTED TO THE APPLICANT FOR A LICENSE.

We, the undersigned, being the License Commissioners
(*or* the majority of the Board of License Commissioners) for
the license district of _____, certify that X.Y. has
complied with the requirements of the law, and with the
regulations and requirements of the Board, and, in the
opinion of the undersigned, is entitled to a
license for the house to be known as _____
situate _____

Given under our hands this _____ day of _____ one
thousand eight hundred and _____

(*Signatures.*)

46 V., c. 30, second sch.

THE THIRD SCHEDULE.

FORM OF BOND BY APPLICANT FOR AN HOTEL, SALOON OR
SHOP LICENSE.

Know all men by these presents, that we, T.U., of
V.W., of _____, and X.Y., of _____, are held and firmly
bound unto Her Majesty Queen Victoria, Her Heirs and
Successors, in the sum of eight hundred dollars of good and
lawful money of Canada—that is to say, the said T.U., in
the sum of five hundred dollars, the said V.W., in the sum
of one hundred and fifty dollars, and the said X.Y., in the
sum of one hundred and fifty dollars of like good and law-
ful money, for payment of which well and truly to be made,
we bind ourselves and each of us, our heirs, executors, and
administrators, firmly by these presents.

Whereas the above bounden T.U. is about to obtain a
license to keep an hotel (*or* saloon, *or* shop for the sale of
liquor, *as the case may be*) in the _____ of _____; the condi-
tion of this obligation is such, that if the said T.U. pays all
fines and penalties which he may be condemned to pay for
any offence against any statute or other provision having
the force of law, now or hereafter to be in force, relative to
any hotel (*or* saloon, *or* shop for the sale of liquor, *as the case
may be*), and does, performs and observes all the require-
ments thereof, and conforms to all rules and regulations that
are or may be established by competent authority in such
behalf—then this obligation shall be null and void, other-
wise it shall remain in full force, virtue and effect.

In witness whereof, we have signed these presents with our hands, and sealed them with our seals, this
 day of _____, A.D., one thousand eight hundred
 and _____

T. U. [L.S.]
 V. W. [L.S.]
 X. Y. [L.S.]

Signed, sealed, and delivered }
 in the presence of us }
 46 V., c. 30, third sch.

THE FOURTH SCHEDULE.

FORMS FOR DESCRIBING OFFENCES.

1. *Neglecting to keep license exposed.*

“That X.Y., having a license for sale by wholesale (or a shop, or an hotel, or a saloon, or a vessel license) on at _____ unlawfully and wilfully (or negligently) omitted to expose the said license in his warehouse (or shop, or in the bar-room of his hotel or saloon, or in the saloon, or cabin of his vessel,” as the case may be.)

2. *Neglecting to exhibit notice of license.*

“That X.Y., being the keeper of an hotel (or saloon, or shop) in respect of which a license has duly issued and is in force, on _____ at _____ unlawfully failed to exhibit over the door of such hotel (or saloon or shop), in large letters the words ‘licensed to sell spirituous or fermented liquors,’ as required by ‘*The Liquor License Act.*’”

3. *Sale without license.*

“That X.Y., on the _____ day _____ in the year of Our Lord one thousand eight hundred and _____ at _____ in the _____ of _____ unlawfully did sell liquor without the license therefor by law required.”

4. *Keeping liquor without license.*

“That X.Y., on _____ at _____ unlawfully did keep liquor for the purpose of sale, barter and traffic therein, without the license therefor by law required.”

5. *Sale of liquor on licensed premises during prohibited hours.*

“That X.Y., on _____ at _____ in his premises (or on, or out of, or from his premises) being a place where

liquor may be sold, unlawfully did sell (or dispose of) liquor during the time prohibited by 'The Liquor License Act,' for the sale of the same, without any requisition for medical purposes, as required by the said Act, being produced by the vendee or his agent."

6. *Allowing liquor to be drunk on licensed premises during prohibited hours.*

"That X.Y., on _____ at _____ in his premises, being a place where liquor may be (or is) sold, by retail (or wholesale) unlawfully did allow (or permit) liquor to be drunk in such place during the time prohibited by 'The Liquor License Act,' for the sale of the same, by a person other than the licensee, or some member of his family, or a lodger in his house."

7. *Sale of less than one pint under shop license.*

"That X.Y., having a shop license, on _____ at _____ unlawfully did sell liquor in less quantity than one pint."

8. *Sale under wholesale license in less than wholesale quantities.*

"That X.Y., having a license to sell by wholesale, on _____ at _____ unlawfully did sell liquor in less quantity than two gallons (or, than one dozen reputed quart bottles.)"

9. *Allowing liquor to be consumed in shop.*

"That X.Y., having a shop license, on _____ at _____ unlawfully did allow liquor sold by him (or in his possession), and for the sale of which a license is required, to be consumed within his shop (or within the building of which his shop forms part, or within a building which communicates by an entrance with his shop), by a purchaser of such liquor (or, by a person not usually resident within the building of which such shop forms a part.)"

10. *Allowing liquor to be consumed on premises under wholesale license.*

"That X.Y., having a license to sell liquor by wholesale, on _____ at _____ unlawfully did allow liquor sold by him (or in his possession for sale) and for the sale of which such license is required, to be consumed within his warehouse [or shop, or within a building which forms part of (or is appurtenant to or which communicates by an entrance with) a warehouse or shop, or premises wherein an article to be sold (or disposed of) under such license, is sold by retail (or wherein there is kept a broken package of an article for sale under such license)]."

11. *Illegal sale by druggists.*

“That X.Y., being a chemist (or druggist) on at
did unlawfully sell liquor for other than strictly medicinal
purposes (or sell liquor in packages of more than six ounces
at one time, without a certificate from any registered medical
practitioner, or sell liquor without recording the same), as
required by ‘*The Liquor License Act.*’”

12. *Illegal sale under vessel license.*

“That X.Y., being authorized to sell liquor on board a
vessel called the on at unlawfully
did sell (or dispose of) liquor to be consumed by a person
other than a passenger (or otherwise than as permitted by
‘*The Liquor License Act.*’)”

13. *Keeping a disorderly house.*

“That X.Y., being the keeper of an hotel (or saloon, or
house of public entertainment), situate in the city (or town,
or village, or township), of in the county of
on in the said hotel (or saloon or house) unlawfully
did sanction (or allow) gambling, (or riotous, or disorderly
conduct) in the said hotel (or saloon or house).”

14. *Harboring constables on duty.*

“That X.Y., being licensed to sell liquor, at on
unlawfully and knowingly did harbor (or entertain or
suffer to abide and remain on his premises) O.P., a constable
belonging to a police force, during a part of the time ap-
pointed for his being on duty, and not for the purpose of
quelling a disturbance or restoring order, or executing his
duty.”

15. *Compromising or compounding a prosecution.*

“That X.Y., having violated a provision of ‘*The Liquor
License Act,*’ on at unlawfully did
compromise (or compound, or settle, or suffer, or attempt to
compromise, compound or settle), the offence with A.B.
with the view of preventing any complaint being made in
respect thereof (or with the view of getting rid of, or of
stopping, or of having the complaint made in respect thereof
dismissed, as the case may be).”

16. *Being concerned in compromising a prosecution.*

“That X.Y., on at unlawfully was
concerned in (or a party to) a compromise (or a composition,
or a settlement) of an offence committed by O.P., against a
provision of ‘*The Liquor License Act.*’”

17. *Tampering with a witness.*

“That X.Y., on a certain prosecution under ‘*The Liquor License Act,*’ on _____ at _____ unlawfully did tamper with O.P., a witness in such prosecution before (or after) he was summoned (or appeared) as such witness on a trial (or proceeding) under the said Act (or unlawfully did induce, or attempt to induce O.P., a witness in such prosecution, to absent himself, or to swear falsely).”

18. *Refusing to admit policeman.*

“That X.Y., on _____ at _____ being in (or having charge of) the premises of O.P., being a place where liquor is sold (or reputed to be sold), unlawfully did refuse (or fail) to admit (or did obstruct, or attempt to obstruct) E.F., an officer demanding to enter in the execution of his duty (or did obstruct or attempt to obstruct E.F., an officer making searches in the said premises, and in the premises connected with such place).”

19. *Officer refusing to prosecute.*

“That X.Y., being a police officer (or constable, or inspector of licenses) in and for the township of _____ in the county of _____ knowing that O.P. had, on _____ at _____ committed an offence against a provision of ‘*The Liquor License Act,*’ unlawfully and wilfully did and still does neglect to prosecute the said O.P. for his said offence.”

20. *Refusing or failing to supply lodging, meals or accommodation to travellers.*

“That F.X., being the keeper of an hotel, in respect of which an hotel license has duly issued and is in force, on _____ at _____ unlawfully failed or refused personally (or through some one acting on his behalf), to supply lodging, meals or accommodation to a traveller, as required by ‘*The Liquor License Act.*’”

21. *Selling liquor to any one under sixteen years of age.*

“That X.Y., on _____ unlawfully did sanction (or allow) to be supplied, in his licensed premises, by purchase (or otherwise), liquor to a person apparently under the age of sixteen years, not being a resident on the premises, or a *bonâ fide* guest, lodger or traveller.”

22. *Allowing internal communication between licensed and unlicensed premises.*

“That X.Y., on _____ unlawfully did sanction (or allow) to be made or used, an internal communication

between his licensed premises and unlicensed premises which are used for public entertainments and resort (or as a refreshment house)."

23. *Selling adulterated liquor.*

"That X.Y., on unlawfully did sell (or offer for sale) liquor with which were mixed ingredients or materials injurious to the health of persons drinking the same."

24. *Obtaining liquor by false representations.*

"That X.Y., on unlawfully did, by falsely representing himself to be a lodger, buy or obtain (or attempt to buy or obtain) at liquor during the period during which such premises are required to be closed in pursuance of 'The Liquor License Act.'"

GENERAL FORM OF INFORMATION.

CANADA. } THE INFORMATION of A.B., of the
of } of in the of , License
To Wit : } Inspector, laid before me, C.D., Police
Magistrate (or, as the case may be) in and for the city of
(or one of Her Majesty's justices of the peace, in and for the
of), the day of , in the year of Our
Lord one thousand eight hundred and

The said informant says he is informed and believes that X.Y., on the day of , in the year of Our Lord one thousand eight hundred and , at the , in the of , unlawfully did sell liquor without the license therefor by law required (or as the case may be).

A B.

Laid and signed before me the day }
and year, and at the place first }
above mentioned. }
 C. D., }
 P.M. or J.P. }

46 V., c. 30, fourth sch.

THE FIFTH SCHEDULE.

FORM OF INFORMATION FOR SECOND, THIRD, OR FOURTH
OFFENCE.

CANADA.) THE INFORMATION of A.B. of, &c., License
 of) Inspector, laid before me, C.D., Police
To Wit:) Magistrate in and for the
of
(or one of Her Majesty's justices of the peace in and for the
 of), the day of , in the
year of Our Lord one thousand eight hundred and

The said informant says he is informed and believes that
X.Y., on , at (*describe last offence.*)

And further, that the said X.Y. was previously, to wit: on
the day of , A.D. 18 , at the city of
before C.D., Police Magistrate in and for the city of
(or at the of , in the of ,
before E.F. and G.H., two of Her Majesty's justices of the
peace for the of) duly convicted of having
on the day of 18 , at the of
in the of , unlawfully sold liquor without
the license therefor required by law (*or, as the case may be.*)

And further, that the said X.Y. was previously, to wit: on
the day of , A.D. 18 , at the of
in the of , before, &c. (*as in preceding para-*
graph), again duly convicted of having, on the day of
 , A.D. 18 , at the of , in the
of , having a shop license, unlawfully allowed liquor
to be consumed, within a building which communicates by
an entrance with his shop, by a person not usually resident
within the building of which such shop forms a part (*or, as*
the case may be.)

And further, that the said X.Y. was previously, to wit: on
the day of , A.D. 18 , at the of
 , in
the of , before, &c. (*see above*) again duly
convicted of having, on the day of , A.D. 18 ,
at the of in the of ,
(being in charge of the premises of O.P., a place where
liquor was reputed to be sold), unlawfully failed to admit
E.F., an officer demanding to enter in the execution of his
duty (*or, as the case may be.*)

And the informant says the offence hereinbefore firstly charged against the said X.Y. is his *fourth* offence against "*The Liquor License Act.*"

A. B.

Laid and signed before me the day }
 and year, and at the place first }
 above mentioned. }
 C.D., }
 J.P. }

46 V., c. 30, fifth sch.

THE SIXTH SCHEDULE.

SUMMONS TO WITNESS.

CANADA. }
 of , } To J. K., of the of , in the of
 To Wit : }

Whereas information has been laid before me, C.D., one of Her Majesty's justices of the peace in and for the of (or police magistrate for the city of), that X.Y., being a druggist, on the of , A.D. 18 , at the of in the of , unlawfully did sell liquor for other than strictly medicinal purposes (or as the case may be), and it has been made to appear to me that you are likely to give material evidence on behalf of the prosecution in this matter.

These are to require you, under pain of imprisonment in the common gaol, personally to be and appear on , the day of , A.D. 18 , at ten o'clock in the forenoon, at the , in the of , before me, or such justice or justices of the peace as may then be there, to testify what you shall know in the premises, and also to bring with you, and there and then to produce all and every invoices, day-books, cash-books or ledgers, and receipts, promissory notes and other security relating to the purchase or sale of liquor by the said X.Y., and all other books and papers, accounts, deeds and other documents in your possession, custody or control, relating to any matter connected with the said prosecution.

Given under my hand and seal this day of , A.D. 18 , at the of , in the of

C.D., [L.S.]
 J.P.

46 V., c. 30, sixth sch.

THE SEVENTH SCHEDULE.

FORM OF CONVICTION FOR FIRST OFFENCE.

CANADA. } BE IT REMEMBERED that on the
of } day of , in the year of Our Lord
To Wit: } one thousand eight hundred and
at the of , in the of , X.Y., is
convicted before me, C.D., police magistrate in and for the
city of (or before us, E.F. and G.H., two of Her Ma-
jesty's justices of the peace. in and for the), for that
he, the said X.Y., on the day of , in the year of
Our Lord one thousand eight hundred and , at the
of , in the , in his premises, being a
place where liquor may be sold, unlawfully did sell liquor
during the time prohibited by "*The Liquor License Act,*"
for the sale of the same, without any requisition for medi-
cinal purposes, as required by the said Act, being produced
by the vendee or his agent (or as the case may be), A.B. being
the informant, and I (or we) adjudge the said X.Y., for his
said offence to forfeit and pay the sum of *twenty* dollars, to
be paid and applied according to law, and also to pay to
the said A.B., the sum of *six* dollars for his costs in this be-
half, and if the said several sums be not paid forth-
with, then* I (or we) order the said sums to be levied by
distress and sale of the goods and chattels of the said X.Y.,
and in default of sufficient distress in that behalf* [*or where
the issuing of a distress warrant would be ruinous to the defen-
dant and his family, or it appears that he has no goods whereon
to levy a distress, then instead of the words between the aster-
isks** say "inasmuch as it has now been made to appear to
me (or us) that the issuing of a warrant of distress in this
behalf would be ruinous to the said X.Y. and his family,"
or "that the said X.Y. has no goods or chattels whereon
to levy the said several sums by distress"*], I (or we) adjudge
the said X.Y. to be imprisoned in the common gaol for the
of , at , in the said , and
there to be kept for the space of *fifteen* days, unless the
said sums and the costs and charges of conveying the said
X.Y. to the said common gaol, shall be sooner paid.

Given under my hand and seal (or our hands and seals)
the day and year first above mentioned, at the of
in the aforesaid.

C.D., [L.S.]
Police Magistrate,

or E.F., [L.S.]
J.P.,

G.H., [L.S.]
J.P.,

FORM OF CONVICTION FOR A THIRD OFFENCE.

CANADA. } BE IT REMEMBERED that on the
of } day , in the year of Our Lord one
To Wit: } thousand eight hundred and
in the of in the , X.Y. is con-
victed before the undersigned C.D., police magistrate in
and for the city of , in the said (or C. D.
and E. F., two of Her Majesty's justices of the peace in and
for the said) , for that he, the said X.Y., on
the day of , in the year of Our Lord one
thousand eight hundred and at the city of
(or of) in the said (as the case
may be) having violated a provision of " *The Liquor License
Act,*" unlawfully did attempt to settle the offence with
A.B., with the view of having the complaint made
in respect thereof dismissed. And it appearing to me (or
us), that the said X.Y. was previously, to wit: on the
day of , A.D., 18 , at the of
before, &c., duly convicted of having on the day
A.D., 18 , at the of unlawfully sold liquor
without the license therefor by law required. And it also
appearing to me (or us) that the said X.Y. was previously,
to wit: on the day of A.D., 18 , at the
of , before, &c. (see above) again duly con-
victed of having, on the day of , A.D., 18 , at the
of (being the keeper of a saloon, situate in
the said of), unlawfully allowed gamb-
ling in the said saloon (or, as the case may be).

I (or we), adjudged the offence of the said X.Y. hereinbe-
fore firstly mentioned to be his third offence against " *The
Liquor License Act,*" (A.B. being the informant) and I
(or we), adjudged the said X.Y., for his said third offence,
to be imprisoned in the common gaol of the said
of at , in the said of , there
to be kept at hard labor for the space of three calendar
months (or, as the case may be).

Given under my hand and seal (or our hands and seals)
the day and year first above mentioned, at in the
of

C.D. [L.S.]
or C.D. [L.S.]
E.F. [L.S.]

THE EIGHTH SCHEDULE.

WARRANT OF COMMITMENT FOR FIRST OFFENCE WHERE A
PENALTY IS IMPOSED.

CANADA. } To ALL or any of the constables and other
of , } peace officers in the of
To Wit : } and to the keeper of the common gaol of
the said at , in the of

Whereas, X.Y., late of the of , in the
said was on this day convicted before the un-
dersigned, C.D., police magistrate in and for the city of
, (or C.D. and E.F., two of Her Majesty's justices
of the peace in and for the of , or of
, as the case may be), for that he, the said X.Y., on
at unlawfully did sell liquor without the
license therefor by law required (*state offence as in the con-
viction*), (A.B. being the informant), and it was thereby ad-
judged that the said X.Y., for his said offence, should forfeit and pay the sum of (as in conviction),
and should pay to the said A.B. the sum of for
his costs in that behalf.

And it was thereby further adjudged that if the said
several sums should not be paid forthwith, the said X.Y.
should be imprisoned in the common gaol of the said
at , in the said of , there to be kept at
hard labor for the space of , unless the said
several sums and the costs and charges of conveying the
said X.Y. to the said common gaol should be sooner paid.

And whereas the said X.Y. has not paid the said several
sums, or any part thereof, although the time for payment
thereof has elapsed ;

(If a distress warrant issued and was returned no goods, or
not sufficient goods, say) And whereas, afterwards on the
day of , A.D., 18 , I, the said police magis-
trate (or we, the said justices) issued a warrant to the said
constables or peace officers, or any of them, to levy the said
several sums of and by distress and sale of
the goods and chattels of the said X.Y.

And whereas it appears to me (or us), as well by the re-
turn of the said warrant of distress by the constable who
had the execution of the same as otherwise, that the said
constable has made diligent search for the goods and chattels
of the said X.Y., but that no sufficient distress whereon to
levy the said sums could be found ;

(Or where the issuing of a distress warrant would be ruinous to the defendant and his family, or if it appears that he has no goods whereon to levy a distress, then instead of the foregoing recitals of the issue and return of the distress warrant, &c., say):

And whereas it has been made to appear to me (or us), that the issuing of a warrant by distress in this behalf would be ruinous to the said X.Y. and his family, or that the said X.Y. has no goods or chattels whereon to levy the said sums by distress (as the case may be).

These are therefore to command you, the said constables or peace officers, or any one of you, to take the said X.Y., and him safely convey to the common gaol aforesaid at _____, in the _____ of _____, and there deliver him to the said keeper thereof, together with this precept.

And I (or we) do hereby command you, the said keeper of the said common gaol, to receive the said X.Y. into your custody in the said common gaol, there to imprison him and keep him for the space of _____, unless the said several sums and all the costs and charges of the said distress, amounting to the sum of _____, and of the commitment and conveyance of the said X.Y. to the said common gaol, amounting to the further sum of _____, shall be sooner paid unto you, the said keeper, and for so doing this shall be your sufficient warrant.

Given under my hand and seal (or our hands and seals), this _____ day of _____ A.D. 18 _____, in the said _____ of _____

C.D. [L.S.]
or C.D. [L.S.]
E.F. [L.S.]

WARRANT OF COMMITMENT FOR SECOND (or THIRD) OFFENCE,
WHERE PUNISHMENT IS BY IMPRISONMENT ONLY.

CANADA. }
of } To ALL or any of the constables and other
To Wit: } peace officers in the _____ of _____
of the said } and to the keeper of the common gaol
at _____, in the _____ of _____ :

Whereas X.Y., late of the _____ of _____, in the said _____, was on this day convicted before the undersigned C.D., &c., (or C.D. and E.F., &c., as in preceding form) for that he, the said X.Y., on _____ at _____ (state offence with previous convictions, as set forth in the conviction for the second or third

offence, or as the case may be, and then proceed thus): and it was thereby adjudged that the offence of the said X.Y., hereinbefore firstly mentioned, was his second (*or third*) offence against "*The Liquor License Act*," (A.B. being the informant). And it was thereby further adjudged that the said X.Y., for his said second (*or third*) offence, should be imprisoned in the common gaol of the said _____ of _____, at _____, in the said _____ of _____, and there be kept at hard labor for the space of (*three*) calendar months.

These are therefore to command you, the said constables, or any one of you, to take the said X.Y., and him safely convey to the said common gaol at _____ aforesaid, and there deliver him to the keeper thereof, with this precept. And I (*or we*) do hereby command you, the said keeper of the said common gaol, to receive the said X.Y. into your custody in the said common gaol, there to imprison him and to keep him at hard labor for the space of three calendar months.

Given under my hand and seal (*or our hands and seals*).
 this _____ day of _____ A.D. 18 _____, at _____, in the
 said _____ of _____.

C.D. [L.S.]
or C.D. [L.S.]
 E.F. [L.S.]

46 V., c. 30, eighth sch.

THE NINTH SCHEDULE.

FORM OF DECLARATION OF FORFEITURE AND OF ORDER TO DESTROY LIQUOR SEIZED.

If on conviction, after adjudging penalty or imprisonment, proceed thus:—

And I (*or we*) declare the said liquor and vessels in which the same is kept, to wit: two barrels containing beer, three jars containing whiskey, two bottles containing gin, four kegs containing lager beer and five bottles containing native wine (*or, as the case may be*), to be forfeited to Her Majesty, and I (*or we*) do hereby order and direct that T.D., licensed inspector of the _____ of _____ (*or J.P.W., licensed inspector of the _____ of the _____ of _____*), do forthwith destroy the said liquor and vessels.

Given under my hand and seal the day and year first above mentioned, at, &c.

If by separate or subsequent order :

CANADA.) WE, E.F. and G.H., two of Her Majesty's
of) justices of the peace for the
To Wit:) of (or C.D., Police Magistrate,
of the city of) , having on the day of
 , one thousand eight hundred and , at the
of , in the said county, duly convicted X.Y.
of having unlawfully kept liquor for sale without license.
do hereby declare the said liquor and vessels in which the
same is kept, to wit: (*describe the same as above*), to be for-
feited to Her Majesty, and we (or I) do hereby order and
direct that J.P.W., license inspector of the of the
said , do forthwith destroy the said liquor and vessel.

Given under our (or my) hands and seals, this day of
, at the of , in the said

E.F. [L.S.]

G.H. [L.S.]

or C.D. [L.S.]

46 V., c. 30, ninth sch.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
46 V., c. 30.....	The whole, except ss. 143, 146 and 147.	ss. 146 and 147.	s. 143.	Canada Tem- perance Act.
47 V., c. 32	The whole, except sub-s. 3 of s. 1 and ss 4, 10, 23, 24, 25, 26 and 27.	sub-s 3 of s. 1 and ss 4, 10, 23, 26 and 27.	ss 24 and 25.....	Canada Tem- perance Act.

CHAPTER 98.

An Act respecting the Adulteration of Food and Drugs.

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 Adulteration of Food Act.*” 47 V., c. 34, s. 1. Short title.

INTERPRETATION.

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

(a) The expression “food” includes every article used for food or drink by man; “Food.”

(b) The expression “drug” includes all medicines for internal or external use; “Drug.”

(c) The expression “officer” means any officer of Inland Revenue, or any person authorized under this Act to procure samples of articles of food or drugs and to submit them for analysis; “Officer.”

(d) Food shall be deemed to be “adulterated” within the meaning of this Act,— Adulterated food.

- (1) If any substance has been mixed with it, so as to reduce or lower or injuriously affect its quality or strength;
- (2) If any inferior or cheaper substance has been substituted wholly or in part for the article;
- (3) If any valuable constituent of the article has been wholly or in part abstracted;
- (4) If it is an imitation of, or is sold under the name of, another article;
- (5) If it consists wholly or in part of a diseased or decomposed, or putrid or rotten animal, or vegetable substance, whether manufactured or not, or in the case of milk or butter, if it is the produce of a diseased animal, or of an animal fed upon unwholesome food;

- (6) If it contains any added poisonous ingredient, or any ingredient which may render such an article injurious to the health of a person consuming it ;

Adulterated
drugs.

(e) Every drug shall be deemed to be "adulterated" within the meaning of this Act,—

- (1) If, when sold, or offered or exposed for sale, under or by a name recognized in the British or United States Pharmacopœia, it differs from the standard of strength, quality or purity laid down in either ;
- (2) If, when sold, or offered or exposed for sale, under or by a name not recognized in the British or United States Pharmacopœia, but which is found in some other generally recognized pharmacopœia or other standard work on *materia medica*, it differs from the standard of strength, quality or purity laid down in such work ;
- (3) If its strength or purity falls below the professed standard under which it is sold or offered or exposed for sale ;

Exceptions.

(f) Provided, that the foregoing definitions shall not apply,—

Addition of
non-injurious
matter.

- (1) When any matter or ingredient not injurious to health has been added to the food or drug because the same is required for the production or preparation thereof as an article of commerce, in a state fit for carriage or consumption, and not fraudulently to increase the bulk, weight or measure of the food or drug, or to conceal the inferior quality thereof, if such articles are distinctly labelled as a mixture, and the components of such mixture are stated on the label ;

Patented
articles.

- (2) When the food or drug is a proprietary medicine or is the subject of a patent in force and is supplied in the state required by the specification of the patent ;

Unavoidable
mixture.

- (3) When the food or drug is unavoidably mixed with some extraneous matter in the process of collection or preparation ;

Compounds.

- (4) When any articles of food not injurious to the health of the person consuming the same are mixed together and sold or offered for sale as a compound, if such articles are distinctly labelled as a mixture, and the components of such mixture, and the proportions of each of such components, are stated on the label. 47 V., c. 34, s. 2.

ANALYSIS.

3. The Governor in Council may appoint one or more persons possessing competent medical, chemical and microscopical knowledge as analysts of food and drugs purchased, sold, or exposed or offered for sale within such territorial limits as are assigned to each of them respectively, and may also select from among the aforesaid analysts so appointed, or may appoint, in addition thereto, a chief analyst, who shall be attached to the staff of the Department of Inland Revenue at Ottawa. 47 V., c. 34, s. 3.

Analysts may be appointed.

Chief analyst.

4. The Governor in Council may cause such remuneration to be paid to such chief analyst and to such analysts as he deems proper, and such remuneration, whether by fees or salary, or partly in one way and partly in the other, may be paid to them out of any sums voted by Parliament for the purposes of this Act. 47 V., c. 34, s. 4.

Remuneration.

5. The officers of Inland Revenue, the inspectors and deputy inspectors of weights and measures, and the inspectors and deputy inspectors acting under "*The General Inspection Act*," or any of them, shall, when required so to do by any regulation made in that behalf by the Minister of Inland Revenue, procure and submit samples of food or drugs suspected to be adulterated, to be analyzed by the analysts appointed under this Act. 47 V., c. 34, s. 5.

Certain officers may obtain samples.

6. The council of any city, town, county or village may appoint one or more inspectors of food and drugs; and such inspectors shall, for the purposes of this Act, have all the powers by this Act vested in officers of Inland Revenue; and any such inspector may require any public analyst to analyze any samples of food or drugs collected by him, if such samples have been collected in accordance with the requirements of this Act:

Inspectors and their powers.

2. The said analyst shall, upon tender of the fees fixed for the analysis of such class of articles by the Governor in Council, forthwith analyze the same, and give the inspector a certificate of such analysis:

Analysis.

3. Such inspector may prosecute any person manufacturing, selling, or offering or exposing for sale within the city, county, town or village for which he is appointed inspector, any article of food or drug which has been certified by any public analyst to have been adulterated within the meaning of this Act:

Inspector may prosecute.

4. Notwithstanding any other provision of this Act in respect of the disposition of penalties, all penalties imposed and recovered at the suit of any such inspector shall be paid

Application of penalties.

into the revenues of the city, county, town or village by which such inspector was appointed, and may be distributed in such manner as the council of such city, county, town or village by by-law directs. 47 V., c. 34, s. 6.

How samples may be obtained.

7. Any officer may procure samples of food or drugs which have not been declared to be exempt from the provisions of this Act, from any person who has such articles in his possession for the purpose of sale, or who sells or exposes the same for sale; and he may procure such samples either by purchasing the same or by requiring the person in whose possession they are to show him and allow him to inspect all such articles in his possession, and the place or places in which such articles are stored, and to give him samples of such articles, on payment or tender of the value of such samples. 47 V., c. 34, s. 7.

Penalty for refusing to deliver sample, &c.

8. If the person who has such articles in his possession, or his agent or servant, refuses or fails to admit the officer, or refuses or omits to show all or any of the said articles in his possession, or the place in which any such articles are stored, or to permit the officer to inspect the same, or to give any samples thereof, or to furnish the officer with such light or assistance as he requires, when required so to do in pursuance of this Act, he shall be liable to the same penalty as if he knowingly sold or exposed for sale adulterated articles. 47 V., c. 34, s. 8.

Duty of officer on obtaining sample.

9. The officer purchasing any article with the intention of submitting the same to be analysed, shall, after the purchase has been completed, forthwith notify the seller or his agent selling the article, of his intention to have the same analyzed by the public analyst, and shall offer to divide the article into three parts, to be then and there separated, and each part to be marked and sealed up or fastened up, as its nature permits, and shall, if required so to do, proceed accordingly, and shall deliver one of the parts to the seller or his agent:

How parts shall be distributed.

2. He shall retain one of such parts for submission to the chief analyst in case of appeal, and shall submit the third part, if he deems it right to have the article analyzed, to the analyst. 47 V., c. 34, s. 9.

If seller does not accept offer to divide sample.

10. If the seller or his agent does not accept the offer of the officer to divide the article purchased in his presence, the analyst receiving such article for analysis shall divide it into two parts, and shall seal or fasten up one of such parts, and shall cause it to be delivered to the officer, either upon receipt of the sample or when he gives his certificate, and the officer shall retain the same for production, in case proceedings are afterwards taken in the matter. 47 V., c. 34, s. 10.

11. The person from whom any sample is obtained under this Act may require the officer obtaining it to annex to every vessel containing the sample the name and address of such person, and to secure, with a seal or seals belonging to him, the vessel containing the sample, and the address annexed thereto, in such manner that the vessel cannot be opened or the name and address taken off without breaking such seals; and the certificate of the person who analyzes such samples shall state the name and address of the person from whom they were obtained, that the vessels were not open, and that the seals securing to the vessels the name and address of such person were not broken until such time as he opened the vessels for the purpose of making his analysis; and in such case no certificate shall be receivable in evidence, unless there is contained therein such statement as above, or a statement to the like effect. 47 V., c. 34, s. 11.

Seller may require seal to be affixed.

Certificate in such case.

12. When the officer has, by either of the means aforesaid, procured samples of the articles to be analyzed, he shall cause the same to be analyzed by one of the analysts appointed under this Act, and he shall give reasonable notice to the person from whom the sample was obtained, to enable such person, if he thinks fit, to attend when the sample is opened for identification; and if it appears to the analyst that the sample is adulterated within the meaning of this Act, he shall certify such fact, stating in such certificate whether such adulteration is of a nature injurious to the health of the person consuming the same; and the certificate so given shall be received as evidence in any proceedings taken against any person in pursuance of this Act, subject to the right of any person against whom proceedings are taken to require the attendance of the analyst, for the purpose of cross-examination. 47 V., c. 34, s. 12.

Proceedings for analysis.

Certificate if sample is adulterated.

13. If the vendor of the article respecting which such certificate is given, deems himself aggrieved thereby, he may, within forty-eight hours of the receipt of the first notification of the intention of the officer or other purchaser to take proceedings against him, whether such notification is given by the purchaser or by the ordinary process of law, notify the said officer or purchaser in writing that he intends to appeal from the decision of the analyst to the judgment of the chief analyst: and in such case the officer or purchaser shall transmit such notification to the chief analyst, together with the portion of the sample retained by him for that purpose, and the chief analyst shall, with all convenient speed, analyze the same and report thereon to the Minister of Inland Revenue; and the decision of such chief analyst, if concurred in by the said Minister, shall be final. 47 V., c. 34, s. 13, *part*.

Appeal to chief analyst.

Report for
Parliament.

14. Every analyst appointed under this Act shall report quarterly to the Minister of Inland Revenue the number of articles of food or drugs analyzed by him under this Act during the preceding quarter, and shall specify the nature and kind of adulterations detected in such articles of food or drugs; and all such reports, or a synopsis of them, shall be printed and laid before Parliament as an appendix to the annual report of the said minister. 47 V., c. 34, s. 14.

ADULTERATION.

No adulterated article to be sold.

15. No person shall manufacture, expose or offer for sale, or sell any food or drug which is adulterated within the meaning of this Act. 47 V., c. 34, s. 15.

What shall be deemed adulterated milk.

16. If milk is sold, or offered or exposed for sale, after any valuable constituent of the article has been abstracted therefrom, or if water has been added thereto, or if it is the product of a diseased animal or of an animal fed upon unwholesome food, it shall be deemed to have been adulterated in a manner injurious to health, and such sale, offer or exposure for sale shall render the vendor liable to the penalty hereinafter provided in respect to the sale of adulterated food; except that skimmed milk may be sold as such if contained in cans bearing upon their exterior, within twelve inches of the tops of such vessels, the word "skimmed" in letters of not less than two inches in length, and served in measures also similarly marked; but any person supplying such skimmed milk, unless such quality of milk has been asked for by the purchaser, shall not be entitled to plead the provisions of this section as a defence to or in extenuation of any violation of this Act:

Proviso: as to skim milk.

No water to be added.

2. Nothing in this section shall be interpreted to permit or warrant the admixture of water with milk, or any other process than the removal of cream by skimming. 47 V., c. 34, s. 16.

What shall be deemed adulterated vinegar.

17. Vinegar sold, or offered or exposed for sale, shall be deemed to be adulterated in a manner injurious to health if any mineral acid has been added thereto, or if it contains any soluble salt having copper or lead as a base thereof—whether such salt or mineral acid is added, either during the process of manufacture or subsequently. 47 V., c. 34, s. 20.

And adulterated liquors.

18. Alcoholic, fermented or other potable liquors sold, or offered or exposed for sale, shall be deemed to have been adulterated in a manner injurious to health if they are found to contain any of the articles mentioned in the schedule to this Act, or any article hereafter added to such schedule by the Governor in Council. 47 V., c. 34, s. 17.

19. The Governor in Council may, from time to time, declare certain articles or preparations exempt from the provisions of this Act, and may add to the schedule to this Act any article or ingredient, the addition of which is by him deemed necessary in the public interest; and every Order in Council in that behalf shall be published in the *Canada Gazette*, and shall take effect at the expiration of thirty days from the date of such publication. 47 V., c. 34, s. 18.

Certain articles may be exempted.

20. The Minister of Inland Revenue shall, from time to time, cause to be prepared and published, lists of the articles, mixtures or compounds declared exempt from the provisions of this Act, in accordance with the next preceding section, and shall also, from time to time, fix the limits of variability permissible in any article of food or drug, or compound, the standard of which is not established by any such pharmacopœia or standard work, as is hereinbefore mentioned; and the departmental orders fixing the same shall be published in the *Canada Gazette*, and shall take effect at the expiration of thirty days after the publication thereof. 47 V., c. 34, s. 19.

Lists to be prepared and published.

Limit of variability.

PENALTIES.

21. Every person who wilfully adulterates any article of food or any drug, or orders any other person so to do, shall,—

Penalty for adulterating food or drug.

(a) If such adulteration is, within the meaning of this Act, deemed to be injurious to health, for the first offence incur a penalty not exceeding fifty dollars and not less than ten dollars and costs, and for each subsequent offence, a penalty not exceeding two hundred dollars and not less than fifty dollars, and costs;

(b) If such adulteration is, within the meaning of this Act, deemed not to be injurious to health, incur a penalty not exceeding thirty dollars and costs, and for each subsequent offence, a penalty not exceeding one hundred dollars and not less than fifty dollars, and costs. 47 V., c. 34, s. 26.

22. Every person who, by himself or his agent, sells, offers for sale, or exposes for sale, any article of food or any drug, found to be adulterated within the meaning of this Act, shall,—

Penalty for selling adulterated article.

(a) If such adulteration is, within the meaning of this Act, deemed to be injurious to health, for a first offence incur a penalty not exceeding fifty dollars and costs, and for each subsequent offence, a penalty not exceeding two hundred dollars and not less than fifty dollars, and costs;

(b) If such adulteration is, within the meaning of this Act, deemed not to be injurious to health, incur for each

such offence, a penalty not exceeding fifty dollars and not less than five dollars, and costs :

Proviso.

2 Provided, that if the person accused proves to the court before which the case is tried that he did not know of the article being adulterated, and shows that he could not, with reasonable diligence, have obtained that knowledge, he shall be subject only to pay the costs attending such prosecution. 47 V., c. 34, s. 27.

Penalty on compounder, &c., having certain articles in his possession.

23. Every compounder, or dealer in, and every manufacturer of intoxicating liquors, who has in his possession or in any part of the premises occupied by him as such, any adulterated liquor, knowing it to be adulterated, or any deleterious ingredient specified in the schedule hereto, or added to such schedule by the Governor in Council, for the possession of which he is unable to account to the satisfaction of the court before which the case is tried, shall be deemed knowingly to have exposed for sale adulterated food, and shall incur for the first offence a penalty not exceeding one hundred dollars, and for each subsequent offence a penalty not exceeding four hundred dollars. 47 V., c. 34, s. 28.

Application of penalties.

24. Every penalty imposed and recovered under this Act shall, except as herein otherwise provided, be paid over to the Minister of Finance and Receiver General, and shall form part of the Consolidated Revenue Fund of Canada. 47 V., c. 34, s. 29.

GENERAL PROVISIONS.

Any person may submit article for analysis.

25. Nothing herein contained shall be held to preclude any person from submitting any sample of food or drug for analysis to any public analyst, or from prosecuting the vendor thereof, if such article is found to be adulterated, but the burden of proof of sale and of the fact that the sample was not tampered with after purchase, shall be upon the person so submitting the same :

Duty of analyst in such case.

2. Any public analyst shall analyze such sample on payment of the fee prescribed in respect of such article or class of article, by the Governor in Council. 47 V., c. 34, s. 24.

As to expenses of analysis.

26. Any expenses incurred in analyzing any food or drug, in pursuance of this Act, shall, if the person from whom the sample is taken is convicted of having in his possession, selling, offering or exposing for sale, adulterated food or drugs, in violation of this Act, be deemed to be a portion of the costs of the proceedings against him, and shall be paid by him accordingly; and in all other cases such expenses shall be paid as part of the expenses of the

officer, or by the person who procured the sample, as the case may be. 47 V., c. 34, s. 25.

27. The Governor in Council may, from time to time, make such regulations as to him seem necessary, for carrying the provisions of this Act into effect. 47 V., c. 34, s. 23. Regulations may be made.

28. The provisions of "*The Inland Revenue Act*," whether enacted with special reference to any particular business or trade, or with general reference to the collection of the revenue, or the prevention, detection or punishment of fraud or neglect in relation thereto, shall extend, apply and be construed and shall have effect with reference to this Act, as if they had been enacted with special reference to the matters and things herein provided for: Inland Revenue Act to apply.

2. Every penalty imposed under this Act may be enforced and dealt with as if imposed under the said Act, and every compounder, and the apparatus used by him, and the place in which his business is carried on, and the articles made or compounded by him, or used in compounding any such article, shall be "subject to excise" under the said Act. 47 V., c. 34, ss. 21 and 22. Enforcement of penalties may be under the said Act.

SCHEDULE.

Cocculus indicus, chloride of sodium (otherwise common salt), copperas, opium, cayenne pepper, picric acid, Indian hemp, strychnine, tobacco, darnel seed, extract of logwood, salts of zinc, copper or lead, alum, and any extract or compound of any of the above ingredients. 47 V., c. 34, sch.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
47 V., c. 34.....	The whole, except part of s. 13 and ss. 30 and 31.	Part of s. 13 and ss. 30 and 31.		

CHAPTER 99.

An Act respecting Agricultural Fertilizers.

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

Interpretation.

“Agricultural fertilizer.”

1. In this Act, unless the context otherwise requires, the expression “ agricultural fertilizer ” means and includes every substance imported, manufactured, prepared or disposed of for fertilizing or manuring purposes, except marl, fertilizers sold or disposed of at one half cent or less per pound, any guano, the chemical composition of which has not been changed by the vendor or any other person since its importation, plaster of Paris, and any fertilizer not offered for sale as containing phosphoric acid, potash or nitrogen. 47 V., c. 37, s. 5

Certificate to be attached to each package and what it must show.

2. Every person who manufactures, sells or disposes of, or offers to sell or to dispose of, any agricultural fertilizer, by barter, exchange or otherwise, shall affix to every barrel, sack, box or package thereof, in a conspicuous place on the outside thereof, a plainly written or printed certificate bearing a name or trade mark by which such fertilizer is known and designated, and specifying the name and residence of the manufacturer or vendor, and the date of the manufacture of such fertilizer; and such certificate shall also specify the percentages which such fertilizer contains of phosphoric acid soluble in water, of total phosphoric acid, of potash, of nitrogen soluble in water, and of total nitrogen, or the equivalent ammonia, subject to the exceptions hereinafter made. 47 V., c. 37, s. 1.

Penalty for non-compliance.

3. Every manufacturer who affixes or causes to be affixed a false certificate to any barrel, sack, box or package of agricultural fertilizer, and every person who knowingly sells or disposes of any barrel, sack, box or package of agricultural fertilizer, with a false certificate thereon, shall incur a penalty of two hundred dollars :

Minute error not to make certificate false.

2. Provided always, that whenever a correct chemical analysis of any agricultural fertilizer sold or disposed of does not show a deficiency of more than one per centum of any one of the chemical substances, the percentages whereof are specified in the certificate hereinbefore required, such certificate shall not be deemed false within the meaning of this Act. 47 V., c. 37, ss. 2 and 3.

4. Such penalty shall be recoverable by the purchaser for his own use, by civil action, in any form allowed by the law of the Province in which the suit is brought, before any court of competent jurisdiction, on the evidence of one credible witness other than the plaintiff. 47 V., c. 37, s. 4. Recovery of penalty.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
47 V.. c. 37.....	The whole, except s. 6.	s. 6.		

CHAPTER 100.

An Act respecting Government Railways.

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

SHORT TITLE.

Short title. **1.** This Act may be cited as "*The Government Railways Act.*" 44 V., c. 25, s. 1.

INTERPRETATION.

Interpreta- **2.** In this Act, unless the context otherwise requires:—
tion.

"Minister." (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." "secretary" means the secretary of the Department of Railways and Canals; and the expression "Department." "Department" means the Department of Railways and Canals;

"Superin- (b) The expression "superintendent" or "chief superin-
tendent." tendent," 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";

"Engineer." (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;

"Arbitra- (d) The expression "arbitrators" or "official arbitrators"
tors." means the official arbitrators *mentioned in the "Act respecting the Official Arbitrators"*;

"Lands." (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 ;

(f) The expression "toll" includes any rate or charge or "Toll." other payment payable for any passenger, animal, carriage, goods, merchandise, matters or thing conveyed on the railway ;

(g) The expression "goods" includes things of every kind "Goods." that may be conveyed upon the railway, or upon steam or other vessels connected therewith ;

(h) The expression "county" includes any union of "County." counties, county, riding or like division of a county in any Province, or any division thereof into separate municipalities, in the Province of Quebec ;

(i) The expression "highways" means any public road, "Highways." street, lane or other public way or communication ;

(j) The expression "railway" means any railway, and "Railway." all property and works connected therewith, under the management and direction of the department ; 44 V., c. 25, s. 3, *part.*

(k) The expression "constable" means a railway constable "Constable." appointed under this Act.

New.

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. Power exercised by deputies.

APPLICATION OF ACT.

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. To what railways this Act applies.

POWERS.

5. The minister may by himself, his engineers, superintendents, agents, workmen and servants,— Powers of minister.

(a) Explore and survey the country through which it is proposed to construct any Government railway ; To explore.

(b) Enter into and upon any public lands or the lands of any corporation or person whatsoever for that purpose ; To enter on lands.

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 ;

To make conduits or drains.

(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 cross or unite with other railways.

(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 carry railway across streams, &c.

(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 make and work railway.

(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 erect necessary buildings, &c.

(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 convey persons and goods.

(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 ;

(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.

Proviso.

(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 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.*

To change location of line in certain cases.

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 :

Branch railway may be made for certain purposes.

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 :

Powers in such case.

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.

As to short branches.

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.

Navigation not to be impeded.

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 swing-bridge 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.

Railway not to be carried along a highway unless by leave of municipality.

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.

Proviso; if road is diverted under this Act.

Rise of rail above road limited.

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.

Span and height of arch over highway.

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.

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 consent 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 :

Provision if higher freight cars are hereafter used on railway.

Proviso ; as to existing bridges, &c.

Re-drafted.

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

Highway bridges, &c., hereafter constructed over railways to have a certain clear height above the rails.

Provision if higher freight cars are used thereafter.

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.

Signboards at railway crossings.

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.

Fences on each side of railway with gates and crossings.

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 a 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.

Liability of Her Majesty until fences and cattle guards are made.

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.

But not afterwards.

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.

Crossings to be fenced.

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.

INJURIES TO CATTLE.

Cattle not to be at large within a cer-

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. tain 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.

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:— Non-liability in certain cases.

(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; Cattle at large.

(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; Coming from certain lands.

(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 gates left unfastened.

(d) When they gain access to the railway through or over a fence constructed in accordance with section *sixteen*; Or through fence properly made.

(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. Or in contravention of s. 20.

WORKING THE RAILWAY.

24. Such apparatus and arrangements as best afford good and sufficient means of immediate communication between Certain contrivances to be used upon

passenger
trains.

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.

Employee at
level cross-
ings.

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.

Reduced
speed through
cities, &c.

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.

Precautions
when moving
reversely.

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.

Servants of
department
to wear
badges.

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.

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 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.

Lien for freight and charges on goods carried.

Sale of such goods in default of payment.

Risk of owners.

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.

Sale of unclaimed goods.

Notice.

Application of proceeds.

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.

Bell and whistle.

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

How and when to be used.

Liability
in case of
neglect.

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 re-
moved.

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.

Proviso.

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.

Dangerous
goods may be
refused.

Cars contain-
ing them to be
so marked.

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.

TOLLS.

Governor in
Council to
fix 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.

How payable.

Recovery of
tolls.

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.

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 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.

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.

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.

Witnesses may be examined on oath.

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.

Liability for neglect, notwithstanding notice.

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.

Noxious weeds to be cut down.

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.

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, Manitoba or the North-West Territories, 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, 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 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:— Constables may be appointed to act on the line of any railway, and how.

“ 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 :” Oath of office.

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 and the North-West Territories, by any one such justice or magistrate, and, in the Province of Quebec, by any such judge, clerk, or judge of the sessions 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 By whom to be administered in the several Provinces. Powers of such constables and to what lo-

calities they shall extend.

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:

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:

Who may dismiss any such constable.

4. Any two justices of the peace, in either of the Provinces of Ontario, Nova Scotia, New Brunswick, British Columbia, Prince Edward Island, or Manitoba or the North-West Territories, 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, 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:

Superintendent may dismiss. Effect of dismissal.

Names of constables to be recorded with certain particulars.

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*.

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.

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.

Placing freight cars, &c., in rear of passenger cars a misdemeanor.

Re-drafted.

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.

Driver or conductor intoxicated.

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

Punishment of officers or servants contravening regulations, &c.

If any person is thereby injured, or exposed to injury.

misdeemeanor, 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 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 package 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.

Re-drafted.

Punishment for boring casks or breaking packages, &c., on railway.

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 obstructing officers or employees

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.* 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 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: Recovery of pecuniary penalties. Imprisonment if not paid.

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. Application of penalties.

INTERCOLONIAL RAILWAY.

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 Intercolonial Railway defined.

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., under local Acts.

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:

Effect of certified copies.

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*.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
44 V., c. 25... ..	The whole, except sub-s. 1 and 7 of s. 3, sub-ss. 5, 6, 8, 15 and part of 9 of s. 5; sub-ss. 1 to 8 of s. 10, both inclusive; ss. 11 to 48, both inclusive. 90, 91 (part), 93, 97, 98, 99, 100, 102, 103, 104, 105, 106, 107, 108, 112 (part), 114, 115, 116, 117, 118, 120 (part), and 123.	ss. 105, 112 (part), 120 (part), and 123.	sub-ss. 1 and 7 of s. 3; sub-ss. 5; 6, 8, 15 and part of 9 of s. 5; sub ss 1 to 8, both inclusive, of s. 10; ss 11 to 15, and 18 to 26, all inclusive; s. 27, sub-s. 1, part, and s. 97. ss. 16 and 17, and 27 to 48, both inclusive, and s. 108. ss. 90 and 91, part. ss. 93, 93, 99, 100, 102, 103, 104, 105, 106, and 107. ss. 114, 115, 116, 117 and 118.	Expropriation Act. An Act respecting Official Arbitrators. An Act respecting Witnesses and Evidence. An Act respecting the Department of Railways and Canals. Criminal Law.

CHAPTER 101.

An Act respecting Expropriation of Lands.

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

SHORT TITLE.

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

INTERPRETATION.

Interpreta- **2.** In this Act, unless the context otherwise requires:—
tion.

“Minister.” (a) The expression “Minister” means the head of the de-
partment charged with the construction and maintenance
of the public work;

“Depart- (b) The expression “department” means the department
ment.” of the Government of Canada charged with the construction
and maintenance of the public work;

“Superin- (c) The expression “superintendent” means the superin-
tendent.” tendent of the public work of which he has, under the
minister, the charge and direction;

New.

“Public (d) *The expression “public work” or “public works”*
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 facilitat-
ing 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 ex-
pense 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;*

Re-drafted.

(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."

(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 ;

"Land."

(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*.

"Lease."

POWER TO TAKE LAND.

3. The minister may, by himself, his engineers, superintendents, agents, workmen and servants,—

Powers of the minister.

(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.

Entering lands, &c.

(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.

Taking possession.

(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.

Deposit and removal of materials.

(d) Alter the course of any river, canal, brook, stream or watercourse, and divert or alter, as well temporarily as

Changing course of stream, &c.

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 ; 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.

Agreements to purchase.

(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.

And for compensation.

Latter part of sub section 15 of s. 5 of 44 V., c. 25, omitted as inconsistent with the other provisions of the Act.

Removal of fences adjoining any public work.

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.

Obligations of land owners.

MANNER OF TAKING LANDS, ETC., TITLES, BOUNDARIES.

Proceedings for taking possession of lands.

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 :

Deposit of
plan and
description.

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 :

Correction
allowed.

3. Such plan and description may be deposited at any time, either before entry upon the land or within twelve months thereafter :

When to be
deposited.

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 :

Deposit of
plan of land
now in pos-
session of
H. M.

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 :

Attestation
of plan
deposited.

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 :

Effect of cer-
tified copy.

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

Notwithstand-
ing decease of
certifying
officer.

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.

Powers to make sidings &c., to lands where materials are taken.

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.

And for maintaining the railway.

When whole lot can be more advantageously purchased than a part.

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.

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 performed 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.

Who may be employed to make surveys of land required.

Boundaries.

Effect of survey.

Witnesses.

Proviso: formalities not obligatory.

COMPENSATION FOR LAND DAMAGES AND PAYMENT THEREOF.

10. Whenever the minister, or the person acting for him in that behalf, fails to agree with any person or corporation

Tender of composition and notice of arbitration.

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: 31 V., c. 12, ss. 27 and 28;—44 V., c. 25, s. 15.

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.

As to clearing incumbrances in Provinces other than Quebec.

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

Payment into court.

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.

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 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.

Notice of such payment to be given.

Claims to be adjudged on by the court.

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

If the lands are in the Province of Quebec.

Proceedings for confirmation of title.

Judgment to bar all claims not filed.

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.

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.

Reference to
arbitrators if
claimant is
dissatisfied.

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.

Within what
time compen-
sation shall
be paid.

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.

As to Mani-
toba and the
N. W. T.

19. The Court of Queen's Bench, in the Province of Manitoba, shall, as respects the North-West Territories,

until there is a superior court in the said Territories, be held to be the court referred to in the foregoing provisions of this Act. 44 V., c. 25, s. 26.

LANDS VESTED IN HER MAJESTY.

20. 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.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
31 V., c. 12	ss. 22 to 30, both inclusive, and part of s. 34.	.....	Remainder	Act respecting the Public Works of Canada; Act respecting the Department of Railways and Canals; and Act respecting the Official Arbitrators.
33 V., c. 18	ss. 8 and 9 .....	.....	Remainder	Act respecting Lighthouses, &c.; Act respecting the Department of Marine, and Criminal Law.
35 V., c. 24	s. 1, part.	.....	.....	.....
37 V., c. 13	The whole.	.....	.....	.....
44 V., c. 25	s. 3 (part), sub-ss. 5, 6, 8, 9 (part) and 15, of s. 5; sub-s. 1 to 8 inclusive of s. 10, ss. 11 to 15 and 18 to 26, all inclusive; s. 27, part, and s. 97.	.....	Remainder	Act respecting Government Railways; Act respecting the Official Arbitrator.
45 V., c. 36	The whole.	.....	.....	.....
47 V., c. 16	The whole.	.....	.....	.....

CHAPTER 102.

An Act respecting the Official Arbitrators.

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

INTERPRETATION.

Interpretation.

1. In this Act, unless the context otherwise requires :—

“Minister.”

(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 ;

“Department.”

(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 ;

New.

“Public work.”

(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.*

Re-drafted.

“Arbitrators.”

(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.

New.

OFFICIAL ARBITRATORS.

2. The Governor in Council may, from time to time, Appointment of arbitrators. appoint any number of persons not exceeding four, who shall be official arbitrators for Canada :

2. Every such arbitrator shall receive such remuneration Remuneration. as is, from time to time, fixed by the Governor in Council. 31 V., c. 12, s. 31, *part.*

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 :— Oath to be taken.

“ I, A. B., do swear that I will well and truly hear, try Form of oath.
 “ 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.*

4. The Governor in Council may appoint one or more Appointment of clerk. 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.

5. The arbitrators shall arbitrate on, appraise, determine Duties of the arbitrators. 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.*

6. If any person has any claim for property taken, or for How claims may be preferred. 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

Action of the
minister
thereon.

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*.

No arbitration
when other-
wise provided
in contract.

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.

Time within
which claim
may be made
limited.

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.

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 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.

Reference may be to one or more arbitrators.

One may take the evidence and hear the parties.

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*.

Minister may refer certain claims to arbitration without previous tender.

Duty of arbitrators in such case.

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*.

Security to be given by claimant.

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:

Re-drafted.

Penalty for
non-attend-
ance.

What produc-
tion cannot be
compelled.

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.

Allowances to
witnesses.

Evidence to
be reduced
to writing.

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:

Employment
of steno-
grapher.

His duty.

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:

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 injury or damages occasioned by reason of the public work. 31 V., c. 12, s. 39 ;—44 V., c. 25, s. 16. Certain matters to be taken into consideration by the arbitrators.

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. Value to be estimated as at the time of taking possession.

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. Restrictions as to awards upon contracts. How penalties in contracts shall be construed. •

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. Copies of award to be delivered.

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 Appeal to whole board when all have not acted.

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.

Copies of depositions and papers.

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.

Costs, by whom to be paid.

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 to be taxed.

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 Province of Quebec by a judge of the Superior Court. 31 V., c. 12, s. 48, *part*;—44 V., c. 25, s. 39, *part*.

APPEAL TO THE EXCHEQUER COURT.

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.

Re-drafted.

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 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. Time for application limited.

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. Court may finally determine the case.

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. Execution of order.

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. Security for costs to be given.

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. Further powers of the court.

Appeal to the Supreme Court.

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.

Proposed to be Consolidated.	Part Consolidated.	Left for repeal.	To be Consolidated elsewhere.	To be Consolidated with.
31 V., c. 12....	ss. 31 to 48, both inclusive.	Remainder....	Act respecting the Public Works of Canada; Act respecting the Department of Railways and Canals; Act respecting Expropriation of lands.
33 V., c. 23....	The whole except part of s. 2.	Part of s. 2..		
35 V., c. 21....	The whole.			
41 V., c. 8....	The whole.			
42 V., c. 7	s. 12 (part)			
42 V., c. 8....	The whole, except s. 1.	s. 1		An Act respecting Government Railways; An Act respecting Expropriation of lands.
44 V., c. 25 ...	ss. 16 and 17, ss. 27 to 48, both inclusive, and s. 108.	.....	Remainder....

CHAPTER 103.

An Act respecting Railways.

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 Railway Act.*" 42 V., Short title. c. 9, s. 1.

GENERAL INTERPRETATION.

2. In this Act and in the special Act incorporating any railway company to which this Act or any part thereof applies, unless the context otherwise requires :—

(a) The expression "*the Minister*" means the Minister of Railways and Canals, and the expression "*Deputy*" means the Deputy of the Minister of Railways and Canals ;

(b) The expression "*department*" means the Department of Railways and Canals ;

(c) The expression "*land*" includes real property, messuages, lands, tenements and hereditaments of any tenure ;

(d) The expression "*lease*" includes an agreement for a lease ;

(e) The expression "*toll*" includes any rate or charge or other payment payable under this Act or the special Act for any passenger, animal, carriage, goods, merchandise, matter or thing conveyed on the railway ;

(f) The expression "*goods*" includes things of every kind that may be conveyed upon the railway, or upon steam vessels or other vessels connected therewith ;

(g) The expression "*county*" includes any county, union of counties, riding, or like division of a county in any Province, or in the Province of Quebec any division thereof into separate municipalities ;

(h) The expression "*highway*" includes any public road, street, lane or other public way or communication ;

- “Sheriff.” (i) The expression “sheriff” includes under sheriff, or other legal competent deputy; and when any matter in relation to any lands is required to be done by any sheriff or clerk of the peace, the expression “the sheriff,” or the expression “clerk of the peace,” shall, in such case, be construed to mean the sheriff or clerk of the peace of the district, county, riding, division or place where such lands are situate, *and if there is no clerk of the peace, shall include clerk of the municipality*; and if the lands in question, being the property of one and the same person, are situate not wholly in one district, county, riding, division or place, the same expression shall be construed to mean the sheriff or clerk of the peace of any such district, county, riding, division or place where any portion of such lands is situate;
- “Justice.” (j) The expression “justice” means a justice of the peace acting for the district, county, riding, division, city or place where the matter requiring the cognizance of a justice arises, and who is not interested in the matter; and when the matter arises in respect of lands which are the property of one and the same person, situate not wholly in any one district, county, riding, division, city or place, the expression “justice” means a justice acting for the district, county, riding, division, city or place where any portion of such lands is situate, and who is not interested in such matter; and when any matter is authorized or required to be done by two justices, the expression “two justices” shall be understood to mean two justices assembled and acting together;
- “Map or plan.” (k) The expression “map or plan” means a ground plan of the lands and property taken or intended to be taken;
- “Owner.” (l) The expression “owner,” when, under the provisions of this Act or the special Act, any notice is required to be given to the owner of any lands, or when any act is authorized or required to be done with the consent of the owner, shall be understood to mean any person who, under the provisions of this Act or the special Act, or any Act incorporated therewith, would be enabled to sell and convey lands to the company;
- “Railway Committee.” (m) *The expression “the railway committee” means the Railway Committee of the Privy Council. 42 V., c. 9, s. 5, sub-ss. 5 to 14;—46 V., c. 24, s. 2, part.*

APPLICATION OF ACT.

Application
of part one.

3. The provisions of this Act, from section *four* to section *thirty-nine*, both inclusive, being *Part One* of this Act, shall apply to every railway constructed or to be constructed

under the authority of any Act passed by the Parliament of Canada, and shall, in so far as they are applicable to the undertaking, and unless they are expressly varied or excepted therefrom by the special Act, be incorporated with the special Act, form part thereof, and be construed therewith as forming one Act :

2. Any of the said provisions forming Part One of this Act may be excepted from incorporation with the special Act, by enacting, in such special Act, that the sections of this Act proposed to be excepted, referring to them by the numbers which they bear respectively, shall not be incorporated with such special Act, which shall thereupon be construed accordingly :

How certain provisions may be made not to apply.

Re-drafted.

3. The provisions of this Act, from section *forty* to section *one hundred and six*, both inclusive, being *Part Two* of this Act, shall apply to all railway companies and railways within the legislative authority of the Parliament of Canada, except Government railways.

Application of part two.

Re-drafted.

4. The provisions of this Act, from section *one hundred and seven* to section *one hundred and nineteen*, both inclusive, being *Part Three of this Act*, shall apply to all railway companies operating a line or lines of railway in Canada, whether otherwise within the legislative authority of the Parliament of Canada or not. 42 V., c. 9, ss. 2 and 3 ;—46 V., c. 24, s. 1 ;—47 V., c. 11, s. 1.

Application of part three.

Re-drafted.

NOTE.—Three classes of companies and railways have been recognized in so far as the applicability of the provisions of this Act are concerned, which classes are defined in this section and the consolidation of this subject has been drafted accordingly.

PART ONE.

INTERPRETATION.

1. In *Part One* of this Act, unless the context otherwise requires :—

Interpretation in part one.

(a) The expression "the special Act" means any Act authorizing the construction of a railway, with which this Act or "*The Railway Act, 1868*," or "*The Consolidated Railway Act, 1879*," is incorporated ;

"Special Act."

(b) The expression "prescribed," in reference to any matter herein stated, means "as the same is prescribed or

"Prescribed."

provided for in the special Act," and the sentence in which such word occurs shall be construed as if, instead of the word "prescribed," the expression "prescribed for that purpose in the special Act," had been used ;

"The lands." (c) The expression "the lands" means the lands which, by the special Act, are authorized to be taken or used for the purposes thereof ;

"The undertaking." (d) The expression "the undertaking" means the railways and works, of whatsoever description, authorized under the special Act to be constructed :

In part one and special Act. 2. In *Part One* of this Act and in the special Act, unless the context otherwise requires :—

"The Company." (e) The expression "the company" means the company or person authorized by the special Act to construct the railway ;

"The railway." (f) The expression "the railway" means the railway and the works authorized under the special Act to be constructed. 42 V., c. 9, s. 5, sub-ss. 1 to 5, and 15 and 16.

INCORPORATION.

Companies to have corporate powers. **5.** Every company incorporated under a special Act shall be a body corporate, under the name declared in the special Act, and shall be vested with all such powers, privileges and immunities as are necessary to carry into effect the intention and objects of this Act, and of the special Act, and which are incident to such corporation, or are expressed or included in "*The Interpretation Act.*" 42 V., c. 9, s. 6.

POWERS.

Powers. **6.** The company may,—

To receive grants of land, &c. (1) Receive, take and hold all voluntary grants and donations of land or other property made to it, for the purpose of aiding in the construction, maintenance and accommodation of the railway ; but the same shall be held and used for the purpose of such grants or donations only ;

To purchase land. (2) Purchase, take and hold, of and from any person, any land or other property necessary for the construction, maintenance, accommodation and use of the railway, and also alienate, sell or dispose of the same ;

To carry railway across lands. (3) Make, carry or place the railway across or upon the lands of any person on the line of the railway, or within the distance from such line stated in the special Act, although,

through error or other cause, the name of such person has not been entered in the book of reference hereinafter mentioned, or although some other person has been erroneously mentioned as the owner of or entitled to convey, or is interested in such lands ;

(4) 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, water course, highway, canal or railway so intersected or touched, shall be restored by the company to its former state, or to such state as not to impair its usefulness ;

And across and along streams, &c.

(5) 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 maintain railway.

(6) Erect and maintain all necessary and convenient buildings, stations, depôts, 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 and business of the railway ;

To erect buildings, &c.

(7) Make branch railways, if required and provided for by the special Act, and manage the same, and for that purpose exercise all the powers, privileges and authorities necessary therefor, in as full and ample a manner as for the railway ;

To make branch railways.

(8) Construct and make all other matters and things necessary and convenient for the making, extending and using of the railway, according to the meaning and intent of this Act, and of the special Act ;

To do all things necessary.

(9) Take, transport, carry and convey persons and goods on the railway, regulate the time and manner in which the same shall be transported, and the tolls and compensation to be paid therefor, and receive such tolls and compensation ;

To convey persons and goods.

(10) Borrow, from time to time, either in Canada or elsewhere, such sums of money as are expedient for completing, maintaining or working the railway, and at a rate of interest not exceeding eight per cent. per annum, and make the bonds, debentures or other securities granted for the sums so borrowed payable either in currency or in sterling, and at such place or places, within or without Canada, as are deemed advisable, and sell the same at such prices or discount as are deemed expedient or are necessary, and hypothecate, mortgage or pledge the lands, tolls, revenues and

To borrow money, &c.

Proviso ; as to extent of such power.

other properties of the company for the due payment of the said sums and the interest thereon, but no such debenture shall be for a less sum than one hundred dollars : Provided always, that the power of issuing bonds hereby conferred upon the company or under the special Act shall not be construed as being exhausted by such issue ; but such power may be exercised, from time to time, upon the bonds constituting such issue being withdrawn or paid off, and duly cancelled ; but the limit to the amount of bonds fixed in the special Act shall not be exceeded ;

To enter lands for survey, &c.

(11) Enter into and upon any lands of Her Majesty without previous license therefor, or into and upon the lands of any person whomsoever lying in the intended route or line of the railway ; and make surveys, examinations or other necessary arrangements on such lands 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 trees.

(12) Fell or remove any trees standing in any woods, lands or forests where the railway passes, to the distance of six rods from either side thereof ;

To cross or unite with other railways.

(13) 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 the owners of both railways may unite in forming such intersection, and grant the facilities therefor ; and in case of disagreement as to 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 arbitrators, who shall be appointed by a judge of one of the superior courts in the Province in which the point of junction or intersection is situate ;

Compensation, &c.

Approval of Railway Committee to be obtained.

(14) No railway company shall avail itself of any of the powers contained in the next preceding sub-section without application to the Railway Committee for approval of the mode of crossing, union or intersection proposed ; of which application, notice in writing shall be given by the company to any other company affected, by sending the same, by mail or otherwise, to the address of the president, superintendent, managing director or secretary of such other company ; and when such approval has been obtained, either company may, in case of disagreement as to the amount to be paid for compensation, proceed for the determination of such compensation as provided in the *next preceding* sub-section ;

Branch lines not more than six miles in length.

(15) Any company may construct a branch or branches, not exceeding six miles in length, from any terminus or station of its railway, whenever a by-law sanctioning the same

has been passed by the municipal council of the municipality within the limits of which such proposed branch is situate; and no such branch shall, as to the quality and construction of the road, be subject to any of the restrictions contained in the special Act or in this Act, nor shall anything in either of the said Acts authorize the company to take, for such branch, any lands belonging to any person, without the consent of such person first obtained;

(16) Any company which desires at any time to change the location of its line of railway in any particular part, 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, may make such change; and all the provisions of this Act shall refer as fully to the part of such line of railway, so at any time changed or proposed to be changed, as to the original line; but no company shall extend its line of railway beyond the termini mentioned in the special Act;

Changes in line of railway may be made.

(17) No company shall take possession of, use or occupy any lands vested in Her Majesty, without the consent of the Governor in Council; but with such consent, any such company may take and appropriate, for the use of its railway and works, but not alienate, so much of the wild lands of the Crown lying on the route of the railway as have not been granted or sold, and as is necessary for such railway, as also so much of the public beach, or of the land covered with the waters of any lake, river, stream or canal, or of their respective beds, as is necessary for making and completing and using its said railway and works, subject, however, to the exceptions contained in the next following sub-section;

As to lands vested in Her Majesty.

(18) Whenever it is necessary for such company to occupy any part of the lands belonging to Her Majesty reserved for naval or military purposes, it shall first apply for and obtain the license and consent of Her Majesty, under the hand and seal of the Governor General, and having obtained such license and consent, it may, at any time or times, enter into and enjoy any of the said lands for the purposes of the railway; but in the case of any such naval or military reserves, no such license or consent shall be given except upon a report first made thereupon by the naval or military authorities in which such lands are for the time being vested, approving of such license and consent being so given. 42 V., c. 9, s. 7, sub-ss. 1 to 15, 16, *part*, 17 and 19;—46 V., c. 24, s. 7, *part*.

As to lands reserved for naval or military purposes.
Consent of naval or military authority.

PLANS AND SURVEYS.

7. Plans and surveys shall be made and corrected as follows:—

Plans and surveys.

Surveys and levels.

Map or plan and book of reference.

(1) Surveys and levels shall be taken and made of the lands through which the railway is to pass, together with a map or plan thereof, and of its course and direction, and of the lands intended to be passed over and taken therefor, as far as then ascertained; and a book of reference for the railway shall also be made, in which shall be set forth:—

(a) A general description of the said lands;

(b) The names of the owners and occupiers thereof, as far as they can be ascertained; and

(c) Everything necessary for the right understanding of such map or plan:

To be examined and certified and copies deposited.

(2) The map or plan and book of reference shall be examined and certified by the minister or by the deputy, and a duplicate thereof, so examined and certified, shall be deposited at the department, and the company shall deposit copies of such map or plan and book of reference, or of such parts thereof as relate to each district or county through which the railway is to pass, in the offices of the clerks of the peace for such districts or counties respectively:

Access to copies.

(3) Any person may resort to such copies, and make extracts therefrom or copies thereof, as occasion requires, paying to the clerks of the peace at the rate of ten cents for every hundred words:

Certified copies to be evidence.

(4) Such map or plan and book of reference so certified, or a true copy thereof, certified by the minister or by any clerk of the peace, shall be evidence in any court of justice and elsewhere:

Errors, how remedied.

(5) Any omission, mis-statement or erroneous description of such lands, or of the owners or occupiers thereof, in any map or plan or book of reference, may, after ten days' notice has been given to the owners of such lands, be corrected by two justices, on application made to them for that purpose; and if it appears to them that such omission, mis-statement or erroneous description arose from mistake, the justices shall certify the same accordingly:

Certificate relating thereto.

(6) The certificate shall state the particulars of any such omission, and the manner thereof, and shall be deposited with the clerks of the peace of the districts or counties, respectively, in which such lands are situate, and shall be kept by them together with the other documents to which they relate; and thereupon such map or plan, or book of reference, shall be deemed to be corrected according to such certificate; and the company may make the railway in accordance with the certificate:

(7) If any alterations from the original plan or survey are intended to be made in the line or course of the railway, a plan and section of such alterations as have been approved of by Parliament, on the same scale and containing the same particulars as the original plan and survey, shall be deposited in the same manner as the original plan, and copies of or extracts from such plan and section, so far as they relate to the several districts or counties in or through which such alterations have been authorized to be made, shall be deposited with the clerks of the peace of such districts and counties :

Alterations from original survey.

(8) Until such original map or plan and book of reference, or the plans and sections of the alterations, have been so deposited, the construction of the railway, or of the part thereof affected by the alterations, as the case may be, shall not be proceeded with :

Works not to be proceeded with until map, &c., are deposited.

(9) The clerks of the peace shall receive and retain the copies of the original plans and surveys, and copies of the plans and sections of alterations, and copies and extracts thereof respectively, and shall permit all persons interested to inspect any of the documents aforesaid, and to make copies of and extracts from the same, and every clerk of the peace who refuses so to do, shall incur a penalty, for each default, of four dollars :

Custody of copies by Clerks of the Peace.

(10) The copies of the maps, plans and books of reference, or of any alteration or correction thereof, or extracts therefrom, certified by the clerk of the peace, shall be received in all courts of justice and elsewhere as evidence of the contents thereof, and the clerk of the peace shall give such certificate to any person interested when required so to do :

Copies certified by Clerk to be evidence.

(11) No deviation of more than one mile from the line of the railway or from the places assigned thereto in the said map or plan and book of reference, or plans and sections, shall be made into, through, across, under or over any part of the lands not shown in such map or plan and book of reference, or plans or sections, or within one mile of the said line and place, except in such instances as are provided for in the special Act :

What deviation allowed.

(12) The railway may be carried across or upon the lands of any person on the line, or within the distance from such line as aforesaid, although the name of such person has not been entered in the book of reference, through error or any other cause, or although some other person is erroneously mentioned as the owner of or entitled to convey, or is interested in such lands :

As to error in name entered in book of reference.

(13) A map and profile of the completed railway and of the land taken or obtained for the use thereof, shall,

Map of completed railway to be filed at

the department.

within six months after completion of the undertaking, be made and filed at the department, and like maps of the parts thereof, located in different districts and counties, shall be filed in the registry offices for the districts and counties in which such parts are respectively situate; and every company which fails or neglects to furnish such map within the said period, shall incur a penalty of two hundred dollars, and a like penalty for each and every month during which such failure or neglect continues, which penalty shall be recoverable in Her Majesty's name in any court of competent jurisdiction :

Scale and paper.

(14) Every such map shall be drawn on such a scale and on such paper as are, from time to time, designated for that purpose by the minister, and shall be certified and signed by the president or engineer of the company :

Plan, &c., may be in sections.

(15) The plan and book of reference may be made of sections of the railway not less than twenty miles in length; and in addition thereto, the company shall file, at the department, within three months after the deposit of such map or plan and book of reference, a profile of the railway described upon such map or plan. 42 V., c. 9, s. 8;—46 V., c. 24, s. 2, *part*.

Filing of profile.

LANDS AND THEIR VALUATION.

Interpretation.

"Court."

S. In this section the expression "court" means a superior court of the district or Province in which the lands are situate, and if the lands are situate in the North-West Territories, it means Her Majesty's Court of Queen's Bench of Manitoba, until there is a superior court in the said Territories, when it shall mean such superior court; and in this section the expression "judge" means a judge of the superior court of the district or Province in which the lands are situate, or if the lands are situate in the North-West Territories, it means a stipendiary magistrate in the said Territories :

"Judge."

In consequence of the amendment made by 47 V., c. 11, s. 11, the jurisdiction of the judges of county courts is not continued in 42 V., c. 9, s. 9.

Extent of lands to be taken without consent of proprietor.

2. The lands which may be taken without the consent of the owners thereof shall not exceed thirty-three yards in breadth, but in places where the railway is raised more than five feet higher, or cut more than five feet deeper than the surface of the line, or where offsets are established, or where stations, depôts or fixtures are intended to be erected, or goods to be delivered, the lands which may be taken without the consent of the owner shall not be more than six hundred and fifty yards in length by one hundred yards in breadth, except for town and city stations, depôts or terminal stations, or for protection against snow drifts, in

Extra breadth for stations, &c.

which cases such greater quantity of land or land covered with water may be taken, as is approved by the Governor in Council :

3. The places at which such extra breadth is to be taken shall be shown on the map or plan, or plans or sections, so far as the same are then ascertained, but the fact of their not being so shown shall not prevent such extra breadth from being taken, if it is taken upon the line shown or within the distance aforesaid from such line : To be shown on map, &c.

4. The extent of the public beach, or of the land covered with the waters of any river or lake in Canada, taken for the railway, shall not exceed the quantity limited in the next preceding sub-section : Extent of public beach to be taken.

5. All tenants in tail or for life, *grevés de substitution*, guardians, curators, executors, administrators, trustees and all persons whomsoever, not only for and on behalf of themselves, their heirs and successors, but also for and on behalf of those whom they represent, whether infants, issue unborn, lunatics, idiots, *femes-covert*, or other persons, seized, possessed of, or interested in any lands, may contract, sell and convey to the company all or any part thereof : Conveyance to the company.

6. In all cases in which the persons hereinbefore enumerated have no right in law to sell or convey the rights of property of the said land, the said persons shall obtain, from a judge, after due notice to the persons interested, the right to sell the said land ; and the said judge shall give such orders as are necessary to secure the investment of the purchase money in such a manner as he deems necessary, in accordance with the law of the Province, to secure the interests of the owner of the said land : Order of judge required in certain cases.

7. The powers by the next preceding sub-section conferred upon rectors in possession of glebe lands in the Province of Ontario, ecclesiastical and other corporations, trustees of land for church or school purposes, or either, executors appointed by wills under which they are not invested with any power over the real property of the testator, administrators of persons dying intestate, but at their death seized of real property, shall only extend and be exercised with respect to any of such lands actually required for the use and occupation of a company : Limitation of powers in certain cases.

8. Any contract, agreement, sale, conveyance and assurance so made, under the two sub-sections next preceding, shall be valid and effectual in law, to all intents and purposes whatsoever, and shall vest in the company receiving the same, the fee simple in the lands in such deed described, freed and discharged from all trusts, restrictions and limita- Effect of sale under preceding sub-sections.

tions whatsoever ; and the person so conveying is hereby indemnified for what he does by virtue of or in pursuance of this Act :

Responsibility as to purchase money. 9. The company shall not be responsible for the disposition of any purchase money for lands taken by it for its purposes, if paid to the owner of the land or into court for his benefit, as hereinafter provided :

Effect of contracts made before deposit of map, &c. 10. Any contract or agreement made by any person authorized by this Act to convey lands, and made before the deposit of the map or plan and book of reference, and before the setting out and ascertaining of the lands required for the railway, shall be binding at the price agreed upon for the same lands, if they are 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 arbitrators, as hereinafter provided, and the agreement shall be in the place of an award :

Fixed rent may be agreed upon in certain cases. 11. All persons who cannot, in common course of law, sell or alienate any lands so set out and ascertained, shall agree upon a fixed annual rent as an equivalent, and not upon a principal sum, to be paid for the lands ; and if the amount of the rent is not fixed by voluntary agreement or compromise, it shall be fixed and all proceedings shall be regulated in the manner herein prescribed :

Lien for payment thereof. 12. For the payment of the said annual rent and every other annual rent agreed upon or ascertained, and to be paid for the purchase of any lands, or for any part of the purchase money of any lands, which the vendor agrees to leave unpaid, the railway and the tolls thereon shall be liable and chargeable in preference to all other claims and demands thereon whatsoever, upon the deed creating such charge and liability being duly registered in the registry office of the proper district, county or registration division :

After ten days from deposit application to owner. 13. After the expiration of ten days from the deposit of the map or plan and book of reference, and after notice thereof has been given in at least one newspaper, if there is any, published in each of the districts and counties through which the railway is intended to pass, application may be made to the owners of lands, or to persons empowered to convey lands, or interested in lands which may suffer damage from the taking of materials or the exercise of any of the powers granted for the railway ; and, thereupon, agreements and contracts may be made with such persons, touching the said lands or the compensation to

be paid for the same, or for the damages, or as to the mode in which such compensation shall be ascertained, as seems expedient to both parties; and in case of disagreement between them, or any of them, all questions which arise between them shall be settled as in the following sub-sections of this section mentioned:

Arbitration in default of agreement.

14. The deposit of a map or plan and book of reference, and the notice of such deposit, shall be deemed a general notice to all the parties, of the lands which will be required for the railway and works; and the date of such deposit shall be the date with reference to which the aforesaid compensation or damages shall be ascertained:

Deposit to be general notice.

15. The notice served upon the party shall contain,—

Notice to party, and what it shall contain.

(a) A description of the lands to be taken, or of the powers intended to be exercised with regard to any lands, and describing the lands;

(b) A declaration of readiness to pay some certain sum or rent, as the case may be, as compensation for such lands or for such damages;

(c) The name of a person to be appointed as the arbitrator of the company, if its offer is not accepted; and such notice shall be accompanied by the certificate of a sworn surveyor for the Province or Territories in which the lands are situated, who is a disinterested person and is not the arbitrator named in the notice, *which certificate shall state*,—

(1) That the land, if the notice relates to the taking of land shown on the said map or plan, is required for the railway, or is within the limits of deviation hereby allowed;

(2) That he knows the land, or the amount of damage likely to arise from the exercise of the powers; and

(3) That the sum so offered is, in his opinion, a fair compensation for the land and damage aforesaid:

16. If the opposite party is absent from the district or county in which the lands lie, or is unknown, an application for service, by advertisement, may be made to a judge:

Application for service by advertisement.

Re-drafted.

17. The application for service by advertisement shall be accompanied by such certificate as aforesaid, and by an affidavit of some officer of the company that the opposite party is so absent, or that, after diligent inquiry, the person on whom the notice ought to be served cannot be ascertained, and the judge shall order a notice as aforesaid, but without

Certificate and affidavit to accompany application.

certificate, to be inserted three times in the course of one month, in a newspaper published in the district or county ; or if there is no newspaper published therein, then in a newspaper published in some adjacent district or county :

Party not accepting offer and not appointing an arbitrator.

18. If within ten days after the service of such notice, or within one month after the first publication thereof, the opposite party does not give notice to the company that he accepts the sum offered by it, or does not give notice to it of the name of a person whom he appoints as arbitrator, the judge shall, on the application of the company, appoint a sworn surveyor for the Province or Territories, as the case may be, to be sole arbitrator for determining the compensation to be paid as aforesaid :

Appointment of arbitrator by party and of third arbitrator.

19. If the opposite party, within the time aforesaid, gives notice to the company of the name of his arbitrator, then the two arbitrators shall jointly appoint a third, or if they cannot agree upon a third, the judge shall, on the application of the party or the company, after notice of at least six clear days having been given to the other party, appoint a third arbitrator :

Arbitrators to be sworn.

20. The arbitrators, or the sole arbitrator, as the case may be, shall be sworn before a justice of the peace for the district or county in which the lands lie, faithfully and impartially to perform the duties of their office, and shall proceed to ascertain the said compensation in such way as they or he, or a majority of them, deem best ; and the award of such arbitrators, or of any two of them, or of the sole arbitrator, shall be final and conclusive ; but no such award shall be made or any official act be done by such majority, except at a meeting held at a time and place of which the other arbitrator has had at least two clear days' notice, or to which some meeting at which the third arbitrator was present had been adjourned ; and no notice to either of the parties shall be necessary, but each party shall be held sufficiently notified through the arbitrator appointed by him, or whose appointment he required :

Their duties.

Increased value of remaining lands to be considered.

21. The arbitrators, in deciding on such value or compensation, shall take into consideration the increased value that would be given to any lands through or over which the railway will pass, by reason of the passage of the railway through or over the same, or by reason of the construction of the railway, and to set off the increased value that will attach to the said lands or grounds, against the inconvenience, loss or damage that might be suffered or sustained by reason of the company taking possession of or using the said lands as aforesaid :

Costs, by whom payable.

22. If by an award of arbitrators made under this Act the sum awarded exceeds the sum offered by the company,

the costs of the arbitration shall be borne by the company; but if otherwise, they shall be borne by the opposite party, and be deducted from the compensation; and in either case the amount of such costs, if not agreed upon, may be taxed by the judge:

23. The arbitrators, or a majority of them, or the sole arbitrator, may examine on oath or solemn affirmation the parties, or such witnesses as voluntarily appear before them or him, and may administer such oath or affirmation: Witnesses.

24. A majority of the arbitrators, at the first meeting after their appointment, or the sole arbitrator, shall fix a day on or before which the award shall be made; and if the same is not made on or before such day, or some other day to which the time for making it has been prolonged, either by the consent of the parties or by resolution of the arbitrators, then the sum offered by the company, as aforesaid, shall be the compensation to be paid by the company: Time within which award may be made.

25. If the sole arbitrator appointed by the judge, or any arbitrator appointed by the two arbitrators, dies before the award has been made, or is disqualified, or refuses or fails to act within a reasonable time, then, in the case of the sole arbitrator, the judge, upon the application of either party, and upon being satisfied by affidavit or otherwise of such death, disqualification, refusal or failure, may appoint another arbitrator in the place of such sole arbitrator; and in the case of any arbitrator appointed by one of the parties, the company and party respectively may each appoint an arbitrator in the place of its or his arbitrator so deceased or not acting; and in the case of the third arbitrator appointed by the two arbitrators, the provisions of the *nineteenth* subsection of this section shall apply; but no recommencement or repetition of the previous proceedings shall be required in any case: Vacancy in office of arbitrator, how filled.

26. Any such notice for lands, as aforesaid, may be abandoned, and a new notice given, with regard to the same or other lands, and to the same or any other person; but in any such case the liability to the person first notified for all damages or costs by him incurred in consequence of such first notice and abandonment, shall subsist: Company may desist, paying costs.

27. The surveyor or other person offered or appointed as valuator, or as sole arbitrator, shall not be disqualified because he is professionally employed by either party, or has previously expressed an opinion as to the amount of compensation, or because he is related or of kin to any shareholder of the company, if he is not himself personally interested in the amount of the compensation; and no cause of disqualification shall be urged against any arbitra- Valuator or arbitrator not disqualified unless personally interested.

tor appointed by the judge after his appointment, but the objection shall be made before the appointment, and its validity or invalidity shall be summarily determined by the judge :

When disqualification must be urged.

28. No cause of disqualification shall be urged against any arbitrator appointed by the company or by the opposite party after the appointment of a third arbitrator; and the validity or invalidity of any cause of disqualification urged against any such arbitrator, before the appointment of a third arbitrator, shall be summarily determined by the judge, on the application of either party, after two clear days' notice to the other, and if the cause is determined to be valid, the appointment shall be null and void, and the party offering the person so adjudged to be disqualified shall be held not to have appointed an arbitrator :

Award not avoided for want of form.

29. No award shall be invalidated by reason of any want of form or other technical objection, if the requirements of this Act have been complied with, and if the award states clearly the sum awarded, and the lands or other property, right or thing for which such sum is to be the compensation, and the person to whom the sum is to be paid need not be named in the award :

Upon payment or tender of sum awarded possession may be taken.

30. Upon payment or legal tender of the compensation or annual rent, so awarded or agreed upon, to the person entitled to receive the same, or upon the payment into court of the amount of such compensation, in the manner hereinafter mentioned, the award or agreement shall vest in the company the power forthwith to take possession of the lands, or to exercise the right, or to do the thing for which such compensation or annual rent has been awarded or agreed upon; and if any resistance or forcible opposition is made by any person to its so doing, the judge may, on proof to his satisfaction of such award or agreement, issue his warrant to the sheriff of the district or county, or, to a bailiff, as he deems most suitable, to put down such resistance or opposition, and to put the company in possession, and the sheriff or bailiff shall take with him sufficient assistance for such purpose, and shall put down such resistance or opposition, and put the company in possession :

Warrant of possession.

Warrant of possession before award.

31. Such warrant may also be granted by the judge, without such award or agreement, on affidavit to his satisfaction that the immediate possession of the lands, or of the power to do the thing mentioned in the notice, is necessary to carry on some part of the railway with which the company is ready forthwith to proceed :

On what conditions such warrant may be granted.

(a) The judge shall not grant any warrant under this sub-section unless ten days' previous notice of the time and place when and where the application for such warrant

is to be made has been served upon the owner of the land, or the person empowered to convey the land, or interested in the land sought to be taken, or which may suffer damage from the taking of materials sought to be taken, or the exercise of the powers sought to be exercised, or the doing of the thing sought to be done, by the company, and unless the company gives security to his satisfaction, by deposit in a chartered bank, designated by him, to the credit of the company and such person or party jointly, of a sum larger than his estimate of the probable compensation, and not less than double the amount mentioned in the notice served under sub-section *fifteen* of this section ;

Security to be given.

(b) The costs of the application to and of any hearing before the judge, shall be borne by the company, unless the compensation awarded is not more than the company had offered to pay ; and no part of such deposit or of any interest thereon shall be repaid or paid to such company or paid to such owner or party without an order from the judge, which he may make in accordance with the terms of the award :

Costs.

Payment on judge's order only.

32. The compensation for any lands which may be taken without the consent of the proprietor, shall stand in the stead of such lands ; and any claim to or incumbrance upon the said lands, or any portion thereof, shall, as against the company, be converted into a claim to the compensation, or to a like proportion thereof, and the company shall be responsible accordingly, whenever it has paid such compensation, or any part thereof, to a person not entitled to receive the same, saving always its recourse against such person :

Compensation to stand in the place of the land.

33. If the company has reason to fear any claims or incumbrances, or if any person to whom the compensation or annual rent, or any part thereof is payable, refuses to execute the proper conveyance and guarantee, or if the person entitled to claim the same cannot be found, or is unknown to the company, or if, for any other reason, the company deems it advisable, the company may, if the lands are situated elsewhere than in the Province of Quebec, pay such compensation into the office of the clerk or prothonotary of the court, with the interest thereon for six months, and may deliver to such clerk or prothonotary an authentic copy of the conveyance, or of the award or agreement, if there is no conveyance ; and such award or agreement shall thereafter be deemed to be the title of the company to the land therein mentioned :

Payment of compensation into court in certain cases.

34. A notice, in such form and for such time as the court appoints, shall be inserted in a newspaper, if there is any, published in the district or county in which the lands are situated, and in a newspaper published at the seat of Gov-

Notice to be published.

Distribution of compensation and effect thereof.

ernment of the Province, which shall state that the title of the company, that is, the conveyance, agreement or award, is 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, to file their claims to the compensation, or any part thereof; and all such claims shall be received and adjudicated upon by the court, and the said proceedings shall forever bar all claims to the lands, or any part thereof, including dower, as well as all mortgages or incumbrances upon the same; and the court shall make such order for the distribution, payment or investment of the compensation, and for the securing of the rights of all persons interested, as to right and justice and to law appertain:

Costs.

35. The costs of the proceedings, in whole or in part, shall be paid by the company, or by any other person, as the court orders:

Interest.

36. If such order of distribution is obtained in less than six months from the payment of the compensation into court, the court shall direct a proportionate part of the interest to be returned to the company, and if, from any error, fault or neglect of the company, it is not obtained until after the six months have expired, the court shall order the company to pay to the proper claimants the interest for such further period as is right:

Proceedings in a like case in the Province of Quebec.

37. If the lands so taken are situated in the Province of Quebec, and if the company has reason to fear any claim, mortgage, *hypothèque* or incumbrance, or if any person to whom the compensation or annual rent, or any part thereof, is payable, refuses to execute the proper conveyance and guarantee, or if the person entitled to claim the compensation or rent cannot be found, or is unknown to the company, or if, for any other reason, the company deems it advisable, the company may pay such compensation 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 may deliver to the said prothonotary an authentic copy of the conveyance, or of the award, if there is no conveyance, and such award shall thereafter be deemed to be the title of the company to the land therein mentioned, and proceedings shall thereupon be had for the confirmation of the title of the company, in like manner as in other cases of confirmation of title, except that, in addition to the usual contents of the notice, the prothonotary shall state that the title of the company (that is, the conveyance or award) is under this Act, and shall call upon all persons entitled to the lands, or any part thereof, or representing or being the husband of any person so entitled, to file their claims to the compensation, or any part thereof; and all such claims shall be received and adjudicated upon by the court:

Confirmation of title.

Special notice in such case.

(a) Such judgment of confirmation shall forever bar all claims to the land, or any part thereof, including dower not yet open, as well as any mortgage, *hypothèque* or incumbrance upon the same; and the court shall make such order for the distribution, payment or investment of the compensation, and for the security of the rights of all persons interested, as to right and justice, and to law appertain; Effect of confirmation.

(b) The costs of the proceedings, in whole or in part, shall be paid by the company, or by any other person, as the court orders, and if judgment of confirmation is obtained in less than six months from the payment of the compensation to the prothonotary, the court shall direct a proportionate part of the interest to be returned to the company, and if, from any error, fault or neglect of the company, it is not obtained until after the six months have expired, the court shall order the company to pay the prothonotary the interest for such further period as is right. Costs.
Interest.
42 V., c. 9, s. 9, *part*, and 10, *part*;—46 V., c. 24, s. 2, *part*, and s. 8;—47 V., c. 11, ss. 11 and 12, *part*, 13 and 14.

9. Whenever stone, gravel, earth, sand or water is required for the construction or maintenance of any railway, or any part thereof, the company may, if it cannot agree with the owner of the lands on which the same are situated, for the purchase thereof, cause a land surveyor, duly licensed to act as such in the Province, Territory, *district or county*, to make a map and description of the property so required, and it shall serve a copy thereof, with its notice of arbitration, as in the case of acquiring the roadway; and all the provisions of this Act as to the service of the said notice of arbitration, compensation, deeds, payment of money into court, the right to sell, the right to convey, and the persons from whom lands may be taken, or who may sell, shall apply to the subject matter of this section, and to the obtaining materials, as aforesaid, and such proceedings may be had by the company, either for the right to the fee simple in the land from which the material is taken, or for the right to take material for any time it thinks necessary; and the notice of arbitration, if arbitration is resorted to, shall state the interest and powers required. Power to take materials for construction.
Notice in case of arbitration.
42 V., c. 9, s. 9, sub-s. 38.

10. Whenever any gravel, stone, earth, sand or water is taken as aforesaid, at a distance from the line of the railway, the company may lay down the necessary sidings, water pipes or conduits and tracks, over or through any lands intervening between the railway and the lands on which such material or water is found, whatever is the distance, and all the provisions of this Act, except such as relate to the filing of plans and publication of notice, shall apply Power to make sidings, conduits, &c.

Maintenance and repair of railway.

and the powers thereby granted may be used and exercised to obtain the right of way from the railway to the land on which such materials are situated ; and such right may be acquired for a term of years or permanently, as the company thinks proper ; and the powers in this and the next preceding section contained may at all times be exercised and used in all respects, after the railway is constructed, for the purpose of repairing and maintaining the railway. 42 V., c. 9, s. 9, sub-s. 39.

Provision when the whole parcel of land can be purchased with advantage.

11. Whenever, for the purpose of procuring sufficient lands for stations or gravel pits, or for constructing, maintaining and using the railway, any land may be taken under the compulsory provisions of this part of this Act, and by purchasing the whole of any lot or parcel of land over which the railway is to run, or of which any part may be taken under the said provisions, the company can obtain the same at a more reasonable price, or to greater advantage than by purchasing the roadway line only, or only such part as aforesaid, the company 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 its railway, and may sell and convey the same, or any part thereof, from time to time, as it deems expedient ; but the compulsory provisions of this Act shall not apply to the taking of any portion of such lot or parcel not necessary for the purposes aforesaid. 42 V., c. 9, s. 9, sub-s. 40.

Compulsory provisions not to apply.

HIGHWAYS AND BRIDGES.

Railway not to be carried along highway without permission of proper authority.

12. The railway shall not be carried along an existing highway, but shall 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 completion of the works, replacing the highway ; and every company which violates the provisions of this section shall incur a penalty of not less than forty dollars for each such violation ; 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 :

Variation when crossing on the level.

2. No part of the railway which crosses any highway without being carried over it by a bridge, or under it 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 such limits :

Height of span of bridges over highways.

3. The span of the arch of every 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 :

4. 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 at least six inches in length ; and every company which neglects to comply with the requirements of this sub-section, shall incur a penalty not exceeding forty dollars. 42 V., c. 9, s. 15, sub-s. 1 to 3 and 6. Sign boards over railway crossing.

FENCES AND CATTLE GUARDS.

13. Within three months after the construction of a railway on any section or lot of land which is occupied, or before such construction, within six months after any part of such section or lot of land has been taken possession of by the company for the purpose of constructing a railway thereon, and after the company has been so required, in writing, by the occupant thereof, the company shall erect and maintain,— Fences, &c., to be erected and maintained.

(a) Fences over such section or lot of land on each side of the railway, of the height and strength of an ordinary division fence, with openings or gates, or bars, or sliding or hurdle gates, with proper fastenings therein, at farm crossings of the railway ; and Description of fence.

(b) Cattle guards at all highway crossings, suitable and sufficient to prevent cattle and other animals from getting on the railway : Cattle guards.

2. If, after the expiry of such delay, such fences, gates and cattle guards are not duly made and completed, or if after they are so made and completed, they are not duly maintained, the company shall be liable for all damages done on the railway by its trains or engines to the cattle, horses or other animals of the occupant of the land in respect of which such fences, gates or guards have not been made or maintained, as the case may be, in conformity with the next preceding sub-section : Liability of the company until fences, &c., are erected.

3. After such fences, gates and guards have been duly made and completed, and while they are duly maintained, no such liability shall accrue for any such damages, unless the same are caused wilfully or negligently by the company or by its employees : When to be exempted.

When owner has accepted compensation.

4. If the proprietor of any such section or lot has accepted compensation for dispensing with the erection of such gates or bars, the proprietor or tenant thereof shall not be entitled to avail himself of the provisions of this section. 46 V., c. 24, s. 9, sub-ss. 1 to 3.

Re-drafted.

No cattle to be taken on the line.

14. Every person who rides, leads or drives any horse or any other animal, or suffers any such horse or other animal to enter upon such railway, and within the fences and guards, other than the farm crossings, without the consent of the company, shall, for every violation of this section, incur a penalty not exceeding forty dollars, and shall also pay to the person aggrieved all damages sustained thereby. 42 V., c. 9, s. 16, sub-s. 4.

Penalty.

No one to walk on the line.

15. No person other than those connected with the railway, or employed by the company, shall walk along the track thereof, except where the same is laid across or along a highway. 42 V., c. 9, s. 16, sub-s. 5.

TOLLS.

Tolls, how fixed.

16. Tolls shall be, from time to time, fixed and regulated by the by-laws of the company, or by the directors, if thereunto authorized by the by-laws, or by the shareholders at any general meeting, and may be demanded and received for all passengers and goods transported upon the railway, or in the steam vessels belonging to the company, and shall be paid to such persons and at such places, near to the railway, in such manner and under such regulations as the by-laws direct:

Enforcement of payment of tolls.

2. In case of denial or neglect of payment on demand of any such tolls, or any part thereof, to such persons, the same shall be recoverable in any court of competent jurisdiction; or the agents or servants of the company may seize the goods for or in respect whereof such tolls are payable, and may detain the same until payment thereof, and in the meantime the said goods shall be at the risk of the owners thereof:

Sale of goods in default of payment.

3. If the tolls are not paid within six weeks, the company may sell the whole or any part of such goods, and out of the money arising from such sale retain the tolls payable, and all charges and expenses of such detention and sale, and shall deliver the surplus, if any, or such of the goods as remain unsold, to the person entitled thereto:

Sale of unclaimed goods.

4. If any goods remain in the possession of the company unclaimed for the space of twelve months, the company may thereafter, and on giving public notice thereof by advertise-

ment, for six weeks, in the *Official Gazette* of the Province in which such goods are, and in such other newspapers as it deems necessary, sell such goods by public auction, at a time and place which shall be mentioned in such advertisement, and, out of the proceeds thereof, pay such tolls and all reasonable charges for storing, advertising and selling such goods; and the balance of the proceeds, if any, shall be kept by the company for a further period of three months, to be paid over to any person entitled thereto :

Application of proceeds.

5. In default of such balance being claimed before the expiration of the period last aforesaid, the same shall be paid over to the Minister of Finance and Receiver General for the public uses of Canada, until claimed by the person entitled thereto :

Disposal of unclaimed balance

6. The company may, subject to the provisions and limitations herein and in the special Act contained, from time to time, alter or vary the tolls by the special Act authorized to be taken, either upon the whole or upon any particular portions of the railway, as the company thinks fit : Provided, that all such tolls shall always, under the same circumstances, be charged equally to all persons, and at the same rate, whether per ton, per mile or otherwise, in respect of all passengers and goods and railway carriages of the same description, and conveyed or propelled by a like railway carriage or engine, passing only over the same portion of the line of railway; and no reduction or advance in any such tolls shall be made, either directly or indirectly, in favor of or against any particular company or person traveling upon or using the railway :

Tolls may be altered or varied.

Proviso ; as to equality of charges.

7. In all cases, a fraction in the distance over which goods or passengers are transported on the railway shall be considered as a whole mile; and for a fraction of a ton in the weight of any goods, a proportion of the tolls shall be demanded and taken, according to the number of quarters of a ton contained therein, and a fraction of a quarter of a ton shall be deemed and considered as a whole quarter of a ton :

Fractions, how estimated.

8. The company shall, from time to time, cause to be printed and posted up in its offices, and in every place where the tolls are to be collected, in some conspicuous place, a printed board or paper, exhibiting all the rates of tolls payable, and particularizing the price or sum of money to be charged or taken for the carriage of any matter or thing :

Tariff to be posted up.

9. No tolls shall be levied or taken until approved of by the Governor in Council, nor until after two weekly publications in the *Canada Gazette* of the by-law establishing such tolls, and of the Order in Council approving thereof :

Approval of the Governor in Council.

Revision of
by-law fixing
tolls.

10. Every by-law fixing and regulating tolls shall be subject to revision by the Governor in Council, from time to time, after approval thereof; and after an Order in Council reducing the tolls fixed and regulated by any by-law, has been twice published in the *Canada Gazette*, the tolls mentioned in such Order in Council shall be substituted for those mentioned in the by-law, so long as the Order in Council remains unrevoked :

When Parlia-
ment may re-
duce tolls.

11. The Parliament of Canada may, from time to time, reduce the tolls upon the railway, but no such reduction shall, without the consent of the company, be made so as to make the said tolls produce less than fifteen per cent. per annum profit on the capital actually expended in its construction, and unless, on an examination made by the minister of the amount received and expended by the company, the net income from all sources, for the year then last past is found to have exceeded fifteen per cent. upon the capital so actually expended ; and the expression " capital," as used in this sub-section means the paid-up stock and *paid-up* share capital of the company, with interest added, for periods during which no dividend is paid, to the exclusion of all subsidies and bonuses, and, as regards the Canadian Pacific Railway, also to the exclusion of any debt of the company contracted on the pledge thereof, or of any part thereof :

Interpretation
of " capital."

By-law not in
force until
approved.

12. No by-law of any company, by which any tolls are to be imposed or altered, or by which any person other than the shareholders, officers and servants of the company are intended to be bound, shall have any force or effect until the same has been approved by the Governor in Council. 42 V., c. 9, s. 17 ;—44 V., c. 24, s. 1 ;—46 V., c. 24, s. 12, *part*.

GENERAL MEETINGS OF SHAREHOLDERS.

General meet-
ings of share-
holders.

17. The shareholders may assemble together at general meetings for purposes connected with or belonging to the undertaking, and, at any annual general meeting, may elect directors in the manner hereinafter provided. 42 V., c. 9, s. 18.

PRESIDENT AND DIRECTORS.

Election of
board of
directors.

18. A board of directors of the company to manage its affairs, the number of whom shall be stated in the special Act, shall be chosen annually by a majority of the shareholders voting at such election at a general meeting, the time and place for which shall be appointed by the special Act, and if such election is not held on the day appointed, the directors shall cause such election to be held within as short a delay as possible after the day appointed :

2. No person shall vote on such subsequent day except those who would have been entitled to vote if the election had been held on the day when it should have been held : Who entitled to vote at adjourned meeting.

3. Vacancies in the board of directors shall be filled in the manner prescribed by the by-laws : Vacancies, how filled.

4. No person shall be a director unless he is a shareholder, owning stock absolutely in his own right, and qualified to vote for directors at the election at which he is chosen : Qualification of director.

5. The method of calling general meetings, and the time and place of the first meeting of shareholders for the appointment of directors, shall be prescribed and appointed in the special Act : Calling general meetings, &c.

6. The number of votes to which each shareholder shall be entitled, on every occasion when the votes of the shareholders are to be given, shall be in the proportion of the number of shares held by him, unless otherwise provided by the special Act : Votes on shares.

7. Every shareholder, whether resident in Canada or elsewhere, may vote by proxy, if he sees fit, and if such proxy produces from his constituent an appointment in writing, in the words or to the effect following, that is to say :— Votes by proxy.

I, _____, of _____, one of the shareholders of the _____, do hereby appoint _____, of _____, to be my proxy, and, in my absence, to vote or give my assent to any business, matter or thing relating to the undertaking of the said _____ that is mentioned or proposed at any meeting of the shareholders of the said company, or any of them, in such manner as he, the said _____, thinks proper. In witness whereof, I have hereunto set my hand and seal, the _____ day of _____, in the year _____ : Form.

8. The votes by proxy shall be as valid as if the constituents had voted in person ; and every matter or thing proposed or considered at any meeting of the shareholders shall be determined by the majority of votes and proxies then present and given, and all decisions and acts of any such majority shall bind the company, and be deemed the decisions and acts of the company : Votes by proxy valid. Majority to govern.

9. The directors appointed at the last election, or those appointed in their stead, in case of vacancy, shall remain in office until the next ensuing election of directors : Term of office of directors.

Vacancies,
how filled.

10. In case of the death, absence or resignation of any of the directors, others may be appointed in their stead by the surviving directors; but if such appointment is not made, such death, absence or resignation, shall not invalidate the acts of the remaining directors:

President.

11. The directors shall, at their first or at some other meeting after the election, elect one of their number to be the president of the company, who shall always, when present, be the chairman of and preside at all meetings of

Term of office.

the directors, and shall hold his office until he ceases to be a director, or until another president has been elected in his stead; and they may, in like manner, elect a vice-president, who shall act as chairman in the absence of the president:

Vice-presi-
dent.

Quorum.

12. The directors, at any meeting at which not less than a quorum, the number of such quorum being settled by the special Act, are present, shall be competent to use and exercise all and any of the powers vested in the directors:

Acts of the
majority to
bind the
whole.

13. The act of a majority of a quorum of the directors present at any meeting regularly held, shall be deemed the act of the directors:

Votes of
directors.

14. No director shall have more than one vote except the chairman, who shall, in case of a division of equal numbers, have the casting vote:

Directors sub-
ject to share-
holders and
by-laws.

15. The directors shall be subject to the examination and control of the shareholders at their annual meetings, and shall be subject to all by-laws of the company, and to the orders and directions, from time to time, made or given at the annual or special meetings; but such orders and directions shall not be contrary to any express directions or provisions of this Act or of the special Act:

Disability of
officers and
contractors.

16. No person who holds any office, place or employment in, or who is concerned or interested in any contract under or with the company, shall be capable of being chosen a director, or of holding the office of director, nor shall any person who is a director of the company enter into, or be directly or indirectly, for his own use and benefit, interested in any contract with the company, other than a contract which relates to the purchase of land necessary for the railway, or be or become a partner of any contractor with the company:

By-laws shall
be made.

17. The directors shall make by-laws for the management and disposition of the stock, property, business and affairs of the company, not inconsistent with the laws of Canada, and for the appointment of all officers, servants and artificers, and prescribing their respective duties:

18. The directors shall, from time to time, appoint such officers as they deem requisite, and shall take sufficient security, by one or more bonds, or by the guarantee of any society or joint stock company incorporated and empowered to grant guarantees, bonds, covenants or policies for the integrity and faithful accounting of persons occupying positions of trust, or for other like purposes, as they deem expedient, from the managers and officers for the time being, for the safe keeping and accounting for by them respectively of the moneys raised by virtue of this Act and the special Act, and for the faithful execution of their duties, as the directors think proper :

Appointment of officers and security to be given by them.

19. In case of the absence or illness of the president, the vice-president shall have all the rights and powers of the president, and may sign all notes, bills, debentures and other instruments, and perform all acts which, by the regulations and by-laws of the company, or by the special Act, are required to be signed, performed and done by the president :

When vice-president shall act.

20. The directors may, at any meeting of directors, require the secretary to enter such absence or illness among the proceedings of such meeting ; and a certificate thereof, signed by the secretary, shall be delivered to any person requiring the same, on payment to the treasurer of one dollar, and such certificate shall be taken and considered as *prima facie* evidence of such absence or illness, at and during the period in the said certificate mentioned, in all proceedings in courts of justice or otherwise :

Absence of president may be entered on minutes, &c.

21. The directors shall cause to be kept and, annually, on the thirty-first day of December, to be made up and balanced, a true, exact and particular account of the moneys collected and received by the company or by the directors or managers thereof, or otherwise, for the use of the company, and of the charges and expenses attending the erecting, making, supporting, maintaining and carrying on of the undertaking, and of all other receipts and expenditures of the company or the directors. 42 V., c. 9, s. 19.

Annual statement to be prepared.

CALLS.

19. The directors may, from time to time, make such calls of money upon the respective shareholders, in respect of the amount of capital respectively subscribed or owing by them, as they deem necessary ; and at least thirty days' notice shall be given of each call, and no call shall exceed the amount prescribed in the special Act, or be made at a less interval than two months from the previous call, nor shall a greater amount be called in, in any one year, than the amount prescribed in the special Act ; but nothing herein contained shall prevent the directors from making more

Calls, and notice thereof.

More than one call by one resolution.

- Proviso. than one call by one resolution of the board : Provided, that the intervals between such calls, the notices of each call, and the other provisions of this Act and of the special Act, in respect of calls, are duly observed :
- Publication of notice. 2. All notices of calls upon the shareholders of the company shall be published weekly in the *Canada Gazette*, and a copy of the said *Gazette* shall, on production thereof, be conclusive evidence of the sufficiency of such notice :
- Payment of calls. 3. Every shareholder shall be liable to pay the amount of the call so made in respect of the shares held by him, to the persons and at the times and places, from time to time, appointed by the company or the directors :
- Interest on overdue calls. 4. If, on or before the day appointed for payment of any call, any shareholder does not pay the amount of such call, he shall be liable to pay interest for the same, at the rate of six per centum per annum, from the day appointed for the payment thereof to the time of the actual payment :
- Recovery by suit. 5. If, at the time appointed for the payment of any call, any shareholder fails to pay the amount of the call, he may be sued for the same in any court of competent jurisdiction, and the same shall be recoverable, with lawful interest from the day on which the call became payable :
- What allegations necessary in suits for calls. 6. In any action or suit to recover any money due upon any call, it shall not be necessary to set forth the special matter, but it shall be sufficient to declare that the defendant is the holder of one share or more, stating the number of shares, and is indebted in the sum of money to which the calls in arrear amount, in respect of one call or more upon one share or more, stating the number and amount of each of such calls, whereby an action has accrued to the company by virtue of the special Act. 42 V., c. 9, s. 20, *part*.

DIVIDENDS AND INTEREST.

- Declaration of dividend. **20.** At the *annual* general meeting of the shareholders of the company, from time to time holden, a dividend shall be declared out of the clear profits of the undertaking, unless such meeting decides otherwise :
- At so much per share. 2. Such dividend shall be at and after the rate of so much per share upon the several shares held by the shareholders in the stock of the company, as such meeting thinks fit to appoint or determine :
- Dividends not to impair the capital, &c. 3. No dividends shall be declared whereby the capital of the company is in any degree reduced or impaired, or be paid out of such capital, nor shall any dividend be paid, in

respect of any share, after a day appointed for payment of any call for money in respect thereof, until such call has been paid :

4. The directors may, in their discretion, until the railway is completed and opened to the public, pay interest at any rate not exceeding six per centum per annum, on all sums called up in respect of the shares, from the respective days on which the same have been paid, and such interest shall accrue and be paid at such times and places as the directors appoint for that purpose :

Interest on certain sums called in.

5. No interest shall accrue to any shareholder in respect of any share upon which any call is in arrear, or in respect to any other share held by such shareholder while such call remains unpaid. '42 V., c. 9, s. 21.

No interest on share in arrear.

INCREASE OF STOCK.

21. The original capital stock of any company may be increased, from time to time, to any amount, if such increase is sanctioned by a vote, in person or by proxy, of the shareholders who hold at least two-thirds in amount of the subscribed stock of the company, at a meeting expressly called by the directors for that purpose, by a notice in writing to each shareholder, delivered to him personally, or properly directed to him and deposited in the post office at least twenty days previously to such meeting, stating the time, place and object of the meeting, and the amount of the proposed increase ; and the proceedings of such meeting shall be entered in the minutes of the proceedings of the company, and thereupon the capital stock may be increased to the amount sanctioned by such vote. '42 V., c. 9, s. 7, sub-s. 20.

How capital stock may be increased.

Entry on minutes.

SHARES.

22. Shares in the company may, by the holders thereof, be sold and transferred by instrument in writing, made in duplicate, one part of which shall be delivered to the directors, to be filed and kept for the use of the company, and an entry thereof shall be made in a book to be kept for that purpose ; and no interest or dividend on the shares transferred shall be paid to the purchaser until such duplicate is so delivered, filed and entered :

Shares may be transferred.

2. Transfers shall be in the form following, varying the names and descriptions of the contracting parties as the case requires, that is to say :—

Form of deed of sale.

I, A. B., in consideration of the sum of _____, paid to me by C. D., hereby sell and transfer to him _____ share (or shares) of the stock of the _____, to hold to him, the

said C. D., his heirs, executors, administrators and assigns (or successors and assigns, as the case may be), subject to the same rules and orders and on the same conditions that I held the same immediately before the execution hereof. And I, the said C. D., do hereby agree to accept of the said share (or shares) subject to the same rules, orders and conditions. Witness our hands this day of in the year 18 :

Share personal property &c.

3. The stock of the company shall be personal property, but no shares shall be transferable until all previous calls thereon have been fully paid up, or until the said shares have been declared forfeited for the non-payment of calls thereon; and no transfer of less than a whole share shall be valid :

Transmission otherwise than by transfer.

4. If any share in the capital stock of the company is transmitted by the death, bankruptcy or last will, donation or testament, or by the intestacy of any shareholder, or by any lawful means other than the transfer hereinbefore mentioned, the person to whom such share is transmitted shall deposit in the office of the company a statement in writing, signed by him, which shall declare the manner of such transmission, together with a duly certified copy or probate of such will, donation or testament, or sufficient extracts therefrom, and such other documents or proof as are necessary; and without such proof the person to whom the share is so transmitted, as aforesaid, shall not be entitled to receive any part of the profits of the company, or to vote in respect of any such share as the holder thereof :

Company not bound to see to trusts.

5. The company shall not be bound to see to the execution of any trust, whether express, implied or constructive, to which any of the shares is subject; and the receipt of the person in whose name any share stands in the books of the company, or if it stands in the name of more than one person, the receipt of one of the persons named in the register of shareholders in respect thereof, shall, from time to time, be a sufficient discharge to the company for any dividend or other sum of money payable in respect of the share, notwithstanding any trust to which the share is then subject, and whether or not the company has had notice of the trust, and the company shall not be bound to see to the application of the money paid upon such receipt :

Certificate of proprietorship to be evidence.

6. The certificate of proprietorship of any share shall be admitted in all courts as *prima facie* evidence of the title of any shareholder, his executors, administrators or assigns, or successors and assigns, as the case may be, to the share therein specified :

Sale without certificate.

7. The want of such certificate shall not prevent the holder of any share from disposing thereof :

8. Every person who neglects or refuses to pay a ratable share of the calls as aforesaid, for the space of two months after the time appointed for the payment thereof, shall forfeit to the company, for the benefit thereof, his shares in the company, and all the profit and benefit thereof:

Penalty for refusal to pay calls.

9. No advantage shall be taken of the forfeiture unless the shares are declared to be forfeited at a general meeting of the company, assembled at any time after such forfeiture has been incurred:

When only forfeiture may be taken advantage of.

10. Every such forfeiture shall be an indemnification to and for every shareholder so forfeiting, against all actions, suits or prosecutions whatsoever, commenced or prosecuted, for any breach of contract or other agreement between such shareholder and the other shareholders, with regard to carrying on the undertaking:

Effect of forfeiture as to liability.

11. The directors may sell, either by public auction or private sale, and in such manner and on such terms as to them seem meet, any shares so declared to be forfeited, and also any shares remaining unsubscribed for in the capital stock of the company, or may pledge such forfeited or unsubscribed shares for the payment of loans or advances made or to be made thereon, or for the payment of any sums of money borrowed by or advanced to the company:

Forfeited shares may be sold.

12. A certificate of the treasurer of the company that the forfeiture of the shares was declared, shall be sufficient evidence of the fact, and of their purchase by the purchaser; and such certificate, with the receipt of the treasurer for the price of such shares, shall constitute a good title to the shares, and the certificate shall be, by the said treasurer, registered in the name and with the place of abode and occupation of the purchaser, and shall be entered in the books required to be kept by the by-laws of the company; and such purchaser shall thereupon be deemed the holder of such shares, and shall not be bound to see to the application of the purchase money, and his title to such shares shall not be affected by any irregularity in the proceedings in reference to such sale, and any shareholder may purchase any shares so sold:

Certificate of treasurer to be evidence of forfeiture and of title of purchaser.

13. Any shareholder who is willing to advance the amount of his shares, or any part of the money due upon his shares beyond the sums actually called for, may pay the same to the company, and upon the principal moneys so paid in advance, or so much thereof as, from time to time, exceeds the amount of the calls then made upon the shares in respect to which such advance is made, the company may pay such interest, at the lawful rate of interest for the time being, as the shareholders who pay such sum in advance and

Interest on sums paid in advance.

Proviso. the company agree upon; but such interest shall not be paid out of the capital subscribed. 42 V., c. 9, s. 20, *part, and s. 22.*

SHAREHOLDERS.

Liability of shareholders.

23. Every shareholder shall be individually liable to the creditors of the company for the debts and liabilities of the company, to an amount equal to the amount unpaid on the stock held by him, and until the whole amount of his stock has been paid up; but no such shareholder shall be liable to an action in respect of his said liability until an execution *at the suit of the creditor* against the company has been returned unsatisfied in whole or in part:

When and how municipal corporations may take stock.

2. Municipal corporations in any Province, in Canada duly empowered so to do by the laws of the Province, and subject to the limitations and restrictions in such laws prescribed, may subscribe for any number of shares in the capital stock of the company, and the mayor, warden, reeve or other head officer of any such corporation holding stock to the amount of twenty thousand dollars or upwards, shall be *ex officio* one of the directors of the company in addition to the number of directors authorized by the special Act:

Record of names and residence of shareholders.

3. A true and perfect account of the names and places of abode of the several shareholders shall be entered in a book, which shall be kept for that purpose. 42 V., c. 9, s. 23.

BY-LAWS, NOTICES, &C.

By-laws to be in writing and signed by the chairman.

Publication.

24. All by-laws, rules and orders, regularly made, shall be reduced to writing, and be signed by the chairman or person presiding at the meeting at which they are adopted, and shall be kept in the office of the company; and a printed copy of so much of them as relates to or affects any person other than the shareholders or servants of the company, shall be openly affixed in every place where tolls are to be collected, and a printed copy of so much of them as relates to the safety and liability of passengers, shall be openly affixed in each passenger car, and in like manner as often as any change or alteration is made in the same; and a copy of the same, or of any of them, certified as correct by the president or secretary, shall be evidence thereof in any court:

Copy to be evidence.

Approval of Governor in Council.

2. All such by-laws, rules and orders shall be submitted, from time to time, to the Governor in Council for approval:

Copies of minutes to be evidence.

3. Copies of the minutes of proceedings and resolutions of the shareholders of the company, at any general or special meeting, and of the minutes of proceedings and resolutions

of the directors, at their meetings, extracted from the minute books kept by the secretary of the company, and by him certified to be true copies extracted from such minute books, shall be evidence of such proceedings and resolutions in any court :

4. All notices given by the secretary of the company, by order of the directors, shall be deemed notices by the directors and the company :

Notice by secretary valid.

5. All notices of meetings of the shareholders of the company shall be published weekly in the *Canada Gazette*, and a copy of the said *Gazette* shall, on production thereof, be conclusive evidence of the sufficiency of such notice. 42 V., c. 9, s. 20, sub-s. 2, *part*, and s. 24.

Publication of notices of meetings.

WORKING OF THE RAILWAY.

25. Every servant of the company employed in 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 :

Servants to wear badge.

2. Checks shall be affixed by an agent or servant to every parcel of baggage having a handle, loop or fixture of any kind thereupon, delivered to such agent or servant for transport, and a duplicate of such check shall be given to the passenger delivering the same :

Checks to be affixed to baggage.

3. If such check is refused on demand, the company shall pay to such passenger the sum of eight dollars, which shall be recoverable in a civil action ; and no fare or toll shall be collected or received from such passenger, and if he has paid his fare the same shall be refunded by the conductor in charge of the train :

Penalty for refusing to affix check.

4. Any passenger who produces such check may himself be a witness in any action or suit brought by him against the company to prove the contents and value of his baggage not delivered to him :

Evidence of value of baggage.

5. No baggage, freight, merchandise or lumber cars shall be placed in rear of the passenger cars, and if any such car is so placed, the officer or agent who directs or knowingly permits such arrangement, and the conductor of the train, shall each be guilty of a misdemeanor, and be punishable accordingly :

Baggage cars not to be in rear of passenger cars.

6. Every locomotive engine shall be furnished with a bell of at least thirty pounds weight, and with a steam whistle :

Bells and whistles.

To be rung or sounded at crossings.

Penalty for non-compliance.

7. The bell shall be rung or the whistle sounded at the distance of at least eighty rods from every place at which the railway crosses any highway, and be kept ringing or be sounded at short intervals, until the engine has crossed such highway; and the company shall, for each neglect to comply with the provisions of this section, incur a penalty of eight dollars, and shall also be liable for all damage sustained by any person by reason of such neglect, and a moiety of such penalty and damages shall be chargeable to and collected by the company from the engineer who has charge of such engine, and who neglects to sound the whistle or ring the bell as aforesaid :

Intoxication a misdemeanor.

8. 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 :

Expulsion of passenger refusing to pay.

9. Every passenger who refuses to pay his fare, may, by the conductor of the train and the train servants of the company, be put out of the train, with his baggage, at any usual stopping place, or near any dwelling house, as the conductor elects, the conductor first stopping the train and using no unnecessary force :

Injury to passenger standing on platforms, &c.

10. No person injured while on the platform of a car, or on any baggage, wood or freight car, in violation of the 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 :

As to dangerous goods.

To be plainly marked.

Penalty.

11. No passenger shall carry, or require the company to carry upon its railway, aquafortis, oil of vitriol, gunpowder, nitro-glycerine, or any other goods which, in the judgment of the company, are of a dangerous nature; and every person who sends by the railway any such goods without, at the time of so sending the same, distinctly marking their nature on the outside of the package containing the same, and otherwise giving notice in writing to the station master or other servant of the company with whom the same are left, shall forfeit to the company the sum of five hundred dollars for every such offence :

Dangerous goods may be refused.

Carriage of such goods.

12. The company may refuse to take any package or parcel which it suspects to contain goods of a dangerous nature, or may require the same to be opened to ascertain the fact, and the company shall not carry any such goods of a dangerous nature, except in cars specially designated for that purpose, on each side of each of which shall be plainly painted, in large letters, the words, "dangerous explosives;" and for each neglect to comply with the provisions of this

sub-section, the company shall incur a penalty of five hundred dollars, which shall be recoverable by any person who sues for the same. 42 V., c. 9, s. 25, *part*.

TRAINS OVERDUE.

26. Every company, upon whose road there is a telegraph line in operation, shall have a blackboard put upon the outside of the station house, over the platform of the station, in some conspicuous place at each station of such company at which there is a telegraph office; and when any passenger train is overdue for half an hour at any such station, according to the time table of such company, the station master or person in charge at such station, shall write, or cause to be written with white chalk on such blackboard, a notice in English and French in the Province of Quebec, and in English in the other Provinces, stating, to the best of his knowledge and belief, the time when such overdue train may be expected to reach such station; and if, when that time has come, the train has not reached the station, the station master or person in charge of the station shall write, or cause to be written on the blackboard in like manner, a fresh notice stating, to the best of his knowledge and belief, the time when such overdue train may then be expected to reach such station:

Duty of station agents, &c., when train is overdue.

2. Every such company, station master or person in charge at any such station, shall incur a penalty not exceeding five dollars for every wilful neglect, omission or refusal to obey the provisions of this section, which shall be recoverable, in the Province of Quebec, before any two justices of the peace or in the circuit court of the district or of the county in which district or county such station is situate, and, in the other Provinces, before any two justices of the peace or the stipendiary or police magistrate for the city, town, district or county in which such station is situated, and shall belong to Her Majesty for the public uses of Canada:

Penalty for non-compliance.

3. Every proceeding brought under this section shall be commenced within one month following the commission of the offence, and not afterwards; but nothing in this section shall prejudice the right of any person to the recovery of damages from any such company, by reason of the detention of trains as aforesaid; and every such company shall have a printed copy of this section posted up in a conspicuous place at each of its stations at which there is a telegraph office. 42 V., c. 9, s. 26.

Time for proceedings limited.
Proviso.

ACTIONS FOR INDEMNITY; FINES AND PENALTIES AND PROCEDURE THEREFOR.

27. All actions or suits for indemnity for any damage or injury sustained by reason of the railway, shall be com-

Limitation of actions for damages.

menced within six months next after the time when such supposed damage is sustained, or if there is continuation of damage, within six months next after the doing or committing of such damage ceases, and not afterwards; and the defendants may plead the general issue and give this Act and the special Act and the special matter in evidence at any trial to be had thereupon, and may prove that the same was done in pursuance of and by the authority of this Act and the special Act. 42 V., c. 9, s. 27, sub-s. 1.

Recovery of penalties, fines and forfeitures.

28. All penalties, fines and forfeitures imposed under this part of this Act, or under the special Act, or under any by-law, except those for the levying and recovering of which special provision is hereinbefore made, shall be recoverable or enforceable in a summary manner before one or more justices of the peace, under the "*Act respecting summary proceedings before Justices of the Peace,*" or by civil action in any court of competent jurisdiction :

How applicable.

2. All the fines, penalties and forfeitures recovered or enforced under the next preceding sub-section, the application whereof is not hereinbefore particularly directed, shall be paid and belong to the person who sues for the same. 42 V., c. 9, s. 27, sub-s. 2;—47 V., c. 11, s. 2.

Violation of this Act, &c., a misdemeanor.

29. Every violation of this Act or of the special Act, by the company or by any other person, for which no punishment or penalty is herein provided, is a misdemeanor, and shall be punishable accordingly; but such punishment shall not exempt the company, if it is the offender, from the forfeiture, under this Act and the special Act, of the privileges conferred on it by the said Acts, if by the provisions thereof, or by law, the same are forfeited by such violation. 42 V., c. 9, s. 27, sub-s. 4.

GENERAL PROVISIONS.

Carriage of Her Majesty's mails, &c.

30. Her Majesty's mail, Her Majesty's naval or military forces or militia, and all artillery, ammunition, provisions or other stores for their use, and all policemen, constables or others travelling on Her Majesty's service, shall at all times, when required by the Postmaster General of Canada, the Commander of the Forces, or any person having the superintendence and command of any police force respectively, and with the whole resources of the company if required, be carried on the railway, on such terms and conditions and under such regulations as the Governor in Council makes. 42 V., c. 9, s. 28, sub-s. 1.

Government to have use of telegraph if required.

31. The 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

it has, at the exclusive use of the Government of Canada, receiving thereafter reasonable compensation for such service. 42 V., c. 9, s. 28, sub-s. 2.

32. 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 so much of the lands of the company as is necessary for the purpose. 42 V., c. 9, s. 28, sub-s. 3.

Telegraph line may be constructed by Government.

33. Any further enactments which the Parliament of Canada hereafter makes for the carriage of the mail or of Her Majesty's forces, and other persons and articles as aforesaid, or the tolls therefor, or in any way respecting the use of any electric telegraph or other service to be rendered to the Government, shall not be deemed an infringement of the privileges intended to be conferred by this Act or the special Act. 42 V., c. 9, s. 28, sub-s. 4.

Further enactments may be made by Parliament.

34. No contracts for works of construction or maintenance of the railway, except works of ordinary repair, or of immediate necessity, shall be entered into until after tenders for such works respectively have been invited by public notice therefor, given for at least four weeks in a newspaper published in the place nearest to that at which the work is required to be done, but the company shall not be compelled to accept any such tender. 42 V., c. 9, s. 28, sub-s. 5.

Tenders for certain works to be called for.

35. If the construction of the railway is not commenced, and ten per cent. on the amount of the capital is not expended thereon, within three years after the passing of the special Act, or if the railway is not finished and put in operation in ten years from the passing of such special Act, the corporate existence and powers of the company shall cease. 42 V., c. 9, s. 28, sub-s. 6.

Time for completion of railway, &c., limited.

36. After the opening of the railway, or any part thereof, to the public, and within the first fifteen days after the opening of each session of Parliament, an account shall be annually submitted to the three branches thereof, containing a detailed and particular account, attested upon oath by the President, or in his absence, by the Vice-President, of the moneys received and expended by the company, and a classified statement of the passengers and goods transported by the company, with an attested copy of the last annual statement. 42 V., c. 9, s. 28, sub-s. 7.

Annual account for Parliament.

37. No further provisions which Parliament hereafter makes, with regard to the form or details of such account, or the mode of attesting or rendering the same, shall be deemed

Form may be varied.

an infringement of the privileges hereby granted to the company. 42 V., c. 9, s. 28, sub-s. 8.

Corporation
may be dis-
solved.

38. Parliament may, at any time, annul or dissolve any company; but such dissolution shall not take away or impair any remedy given against such company, its shareholders, officers or servants, for any liability previously incurred. 42 V., c. 9, s. 28, sub-s. 9.

Certain rights
saved.

39. Nothing herein contained shall affect in any manner the rights of Her Majesty, or of any person, except such as are herein mentioned. 42 V., c. 9, s. 28, sub-s. 10.

PART TWO.

INTERPRETATION.

Interpreta-
tion.

40. In *Part Two* of this Act, unless the context otherwise requires:—

“Company.”

(a) *The expression “company” means any railway company within the legislative authority of the Parliament of Canada;*

“Railway
Company.”

(b) *The expression “railway company” or “company” includes any person who is the owner or lessee of, or a contractor working any railway to which Part Two of this Act applies;*

“Engineer.”

(c) *The expression “engineer” includes engineers when more than one are appointed. 42 V., c. 9, s. 98.*

AUTHORITY TO ACQUIRE ADDITIONAL LANDS.

Proceedings
for acquiring
additional
lands.

41. Whenever any company requires, at any station or place on the line of such railway, more ample space for the convenient accommodation of the public and of the traffic on the railway than it then possesses or can take without the consent of the proprietors thereof, the company may cause a plan to be made of the additional land required at such station or place for the purposes aforesaid, which is not in actual use for similar purposes by any other railway company, and for the purpose of making such plan shall have the powers granted to railway companies under Part One of this Act for making surveys:

Transmission
of plan and
application.

2. The company may transmit such plan to the minister with an application, on behalf of the company, supported by affidavit, referring to such plan and stating that certain land shown thereon is necessary for such purposes, and that no other land suitable for such purposes can be acquired at such

place on reasonable terms and with less injury to private rights, and requesting the minister to authorize the taking thereof for such purposes under this Act :

3. At least ten days' notice of such application shall be given to the owner or possessor of such property; and the correctness of the plan and the truth of the allegations in such application shall be certified by the president or one of the directors of the company, and by its engineer, and such plan and statement shall be made and transmitted to the minister in duplicate. 42 V., c. 9, ss. 10 *and* 14, *part*. Notice to owner, &c.

42. The minister shall inquire into the correctness of the plan and the truth of the allegations of such application, and if he is satisfied thereof, shall grant a certificate to that effect, and declaring it to be necessary in the public interest that the land shown on such plan, or any less quantity, should be acquired by the company; and such certificate shall be annexed to one of the duplicates of the said plan and statement, and the other duplicate shall remain at the department. 42 V., c. 9, ss. 11 *and* 14, *part*. Certificate of minister required.

43. Upon the granting of such certificate, and by virtue thereof, the company may take the land shown on the said plan as required for such purposes, without the consent of the proprietors; and the company and all persons who could not otherwise convey the same to the company, shall have, with respect to any such land, all the powers granted in section *eight* of this Act to railway companies and persons who could not otherwise convey the same, with respect to lands which may be taken without the consent of the proprietors thereof; and the provisions of the said section, except such as refer to the map or plan and book of reference therein mentioned, or as limit the extent of land to be taken, shall apply and are hereby extended to the land mentioned in the said certificate of the minister, and to all the proceedings connected with or consequent upon the acquiring or taking of such land, or any part thereof, with or without the consent of the proprietor; and if at any time thereafter the company does not require the whole or any portion of the land acquired under the two sections next preceding, then such land as is not so required shall be sold by public auction, after thirty days' notice thereof in any newspaper. 42 V., c. 9, ss. 12 *and* 14, *part*. Effect of certificate.
Powers of the company in such case.

44. Every such certificate purporting to be signed by the minister, shall be received as authentic in all courts, without proof of such signature or other evidence, unless its authenticity is called in question on behalf of Her Majesty. 42 V., c. 9, ss. 13 *and* 14, *part*. Land not required may be sold.
Certificate to be evidence.

45. Any company may, for the purpose of connecting any city, town, village, manufactory or mine, or any quarry of Power to construct branch

lines for certain purposes.

stone or slate, or any well or spring, with the main line of the railway of the company, or with any branch thereof, or with any railway worked or leased by the company, 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, switches or branch lines of railway, not exceeding in any one case six miles in length; but such company shall not proceed to locate or build any branch line of more than one quarter of a mile in length, under this section, until public notice has been given, for six weeks, in some newspaper published in the county or counties through or in which such branch line is to be made, that it is the intention of the company to apply to the Governor in Council to sanction the building of such branch line, and to appropriate the necessary lands for that purpose, under the compulsory powers vested in such company by this Act, or by any other Act in its behalf; nor unless the company has, prior to the first publication of such notice, deposited in the registry office of any city, county or part of a county, in which the line or any part thereof is to be constructed, the maps and plans indicating the location of the line; nor until the company has submitted the same to, and such maps and plans have been approved of by the Governor in Council, after the expiration of the said notice; and the order of the Governor in Council, approving the said maps and plans, shall limit the time, which shall not exceed two years from the date of such order, within which the company may construct such branch line:

Notice to be given.

Maps and plan.

Approval of Governor in Council.

Time for construction to be limited.

Powers as to such branch lines.

2. Every such company may, for any and every such purpose, exercise all the powers given to it with respect to its main line, under the special Act and this Act; and each and all provisions of the said Acts which are applicable to such extension shall extend and apply to every such siding, switch or branch line of railway. 42 V., c. 9, s. 7, sub-s. 18, and s. 100, *part.*

Partially re-drafted.

The reference to Acts amending special Act and relating to company are omitted as unnecessary.

SNOW FENCES.

Snow fences may be erected on adjoining lands.

46. Every company may, on and after the first day of November, in each year, enter into and upon any lands of Her Majesty, or into and upon the lands of any person whomsoever, lying along the route or line of any railway, and erect and maintain snow fences thereon, subject to the payment of such land damages, if any, as are thereafter established, in the manner provided by law with respect to such railway, to have been actually suffered; but every snow fence so erected shall be removed on or before the first day of April then next following. 42 V., c. 9, s. 16, sub-s. 6, *part.*

BRIDGES.

17. Every bridge or other erection or structure, over or through or under which any railway passes, and every tunnel through which any 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 :

As to height of over-head bridges.

2. The company, 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 consent of the municipality or of the owner 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 the Governor in Council may exempt any bridge, erection, structure or tunnel existing on the twenty-first day of March, one thousand eight hundred and eighty-one, from the operation of this section :

No higher cars to be used till bridge is raised.

Exception.

3. Whenever any such bridge, erection, structure or tunnel is constructed over or on the line of a railway, or whenever it becomes necessary to reconstruct any such bridge, erection, 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 bridge, erection, structure or tunnel, and the approaches thereto, if necessary, shall be constructed or reconstructed at the cost of the company, or of the municipality or other owner of the bridge, erection, 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, erection, structure or tunnel :

Bridge, &c., to be raised when re-constructed.

4. Such company shall thereafter, before using higher freight cars than those used on its railway at the time of the construction or reconstruction of, or large repairs to such bridge, erection, structure or tunnel, after having first obtained the consent of the municipality, or of the owner of such bridge, erection, structure or tunnel, raise the said bridge or other erection, structure or tunnel, 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 car then about to be used on the railway :

And clear headway maintained thereafter.

Penalty for non-compliance.

5. Every company shall incur a penalty not exceeding fifty dollars per day for every day of wilful neglect, omission or refusal to obey the provisions of this section. 44 V., c. 24, s. 3;—46 V., c. 24, s. 5.

HIGHWAYS AND CROSSINGS.

Inclination of highway at crossings.

48. The inclination of the ascent or descent, as the case may be, of any approach by which any roadway is carried upon, over or under any railway, shall not be greater than one foot of rise or fall for every twenty feet of the horizontal length of such approach; and a good and sufficient fence shall be made on each side of such approach, and of the bridge or passage connected with it, which fence shall be at least four feet in height from the surface of the approach, bridge or passage; and in respect to railways *which, on the nineteenth day of April, one thousand eight hundred and eighty-four, were under construction or already constructed*, the railway committee shall determine the proportion in which the cost of providing such fencing for such approach shall be borne by the company and the municipality or person interested. 47 V., c. 11, s. 10.

Fences.

Distribution of expense in certain cases.

Officer to be stationed at crossing.

49. Every company shall station an officer at every point on its 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. 42 V., c. 9, s. 74.

Train to stop at level crossing.

50. Every locomotive or railway engine, or train of cars, on any railway, shall, before it crosses the track of any other railway on a level, be stopped for the space of at least one minute. 42 V., c. 9, s. 75.

Rate of speed in cities, &c.

51. 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 an hour, unless the track is properly fenced. 42 V., c. 9, s. 76.

As to train moving reversely.

52. Whenever any train of cars is moving reversely in any city, town or village, the locomotive being in the rear, the company shall station, on the last car in the train, a person who shall warn persons standing on or crossing the track of such railway, of the approach of such train; and for every violation of any of the provisions of this section or of any of the three sections next preceding, the company shall incur a penalty of one hundred dollars. 42 V., c. 9, s. 77.

Cars not to stand on highway crossing.

53. Whenever any railway crosses any public highway on the level, the company shall not, nor shall its officers, servants or agents, wilfully permit any engine, tender or car, or any portion thereof, to stand on any part of such highway for a

longer period than five minutes at one time; and if in any city, town or village, a train is waiting for more than five minutes, such waiting train shall be cut so as to clear the highway:

2. In every case of a violation of this section, every such officer, servant and agent who has under or subject to his control, management or direction, any engine, tender or car which, or any portion of which, is wilfully allowed to stand on such highway longer than the time specified in this section, shall, and such company shall also, for each such violation, incur a penalty not exceeding fifty dollars—which penalty shall be recoverable, with costs, in any court of competent jurisdiction, by the informer or any person who sues for the same; and a moiety of such penalty shall belong to Her Majesty, and the other moiety shall belong to the person who sues for the same: Provided always, that if such alleged violation is, in the opinion of the court, excusable, the action for the penalty may be dismissed, but without costs. 47 V., c. 11, s. 8.

Penalty for violation.

How recoverable and applied.

Proviso.

54. Every company shall make the crossings which it is bound to furnish to persons across whose lands the railway is carried, convenient and proper for the passing of farmers' carts and other vehicles over the same; and the persons for whose use such crossings are furnished shall keep the gates at each side of the railway closed when not in use; and any person on whose lands such gates are, shall incur a penalty of twenty dollars for each occasion on which such gate is left open without some person being at or near it to prevent animals from passing through it on to the railway; which penalty shall be recoverable in any court of competent jurisdiction, by the informer or person who sues for the same, a moiety whereof shall belong to such informer or person, and the other moiety whereof shall belong to Her Majesty; and the owner or occupier of the land on which any such gate is unlawfully left open as aforesaid, shall be liable to the railway company for any damage to the property of the company or for which the company is responsible, by reason of such gate having been so left open; and no person, any of whose cattle are killed by any train owing to the non-observance of this section, shall have any right of action against any company in respect to the same being so killed. 47 V., c. 11, s. 9.

Farm crossings.

Penalty for leaving gates open.

Liability of owner for damages.

Company not liable in such case.

55. 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 the safe passage of the trains. 42 V., c. 9, s. 82.

Crossings to be fenced.

TRAFFIC ARRANGEMENTS.

56. In this section the expression "traffic" includes not only passengers and their baggage, goods, animals and things

Interpretation.

“Traffic.” conveyed by railway, but also cars, trucks and vehicles of any description adapted for running over any railway; and the expression “railway” includes all stations and depots of the railway; and a railway shall be deemed to come near another when some part of the one is within one mile of some part of the other:

Arrangements for interchange of traffic.

2. The directors of any company may, at any time, make and enter into any agreement or arrangement with any other company, either in Canada or elsewhere, for the regulation and interchange of traffic passing to and from the company's railways, and for the working of the traffic over the said railways respectively, or for either of those objects separately, and for the division and apportionment of tolls, rates and charges in respect of such traffic, and generally in relation to the management and working of the railways, or any of them, or any part thereof, and of any railway or railways in connection therewith, for any term not exceeding twenty-one years, and to provide, either by proxy or otherwise, for the appointment of a joint committee or committees for the better carrying into effect any such agreement or arrangement, with such powers and functions as are considered necessary or expedient, subject to the consent of two thirds of the stockholders voting in person or by proxy; and also to the approval of the Governor in Council:

Proviso; for approval.

Notice of application for approval.

3. Before such approval is given, notice of the application therefor shall be published in the *Canada Gazette* for at least two months previously to the time therein named for the making of such application, and such notice shall state a time and place when the application is to be made, and that all persons interested may then and there appear and be heard on such application:

Facilities to be afforded in respect of traffic.

4. Every company shall, according to its power, afford all reasonable facilities for the receiving and forwarding and delivery of traffic upon and from the several railways belonging to or worked by such companies respectively, and for the return of carriages, trucks and other vehicles; and no such company shall make or give any undue or unreasonable preference or advantage to or in favor of any particular person or company, or any particular description of traffic in any respect whatsoever, nor shall any such company subject any particular person or company, or any particular description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever; and every company having or working railways which form part of a continuous line of railway, or which intersect any other railway, or which has the terminal station or wharf of the one near the terminal station or wharf of the other, shall afford all due and reasonable facilities for receiving and forwarding all the traffic arriving by one of such railways by the other, without

No undue advantage.

any unreasonable delay, and without any such preference or advantage, or prejudice or disadvantage, as aforesaid, and so that no obstruction is offered to the public desirous of using such railways as a continuous line of communication, and so that all reasonable accommodation, by means of the railways of the several companies, is, at all times, afforded to the public in that behalf; and any agreement made between any two or more companies contrary to this sub-section shall be unlawful, and null and void :

Agreement in violation void.

5. Every company which grants any facilities to any incorporated express company shall grant equal facilities on equal terms and conditions to any other incorporated express company which demands the same :

Equal facilities to express companies.

6. If any officer, servant or agent of any company, who has the superintendence of the traffic at any station or depot thereof, refuses or neglects to receive, convey or deliver at any station or depot of the company for which they are destined, any passenger, goods or thing, brought, conveyed or delivered to him or such company, for conveyance over or along its railway from that of any other company, intersecting or coming near to such first mentioned railway, or in any way wilfully violates the provisions of the *fourth* sub-section of this section—such first mentioned company, or such officer, servant or agent, personally, shall, for each such neglect or refusal, be liable, on summary conviction, to a penalty not exceeding fifty dollars over and above the actual damages sustained; which penalty shall be recoverable with costs, by the railway company or by any person aggrieved by such neglect or refusal, and such penalty shall belong to the said railway company, or other person so aggrieved. 42 V., c. 9, s. 60 ;—46 V., c. 24, s. 11, *part*, and s. 13.

Penalty for refusal by officer to receive and convey goods.

Recovery and application.

RAILWAY CONSTABLES.

57. *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, Manitoba, the North-West Territories 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, on the application of the directors of any company whose railway 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, or on the application of any clerk or agent of such company thereto authorized by such directors, may, in their or his discretion, appoint any persons recommended for that purpose by such directors, clerk or agent, 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 :—

Appointment of railway constables.

Oath to be taken.

Form of oath.

“ I, A. B., having been appointed a constable to act upon
 “ and along (*here name the railway*), under the provisions
 “ of “ *The Railway 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 adminis-
 tered.

Powers of
 such con-
 stable.

2. Such oath or declaration shall be administered in either of the Provinces of Ontario, Nova Scotia, New Brunswick, British Columbia, Prince Edward Island, Manitoba, the North-West Territories or the District of Keewatin, by any one justice of the peace, and in the Province of Quebec by any such judge, clerk, or judge of the sessions of the peace ; and every constable so appointed, who 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, belonging to such company, 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, or through or to which any railway passes, which is worked or leased by such company, 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 :

Arrest of
 offenders.

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 or by-laws affecting the railway, before any justice or justices appointed for any county, city, town, parish, district or other local jurisdiction within which 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 :

Dismissal of
 constable.

4. Any two justices of the peace, in either of the Provinces of Ontario, Nova Scotia, New Brunswick, British Columbia, Prince Edward Island, or Manitoba, or in the North-West Territories or 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, may dismiss any such constable, who is acting within their several jurisdictions ; and the directors of such company, or any clerk or agent of such company thereto authorized by such directors, may dismiss any such constable who is acting on such railway ; and upon every such dismissal, all powers, protections and privileges which belonged 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 :

Effect of dismissal.

5. Every such company shall cause to be recorded in the office of the clerk of the peace, for every county, city, town, parish, district or other local jurisdiction wherein such railway passes, the name and designation of every constable so appointed at its 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 shall keep such record in such form as the railway committee, from time to time, directs, in a book which shall be open to public inspection, charging such fee as the railway committee, from time to time, authorizes :

Record of appointment to be kept.

6. Every such 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 wherein such railway passes, to a penalty not exceeding eighty dollars, which penalty may be deducted from any salary due to such offender, if such constable is in receipt of a salary from the company, or shall be liable to imprisonment, with or without hard labor, for a term not exceeding two months :

Punishment of constable guilty of neglect of duty.

7. Everyone who assaults or resists any constable, appointed as aforesaid, 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. 42 V., c. 9, s. 61.

And of persons resisting him.

THE RAILWAY COMMITTEE.

58. The Governor in Council may, from time to time, appoint such members of the Queen's Privy Council for Canada as he sees fit, to the number of at least four, to constitute the Railway Committee of the Privy Council, and such commit-

Railway committee.

te shall have the powers and perform the duties assigned to it by this Act. 42 V., c. 9, s. 35.

Chairman and secretary.

59. The railway committee shall appoint one of its members to be chairman, and the deputy of the Minister of Railways and Canals, or some other fit person appointed by the committee, shall be the secretary of the committee. 42 V., c. 9, s. 36.

Notice to railway committee before railway is opened.

60. No railway, or portion of any railway, shall be opened for the public conveyance of passengers, until one month after notice in writing of the intention to open the same is given to the railway committee by the company to which the railway belongs, and until ten days after notice in writing is given to the railway committee by the company, of the time when the railway or portion of railway will be, in the opinion of the company, sufficiently completed for the safe conveyance of passengers, and ready for inspection. 42 V., c. 9, s. 37.

Penalty for non-compliance.

61. If any railway or portion of a railway is opened without such notices, the company to which such railway belongs shall forfeit to Her Majesty the sum of two hundred dollars for every day during which the same continues open, until the said notices have been duly given and have expired. 42 V., c. 9, s. 38.

Railway to be inspected.

62. The railway committee, upon receiving such notification, shall direct one or more of the engineers attached to the department to examine the railway proposed to be opened, and all bridges, culverts, tunnels, road crossings and other works and appliances connected therewith, and also all engines and other rolling stock intended to be used thereon; and if the inspecting engineer reports in writing to the railway committee that, in his opinion, the opening of the same would be attended with danger to the public using the same, by reason of the incompleteness of the works or permanent way, or of the insufficiency of the establishment for working such railway, together with the ground of such opinion, the railway committee, with the sanction of the Governor in Council, and so from time to time, as often as such engineer, after further inspection thereof, reports to the like effect, may order and direct the company to which the railway belongs, to postpone such opening for any time 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. 42 V., c. 9, s. 39.

Postponement of opening if report is unfavorable.

Penalty for opening contrary to order.

63. If any railway or any portion thereof is opened contrary to such order or direction of the railway committee, the company to whom the railway belongs shall forfeit to Her Majesty the sum of two hundred dollars for every day

during which the same continues open contrary to such order or direction. 42 V., c. 9, s. 40.

64. No such order shall be binding upon the company unless a copy of the report of the inspecting engineer on which the order is founded is delivered to the company with such order. 41 V., c. 9, s. 41.

Order not binding without notice.

65. Whenever the railway committee receives information to the effect that any bridge, culvert, viaduct, tunnel or any other portion of any railway, or any engine, car or carriage used or for use on any railway, is dangerous to the public using the same, from want of repair, insufficient or erroneous construction, or from any other cause; or whenever circumstances arise which, in its opinion, render it expedient, it may direct any engineer as aforesaid to examine and inspect the railway or any portion thereof, or of the works connected therewith, or the engines and other rolling stock in use thereon, or any portion thereof; and upon the report of the engineer or engineers, may condemn the railway, or any portion thereof, or any of the rolling stock or other appliances used thereon, 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 any new bridge, culvert, viaduct or tunnel, or of any material for the said railway; and thereupon the company to which such railway belongs, or the company using, running or controlling the same, shall, after notice thereof in writing, signed by the chairman of the committee and countersigned by the secretary thereof, proceed to make good or remedy the defects in the said portions of the railway, or in the locomotive, car or carriage which has been so condemned, or shall make such change, alteration or substitution hereinbefore referred to, as has been required in manner aforesaid by the committee. 42 V., c. 9, s. 42.

Proceedings if part of railway is out of repair.

Defects to be made good.

66. If in the opinion of any such engineer it is dangerous for trains or vehicles to pass over any railway, or any portions thereof, until alterations, substitutions or repairs are made thereon, or that any particular car, carriage or locomotive should be run or used, the said engineer may forthwith forbid the running of any train or vehicle over such railway or portion of railway, or the running or using of any such car, carriage or locomotive, by delivering or causing to be delivered to the president, managing director or secretary or superintendent of the company owning, running or using such railway, or to any officer having the management or control of the running of trains on such railway, a notice in writing to that effect with his reasons therefor, in which he shall distinctly point out the defects or the nature of the danger to be apprehended. 42 V., c. 9, s. 43.

Running of trains may be forbidden in case of danger.

Report and
action
thereon.

67. The inspecting engineer shall forthwith report the same to the railway committee, which, 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 company affected thereby. 42 V., c. 9, s. 44.

Engineer may
examine
works, &c.

68. Every engineer so appointed to inspect any railway or works, may at all reasonable times, upon producing his authority if required, enter upon and examine the said railway and the stations, fences or gates, road crossings, cattle guards, works and buildings, and the engines, cars and carriages belonging thereto. 42 V., c. 9, s. 45.

Information to
be afforded
him.

69. Every 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 inquired into by him, and shall submit to such inspecting engineer all plans, specifications, drawings and documents relating to the construction, repair or state of repair of such railway or any portion thereof, whether a bridge, culvert or other part. 42 V., c. 9, s. 46, sub-s. 1.

Engineer to be
conveyed by
the company.

70. Every such inspecting engineer shall have the right, whilst engaged in the business of such inspection, to travel without charge on any of the ordinary trains running on the railway, and to use the telegraph wires and machinery in the offices of or under the control of any such company. 42 V., c. 9, s. 46, sub-s. 2.

Telegraph
operators to
obey his
orders.

71. The operators or officers employed in the telegraph offices of or under the control of the company, shall, without unnecessary delay, obey all orders of any such inspecting engineer for transmitting messages; and every such operator or officer who neglects or refuses so to do, shall, for every such offence, incur a penalty of forty dollars. 42 V., c. 9, s. 46, sub-s. 3.

Proof of his
authority.

72. 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 such inspecting engineer. 42 V., c. 9, s. 46, sub-s. 4.

Substitution
of fixed for
movable
bridges.

73. The Governor in Council may, upon the report of the railway committee, authorize or require any company to construct fixed and permanent bridges, or to substitute such bridges in the place of swing, draw or movable bridges on the line of such railway, within such time as the Governor in Council directs; and for every day after the period so fixed during which the company uses such swing, draw or movable bridges, the company shall forfeit and pay to Her Majesty

Penalty for
non-compli-
ance.

the sum of two hundred dollars; and no company shall substitute any swing, draw or movable bridge in the place or stead of any fixed or permanent bridge already built and constructed, without the previous consent of the railway committee. 42 V., c. 9, s. 47.

No swing bridge to be substituted without permission.

74. Whenever any portion of a railway is constructed, or authorized or proposed to be constructed upon or along or across any street or other public highway on the level or otherwise, the company, before constructing or using the same, or in the case of railways already constructed within such time as the railway committee directs, shall submit a plan and profile of such portion of railway for the approval of the railway committee; and the railway committee, if it appears to it expedient or necessary for the public safety, may, from time to time, with the sanction of the Governor in Council, authorize or require the company to which such railway belongs, within such time as the said committee directs, to protect such street or highway by a watchman or by a watchman and gates or other protection, or to carry such street or highway either over or under the said railway by means of a bridge or arch, instead of crossing the same on the level, or to divert such street or highway either temporarily or permanently, or to execute such other works and take such other measures as under the circumstances of the case appear to the railway committee best adapted for removing or diminishing the danger arising from the then position of the railway; and all the provisions of law at any such time applicable to the taking of land by such company, and to its valuation and conveyance to the company, and to the compensation therefor, shall apply to the case of any land required for the proper carrying out of the requirements of the railway committee under this section:

Plan of crossing of highway on the level to be submitted.

Powers of railway committee in such case.

As to land required.

2. The railway committee may give such directions and make such stipulations, conditions or orders respecting such works and the execution thereof, and the apportionment of the costs thereof and of any such measures of protection, between the said company and any person interested therein, as appear to the railway committee just and reasonable:

Railway committee may make stipulations.

3. Every company shall incur a penalty of fifty dollars for each and every day after the expiration of the date fixed by the railway committee for the execution of any such works during which such works remain uncompleted, and for each and every day after the date fixed by the railway committee for the taking of any measure for the protection of any such street or highway, or for removing or diminishing such danger as aforesaid, on which the company fails to take such measure:

Penalty for non-compliance.

4. Such penalty shall be recoverable, with costs of suit, either by information in the Exchequer Court of Canada, at

How recoverable.

the suit of the Attorney General of Canada on behalf of Her Majesty, in which case the whole of such penalty shall belong to Her Majesty, or it shall be recoverable in any court of competent jurisdiction by the municipal corporation of any municipality in which such company has made default, in which case a moiety of the penalty shall belong to such municipal corporation, and the other moiety shall belong to Her Majesty. 47 V., c. 11, s. 3, *part.*

Powers as to construction or repair or in carrying out orders of committee.

75. The company, either for the purpose of constructing or repairing its railway, or for the purpose of carrying out the requirements of the railway committee, or in the exercise of the powers conferred upon it by the railway committee, may enter upon any land which is not more than two hundred yards distant from the centre of the located line of the railway, and which is not a garden or orchard attached to a house, or a park, planted walk, avenue or ground ornamentally planted, and may occupy the said lands as long as is necessary for the purposes aforesaid; and all the provisions of law at any time applicable to the taking of lands by such railway company, and its valuation and the compensation therefor, shall apply to the case of any land so required; but before entering upon any land for the purposes aforesaid, the company shall, in case the consent of the owner is not obtained, pay into the office of one of the superior courts for the Province in which the lands are situated such sum, with interest thereon for six months, as is after two clear days' notice to the owner of the land, or to the person empowered to convey the same or interested therein, fixed by a judge of any one of such superior courts. 47 V., c. 11, s. 3, *part.*

Payment into court if price is not agreed on.

If railway is out of repair at a crossing.

76. Whenever that portion of any railway which crosses or is constructed upon or along any turnpike road, street or other public highway on the level is out of repair, the chief officer of the municipality, or other local division, having jurisdiction over such highway, may serve a notice upon the company in the usual manner, requiring the repair to be forthwith made; and if the company does not forthwith make the same, such officer may transmit a copy of the notice so served to the secretary of the railway committee; and thereupon the committee shall, with all possible despatch, appoint a day for an examination into the matter; and shall, by mail, give notice to such chief officer, and to the company, of the day so fixed:

Inspection and proceedings thereupon.

2. Upon the day so named the said portion of the railway shall be examined by an engineer appointed by the railway committee, and any certificate under his hand shall be final on the subject so in dispute between the parties; and if the said engineer determines that any repairs are required, he shall specify the nature thereof in his certificate, and

direct the company to make the same; and the company shall thereupon, with all possible despatch, comply with the requirements of such certificate:

3. In case of default, the proper authority in the municipality or other local division within whose jurisdiction the said portion of the railway is situate, may make such repairs, and may recover all costs, expenses and outlays in the premises, by action against the company in any court of competent jurisdiction, as money paid to the company's use; but neither this section nor any proceeding had thereunder shall at all affect any liability otherwise attaching to such company in the premises 46 V., c. 24, s. 4. Provision if the company makes default.

77. The railway committee, or the inspecting engineer, may limit the number of times or rate of speed of running of trains or vehicles, upon any railway or portion of railway, until such alterations or repairs as he thinks sufficient have been made, or until such times as he thinks prudent; and the company owning, running or using such railway shall forthwith comply with any such order of the railway committee or inspecting engineer, upon notice thereof as aforesaid; and for every act of non-compliance therewith, every such company shall forfeit to Her Majesty the sum of two thousand dollars. 42 V., c. 9, s. 50. Regulation of speed of trains, &c.

78. The railway committee may:—

Powers of
Committee.

(a) Regulate and limit the rate of speed at which railway trains and locomotives may be run in any city, town or village, or in any class of cities, towns or villages described in any regulation; limiting, if the said railway committee thinks fit, the rate of speed within certain described portions of any city, town or village, and allowing another rate of speed in other portions thereof, which rate of speed shall not in any case exceed six miles an hour, unless the track is properly fenced; Rate of speed in cities &c.

(b) Make regulations with respect to the use of the steam whistle within any city, town or village, or any portion thereof; Steam whistle.

(c) Impose penalties, not exceeding twenty dollars, for each offence on every person who offends against any regulation made under this section—which penalties shall be recoverable upon summary conviction, with costs, and shall belong to Her Majesty; Penalties for violation.

(d) Repeal, alter or re-enact, from time to time, any regulation made under this section. 42 V., c. 9, s. 76, *part*;—47 V., c. 11, s. 7, *part*. Repeal and amendment.

Notice of accidents to be given.

79. Every company shall, as soon as possible and within forty-eight hours at the furthest after the occurrence upon the railway belonging to such company, of any accident attended with serious personal injury to any person using the same, or whereby any bridge, culvert, viaduct or tunnel on or of the railway has been broken or so damaged as to be impassable or unfit for immediate use, give notice thereof to the railway committee; and every company which wilfully omits to give such notice shall forfeit to Her Majesty the sum of two hundred dollars for every day during which the omission to give the same continues. 42 V., c. 9, s. 51.

Penalty for default.

Inspection not to relieve company from liability.

80. No inspection had under this Act, and nothing in this Act contained, and nothing 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 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 nonfeasance, 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. 42 V., c. 9, s. 52.

Notification of order to officers, &c.

81. Every company shall, as soon as possible after the receipt of any order or notice of the railway committee or inspecting engineer, give cognizance thereof to each of its officers and servants, in one or more of the ways mentioned in the *eighty-seventh* section of this Act. 42 V., c. 9, s. 53.

What shall be sufficient notice to the company.

82. Every order of the railway committee shall be considered as made known to the company by a notice thereof, signed by the chairman and countersigned by the secretary of the committee, and delivered to the president, vice-president, managing director, secretary or superintendent of the company, or at the office of the company; and every order of the inspecting engineer shall be deemed to be made known to the company by a notice thereof, signed by the engineer, and delivered as above mentioned. 42 V., c. 9, s. 54.

COMMISSIONS TO INVESTIGATE AS TO ACCIDENTS.

Commission to inquire into accidents.

83. The Governor in Council, on the recommendation of the railway committee, may appoint such person or persons as he thinks fit to be a commissioner or commissioners for inquiring into the causes of and the circumstances connected with any accident or casualty to life or property occurring on

any railway, and into all particulars relating thereto; and such commissioner or commissioners may send for persons, papers and records, and by summons under his or their hand or hands, require the appearance of any person before him or them, and the production of any book, paper or thing which he or they consider important for such purpose; and any such commissioner may administer oaths, affirmations or declarations, to any person appearing before him or them, and every such person so appearing shall answer all such questions and inquiries relating to the premises as are put to him :

Its powers.

2. Such commissioner or commissioners shall have the same power to enforce the attendance of witnesses and to compel them to give evidence and produce the books, papers or things which they are required in such summons to bring with them, as is vested in any court in civil cases; but no person so summoned shall be compellable to answer any question, by truly answering which he might render himself liable to a criminal prosecution :

Enforcing attendance of witnesses.

3. The said commissioner or commissioners shall receive such remuneration for their services as the Governor in Council determines, and the persons summoned to attend before him or them shall receive the same fees and allowances for so doing as if summoned to attend before a court of civil jurisdiction in the Province in which they were required to appear; which remuneration and allowance shall be payable out of any moneys provided by Parliament for unforeseen expenses :

Remuneration of commissioners.

4. The commissioner or commissioners shall report fully, in writing, to the Governor in Council, his or their doings and opinions on the matters respecting which he or they are appointed to inquire. 47 V., c. 11, s. 6.

Report to be made.

RAILWAY FUND.

84. Every company shall, so soon as any portion of its railway is in use, pay to the Minister of Finance and Receiver General, an annual rate, which shall be fixed by the railway committee, not exceeding ten dollars for each mile of railway constructed and in use; and such rate shall be payable half-yearly on the first days of January and July in each year, and shall form a special fund for the purposes of this Act, which shall be called "The Railway Inspection Fund." 42 V., c. 9, s. 97.

Contribution to railway fund.

When payable.

This is put in Part Two of this Act, as being thought properly applicable to the companies to which that part is applicable, although in 42 V., c. 9, it was not so applied.

BY-LAWS AND REGULATIONS.

85. Every company shall make such by-laws, rules and regulations, to be observed by the conductors, engine drivers

Company may make by-laws for guidance

- of its officers, &c. and other officers and servants of the company, and by all other companies and persons using the railway of such company, and such regulations with regard to the construction of the carriages and other vehicles to be used in the trains on the railway of the company, as are requisite for ensuring the perfect carrying into effect of the provisions of this part of this Act, and the orders and regulations of the railway committee:
- Repeal and amendment. 2. The company may, from time to time, repeal or alter such by-laws, and make others, if such by-laws are not repugnant to the provisions of this part of this Act, or of the special Act:
- Form. 3. Such by-laws shall be reduced to writing and shall have affixed thereto the common seal of the company:
- Penalty for violation. 4. Every conductor, engine driver and other officer and servant of the company or other railway company using the railway, who offends against any such by-law, shall, for every such offence, incur a penalty not exceeding forty dollars, which penalty shall be that imposed by the company in such by-law for such offence:
- Summary interference in certain cases. 5. If the violation or non-observance of any such by-law, by any of the persons or officers in the next preceding sub-section mentioned, is attended with danger or annoyance to the public, or hindrance to the company in the lawful use of the railway, the company may summarily interfere, using no violence or unnecessary force, to obviate or remove such danger, annoyance or hindrance, and without prejudice to any penalty incurred by the violation of such by-law:
- Sanction. 6. No such by-law shall have force or effect until it has been approved of by the Governor in Council:
- Notification of such by-law, how proved. 7. The substance of any such by-law, when approved as aforesaid, if it affects any officer or servant of the company, may be proved by proving the delivery of a copy to or its receipt by such officer or servant; and if it affects any other railway company using the railway, it shall be painted on boards, or printed on paper and pasted on boards, and hung up and affixed, and continued on the front or other conspicuous part of every wharf or station belonging to the company, according to the nature or subject matter of such by-laws respectively, and so as to give public notice thereof to the persons and companies interested therein, or affected thereby; and such boards shall, from time to time, be renewed as often as the by-laws thereon or any part thereof are obliterated or destroyed; and no penalty imposed by any such by-law shall be recoverable

unless the same has been published and kept published in manner aforesaid :

8. Such by-laws, when so confirmed, shall be binding upon and be observed by every officer, person and company mentioned in the *fourth* sub-section of this section, and shall be sufficient to justify all persons acting under the same; and for proof of the publication of any such by-laws affecting only any other railway company using the railway, it shall be sufficient to prove that a printed paper or painted board, containing a copy of such by-laws, was affixed and continued in manner by this section directed, and in case of its being afterwards displaced or damaged, then that such paper or board was replaced as soon as conveniently might be. 42 V., c. 9, s. 62, *and* s. 100, *part*.

Who shall be bound by such by-laws.

86. Every company may, by a by-law, impose upon any officer, servant or person who, before the violation of such by-law, has had notice thereof and is employed by the company, a forfeiture to the company of at least thirty days' pay of such officer, servant or person, for any violation of such by-law, and may retain any such forfeiture out of the salary or wages of the offender. 42 V., c. 9, s. 63.

Penalties for violation may be imposed.

87. The notice of the by-law or of any order or notice of the railway committee, or of the inspecting engineer, may be proved by proving the delivery of a copy thereof to the officer, servant or person, or that he signed a copy thereof, or that a copy thereof was posted up in some place where his work or his duties, or some of them, were to be performed. 42 V., c. 9, s. 64.

Proof of by-laws, orders, &c.

88. Such proof, with a proof of such violation, shall be a full answer and defence for the company in any action or suit for the recovery of the amount so retained, and such forfeiture shall be over and above any penalty under this Act. 42 V., c. 9, s. 65.

Proof to be defence.

GENERAL PROVISIONS.

89. No company shall, either directly or indirectly, employ any of its funds in the purchase of its own stock, or in the acquisition of any shares, bonds or other securities issued by any other railway company in Canada; but nothing in this Act contained shall affect the powers or rights which any company in Canada now has or possesses, to acquire, have or hold the shares, bonds, or other securities of any railway company in the United States of America; nor shall it interfere with the right conferred on the Northern Railway Company of Canada, or the Hamilton and North Western Railway Company, to acquire stock in the Ontario and Pacific Junction Railway Company, under the Acts

Shares and securities of other railway companies not to be dealt in.

relating to the said first named companies, respectively, passed by the Parliament of Canada in the forty-seventh year of Her Majesty's reign :

Penalty for violation.

2. Every director of a railway company, who knowingly permits the funds of any such company to be applied in violation of the next preceding sub-section, shall incur a penalty of one thousand dollars for each such violation, which penalty shall be recoverable on information filed in the name of the Attorney General of Canada, and a moiety thereof shall belong to Her Majesty and the other moiety thereof shall belong to the informer; and the acquisition of each share, bond or other security, or interest, as aforesaid, shall be deemed a separate violation of the provisions aforesaid. 46 V., c. 24, s. 11, *part*;—47 V., c. 11, s. 4.

Best appliances for communication and for stopping trains to be used.

90. Every railway company, which runs trains upon the railway for the conveyance of passengers, shall provide and cause to be used in and upon such trains such known 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, and shall alter such apparatus and arrangements or supply new apparatus and arrangements, from time to time, as the railway committee orders; and every railway company which fails to comply with any of the provisions of this section, shall forfeit to Her Majesty a sum not exceeding two hundred dollars for every day during which such default continues. 42 V., c. 9, ss. 72 and 73.

Penalty for non-compliance.

Navigation not to be impeded.

91. No company shall cause any obstruction in or impede the free navigation of any river, stream or canal, to or across or along which its railway is carried. 42 V., c. 9, s. 66.

Bridges over navigable rivers.

92. Whenever the railway is carried across any navigable river or canal, the company shall leave openings between the abutments or piers of its 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, and shall be subject to such regulations as to the opening of such swingbridge or drawbridge as the Governor in Council, from time to time, makes. 42 V., c. 9, s. 67, *part*.

93. No company shall be allowed to *run its trains* over any canal, or over the navigable channel of any river, without having first laid such proper flooring under and on both sides of its railway track over such canal or channel, as is deemed by the minister sufficient to prevent anything falling from the railway into such canal or river, or upon the boats or vessels, or craft, or persons who navigate such canal or river. 42 V., c. 9, s. 67, *part*.

Bridges to be
floored.

94. No company shall construct any wharf, bridge, pier or other work upon or over any navigable river, lake or canal, or upon the beach or bed or lands covered with the waters thereof, until it has first submitted the plan and proposed site of such work to the railway committee, and the same has been approved; and no deviation from such approved site or plan shall be made without the consent of the committee. 42 V., c. 9, s. 68.

Plans of
bridges, &c.,
to be ap-
proved.

95. Nothing contained in the *four* sections next preceding shall be construed to limit or affect any power expressly given to any company by its Act of incorporation or any Act amending the same. 42 V., c. 9, s. 69.

Special
powers not
affected.

96. When a railway passes any draw or swing bridge over a navigable river, canal or stream, which is subject to be opened for the purposes of navigation, the trains shall in every case be stopped at least three minutes, to ascertain from the bridge tender that the said bridge is closed and in perfect order for passing, and in default of so stopping for the full period of three minutes, the company shall incur a penalty of four hundred dollars. 42 V., c. 9, s. 70.

Train to stop
before passing
a swing
bridge.

97. If the railway committee orders any company to erect at or near or in lieu of any level crossing of a turnpike road, or other public highway, a foot bridge or foot bridges over its railway for the purpose of enabling persons passing on foot along such turnpike road or public highway to cross the railway by means of such bridge or bridges, from and after the completion of such foot bridge or foot bridges so required to be erected, and while the company keeps the same in good and sufficient repair, such level crossing shall not be used by foot passengers on the said turnpike road or public highway, except during the time when the same is used for the passage of carriages, carts, horses or cattle along the said road. 42 V., c. 9, s. 78.

Foot passen-
gers to use
foot bridge if
provided.

98. 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:

Cattle not to
be at large
near railway.

Such cattle may be impounded.

2. All cattle found at large in violation of this section may, by any person who finds 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 :

No right of action in such case.

3. If the cattle of any person which are at large, contrary to the provisions of this section, are killed or *injured* by any train at such point of intersection, he shall not have any right of action against any company in respect of the same being so killed or *injured*. 42 V., c. 9, ss. 79, 80 and 81.

Weeds to be cut down.

99. Every company shall cause all thistles and other noxious weeds growing on the cleared land or ground adjoining the railway and belonging to such company to be cut down and kept constantly cut down, or to be rooted out :

Penalty for non-compliance.

2. Every company which fails to comply with this section within twenty days after it has been required to comply with the same, by notice from the mayor, reeve or chief officer of the municipality of the township, county or district in which the land or ground lies, or from any justice of the peace therein, shall incur a penalty of two dollars for every day during which such company neglects to do anything which it is lawfully required to do by such notice ; and the said mayor, reeve or officer or justice of the peace, may cause all things to be done which the said company was lawfully required to do by such notice, and for that purpose may enter, by himself and his assistants or workmen, upon such lands or grounds, and may recover the expenses and charges incurred in so doing, and the said penalty, with costs, in any court of competent jurisdiction :

Mayor, &c., may cause work to be done.

Application of penalties.

3. Such penalty shall be paid to the proper officer of the municipality, except in the Provinces of Nova Scotia and New Brunswick, in which it shall be paid to the overseers of the poor, for the uses of the poor of the district. 42 V., c. 9, ss. 83 and 84.

Mines not to be injured.

100. No company shall locate the line of its proposed railway, or of any branch thereof, so as to obstruct or interfere with or injuriously affect the working of, or the access or adit to any mine then open or for opening which preparations are, at the time of such location, being lawfully and openly made :

What property to be bought in certain cases.

2. No person shall at any time be compelled to sell or convey or give possession of, to any company, a part only of any house or other building or manufactory, if such

person is willing and able to sell and convey and give possession of the whole thereof. 47 V., c. 11, s. 15.

101. If at any time any railway or any section of any railway is sold under the provisions of any deed of mortgage thereof, or at the instance of the holders of any mortgage bonds or debentures, for the payment of which any charge has been created thereon, or under any other lawful proceeding, and is purchased by any person or corporation which has not any corporate powers authorizing the holding and operating thereof by such purchase, the purchaser thereof shall transmit to the minister, within ten days from the date of such purchase, a notice in writing stating the fact that such purchase has been made, describing the termini and line of route of the railway purchased, and specifying the charter or Act of incorporation under which the same had been constructed and operated, including a copy of any writing, preliminary to a conveyance of such railway, which has been made as evidence of such sale; and immediately upon the execution of any deed of conveyance of such railway, the purchaser shall also transmit to the minister a duplicate or an authenticated copy of such deed, and shall furnish to the minister, on request, any further details or information which he requires. 46 V., c. 24, s. 14.

Sale of railway to a purchaser not having necessary corporate powers.

Notice to the Minister.

And copy of deed of conveyance.

102. Until the purchaser has given notice to the minister in manner and form as provided by the next preceding section, the purchaser shall not run or operate the railway so purchased, or take, exact or receive any tolls whatsoever in respect of any traffic carried thereon; but after the said conditions have been complied with, the purchaser may continue, until the end of the then next session of the Parliament of Canada, to operate such railway and to take and receive such tolls thereon as the company previously owning and operating the same was authorized to take, and shall be subject, in so far as they can be made applicable, to the terms and conditions of the charter or Act of incorporation of the said company, until he has received a letter of license from the minister—which letter the minister is hereby authorized to grant—defining the terms and conditions on which such railway shall be run by such purchaser during the said period. 46 V., c. 24, s. 15.

Until such transmission trains not to be run.

Provisional operation of such railway.

103. Such purchaser shall apply to the Parliament of Canada at the next following session thereof after the purchase of such railway, for an Act of incorporation or other legislative authority, to hold, operate and run such railway, and if such application is made to Parliament and is unsuccessful, the minister may extend the license to such railway until the end of the then next following session

Application for necessary powers to be made.

Extension of license.

Final action. of Parliament, and no longer; and if during such extended period the purchaser does not obtain such Act of incorporation or other legislative authority, such railway shall be closed or otherwise dealt with by the Minister as is determined by the railway committee. 46 V., c. 24, s. 16.

Trains to be run at regular hours, &c.

104. All 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 previously 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 :

Conveyance of passengers and goods.

2. Such passengers and goods shall be taken, transported to and from, and discharged at such places, on the due payment of the toll, freight or fare lawfully payable therefor :

Right of action in case of neglect.

3. Every person aggrieved by any neglect or refusal in the premises, shall have an action therefor against the company; from which action the company shall not be relieved by any notice, condition or declaration, if the damage arises from any negligence or omission of the company or of its servants. 42 V., c. 9, s. 25, *part*, and s. 100, *part*.

OFFENCES AND PENALTIES.

Punishment of persons cutting or boring casks or packages.

105. Every person who bores, pierces, cuts, opens or otherwise injures any cask, box or package, which contains wine, spirits or other liquors, or any case, box, sack, wrapper, package or roll of goods, in, on or about any car, wagon, boat, vessel, warehouse, station house, wharf, quay or premises of, or which belong to any company, 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, upon summary conviction be liable to a penalty not exceeding twenty dollars over and above the value of the goods or liquors so taken or destroyed, or to imprisonment with or without hard labor for a term not exceeding one month. 42 V., c. 9, s. 91.

Penalty for obstructing inspecting engineer.

106. Every person who wilfully obstructs any inspecting engineer in the execution of his duty shall, for every such offence, upon summary conviction, be liable to a penalty not exceeding forty dollars; and in default of payment thereof immediately, or within such time as the convicting justice or justices of the peace appoint, shall be liable to imprisonment for any term not exceeding three months. 42 V., c. 9, s. 92, *part*.

PART THREE.

STATISTICS.

107. In *Part Three of this Act*, unless the context otherwise requires :— Interpretation.

(a) The expression “company” means a company “Company.” constructing or operating a line of railway in Canada, whether otherwise within the legislative authority of the Parliament of Canada or not, and includes any individual or individuals, not incorporated, who are owners or lessees of a railway in Canada, or parties to an agreement for working a railway in Canada ;

Re-drafted.

(b) The expression “working expenditure” means and includes all expenses of maintenance of the railway, and of the stations, buildings, works and conveniences belonging thereto, and of the rolling and other stock and movable plant used in the working thereof, and also all such tolls, rents or annual sums as are paid in respect of property leased to or held by the company, apart from the rent of any leased line or in respect of the hire of engines, carriages or wagons let to the company ; also, all rent charges or interest on the purchase money of lands belonging to the company, purchased but not paid for, or not fully paid for ; and also all expenses of or incidental to working the railway, and the traffic thereon, including stores and consumable articles ; also, rates, taxes, insurance and compensation for accidents or losses ; also, all salaries and wages of persons employed in and about the working of the railway and traffic ; and all office and management expenses, including directors’ fees, agency, legal and other like expenses ; and generally all such charges, if any, not above otherwise specified, as in all cases of English railway companies are usually carried to the debit of revenue, as distinguished from capital account. 42 V., c. 9, ss. 29 and 85 ;— 46 V., c. 24, s. 3. “Working expenditure.”

108. Every company shall annually prepare returns in accordance with the forms contained in schedule one to this Act, of its capital, traffic and working expenditure, and of all information required, as indicated in the said form, to be furnished to the minister ; and such returns shall be dated and signed by, and attested upon the oath of the secretary, or some other chief officer of the company, and of the president, or in his absence, of the vice-president or manager of the company : Annual returns to be prepared.

2. Such returns shall be made for the period included from the date to which the then last yearly returns made What period to be included.

by the company extended, or from the commencement of the operation of the railway, if no such returns have been previously made, and, in either case, down to the last day of June in the then current year :

Duplicate for the Minister.

3. A duplicate copy of such returns, dated, signed and attested in manner aforesaid, shall be forwarded by such company to the minister within three months after the first day of July in each year :

Further returns when required.

4. The company shall also, in addition to the information required to be furnished to the minister, as indicated in the said schedule one, furnish such other information and returns as are, from time to time, required by the Governor in Council :

Penalty for non-compliance.

5. Every company which makes default in forwarding such returns in accordance with the provisions of this section, shall incur a penalty not exceeding ten dollars for every day during which such default continues :

Returns to be submitted to Parliament.

6. The minister shall lay before both Houses of Parliament, within twenty-one days from the commencement of each session thereof, the returns made and forwarded to him, in pursuance of this section. 42 V., c. 9, ss. 30 and 33;—44 V., c. 24, ss. 2 and 4, *part*.

Re-drafted.

Weekly returns to be prepared and transmitted.

109. Every company shall, weekly, prepare returns of its traffic for the next preceding seven days, in accordance with the form contained in schedule two to this Act, and a copy of such returns, signed by the officer of the company responsible for the correctness of such return, shall be forwarded by the company to the minister, within seven days from the day in each week up to which the said returns have been prepared ; and another copy of each of such returns, signed by the same officer, shall be posted up by the company within the same delay, and kept posted up for seven days, in some conspicuous place in the most public room in the head office of the company in Canada, and so that the same can be perused by all persons ; and free access thereto shall be allowed to all persons during the usual hours of business at such office, on each day of the said seven days not being a Sunday or holiday :

Copy to be posted up.

Penalty for non-compliance.

2. Every company which makes default in forwarding the said weekly return to the minister, or which fails to post up and keep posted up a copy thereof as aforesaid, and to allow free access thereto as aforesaid, shall incur a penalty not exceeding ten dollars for every day during which such default continues. 42 V., c. 9, s. 31;—44 V., c. 24, s. 2, *part*.

110. If any return which is required by the two sections next preceding is false in any particular, to the knowledge of any person who signs the same, such person shall be liable, on conviction thereof, on indictment, to fine and imprisonment, but such fine shall not exceed two hundred and fifty dollars. 42 V., c. 9, s. 32, *part.* Penalty for signing false return.

111. Every penalty imposed under any of the three sections next preceding, shall be recoverable for his own use and benefit by any person who sues for the same in any court of competent jurisdiction. 42 V., c. 9, s. 32, *part.* Recovery of such penalties.

112. Every company shall, within one month after the first days of January and July, in each and every 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 railway of the company during the half year next preceding each of the said periods respectively, setting forth,— Return of accidents to be made.

(a) The causes and natures of such accidents and casualties; Cause and nature.

(b) The points at which they occurred, and whether by night or by day; Locality and time.

(c) The full extent thereof, and all the particulars of the same; Extent and particulars.

And shall also, at the same time, return 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 railway. 42 V., c. 9, s. 55. Copies of by-laws.

113. The railway committee may order and direct, from time to time, the form in which such returns shall be made up, and may order and direct any company to make up and deliver to the railway 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 railway belonging to such company, whether attended with personal injury or not, in such form and manner as the railway committee deems necessary and requires for its information with a view to the public safety. 42 V., c. 9, s. 56. Form of return may be prescribed.

114. If the returns required under the two sections next preceding, so verified, are not delivered within the respective times in the said sections prescribed, or within fourteen days after the same have been so required by the railway committee, every company which makes default in so doing shall forfeit to Her Majesty the sum of one hundred dollars for Penalty for not transmitting return.

every day during which the company neglects to deliver the same. 42 V., c. 9, s. 57.

Returns privileged.

115. All returns made in pursuance of any of the provisions of this part of this Act shall be privileged communications, and shall not be evidence in any court whatsoever. 42 V., c. 9, ss. 34 and 58.

CROSSING OTHER RAILWAYS.

Intersection of railways under provision-al charters.

116. The provisions of sub-sections thirteen and fourteen of section six in Part One of this Act shall also apply to every company incorporated under any Act of any Provincial Legislature in any case in which it is proposed that such railway shall cross, intersect, join or unite with a railway under the legislative control of Canada. 42 V., c. 9, s. 7, sub-s. 16, *part.*

PENALTIES.

Punishment for violation of by-laws.

117. Every officer or servant of, and every person employed by the company, who wilfully or negligently violates any by-law or regulation of the company lawfully made and in force, or any order or notice of the railway committee, or of the inspecting engineer, of which a copy has been delivered to him, or which 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 person or to any property, or exposes any person or any property to the risk of injury, or renders such risk greater than it would have been without 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. 42 V., c. 9, s. 93;—31 V., c. 12, s. 67, *part.*

If injury is caused or risk of injury is increased.

118. Whenever such violation does not cause injury to any person or property or expose any person or property 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, upon summary conviction, on the oath of one credible witness other than the informer, be liable to a penalty not exceeding the amount of thirty days' pay, and not less than fifteen days' pay of the offender from the company, with costs, in the discretion of the justice or justices of the peace before whom the conviction is had:

If injury is not caused or risk of injury is not increased.

Application of penalties.

2. A moiety of such penalty 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 company, in which case he shall be a competent witness and the whole penalty shall belong to Her Majesty, for the uses aforesaid. 42 V., c. 9, ss. 94 and 95;—31 V., c. 12, s. 68, *part*, and s. 69, *part*.

119. The company may, in all cases under the two sections next preceding, pay the amount of the penalty and costs, and recover the same from the offender or deduct it from his salary or pay. 42 V., c. 9, s. 96. Deduction of penalty from wages.

APPLICATION OF PENALTIES.

120. All penalties recovered under this Act, or any part thereof, in respect to the application of which no other provision is made, shall be paid to the Minister of Finance and Receiver General, to the credit of "The Railway Inspection Fund." 42 V., c. 9, s. 99. Penalties to form part of the railway fund.

CERTAIN COMPANIES AND RAILWAYS.

121. The Intercolonial Railway, the Grand Trunk Railway, the North Shore Railway, the Northern Railway, the Hamilton and North-Western Railway, the Canada Southern Railway, the Great Western Railway, the Credit Valley Railway, the Ontario and Quebec Railway, and the Canadian Pacific Railway, are hereby declared to be works for the general advantage of Canada, and each and every branch line or railway now or hereafter connecting with or crossing the said lines of railway, or any of them, is a work for the general advantage of Canada: Certain railways declared to be works for advantage of Canada.

2. Every such railway and branch line shall hereafter be subject to the legislative authority of the Parliament of Canada, but the provisions of any Act of the Legislature of any Province of Canada, passed prior to the twenty-fifth day of May, one thousand eight hundred and eighty-three, relating to any such railway or branch line, and in force at that date, shall remain in force so far as they are consistent with any Act of the Parliament of Canada passed after that date. 42 V., c. 9, s. 100;—46 V., c. 24, s. 6, *part*. To be subject to legislative authority of Parliament.

Re-drafted.

SCHEDULE ONE.

Form of yearly returns to the Minister of Railways and Canals, required from railway companies under "*The Railway Act*."

RETURNS made by the (*corporate name of the Company*) in pursuance of the Railway Act, for the period included between the (*insert the day to which the last returns extend, or the date of the commencement of operations, as the case may be*), to the last day of June, in the year 18 .

LOCATION AND GENERAL DESCRIPTION OF RAILWAY.

Showing the county or counties through which the railway runs, the terminal points, connections, if any, and giving a general description of the line and the country through which it passes.

Statement containing copies of all contracts made by the Company, for the construction of any part of the railway.

No. 1.

RETURNS of the Capital Account of the said Railway, also the Revenue and Expenditure, &c.

No. 2.—CAPITAL ACCOUNT.

	Autho- rized.	Sub- scribed.	Paid up.	*Rate of Interest or Dividend.
	\$ cts.	\$ cts.	\$ cts.	\$ cts.
Total amount of ordinary share capital				
Total amount of preference share capital				
do do				
do do				
do do				
Total amount of ordinary bonds				
do do				
do do				
do do				
do do				
Total amount of Government loans				
do do bonuses				
Total amount of Government subscription to shares				
Total amount of Government subscription to bonds				
Total amount of municipal loans				
do do bonuses				
do of municipal subscription to shares				
do of municipal subscription to bonds				
do from other sources				
Total capital				

*State whether dividend is cumulative or not.

This statement must agree with the totals shown in the report of the company, a copy of which is to be transmitted also. If there are more than one issue of preference shares or bonds, state them, and the amount of each class.

If any floating debt exists it must be stated, so as to make the total agree with the published report.

No. 3.—LOANS OR BONUSES FROM GOVERNMENTS OR MUNICIPALITIES.

From what source.	Amount of Loan Granted.	Amount of Bonus Granted.	Amount of Sub- scription to Shares.	Amount of Sub- scription to Bonds.	Rate of Interest.	Date of Re-pay- ment.
	\$ cts.	\$ cts.	\$ cts.	\$ cts.	\$ cts.	\$ cts.
Governments						
Total						
Municipalities						
Total						

No. 4.—BONDS OR OTHER SECURITIES NEGOTIATED BY THE COMPANY.

Amounts.	Rate of Interest.	Date of Sale.	Prices Realized.
\$ cts.	\$ cts.	\$ cts.	\$ cts.

No. 5.—SALES OF LAND MADE BY THE COMPANY.

Acres sold.	Price per Acre.	Amount.
	\$ cts.	\$ cts.

No. 6.—FLOATING DEBT.

Amount.		Rate of Interest.		Remarks.
\$	cts.	\$	cts.	

No. 7.—CHARACTERISTICS OF ROAD, &C.

		OWNED.		Miles.
*Length of main line from	.....	.....	to	
do	branch from	.....	to	
do	do	.....	to	
do	do	.....	to	
do	do	.....	to	
LEASED.				
Length of railway from	.....	.....	to	
do	do	.....	to	
do	do	.....	to	
do	do	.....	to	
Total mileage worked.				
Length of road laid with iron rails	.....		
do	do steel rails			
do	of sidings			
do	of double track (if any)			
Weight of rail per yard, main line, iron	.....			Lbs.
do	do steel			
do	do branches iron			
do	do do steel			
Number of engine houses and shops	.....		
do	of engines owned by Company			
do	do hired			
do	of first class passenger cars owned by Company			
do	do do hired			
do	of second class and emigrant cars owned by Company			
do	do do hired			
do	baggage, mail and express cars owned by Company			
do	do do hired			
do	cattle and box freight cars owned by Company			
do	do do hired			
do	platform cars owned by Company			
do	do hired			
do	coal cars owned by Company			
do	do hired			
do	ties to mile, main line			
do	do branches			
Nature of fastenings used to secure joint of rail.....				
Number of grain elevators.....				
†Capacity of	do	at		
do	do			
do	do			
Number of level road crossings at which watchmen are employed.....				
do	do	without watchmen		
do	do	overhead bridges		
Height of	do	above rail level		
Number of level crossings of other railways.....				
do	do	junctions with other railways		
do	do	branch lines		
Radius of sharpest curve.....				
Number of feet per mile of heaviest gradient.....				
Gauge of railway.....				

* If the line, or any portion of it, is under construction, the length being constructed to be given.

† State where these are situated, and the capacity of each.

No. 8.—ACTUAL COST OF RAILWAY AND ROLLING STOCK.

	\$	cts.
1. Cost of land and land damages.....		
2. Cost in connection with the administration of the Land Grant in aid, if any.....		
3. Cost of grading, masonry and bridging, station buildings, &c....		
4. Cost of rolling stock of all kinds, including workshops.....		
Total		

The above total to show the real cash cost of construction and rolling stock.

No. 9.—OPERATIONS OF THE YEAR AND NUMBER OF MILES RUN.

1. Miles run by passenger trains.....	
2. do freight trains.....	
3. do mixed trains.....	
4. Total miles run by trains.....	
5. do engines.....	
6. Total number of passengers carried.....	
7. do tons of freight (of 2,000 lbs.) carried.....	
8. Average rate of speed of passenger trains.....	
9. do freight trains.....	
10. Average weight of passenger trains in motion.....	
11. do freight trains in motion.....	

No. 10.—DESCRIPTION OF FREIGHT CARRIED.

	Weight in Tons.
1. Flour in barrels, No.....	
2. Grain in bushels, No.....	
3. Live stock, No.....	
4. Lumber of all kinds, excepting firewood, ft.....	
5. Firewood, number of cords of 128 cubic ft.....	
6. Manufactured goods.....	
7. All other articles.....	
Total weight carried	

No. 11.—EARNINGS OF THE RAILWAY.

	\$	cts.
1. From passenger traffic		
2. From freight traffic.....		
3. From mails and express freight		
4. From other sources		
Total.....		

No. 12 —GENERAL TARIFF OF TOLLS ESTABLISHED BY THE COMPANY.

No. 13.—SPECIAL RATES OF TOLLS ESTABLISHED BY THE COMPANY.

No. 14, A —OPERATING EXPENSES—MAINTENANCE OF LINE, BUILDINGS, &c.

	\$	cts.
1. Wages, &c., of labor employed on track, including sidings.....		
2. Cost of iron rails and fastenings.....		
3. Cost of steel rails and fastenings		
4. Ballasting		
5. Repairs of bridges and culverts.....		
6. Repairs and renewals of buildings.....		
7. Repairs of fencing.....		
8. Clearing snow		
9. Engineering superintendence.....		
Total		

No. 14, B.—OPERATING EXPENSES—WORKING AND REPAIRS OF ENGINES.

	\$	cts.
1. Wages of engineers, firemen and cleaners		
2. Cost of coal for fuel.		
Cost of wood for fuel.		
3. Repairs of engines and tenders		
4. Oil, tallow, waste, &c., for engines.		
5. Pumping engines.....		
6. Repairs of tools and machinery		
7. Superintendence.		
 Total		

No. 14, C.—WORKING AND REPAIRS OF CARS.

	\$	cts.
1. Wages and material for repairs of passenger cars		
2 do do freight cars and snow ploughs		
3 Superintendence		
 Total		

No. 14, D.—OPERATING EXPENSES—GENERAL, AND OPERATING CHARGES.

	\$	cts.
1. Office expenses, including directors, auditors, management, travelling expenses, stationery, &c.....		
2. Station agents, clerks, porters, &c.		
3. Conductor, baggage men and brakemen.....		
4. Compensation for personal injuries.....		
5. Loss or damage to freight.....		
6. Cattle killed		
7. Cost of ferries and ferry-boats		
8. Cost of foreign agencies.....		
9. Small stores, including lights, lamps and signals.		
10. All other charges.....		
11.		
12.		
13.		
 Total		

Blanks are left for any other items of expenditure not included above.

No. 15.—SUMMARY OF OPERATING EXPENSES.

	\$	cts.
A. Maintenance of line, buildings, &c.		
B. Cost of working and repairs to engines.....		
C. Cost of working and repairs to cars.....		
D. Cost of general operating expenses		
Total cost of operating railway.....		

The above statement to include the full cost of operating the railway, and the total to correspond with the published return of the Company.

No. 16.—ACCIDENTS.

Cause of Accident.	Passengers.		Employés.		Others.		Total.	
	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.
Fell from cars or engine.....								
Jumping on or off trains or engine when in motion...								
Walking, standing, lying, sitting or being on track.								
At work on or near the track, making up trains								
Putting arms or heads out of windows.....								
Coupling cars.....								
Collision, or by trains thrown from track								
Explosions								
Striking bridges								
Total								

The following is a Statement of the date of each Accident, the place where it occurred, the train, the cause of the Accident, the extent of the injury to each person injured, and the name of such person.

Date.	Name and Place.	Nature of Accident or Cause.

No. 17.—NAMES AND RESIDENCES OF DIRECTORS AND OFFICERS OF THE COMPANY.

Names of Directors.	Residence.
President..... Secretary and Treasurer.... General Manager Engineer Superintendent	

The following is the official name and address of the Company :—
 44 V., c. 24, sch.

SCHEDULE TWO.

.....Railway of Canada.

RETURN of Traffic for the week ending 18 ,
 and the corresponding week, 18 .

Date.	Passengers.	Freight and Live Stock.	Mails and Sundries.	Total.	Miles Open.
18
18

Increase.....
 Decrease.....

Aggregate Traffic from.....18.....

Date.	Passengers.	Freight and Live Stock.	Mails and Sundries.	Total.	Miles Open.
18
18

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
31 V., c. 12.....	ss. 67, 68, and 69 (parts).			
42 V., c. 9	The whole except sub-s 14, part of sub-s. 20 and sub-s. 37 of s. 9, and ss. 59, 86, 87, 88, 89, and 90, part of s. 92 and 102.	sub-s. 14, part of sub-s. 20 of s. 9, ss. 59, 92 (part) and 102.	sub-s. 37 of s. 9. ss. 86, 87, 88, 89 and 90.	Indian Act. Criminal Law.
44 V., c. 24..	The whole ex- cept s. 5.	s. 5.		
46 V., c. 24.....	The whole.			
47 V., c. 11.....	The whole ex- cept s. 5.	s. 5.		

CHAPTER 104.

An Act respecting the sale of Railway Passenger Tickets.

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

1. Any railway company subject to the jurisdiction of the Parliament of Canada, or to which "*The Railway Act*" applies, and the Minister of Railways and Canals, as respects any railway under the control of the Government of Canada, may appoint, in any city, town or village in Canada, such person or persons as it or he chooses, as agents for the sale of passenger tickets to passengers or persons who desire to travel by the railway of the company employing such agent, or by any Government railway, as the case may be. 45 V., c. 41, s. 1.

Appointment of agents for sale of tickets.

2. The Minister of Railways and Canals, or company employing any such agent, shall give him a certificate of his appointment, which shall be under the hand of the Minister of Railways and Canals, or the corporate seal of the company appointing him, and such agent shall keep the same framed or exhibited in some conspicuous part of his office or place of business, where it can be seen and read by those resorting to the office. 45 V., c. 41, s. 2.

Certificate of appointment.
To be exhibited.

3. Every agent of a foreign railway company doing business in Canada shall, before issuing tickets over *any Government railway line, or other Canadian railway line*, be duly authorized for such purpose by the Minister of Railways and Canals, or by the company, *as the case may be*, over whose line he desires to issue tickets, in the same manner as is hereinbefore provided *in respect of other agents*, and shall have and exhibit, in like manner, a certificate from the foreign company he represents. 45 V., c. 41, s. 3, *part*.

As to agents of foreign railway companies.

4. Every ticket sold by any agent shall have the name of such agent and the date of the sale written or stamped plainly upon it, and every person who fraudulently alters, changes or imitates such signature or date, is guilty of an offence against this Act. 45 V., c. 41, s. 3, *part*.

Name and date to be stamped on ticket.

5. Nothing in this Act shall prevent the duly authorized agent of any company from procuring from the duly authorized agent of any other company, a ticket for a passenger to whom he has sold a ticket to travel over the line or any part

Authorized agents may procure tickets from each other.

thereof for which he is the authorized agent, so as to enable such passenger to travel to the point or junction from which he has previously secured his ticket. 45 V., c. 41, s. 4.

Act not to affect station agents.

6. Nothing in this Act contained respecting the appointment of agents for the sale of tickets shall prevent the station agents of the Minister of Railways and Canals or company, at their stations, and in their ticket offices at such stations, from selling tickets to passengers about to enter upon and travel by railway from the said stations. 45 V., c. 41, s. 7.

No tickets to be sold without authority.

7. No person, except those authorized as above mentioned, shall sell or offer for sale any railway passenger ticket, or pass, ticket, certificate or other instrument, enabling any person or purporting to entitle any person to travel on any one railway, or more than one railway, or on any part of one railway, or parts of several railways to which this Act applies. 45 V., c. 41, s. 5, *part.*

Penalty for violation of this Act.

8. Every person guilty of an offence against this Act shall, upon summary conviction thereof before any justice of the peace, be liable to a penalty not exceeding fifty dollars and not less than twenty dollars and costs, or to imprisonment for a term not exceeding ninety days and not less than ten days, or to both penalty and imprisonment, in the discretion of the justice. 45 V., c. 41, s. 5, *part.*

Redemption of unused ticket or part of ticket.

9. The Minister of Railways and Canals, with respect to any Government railway and every railway company subject to the jurisdiction of the Parliament of Canada, or to which "*The Railway Act*" applies, *as the case may be*, shall repay to every holder of a ticket over any Government railway line or other Canadian railway line, *as the case may be*, the cost of his ticket, if unused in whole or in part, less the ordinary and regular fare for the distance for which such ticket has been used :

When to be redeemed.

2. Such repayment shall be made at any station or office of the railway or company between and including the points covered by the ticket :

Time limited.

3. The claim for such redemption shall be made within thirty days from the expiration of the time for which the ticket was issued, in accordance with the conditions thereon :

No sale in any other manner.

4. The sale by any person of the unused portion of any ticket otherwise than by the presentation of the same for redemption, as provided for in this section, is an offence against this Act, and shall be punishable as herein provided. 45 V., c. 41, s. 9.

10. Every passenger who presents a single journey ticket upon a train within the time for which the conditions printed upon such ticket and the date shows such ticket to be good for use, may apply to the conductor of such train to have the privilege of stopping over granted, and the time for which the ticket is valid extended, which shall be conceded on tickets purchased at railway ticket offices in Canada, from one place in Canada to another, or from a place in Canada to a place in the United States; but no such passenger shall be entitled to have such time extended for more than two days for every fifty miles of distance to be travelled in Canada. 45 V., c. 41, s. 10.

Right of stopping over may be demanded.

11. Every complaint respecting an offence against this Act shall be prosecuted under the provisions of the "*Act respecting summary proceedings before Justices of the Peace.*" 45 V., c. 41, s. 6.

Procedure.

12. The examination or deposition of any complainant or witness, taken or heard under oath in the presence of the person accused, on the hearing of any complaint for any offence against this Act, may, if the person charged, or his counsel or agent, has had the opportunity of cross-examining such complainant or witness, whether he has done so or not, be used in evidence on the hearing of any appeal from any decision of the justice of the peace before whom the trial was had, if the person whose examination or deposition is so used is out of the jurisdiction of the court to which the appeal is made, and if the said examination or deposition has been reduced to writing and has been signed by the person whose examination or deposition it purports to be:

Examination, &c., to be evidence in case of appeal.

2. The said examination or deposition may be read and taken as evidence on the hearing of such appeal, upon the production of the certificate of the justice of the peace before whom the trial was had, under his hand, setting forth that the said examination or deposition which is offered in evidence, was taken before him on the hearing of the complaint which forms the subject matter of the said appeal. 45 V., c. 41, s. 8.

Proof of such examination, &c.

Re-drafted.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
45 V., c. 41.....	The whole, except s. 11.	s. 11.		

CHAPTER 105.

An Act respecting Dominion Day.

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

Dominion day a holiday.

1. Throughout Canada, in each and every year, the first day of July, not being a Sunday, shall be a legal holiday, and shall be kept and observed as such, under the name of "Dominion Day." 42 V., c. 47, s. 1.

Provision if it falls on a Sunday.

2. When the first day of July is a Sunday, the second day of July shall be, in lieu thereof, throughout Canada, a legal holiday, and shall be kept and observed as such under the same name. 42 V., c. 47, s. 2.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal	To be Consolidated elsewhere.	To be Consolidated with.
42 V., c. 47.....	ss. 1 and 2 . . . . .	.....	s 3 s. 4.	Interpretation. Bills and Notes.

CHAPTER 106.

An Act respecting Oaths of Allegiance.

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

1. The following form and no other, shall be that of the oath of allegiance to be administered to and taken by every person in Canada, who, either of his own accord or in compliance with any lawful requirement made on him, or in obedience to the directions of any Act or law in force in Canada, save and except "*The British North America Act, 1867,*" desires to take an oath of allegiance, that is to say :

" I, A. B., do sincerely promise and swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria (*or reigning Sovereign for the time being*) as lawful Sovereign of the United Kingdom of Great Britain and Ireland, and of this Dominion of Canada, dependent on and belonging to the said Kingdom, and that I will defend Her to the utmost of my power against all traitorous conspiracies or attempts whatsoever, which shall be made against Her Person, Crown and Dignity, and that I will do my utmost endeavor to disclose and make known to Her Majesty, Her Heirs or Successors, all treasons or traitorous conspiracies and attempts which I shall know to be against Her or any of them ; and all this I do swear without any equivocation, mental evasion or secret reservation. So help me God."

And all justices of the peace and other officers lawfully authorized, either by virtue of their office or special commission from the Crown for that purpose, may administer the oath of allegiance under this Act in any part of Canada ; and it shall not be necessary for any person appointed to any civil office in Canada, or for any mayor or other officer or member of any corporation therein, or for any person admitted, called or received as a barrister, advocate, notary public, attorney, solicitor or proctor, to make any declaration or subscription, or to take or subscribe any other oath than the oath aforesaid, and also such oath for the faithful performance of the duties of his office, or for the due exercise of his profession or calling as is required by any law in that behalf. 31 V., c. 36, s. 3.

Form of oath prescribed.

The form.

Who may administer it.

No other declaration or subscription necessary.

Oath of office to be taken.

Within what time the oaths must be taken.

2. The oath of allegiance hereinbefore set forth, together with the oath of office or oath for the due exercise of any profession or calling, shall be taken within the period and in the manner, and subject to the disabilities and penalties for the omission thereof, by law provided with respect to such oaths, in all such cases respectively. 31 V., c. 36, s. 4.

Affirmation of allegiance may be substituted for oath.

3. All persons allowed by law to affirm instead of making oath in civil cases, in any part of Canada, shall be received to take an affirmation of allegiance in the like terms, *mutatis mutandis*, as the said oath of allegiance; and such affirmation of allegiance, taken before the proper officer, shall in all cases be accepted from such persons in lieu of such oath, and shall as to such affirmants have the like effect as the said oath of allegiance; and all justices of the peace and other officers, lawfully authorized either by virtue of their office or by special commission from the Crown for that purpose, may administer the affirmation of allegiance in any part of Canada. 31 V., c. 36, s. 5.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
31 V., c. 36	ss. 3, 4 and 5.....	.....	Remainder of Act	An Act respecting Public Officers.

CHAPTER 107.

An Act respecting Naturalization and Aliens.

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 Naturalization Act.*" Short title. 44 V., c. 13, s. 3.

INTERPRETATION.

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

(a) The expression "disability" means the disability of "Disability." being an infant, lunatic, idiot, or married woman ;

(b) The expression "officer in the diplomatic service of Her Majesty" means any ambassador, minister or *chargé d'affaires*, or secretary of legation, or any person appointed by such ambassador, minister, *chargé d'affaires*, or secretary of legation, to execute any duty imposed upon an officer in the diplomatic service of Her Majesty by the Act passed by the Parliament of the United Kingdom, known as "*The Naturalization Act, 1870*;" "Officer in diplomatic service of H. M."

(c) The expression "officer in the consular service of Her Majesty" means and includes consul-general, consul, vice-consul and consular agent, and any person for the time being discharging the duties of consul-general, consul, vice-consul or consular agent ; "Officer in consular service of H. M."

(d) The expression "oath" includes affirmation, in the case of a person allowed by law to affirm in judicial cases ; "Oath."

(e) The expression "county" includes a union of counties and a judicial district or other judicial division ; "County."

(f) The expression "alien" includes a statutory alien ; "Alien."

(g) The expression "statutory alien" means a natural-born British subject who has become an alien under this Act or any Act or Acts in that behalf ; "Statutory alien."

(h) The expression "subject" includes a citizen when the foreign country referred to is a republic. 44 V., c. 13, s. 1 and s. 20, *part.* "Subject."

RIGHTS OF PROPERTY OF ALIENS.

Aliens may hold and transmit property of any kind.

Not to vote on it.

To have only rights expressly given.

Act not to affect certain dispositions.

As to owning ships.

3. Real and personal property of any description may be taken, acquired, held and disposed of by an alien in the same manner, in all respects, as by a natural-born British subject; and a title to real and personal property of any description may be derived through, from, or in succession to an alien, in the same manner in all respects as through, from, or in succession to a natural-born British subject; but nothing in this section shall qualify an alien for any office, or for any municipal, parliamentary, or other franchise; nor shall anything therein entitle an alien to any right or privilege as a British subject, except such rights and privileges in respect of property as are hereby expressly conferred upon him :

2. The provisions of this section shall not affect any estate or interest in real or personal property to which any person has or may become entitled, either mediately or immediately, in possession or expectancy, in pursuance of any disposition made before the *fourth day of July, one thousand eight hundred and eighty-three*, or in pursuance of any devolution by law on the death of any person dying before the said date; nor shall the provisions of this section qualify an alien to be the owner of a British ship. 44 V., c. 13, s. 4.

The Act 44 V., c. 13, was brought into force by Order in Council on 4th July, 1883.

REPATRIATION.

Declaration of alienage in cases within convention with a foreign state.

Effect of such declaration.

Before whom such declaration may be made.

4. Whenever Her Majesty has entered into a convention with any foreign state to the effect that the subjects of that state who are naturalized as British subjects may divest themselves of their status as British subjects, and whenever Her Majesty, by Order in Council, passed under the third section of the Act passed by the Parliament of the United Kingdom, known as "*The Naturalization Act, 1870*," has declared that such convention has been entered into by Her Majesty—from and after the date of such Order in Council, any person originally a subject of the state referred to in such order, who has been naturalized as a British subject within Canada, may, within such limit of time as is prescribed in the convention, make a declaration of alienage, and from and after the date of his so making such declaration, such person shall, within Canada, be regarded as an alien, and as a subject of the state to which he originally belonged, as aforesaid. 44 V., c. 13, s. 5.

5. Any such declaration of alienage may be made before any of the persons following, that is to say :—

(a) If the declarant is in the United Kingdom, in the presence of any justice of the peace ;

(b) If elsewhere in Her Majesty's dominions, in the presence of any judge of any court of civil or criminal jurisdiction, or of any justice of the peace, or of any other officer for the time being authorized by law, in the place in which the declarant is, to administer an oath for any judicial or other legal purpose ;

(c) If out of Her Majesty's dominions, in the presence of any officer in the diplomatic or consular service of Her Majesty. 44 V., c. 13, s. 6.

6. Any person who, by reason of his having been born within the dominions of Her Majesty, is a natural-born subject, but who, also, at the time of his birth became, under the law of any foreign state, a subject of such state, and is still such subject, may, if of full age, and not under any disability, make a declaration of alienage in manner aforesaid, and from and after the making of such declaration of alienage, such person shall, within Canada, cease to be a British subject :

Declaration of alienage by persons being H. M.'s subjects by birth, but also subjects of a foreign state by the law thereof.

2. Any person who is born out of Her Majesty's dominions of a father being a British subject, may, if of full age, and not under any disability, make a declaration of alienage in manner aforesaid, and from and after the making of such declaration shall, within Canada, cease to be a British subject. 44 V., c. 13, s. 7.

Declaration of alienage by the child of a British subject.

EXPATRIATION.

7. Any British subject who has, at any time before or at any time after the fourth day of July, one thousand eight hundred and eighty-three, when in any foreign state and not under any disability, voluntarily become naturalized in such state, shall, from and after the time of his so having become naturalized in such foreign state, be deemed, within Canada, to have ceased to be a British subject, and shall be regarded as an alien : but when—

Alienage in Canada of British subject naturalized in a foreign state.

1. Any British subject has, before the fourth day of July, one thousand eight hundred and eighty-three, voluntarily become naturalized in a foreign state and yet is desirous of remaining a British subject within Canada, he may, at any time within two years after the *said last mentioned date*, make a declaration that he is desirous of remaining a British subject, and upon such declaration, hereinafter referred to as a declaration of British nationality, being made, and upon his taking the oath of allegiance, the declarant shall be deemed to be and to have been continually a British subject within Canada, with this qualification, that he shall not, when within the limits of the foreign state in which he has been naturalized, be deemed, within Canada, to be a British

How such subject may remain a British subject in Canada.

Declaration and its effect.

Except when he is within such foreign state.

subject, unless he has ceased to be a subject of that state in pursuance of the laws thereof, or in pursuance of a treaty to that effect :

Where and before whom such declaration may be made.

2. Such declaration of British nationality may be made, and the oath of allegiance be taken, before any of the persons following, that is to say :—

(a) If the declarant is in the United Kingdom, in the presence of a justice of the peace ;

(b) If elsewhere in Her Majesty's dominions, in the presence of any judge of any court of civil or criminal jurisdiction, or of any justice of the peace, or of any other officer for the time being authorized by law, in the place in which the declarant is, to administer an oath for any judicial or other legal purpose ;

(c) If out of Her Majesty's dominions, in the presence of any officer in the diplomatic or consular service of Her Majesty. 44 V., c. 13, s. 9.

NATURALIZATION.

Alien subject to certain conditions may take oaths and apply for certificate as a British subject.

8. Any alien who, within such limited time before taking the oaths or affirmations of residence and allegiance and procuring the same to be filed of record as hereinafter prescribed, as is allowed by order or regulation of the Governor in Council, has resided in Canada for a term of not less than three years, or has been in the service of the Government of Canada or of any of the Provinces of Canada, or of two or more of such Governments, for a term of not less than three years, and intends, when naturalized, either to reside in Canada or to serve under the Government of Canada or of the Government of one of the Provinces of Canada, or two or more of such Governments, may take and subscribe the oaths of residence and allegiance or of service and allegiance in the form A in the schedule to this Act, or to the like effect, and apply for a certificate in the form B in said schedule. 44 V., c. 13, s. 10.

Where and before whom such oaths may be taken.

9. Every such oath shall be taken and subscribed by such alien, and may be administered to him before any of the following persons, that is to say :—a judge of a court of record in Canada, a commissioner authorized to administer oaths in any court of record in Canada, a commissioner authorized by the Governor General to take oaths under this Act, a justice of the peace of the county or district where the alien resides, a notary public, a stipendiary magistrate, or a police magistrate. 44 V., c. 13, s. 11.

Evidence of residence

10. The alien shall adduce, in support of such application, such evidence of his residence or service, and intention to

reside or serve, as the person before whom he takes the oaths or service aforesaid requires; and such person, on being satisfied required. with such evidence, and that the alien is of good character, shall grant to such alien a certificate in the form B in the schedule to this Act, or to the like effect. 44 V., c. 13, s. 12.

11. Such certificate shall be presented,—

Presentation
of certificate.

In Ontario, to the court of general sessions of the peace of In Ontario. the county within the jurisdiction of which the alien resides, or to the court of assize and *nisi prius* during its sitting in such county;

In Quebec, to the circuit court in and for the circuit within In Quebec. the jurisdiction of which the alien resides;

In Nova Scotia, to the supreme court, during its sittings In Nova Scotia. in the county within the jurisdiction of which the alien resides, or to the county court of such county;

In New Brunswick, to the supreme court or the court of In New Brunsw-
assize and *nisi prius* during its sittings in the county wick. within the jurisdiction of which the alien resides, or to the county court of such county;

In British Columbia, to the supreme court of British Col- In British
umbia, during its sittings, in the electoral district within Columbia. the jurisdiction of which the alien resides, or to the court of assize and *nisi prius* during its sittings in such electoral district, or to the county court of such electoral district;

In Manitoba, to the court of Queen's Bench during its In Manitoba. sittings in the county within the jurisdiction of which the alien resides, or to the court of assize and *nisi prius* during its sittings in such county, or to the county court of such county;

In Prince Edward Island, to the supreme court of judica- In Prince
ture during its sittings in the county within which the Edward
alien resides, or to the court of assize and *nisi prius* during its Island. sittings in such county, or to the county court of such county,—

Such presentation shall be made in open court, on the first To be in open
day of some general sitting of such court; and thereupon court.
such court shall cause the same to be openly read in court; and, if during such sitting, the facts mentioned in such certificate are not controverted, or any other valid objection To be filed of
made to the naturalization of such alien, such court, on the record if not
last day of such sitting, shall direct that such certificate invalidated.
shall be filed of record in the court. 44 V., c. 13, s. 13.

12. In the North-West Territories and in the District of In N. W. T.
Keewatin, such certificate shall be presented to such autho- and Kee-
watin.

rities or persons as are prescribed by order or regulation of the Governor in Council, and thereupon such authority or person shall take such proceedings with respect to such certificate, and shall cause the same to be filed of record, in such way as is prescribed by such order or regulation. 44 V., c. 13, s. 14.

Certificate of naturalization from a court.

13. The alien shall, after the filing of such certificate, be entitled, under the seal of the court, if such certificate has been presented to a court, to a certificate of naturalization in the form C in the schedule to this Act, or to the like effect; and if the certificate has been presented to an authority or person, as prescribed by order or regulation of the Governor in Council, the alien shall be entitled to receive, from such authority or person, a certificate of naturalization, authenticated as is prescribed by such order or regulation. 44 V., c. 13, s. 15.

From an authority duly empowered by the Governor in Council.

If certificate of naturalization is on account of service.

14. The certificate granted to an alien who applies for naturalization on account of service under the Government of Canada or of any Province or of any two or more of such Governments, as hereinbefore provided, shall be filed of record in the office of the Secretary of State of Canada; and thereupon the Governor in Council may authorize the issue of a certificate of naturalization to such alien, in the form D in the schedule to this Act. 44 V., c. 13, s. 16.

Rights of alien so naturalized.

15. An alien to whom a certificate of naturalization is granted shall, within Canada, be entitled to all political and other rights, powers and privileges, and be subject to all obligations, to which a natural-born British subject is entitled or subject within Canada, with this qualification, that he shall not, when within the limits of the foreign state of which he was a subject previously to obtaining his certificate of naturalization, be deemed to be a British subject, unless he has ceased to be a subject of that state in pursuance of the laws thereof, or in pursuance of a treaty or convention to that effect. 44 V., c. 13, s. 17.

Exception when he is within the state of which he was a subject.

Certificate of naturalization where nationality is doubtful.

16. A special certificate of naturalization may, in manner aforesaid, be granted to any person with respect to whose nationality, as a British subject, a doubt exists, and such certificate may specify that the grant thereof is made for the purpose of quieting doubts as to the right of such person to be deemed a British subject; and the grant of such special certificate shall not be deemed to be any admission that the person to whom it was granted was not previously a British subject; and such special certificate may be in the form E in the schedule to this Act, or to the like effect. 44 V., c. 13, s. 18.

Effect thereof.

17. An alien naturalized previously to the *fourth day of July, one thousand eight hundred and eighty-three*, may apply for a certificate of naturalization under this Act, and such certificate may be granted to such naturalized alien upon the same terms and subject to the same conditions upon which such certificate might have been granted if such alien had not been previously naturalized. 44 V., c. 13, s. 19.

As to aliens naturalized before 4th July, 1883.

18. A statutory alien may, upon the same terms and subject to the same conditions as are required in the case of an alien applying for a certificate of naturalization, apply to the proper court or authority or person in that behalf for a certificate, hereinafter referred to as a "certificate of re-admission to British nationality," re-admitting him to the status of a British subject within Canada; and such certificate may be in the form F in the schedule to this Act, or to the like effect. 44 V., c. 13, s. 20.

As to British subject by birth who has become an alien.

Certificate of re-admission within Canada.

19. A statutory alien, to whom a certificate of re-admission to British nationality within Canada has been granted, shall, from the date of the certificate of re-admission, but not in respect of any previous transaction, resume his position as a British subject within Canada—with this qualification, that within the limits of the foreign state of which he became a subject, he shall not be deemed to be a British subject within Canada, unless he has ceased to be a subject of that foreign state according to the laws thereof, or in pursuance of a treaty or convention to that effect. 44 V., c. 13, s. 23.

Rights of statutory alien re-admitted within Canada.

20. When any foreign state has, before or after the *fourth day of July, one thousand eight hundred and eighty-three*, entered into a convention with Her Majesty to the effect that the subjects of that state who have been naturalized as British subjects may divest themselves of their status as subjects of such foreign state, and when such convention, or the laws of such foreign state, require a residence in Canada of more than three years or a service under the Government of Canada, or of any of the Provinces of Canada, or of two or more of such Governments, of more than three years, as a condition precedent to such subjects divesting themselves of their status as such foreign subjects—an alien, being a subject of such foreign state, who desires to divest himself of his status as such subject, may, if at the time of taking the oath of residence or service, he has resided or served the length of time required by such convention, or by the laws of the foreign state, instead of taking the oath showing three years' residence or service, take an oath showing residence or service for the length of time required by such convention, or by the laws of the

Provision in case of certain convention by H. M. with a foreign state.

How alien subject of such state may obtain certificate of naturalization.

foreign state; and the certificate of naturalization granted to the alien under the foregoing provisions hereof shall state the period of residence or service sworn to:

What the certificate shall show and its effect.

2. Such certificate of naturalization shall likewise state the period of residence or service sworn to, and the statement in such certificate of naturalization shall be sufficient evidence of such residence or service in all courts and places whatsoever. 44 V., c. 13, s. 24.

As to aliens in such case of convention who have become entitled to privileges of British birth in Canada.

21. An alien, who, either before or after the *fourth day of July, one thousand eight hundred and eighty-three* has, whether under this Act or otherwise, become entitled to the privileges of British birth in Canada, and who is a subject of a foreign state with which a convention to the effect above mentioned has been entered into by Her Majesty, and who desires to divest himself of his status as such subject, and who has resided or served the length of time required, by such convention or by the laws of the foreign state, may take the oath of residence or service showing residence or service for the length of time required by such convention or by the laws of the foreign state, and apply for a certificate, or a second certificate, as the case may be, of naturalization under this Act. 44 V., c. 13, s. 25.

STATUS OF MARRIED WOMEN AND INFANT CHILDREN.

Married woman.

22. A married woman shall, within Canada, be deemed to be a subject of the state of which her husband is, for the time being, a subject. 44 V., c. 13, s. 26.

Widow being a British subject by birth who has become an alien by marriage.

23. A widow, who is a natural-born British subject, and who has become an alien by or in consequence of her marriage, shall be deemed to be a statutory alien, and may, as such, at any time during widowhood, obtain a certificate of re-admission to British nationality, within Canada, as hereinbefore provided. 44 V., c. 13, s. 27.

Children of British subjects who have become aliens.

24. If the father, being a British subject, or the mother, being a British subject and a widow, becomes an alien in pursuance of this Act, every child of such father or mother who, during infancy, has become resident in the country where the father or mother is naturalized and has, according to the laws of such country, become naturalized therein, shall, within Canada, be deemed to be a subject of the state of which the father or mother has become a subject, and not a British subject. 44 V., c. 13, s. 28.

Children of aliens who have been re-admitted to British nationality.

25. If the father, or the mother being a widow, has obtained a certificate of re-admission to British nationality within Canada, every child of such father or mother who, during infancy, has become resident within Canada with such father

or mother, shall be deemed to have resumed the position of a British subject within Canada, to all intents. 44 V., c. 13, s. 29.

26. If the father, or the mother being a widow, has obtained a certificate of naturalization within Canada, every child of such father or mother who, during infancy, has become resident with such father or mother within Canada, shall, within Canada, be deemed to be a naturalized British subject. 44 V., c. 13, s. 30.

If the parents have obtained certificates of naturalization.

27. Nothing in this Act contained shall deprive any married woman of any estate or interest in real or personal property to which she became entitled before the *fourth day of July, one thousand eight hundred and eighty-three*, or affect such estate or interest to her prejudice. 44 V., c. 13, s. 31.

Act not to affect acquired rights of married women.

REGULATIONS.

28. The Governor in Council may, from time to time, make regulations respecting the following matters:—

Regulations by Governor in Council as to—

- (a) The form and registration of declarations of British nationality; Declaration.
- (b) The form and registration of certificates of naturalization in Canada; Registration.
- (c) The form and registration of certificates of re-admission to British nationality within Canada; Re-admission.
- (d) The form and registration of declarations of alienage; Alienage.
- (e) The transmission to Canada, for the purpose of registration or safe keeping, or of being produced as evidence of any declarations or certificates made in pursuance of this Act, out of Canada, or of any copies of such declarations or certificates; also, of copies of entries contained in any register kept out of Canada in pursuance of or for the purpose of carrying the provisions of this Act into effect; Transmission of evidence for purposes of this Act.
- (f) With the consent of the Treasury Board, the imposition and application of fees in respect of any registration authorized by this Act to be made, and in respect of the making of any declaration or the granting of any certificate authorized by this Act to be made or granted by this Act; Fees on registration.
- (g) The persons by whom the oaths may be administered under this Act; Oaths.

- Subscription of oaths. (h) Whether or not such oaths are to be subscribed as well as taken, and the form in which such taking and subscription are to be attested ;
- Registration. (i) The registration of such oaths ;
- Copies. (j) The persons by whom certified copies of such oaths may be given ;
- Transmission of oaths, &c., taken out of Canada. (k) The transmission to Canada, for the purpose of registration or safe keeping, or of being produced as evidence, of any oaths taken in pursuance of this Act out of Canada, or of any copies of such oaths ; also, of copies of entries of such oaths contained in any register kept out of Canada, in pursuance of this Act ;
- Proof. (l) The proof, in any legal proceeding, of such oaths ;
- Fees. (m) With the consent of the Treasury Board, the imposition and application of fees in respect of the administration or registration of any such oath. 44 V., c. 13, s. 32, *part.*
- Presumption as to regulations. **29.** Any regulation made by the Governor in Council under this Act shall be deemed to be within the powers conferred by this Act, and shall be of the same force as if it had been enacted here. 44 V., c. 13, s. 32, *part.*

EVIDENCE.

- Proof of declarations. **30.** Any declaration authorized to be made under this Act may be proved in any legal proceeding, by the production of the original declaration, or of any copy thereof certified to be a true copy by the clerk or acting clerk of the Queen's Privy Council for Canada, or by any person authorized by regulation of the Governor in Council to give certified copies of such declaration ; and the production of such declaration or copy shall be evidence of the person therein named as declarant having made the same at the date in the said declaration mentioned. 44 V., c. 13, s. 33.
- Proof of certificates. **31.** A certificate of naturalization, or of re-admission to British nationality, may be proved in any legal proceeding by the production of the original certificate, or of any copy thereof certified to be a true copy by the clerk or acting clerk of the Queen's Privy Council for Canada, or by any person authorized by regulation of the Governor in Council to give certified copies of such certificate ; and the statement of the period of residence or service in a certificate of naturalization shall be sufficient evidence of such residence or service in all courts and places whatsoever. 44 V., c. 13, s. 34.

32. Entries in any register authorized to be made in pursuance of this Act may be proved by such copies and certified in such manner as is directed by regulation of the Governor in Council, by the clerk or acting clerk of the Queen's Privy Council for Canada, or by the Secretary of State; and the copies of such entries shall be evidence of any matters by this Act or by any regulation of the Governor in Council authorized to be inserted in the register. 44 V., c 13, s. 35.

Proof of entries of registration.

33. A copy of any certificate of naturalization may be registered in the land registry office of any county or district or registration division within Canada, and a copy of such registry, certified by the registrar or other proper person in that behalf, shall be sufficient evidence of the naturalization of the person mentioned therein, in all courts and places whatsoever. 44 V., c. 13, s. 21.

Registration of certificate in land registry office.

GENERAL PROVISIONS.

34. The Governor in Council may, from time to time, appoint commissioners to take and administer oaths under this Act. 44 V., c. 13, s. 44.

Commissioners for administering oaths.

35. If any British subject has, in pursuance of this Act, become an alien, he shall not thereby be discharged from any liability in respect of any acts done before the date of his so becoming an alien. 44 V., c. 13, s. 37.

As to acts done before naturalization.

36. The clerk of the court by which the certificate of naturalization is issued shall, for all services and filings in connection with such certificate, be entitled to receive, from the person naturalized, the sum of twenty-five cents, and no more; and no further or other fee shall be payable for or in respect of such certificate:

Fee on issue of certificate by a court.

2. The registrar shall, for recording a certificate of naturalization, be entitled to receive from the person producing the same for registry, the sum of fifty cents, and a further sum of twenty-five cents for every search and certified copy of the same, and no more. 44 V., c. 13, s. 22.

And to registrar for recording it.

37. Every person who, being by birth an alien, had, on or before the *fourth day of July, one thousand eight hundred and eighty-three*, become entitled to the privileges of British birth, within any part of Canada, by virtue of any general or special Act of naturalization in force in such part of Canada, shall hereafter be entitled to all the privileges by this Act conferred on persons naturalized under this Act. 44 V., c. 13, s. 38.

As to aliens naturalized in any part of Canada before 4th July, 1883.

Act not to affect Act of U.C., 54 Geo. 3, c. 9.

38. Nothing in this Act contained shall repeal or in any manner affect the Act of the Legislature of Upper Canada, passed in the fifty-fourth year of the reign of His late Majesty King George the Third, intituled "*An Act to declare certain persons therein described Aliens, and to vest their estates in His Majesty,*" or the Act of the Legislature of the late Province of Canada, passed in the twenty-fourth year of Her Majesty's reign, chaptered forty-four and intituled "*An Act respecting forfeited estates in Upper Canada,*" or any proceedings had under the said Acts. 44 V., c. 13, s. 39.

Nor certain Acts of Province of Canada.

39. Nothing in this Act contained shall repeal or in any manner affect the Act of the Legislature of the late Province of Canada, passed in the session held in the fourth and fifth years of Her Majesty's reign, chaptered seven, intituled "*An Act to secure to and confer upon certain inhabitants of this Province, the civil and political rights of natural-born British subjects,*" or the first, second or third sections of the Act of the said Legislature, passed in the twelfth year of Her Majesty's reign, chapter one hundred and ninety-seven, intituled "*An Act to repeal a certain Act therein mentioned and to make better provision for the naturalization of Aliens,*" or impair or affect the naturalization of any person naturalized under the said Acts, or either of them, or any rights acquired by such person or by any other person by virtue of such naturalization, all which shall remain valid and be possessed and enjoyed by such persons respectively. 44 V., c. 13, s. 40.

4-5 V., c. 7.

12 V., c. 197.

Nor the rights of those naturalized under them.

As to persons entitled to be naturalized before January, 1868, under the law of any Province of Canada.

40. Every person who, being by birth an alien, did, prior to the first day of January, one thousand eight hundred and sixty-eight, take the oaths of residence and allegiance required by the laws respecting naturalization then in force in that one of the Provinces now forming the Dominion of Canada, in which he then resided, shall, within Canada, be admitted to all the rights and privileges of a natural-born British subject conferred upon naturalized persons by this Act; and the certificate of the judge, magistrate, or other person before whom such oaths were taken and subscribed, shall be evidence of his having taken them; or he may take and subscribe the oath in the form G in the schedule to this Act before some judge, justice, or person authorized to administer the oaths of residence and allegiance under this Act, in the county or district in which he resides. 44 V., c. 13, s. 41.

Aliens who had their settled abode in certain Provinces, on certain named days, to be British sub-

41. All aliens who had their settled place of abode in either of the late Provinces of Upper Canada or Lower Canada, or Canada, or in Nova Scotia or New Brunswick, on or before the first day of July, one thousand eight hundred and sixty-seven, or in Rupert's Land or the North-West Territories on or before the fifteenth day of July, one thousand eight hundred

and seventy, or in British Columbia on or before the twentieth day of July, one thousand eight hundred and seventy-one, or in Prince Edward Island on or before the first day of July, one thousand eight hundred and seventy-three, and who are still residents in Canada, shall be deemed, adjudged, and taken to be, and to have been entitled to all the privileges of British birth within Canada as if they had been natural-born subjects of Her Majesty, but no such person, being a male, shall be entitled to the benefit of this Act, unless he takes the oaths of allegiance in the form A, and of residence in the form H, in the schedule to this Act, before some justice of the peace or other person authorized to administer oaths under this Act. 44 V., c. 13, s. 42.

42. The oaths taken under the next preceding section shall be filed of record, as follows:—If the person making them resides in the Province of Ontario, with the clerk of the peace of the county in which he resides; if he resides in the Province of Quebec, with the clerk of the circuit court of the circuit within which he resides; if he resides in Nova Scotia, with the prothonotary of the Supreme Court; and if he resides in New Brunswick, with the clerk of the Supreme Court; if he resides in British Columbia, with the clerk of the Supreme Court of British Columbia; if he resides in Prince Edward Island, with the clerk of the Supreme Court of Judicature; if he resides in Manitoba, with the clerk of the court of Queen's Bench, or with the clerk of the county court of the county in which he resides; if he resides in the North-West Territories or in the District of Keewatin, with such person or authority as is prescribed by order or regulation of the Governor in Council:

2. Upon the oath being so filed, the person making it shall be entitled to the benefit of this Act and of the privileges of British birth within Canada, and shall also, upon payment of a fee of twenty-five cents, be entitled to a certificate from the person with whom the oaths have been filed, in the form I in the schedule to this Act, or to the like effect; and the production of such certificate shall be *prima facie* evidence of his naturalization under this Act, and that he is entitled to and enjoys all the rights and privileges of a British subject. 44 V., c. 13, s. 43.

43. No alien shall be naturalized within Canada, except under the provisions of this Act. 44 V., c. 13, s. 46.

PENALTY FOR FALSE SWEARING.

44. Every person who wilfully swears falsely, or makes any false affirmation under this Act, shall, on conviction

jects on taking oaths of allegiance, and residence.

Where the oaths required shall be filed of record.

Effect of filing; fee for certificate, and its effect.

Naturalization to be under this Act only.

Punishment for false

THE NATURALIZATION ACT.

Oath of Allegiance.

I, A. B., do sincerely promise and swear (*or, being a person allowed by law to affirm in judicial cases, do affirm*) that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, as lawful Sovereign of the United Kingdom of Great Britain and Ireland, and of the Dominion of Canada, dependent on and belonging to the said Kingdom, and that I will defend Her to the utmost of my power against all traitorous conspiracies or attempts whatever which shall be made against Her Person, Crown and Dignity, and that I will do my utmost endeavor to disclose and make known to Her Majesty, Her Heirs or Successors, all treasons or traitorous conspiracies and attempts which I shall know to be against Her or any of them; and all this I do swear (*or affirm*) without any equivocation, mental evasion or secret reservation. So help me God.

Sworn before me at this day of	}	A. B.
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B.

THE NATURALIZATION ACT.

Certificate.

I, C. D. (*name and description of the person before whom the oaths have been taken*), do certify that A. B., an alien, on the day of _____, subscribed and took, before me, the oaths (*or affirmations*) of residence and allegiance (*or service and allegiance, as the case may be*), authorized by the eighth section of "*The Naturalization Act*," and therein swore (*or affirmed*) to a residence in Canada (*or service, &c.*), of _____ years; that I have reason to believe, and do believe, that the said A. B., within the period of _____ years preceding the said day, has been a resident within Canada for (three *or* five, *as the case may be*) years (*or* has been in the service of the Government of Canada for three years; *or, as the case may be*), that the said A. B. is a person of good character, and that there exists, to my knowledge, no reason why the said A. B. should not be granted all the rights and capacities of a natural-born British subject.

Dated at _____, the _____ day of _____

C.D.

If the above certificate is applied for by a person, with respect to whose nationality a doubt exists, and who desires a special certificate of naturalization under section sixteen, add the following :—

“ I further certify that the said A. B. has doubts as to his nationality as a British subject, and desires a special certificate of naturalization under section sixteen of said Act.”

If the above certificate is applied for by a person previously a natural-born British subject, but who became an alien by naturalization, an appropriate statement to that effect should be inserted in the certificate.

C.

THE NATURALIZATION ACT.

Certificate of Naturalization.

Dominion of Canada, }
Province of }

In the (*name of Court*) :

Whereas, A. B., of, &c. (*describing him as formerly of such a place, in such a foreign country, and now of such a place in Canada, and adding his occupation or addition*), has complied with the several requirements of “ *The Naturalization Act*,” and has duly resided in Canada for the period of (three or five, *as the case may be*) years. And whereas the certificate granted to the said A. B., under the *tenth* section of the said Act, has been duly read in open court, and thereupon, by order of the said court, has been filed of record in the same, pursuant to the said Act (¶). This is, therefore, to certify to all whom it may concern, that under and by virtue of the said Act, A. B. has become naturalized as a British subject (§) and is, within Canada, entitled to all political and other rights, powers and privileges, and is subject to all obligations to which a natural-born British subject is entitled or subject within Canada, with this qualification, that he shall not, when within the limits of the foreign state of which he was a subject (*or citizen*), previous to the date hereof, be deemed to be a British subject, unless he has ceased to be a subject (*or citizen*) of that state, in pursuance of the laws thereof or in pursuance of a treaty or convention to that effect.

Given under the seal of the said court, this
day of , one thousand eight hundred and

E. F.

Judge, Clerk (*or other proper
officer of the Court.*)

This form may be altered so as to apply to the North-West Territories or District of Keewatin.

D.

THE NATURALIZATION ACT.

Certificate of Naturalization to a person after service under Government.

Whereas A. B., of (*describing him, and adding his occupation or addition*), has complied with the several requirements of "*The Naturalization Act*," and has been in the service of the Government of Canada (*or, as the case may be*) for a term of not less than three years, and intends, when naturalized, to reside in Canada (*or, to serve under the Government of* , *as the case may be*); and whereas the certificate granted to the said A. B., under the *tenth* section of the said Act, has been duly filed of record in the office of Her Majesty's Secretary of State of Canada, pursuant to the said Act; and whereas the Governor in Council has duly authorized the issue of this certificate of naturalization: This is, therefore, to certify to all whom it may concern that under and by virtue of the said Act, the said A. B. has become naturalized as a British subject and is, within Canada, entitled to all political and other rights, powers and privileges, and is subject to all obligations to which a natural-born British subject is entitled or subject within Canada, with this qualification, that he shall not, when within the limits of the foreign state of which he was a subject (*or citizen*) previous to the date hereof, be deemed to be a British subject unless he has ceased to be a subject (*or citizen*) of that state in pursuance of the laws thereof, or in pursuance of a treaty or convention to that effect.

Given under my hand, this day of

Secretary of State of Canada.

E.

THE NATURALIZATION ACT.

Special Certificate of Naturalization to a person with respect to whose Nationality a doubt exists.

Follow form C down to the sign ¶—then add:

And whereas the said A. B. alleges that he is a person with respect to whose nationality as a British subject a doubt exists, and this certificate is issued for the purpose of quieting such doubts, and the application of the said A. B. therefor and the issuing thereof shall not be deemed to be any admission that the said A. B. was not heretofore a British subject—(*then continue the rest of form C to the end*).

Form D to be altered in a similar way when necessary.

F.

THE NATURALIZATION ACT.

Certificate of re-admission to British Nationality.

Formal part, as in form C.

Whereas A. B., of (*describing him. as in form C*), who alleges that he was a natural-born British subject, and that he became an alien by being naturalized as a subject (or citizen) of has complied with the several requirements of "*The Naturalization Act*," and has duly resided in Canada for the period of three (*or five, as the case may be*) years; and whereas the certificate granted to the said A. B., under the *tenth* section of the said Act, has been duly read in open court, and thereupon, by order of the said court, has been filed of record in the same, pursuant to the said Act: This is, therefore, to certify to all whom it may concern that under and by virtue of the said Act the said A. B., from the date of this certificate, but not in respect of any previous transaction, is re-admitted to the status of a British subject— (*then follow form C from the sign § to the end*).

Form D to be altered in a similar way when necessary.

Where the applicant is a widow, the form shall be modified accordingly and recite that she became an alien by marriage with her late husband, L. M., a subject (or citizen) of

 G.

THE NATURALIZATION ACT.

I, A. B., of , do swear (*or affirm*) that on or about the day of , one thousand eight hundred and , at , in the (*county, &c.*), of , in the Province of , I did take and subscribe before (*a judge, magistrate or other person, naming him*) the oaths (*or affirmations*) of residence and allegiance required by the laws respecting the naturalization of aliens then in force in the said Province. So help me God.

A. B.

Sworn to before me at , on {
the day of , 18 . }

H.

THE NATURALIZATION ACT.

I, A. B., of _____, do swear (or affirm) that I had a settled place of abode in (Upper Canada, Lower Canada, Nova Scotia or New Brunswick, as the case may be), on the first day of July, A.D. 1867 (or in Rupert's Land or the North-West Territories, on the fifteenth day of July, A.D. 1870), (or in British Columbia, on the twentieth day of July, A.D. 1871), (or in Prince Edward Island, on the first day of July, A.D. 1873), and I resided therein with intent to settle therein; and I have continuously since resided in the Dominion of Canada. So help me God.

A. B.

Sworn before me at _____, on }
 the _____ day of _____ 18 . }

I.

THE NATURALIZATION ACT.

I hereby certify that A. B., of _____, has filed with me as (clerk of the peace, _____, or as the case may be) the oath (or affirmation) of which the following is a copy:—

(Copy the Oath or Affirmation.)

This certificate is issued pursuant to the *forty-second* section of "*The Naturalization Act*," and is to certify to all to whom it may concern that

(Follow Form C.)

44 V., c. 13, Sch.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with
44 V., c. 13.....	All but ss. 2, 8 and 36 and part of s. 45.	ss. 2, 36 and s. 45 part.	s. 8.....	Procedure.

CHAPTER 108.

An Act respecting inquiries concerning Public Matters.

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

Governor in Council may confer on commissioners appointed to make inquiry as to public matter, power to examine on oath, &c.

1. Whenever the Governor in Council deems it expedient to cause inquiry to be made into and concerning any matter connected with the good government of Canada, or the conduct of any part of the public business thereof, and such inquiry is not regulated by any special law, the Governor in Council may, by the commission in the case, confer upon the commissioners or persons by whom such inquiry is to be conducted, the power of summoning before them any witnesses, 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 commissioners deem requisite to the full investigation of the matters into which they are appointed to examine. 38 V., c. 38, s. 1, *part.*

Power to commissioners to compel attendance of witnesses.
Proviso.

2. Such commissioner or commissioners shall have the same power to enforce the attendance of such witnesses, and to compel them to give evidence, as is vested in any court of record 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. 31 V., c. 38, s. 1, *part.*

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
31 V., c. 38.....	Part of s. 1.	Part of s. 1.		

CHAPTER 109.

An Act respecting the making of certain investigations under oath.

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

1. The minister presiding over any department of the civil service of Canada, may appoint at any time, under the authority of the Governor in Council, a commissioner or commissioners, to investigate and report upon the state and management of the business, or any part of the business, of such department, either in the inside or outside service thereof, and the conduct of any person in such service, so far as the same relates to his official duties. 43 V., c. 12, s. 1, *part.* Commissioner may be appointed to make investigation.

2. Such commissioner or commissioners may, for the purposes of the investigation, enter into and remain within any public office or institution and shall have access to every part thereof, and may examine all papers, documents, vouchers, records and books of every kind belonging thereto; and may summon before him or them any *person*, and require him to give evidence on oath, orally or in writing, or on solemn affirmation, if he is entitled to affirm in civil matters, and any such commissioner may administer such oath or affirmation. 43 V., c. 12, s. 1, *part.* Powers of commissioner.

3. Any such commissioner or commissioners may, under his or their hand or hands, issue a subpoena or other request or summons, requiring and commanding any person therein named to appear at the time and place mentioned therein, and then and there to testify to all matters within his knowledge, relative to the subject matter of such investigation, and to bring with him and produce any document, book, or paper, which he has in his possession, or under his control, relative to any such matter as aforesaid; and any such *person* may be summoned from any part of Canada by virtue of such subpoena, request or summons: May issue subpoena or summons.

2. Reasonable travelling expenses shall be paid to any person so summoned at the time of service of the subpoena, request or summons. 43 V., c. 12, s. 2. Expenses.

4. If, by reason of the distance at which any person, whose evidence is desired, resides from the place where his attendance is required, or for any other cause, the commis- Evidence may be taken by commission.

Power for that purpose.

sioner or commissioners deem it advisable, he or they may issue a commission or other authority to any officer or person therein named, empowering him to take such evidence and report the same to him or them; and such officer or person, being first sworn before some justice of the peace faithfully to execute the duty entrusted to him by such commission, shall, with regard to such evidence, have the same powers as the commissioner or commissioners would have had if such evidence had been taken before him or them, and may, in like manner, under his hand issue a subpoena or other request or summons for the purpose of compelling the attendance of any person, or the production of any document, book, or paper. 43 V., c. 12, s. 3.

Penalty on witnesses failing to attend, &c.

5. Every person who, being required to attend in the manner hereinbefore provided, fails, without valid excuse, to attend accordingly,—or being commanded to produce any document, book or paper, in his possession or under his control, fails to produce the same,—or who refuses to be sworn or to affirm, as the case may be, or to answer any proper question put to him by a commissioner, or other person as aforesaid, shall, on summary conviction before any police or stipendiary magistrate or judge of a superior or county court having jurisdiction in the county or district in which such person resides, or in which the place is at which he was so required to attend, be liable to a penalty not exceeding four hundred dollars; and the judge of the superior or county court aforesaid shall, for the purposes of this Act, be a justice of the peace. 43 V., c. 12, ss. 4 and 5.

Verbally amended.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
43 V., c. 12.	The whole.			

CHAPTER 110.

An Act to avoid the necessity of having Public Documents Engrossed on Parchment.

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

1. No commission or other public document under the Great Seal of Canada, or under the Privy Seal of the Governor General, or any letters patent of Canada, or any public writ, deed or other document thereof, or any portion of any such document, shall be required to be on parchment, but the same being written or printed wholly or in part on paper, shall be as valid in all respects as if written or printed on parchment; but nothing herein contained shall be construed as declaring that it was necessary to the validity of any such document heretofore signed, sealed or executed, that such document or any part thereof should be on parchment. 32-33 V., c. 15.

Public documents of Canada need not be on parchment.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
32-33 V., c. 15....	The whole.			

CHAPTER III.

An Act respecting defective Letters Patent and the discharge of securities to the Crown.

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

Defective letters patent of certain kinds, may be cancelled and correct ones issued in their stead.

Their effect.

How securities to the Crown may be discharged.

1. Whenever letters patent under the Great Seal of Canada, other than such as grant lands, or instruments under the Privy Seal of the Governor General or person administering the Government of Canada, have been issued to or in the name of the wrong person, or contain any clerical error or misnomer or wrong description of any material fact therein, the Secretary of State, when authorized by the Governor in Council, may direct the defective letters patent or instruments to be cancelled, and a minute of such cancellation to be entered in the margin of the registry of the original letters patent or other instruments, and correct the letters patent under the Great Seal or instruments under Privy Seal, as aforesaid, to be issued in their stead,—which said new letters patent or instruments shall relate back to the date of those so cancelled. 38 V., c. 13, s. 1.

2. Whenever the lien created by any mortgage or other instrument on any real or personal property to Her Majesty has been satisfied, the Governor in Council may declare that the same has been satisfied and discharged; and a copy of the Order in Council, certified by the Clerk of the Queen's Privy Council for Canada, shall operate as a release and discharge of any claim of Her Majesty, her successors or assigns, in respect of the same. 38 V., c. 13, s. 2.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
38 V., c. 13.....	The whole			

CHAPTER 112.

An Act respecting Joint Stock Companies.

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 Companies Clauses Act.*" 32-33 V., c. 12, s. 1. Short title.

INTERPRETATION.

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

(a) The expression "the Special Act" means any Act incorporating a company to which this Act applies, and with which this Act is incorporated, as hereinafter provided,— and also all Acts amending such Act; "Special Act."

(b) The expression "the company" means the company incorporated under the special Act; "Company."

(c) The expression "the undertaking" means the whole of the works and business of whatsoever kind, which the company is authorized to undertake and carry on; "Undertaking"

(d) The expression "real property" or "land" includes messuages, lands, tenements and hereditaments of any tenure, and all immovable property of any kind; "Real property,"
"Land."

(e) The expression "shareholder" means every subscriber to or holder of stock in the company, and includes the personal representatives of the shareholder. 32-33 V., c. 12, s. 2. "Shareholder."

APPLICATION OF ACT.

3. This Act applies to every joint stock company incorporated subsequent to the twenty-second day of June, one thousand eight hundred and sixty-nine, by any special Act of the Parliament of Canada, for any of the purposes or objects to which the legislative authority of the Parliament of Canada extends, except companies for the construction and working of railways, or the business Application of Act, and to what companies.

of banking and the issue of paper money, or insurance,—and, so far as it is applicable to the undertaking, and is not expressly varied or excepted by the special Act, is incorporated with it, and forms part thereof, and shall be construed therewith as forming one Act. 32-33 V., c. 12, s. 3.

How provisions of this Act may be excepted from incorporation with the special Act.

4. Any of the provisions of this Act may be excepted from incorporation with the special Act; and for that purpose it shall be sufficient to provide in the special Act that the sections or sub-sections of this Act which it is proposed so to except, referring to them by the numbers they bear, shall not be incorporated with the special Act, and the special Act shall be construed accordingly. 32-33 V., c. 12, s. 4.

Re-drafted.

GENERAL POWERS.

General corporate powers of companies.

5. Every company incorporated under any special Act, shall be a body corporate under the name declared in the special Act, and may acquire, hold, alienate and convey any real property necessary or requisite for the carrying on of the undertaking of such company, and shall be invested with all the powers, privileges and immunities necessary to carry into effect the intention and objects of this Act and of the special Act, and which are incident to such corporation, or are expressed or included in "*The Interpretation Act.*" 32-33 V., c. 12, s. 5.

Powers to be subject to this Act, unless excepted.

6. All powers given by the special Act to the company shall be exercised, subject to the provisions and restrictions contained in this Act, except such as are by the special Act expressly excepted from incorporation with it. 32-33 V., c. 12, s. 6.

DIRECTORS—THEIR DUTIES AND POWERS.

Directors.

7. The affairs of the company shall be managed by a board of not more than nine and not less than three directors. 32-33 V., c. 12, s. 7.

Provisional directors.

8. The persons named as such, in the special Act, shall be the first or provisional directors of the company, and shall remain in office until replaced by directors duly elected in their stead. 32-33 V., c. 12, s. 8.

Qualification of directors subsequently appointed.

9. No person shall be elected as a director unless he is a shareholder, owning stock absolutely in his own right, and not in arrear in respect of any call thereon; and the majority of the directors of the company so chosen shall, at all times, be persons resident in Canada, and subjects of Her Majesty, by birth or naturalization. 32-33 V., c. 12, s. 9.

10. The directors of the company shall be elected by the shareholders, in general meeting of the company assembled, at such times, in such manner, and for such term, not exceeding two years, as the special Act, or in default thereof, as the by-laws of the company prescribe. 32-33 V., c. 12, s. 10. Election of directors; term of office.

11. In the absence of other provisions in that behalf, in the special Act or the by-laws of the company— General provisions.

(a) The election of directors shall take place yearly, and all the directors then in office shall retire, but if otherwise qualified they shall be eligible for re-election ; As to elections.

(b) Notice of the time and place for holding general meetings of the company shall be given at least ten days previously thereto, in some newspaper published at the place in which the head office or chief place of business of the company is situated, or if there is no newspaper there published, then in the newspaper published nearest thereto ; Notice of general meetings.

(c) At all general meetings of the company, every shareholder shall be entitled to as many votes as he owns shares in the company, and may vote by proxy ; Votes.

(d) Elections of directors shall be by ballot ; Ballot.

(e) Vacancies occurring in the board of directors may be filled for the remainder of the term, by the directors from among the qualified shareholders of the company ; Vacancies.

(f) The directors shall, from time to time, elect from among themselves a president of the company ; and shall also appoint, and may remove at pleasure, all other officers thereof. 32-33 V., c. 12, s. 11. President and officers.

12. If, at any time, an election of directors is not made or does not take effect at the proper time, the company shall not be held to be thereby dissolved ; but such election may take place at any general meeting of the company, duly called for that purpose ; and the retiring directors shall continue in office until their successors are elected. 32-33 V., c. 12, s. 12. Failure to complete election, how remedied.

13. The directors of the company may, in all things, administer the affairs of the company, and may make or cause to be made for the company, any description of contract which the company may, by law, enter into ; and may, from time to time, make by-laws not contrary to law or to the special Act or to this Act, for the following purposes :— Powers of directors.

(a) The regulating of the allotment of stock, the making of calls thereon, the payment thereof, the issue and registration By-laws. Stock.

of certificates of stock, the forfeiture of stock for non-payment, the disposal of forfeited stock and of the proceeds thereof, and the transfer of stock ;

- Dividends. (b) The declaration and payment of dividends ;
- Directors. (c) The number of the directors, their term of service, the amount of their stock qualification and their remuneration, if any ;
- Officers. (d) The appointment, functions, duties and removal of all agents, officers and servants of the company, the security to be given by them to the company and their remuneration ;
- Meetings. (e) The time and place for the holding of the annual meeting of the company, the calling of meetings, regular and special, of the board of directors and of the company, the quorum at meetings of the directors and of the company, the requirements as to proxies, and the procedure in all things at such meetings ;
- Fines. (f) The imposition and recovery of all penalties and forfeitures admitting of regulation by by-law ;
- General business. (g) The conduct, in all other particulars, of the affairs of the company :

Altering by-laws.
 Proviso : as to confirmation of by laws.

2. The directors may, from time to time, repeal, amend or re-enact the same ; but every such by-law and every repeal, amendment or re-enactment thereof, unless it is in the meantime confirmed at a general meeting of the company, duly called for that purpose, shall only have force until the next annual meeting of the company, and in default of confirmation thereat shall, at and from that time only, cease to have force. 32-33 V., c. 12, s. 13, *part*.

Re-drafted.

Evidence of by-laws. **14.** A copy of any by-law of the company, under its seal, and purporting to be signed by any officer of the company, shall be received as *prima facie* evidence of such by-law in all courts in Canada. 32-33 V., c. 12, s. 14.

CAPITAL STOCK AND CALLS THEREON.

Stock to be personal estate. **15.** The stock of the company shall be personal estate, and shall be transferable in such manner only, and subject to such conditions and restrictions as are by this Act, or by the special Act or the by-laws of the company prescribed. 32-33 V., c. 12, s. 15.

Allotment of stock. **16.** If the special Act makes no other definite provision, the stock of the company shall be allotted at such times and

in such manner as the directors, by by-law or otherwise, prescribe. 32-33 V., c. 12, s. 16.

17. The directors of the company may call in and demand from the shareholders thereof respectively, all sums of money by them subscribed, at such times and places and in such payments or instalments as the special Act or this Act requires or allows, and interest shall accrue and fall due, at the rate of six per centum per annum, upon the amount of any unpaid call, from the day appointed for payment of such call. 32-33 V., c. 12, s. 17.

Instalments thereon: how called in, &c.

18. At least ten per centum upon the allotted stock of the company shall, by means of one or more calls, be called in and made payable within one year from the incorporation of the company; and for every year thereafter, at least a further ten per centum thereof shall, in like manner, be called in and made payable, until the whole has been so called in. 32-33 V., c. 12, s. 18.

Calls on stock.

19. The company may enforce payment of all calls and interest thereon, by action in any court of competent jurisdiction; and in such action it shall not be necessary to set forth the special matter, but it shall be sufficient to declare that the defendant is a holder of one share or more, stating the number of shares, and is indebted to the company in the sum of money to which the calls in arrear amount, in respect of one call or more, upon one share or more, stating the number of calls and the amount of each call, whereby an action has accrued to the company under this Act; and a certificate under the seal of the company, and purporting to be signed by any officer of the company, to the effect that the defendant is a shareholder, that such call or calls has or have been made, and that so much is due by him and unpaid thereon, shall be received in all courts as *primâ facie* evidence thereof. 32-33 V., c. 12, s. 19.

Payment of calls; enforcement of, by action.

20. If, after such demand or notice as by the special Act or the by-laws of the company is prescribed, any call made upon any share or shares is not paid within such time as by such special Act or by-laws is limited in that behalf, the directors, in their discretion, by resolution to that effect, reciting the facts and duly recorded in their minutes, may summarily declare forfeited any shares whereon such payment is not made; and such shares shall thereupon become the property of the company, and may be disposed of as the directors by by-law or otherwise prescribe. 32-33 V., c. 12, s. 20.

Or by forfeiture of shares.

21. No share shall be transferable, until all previous calls thereon have been fully paid, or until it is declared

Restriction as to transfer.

forfeited for non-payment of a call or calls thereon. 32-33 V., c. 12, s. 21.

Shareholders in arrears not to vote.

22. No shareholder who is in arrear in respect of any call shall vote at any meeting of the company. 32-33 V., c. 12, s. 22.

BOOKS OF THE COMPANY.

Stock book to be kept: its contents.

23. The company shall cause a book or books to be kept by the secretary, or by some other officer especially charged with that duty, wherein shall be kept recorded,—

Names of shareholders.

(a) The names, alphabetically arranged, of all persons who are or have been shareholders ;

Addresses.

(b) The address and calling of every such person, while such shareholder ;

Number of shares.

(c) The number of shares of stock held by each shareholder ;

Amounts paid and unpaid.

(d) The amounts paid in, and remaining unpaid, respectively, on the stock of each shareholder ;

Transfers.

(e) All transfers of stock, in their order as presented to the company for entry, with the date and other particulars of each transfer, and the date of the entry thereof; and,—

Names, &c., of directors.

(f) The names, addresses and calling of all persons who are or have been directors of the company, with the several dates at which each became or ceased to be such director. 32-33 V., c. 12, s. 23.

Powers and liability of directors as regards transfers in certain cases.

24. The directors may allow or refuse to allow the entry in any such book, of any transfer of stock whereof the whole amount has not been paid; and whenever entry is made in such book, of any transfer of stock not fully paid up, to a person who is not apparently of sufficient means, the directors shall be jointly and severally liable to the creditors of the company, in the same manner and to the same extent as the transferring shareholder except for such entry would have been liable; but if any director present when such entry is allowed does forthwith, or if any director, then absent, does, within twenty-four hours after he becomes aware thereof and is able so to do, enter on the minute book of the board of directors, his protest against such transfer, and within eight days thereafter publishes such protest in at least one newspaper published at the place in which the head office or chief place of business of the company is situated, or if there is no newspaper there published, then in the newspaper published nearest thereto, such director may thereby, and not otherwise, exonerate himself from such liability. 32-33 V., c. 12, s. 24.

25. No transfer of stock, unless made by sale under execution or under the decree, order or judgment of a court of competent jurisdiction, shall be valid for any purpose whatsoever until entry thereof has been duly made in such book or books, except for the purpose of exhibiting the rights of the parties thereto towards each other, and of rendering the transferee liable, in the meantime, jointly and severally with the transferrer, to the company and its creditors. 32-33 V., c. 12, s. 25.

Transfers valid only after entry.

Re-drafted.

26. Such books shall, during reasonable business hours of every day, except Sundays and holidays, be kept open for the inspection of shareholders and creditors of the company, and their personal representatives, at the head office or chief place of business of the company; and every shareholder, creditor or personal representative may make extracts therefrom. 32-33 V., c. 12, s. 26.

Stock books to be open for inspection.

27. Such books shall be *prima facie* evidence of all facts purporting to be therein stated, in any suit or proceeding against the company or against any shareholder. 32-33 V., c. 12, s. 27.

Books to be *prima facie* evidence.

28. Every director, officer or servant of the company who knowingly makes or assists in making any untrue entry in any such book, or who refuses or wilfully neglects to make any proper entry therein, or to exhibit the same, or to allow the same to be inspected and extracts to be taken therefrom, is guilty of a misdemeanor, and liable to imprisonment for any term not exceeding two years. 32-33 V., c. 12, s. 28.

Penalty for false entries.

The provision as to punishment is new.

29. Every company which neglects to keep such book or books open for inspection as aforesaid, shall forfeit its corporate rights. 32-33 V., c. 12, s. 29.

Penalty for neglect to keep books open.

SHAREHOLDERS.

30. Every shareholder shall, until the whole amount of his stock has been paid up, be individually liable to the creditors of the company, to an amount equal to that not paid up thereon; but shall not be liable to an action therefor by any creditor, until an execution against the company at the suit of such creditor has been returned, unsatisfied in whole or in part; and the amount due on such execution shall be the amount recoverable, with costs, from such shareholder. 32-33 V., c. 12, s. 33.

Liability of shareholders.

31. The shareholders of the company shall not, as such, be held responsible for any act, default or liability whatsoever.

Limited to amount of stock.

ever, of the company or for any engagement, claim, payment, loss, injury, transaction, matter or thing whatsoever, relating to or connected with the company, beyond the amount of their respective shares in the capital stock thereof. 32-33 V., c. 12, s. 34.

Trustees, &c.,
not personally
liable.

32. No person holding stock in the company as an executor, administrator, tutor, curator, guardian or trustee, shall be personally subject to liability as a shareholder; but the estate and funds in the hands of such person shall be liable in like manner and to the same extent, as the testator or intestate or the minor, ward or interdicted person or the person interested in such trust fund would be, if living and competent to act and holding such stock in his own name; and no person holding such stock as collateral security, shall be personally subject to such liability, but the person pledging such stock shall be considered as holding the same, and shall be liable as a shareholder accordingly. 32-33 V., c. 12, s. 35.

Trustees, &c.,
may vote as
shareholders.

33. Every such executor, administrator, tutor, curator, guardian or trustee shall represent the stock in his possession at all meetings of the company, and may vote as a shareholder; and every person who pledges his stock may, notwithstanding such pledge, represent the said stock at all such meetings, and vote as a shareholder. 32-33 V., c. 12, s. 36.

Special meet-
ings may be
called.

34. Shareholders who hold one fourth part in value of the subscribed stock of the company may, at any time, call a special meeting thereof, for the transaction of any business specified in the written requisition and notice made and given for the purpose. 32-33 V., c. 12, s. 13, *part*.

LIABILITY OF THE COMPANY.

Contracts,
&c., when
binding on
company.

35. Every contract, agreement, engagement or bargain made, and every bill of exchange drawn, accepted or indorsed, and every promissory note and cheque made, drawn or indorsed on behalf of the company, by any agent, officer or servant of the company, in general accordance with his powers as such under the by-laws of the company, shall be binding upon the company; and in no case shall it be necessary to have the seal of the company affixed to any such contract, agreement, engagement, bargain, bill of exchange, promissory note or cheque, or to prove that the same was made, drawn, accepted or indorsed, as the case may be, in pursuance of any by-law, or special vote or order; and the person, so acting as agent, officer or servant of the company, shall not be thereby subjected individually to any liability whatsoever to any third person therefor: Provided always, that nothing in this Act shall be construed

Non-liability
of servants.
Provido; as to
bank notes.

to authorize the company to issue any note payable to the bearer thereof, or any promissory note intended to be circulated as money, or as the note of a bank, or to engage in the business of banking or insurance. 32-33 V., c. 12, s. 31.

36. The company shall not be bound to see to the execution of any trust, whether express, implied or constructive, in respect of any share; and the receipt of the shareholder in whose name the same stands in the books of the company, shall be a valid and binding discharge to the company for any dividend or money payable in respect of such share, and whether or not notice of such trust has been given to the company; and the company shall not be bound to see to the application of the money paid upon such receipt. 32-33 V., c. 12, s. 30.

Company not liable in respect of trusts, &c.

LIABILITY OF DIRECTORS.

37. If the directors of the company declare and pay any dividend when the company is insolvent, or any dividend, the payment of which renders the company insolvent, or diminishes the capital stock thereof, they shall be jointly and severally liable, as well to the company as to the individual shareholders and creditors thereof, for all the debts of the company then existing, and for all thereafter contracted during their continuance in office respectively; but if any director present when such dividend is declared does forthwith, or if any director then absent does, within twenty-four hours after he becomes aware thereof and is able so to do, enter on the minutes of the board of directors his protest against the same, and within eight days thereafter publishes such protest in at least one newspaper published at the place in which the head office or chief place of business of the company is situated, or if there is no newspaper there published, then in the newspaper published nearest thereto, such director may thereby, and not otherwise, exonerate himself from such liability. 32-33 V., c. 12, s. 37.

Liability of directors declaring any dividend when the company is insolvent.

How it may be avoided.

38. No loan shall be made by the company to any shareholder; if such loan is made, all directors and other officers of the company who make the same, or assent thereto, shall be jointly and severally liable to the company for the amount of such loan,—and also to third persons to the extent of such loan, with lawful interest, for all debts of the company contracted from the time of the making of such loan to that of the repayment thereof. 32-33 V., c. 12, s. 38.

No loans by company to shareholders.

Directors liable.

39. The directors of the company shall be jointly and severally liable upon every written contract or undertaking of the company on the face whereof the word "limited" or the words "limited liability" are not distinctly written or printed after the name of the company where it first occurs in such contract or undertaking. 32-33 V., c. 12, s. 39.

Contracts must be so made as to show limited liability.

Liability of directors for wages, &c.

Proviso.

40. The directors of the company shall be jointly and severally liable to the laborers, servants and apprentices thereof, for all debts, not exceeding one year's wages, due for service performed for the company whilst they are such directors respectively; but no director shall be liable to an action therefor, unless the company is sued therefor within one year after the debt became due, nor unless such director is sued therefor within one year from the time when he ceased to be such director, nor unless an execution against the company at the suit of such laborer, servant or apprentice is returned unsatisfied in whole or in part; and the amount unsatisfied on such execution shall be the amount recoverable with costs from the directors. 32-33 V., c. 12, s. 40.

(GENERAL PROVISIONS.)

Company not to purchase stock in other corporations.

41. No company shall use any of its funds in the purchase of stock in any other corporation, unless in so far as such purchase is specially authorized by the special Act, and also by the Act creating such other corporation. 32-33 V., c. 12, s. 32.

Service of process on company.

42. Service of any process or notice upon the company may be made by leaving a copy thereof at the head office or chief place of business of the company, with any adult person in charge thereof, or elsewhere with the president or secretary thereof; or if the company has no known office or chief place of business, and has no known president or secretary, the court may order such publication as it deems requisite to be made in the premises, for at least one month, in at least one newspaper; and such publication shall be held to be due service upon the company. 32-33 V., c. 12, s. 41.

Actions between company and shareholders.

43. Any description of action may be prosecuted and maintained between the company and any shareholder thereof; and no shareholder, who is not himself a party to such suit, shall be incompetent as a witness therein. 32-33 V., c. 12, s. 42.

Winding up Acts to apply.

44. The company shall be subject to the provisions of any general Act for the winding up of joint stock companies. 32-33 V., c. 12, s. 44.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
32-33 V., c. 12....	The whole except s. 43.	s. 43.		

CHAPTER 113.

An Act respecting the incorporation of Joint Stock Companies by Letters Patent.

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 Companies' Act.*" Short title. 40 V., c. 43, s. 1.

INTERPRETATION.

2. In this Act, and in all letters patent and supplementary letters patent issued under it, unless the context otherwise requires:—

(a) The expression "the company" means the company incorporated by letters patent under this Act ; "Company."

(b) The expression "the undertaking" means the business of every kind which the company is authorized to carry on ; "Undertaking."

(c) The expression "loan company" means a company incorporated for any of the purposes to which the powers of loan companies extend, as hereinafter provided ; "Loan company."

(d) The expression "real estate" or "land," includes mesuages, lands, tenements and hereditaments of any tenure, and all immovable property of any kind ; "Real estate,"
"Land."

(e) The expression "shareholder" means every subscriber to or holder of stock in the company, and includes the personal representatives of the shareholder ; "Shareholder."

(f) The expression "manager" includes the cashier and secretary. 40 V., c. 43, s. 2. "Manager."

LETTERS PATENT.

3. The Governor in Council may, by letters patent under the Great Seal, grant a charter to any number of persons, not less than five, who petition therefor, constituting such persons, and others who thereafter become shareholders in the company thereby created, a body corporate and politic, Companies formed for certain purposes may be incorporated by letters patent.

- Exception. for any of the purposes or objects to which the legislative authority of the Parliament of Canada extends, except the construction and working of railways, or the business of banking and the issue of paper money, or the business of insurance. 40 V., c. 43, s. 3.
- Notice to be given, and what it shall contain. **4.** The applicants for such letters patent shall give at least one month's previous notice, in the *Canada Gazette*, of their intention to apply for the same, stating therein,—
- Name. (a) The proposed corporate name of the company, which shall not be that of any other known company, incorporated or unincorporated, or any name liable to be confounded therewith, or otherwise, on public grounds, objectionable ;
- Purposes. (b) The purposes for which its incorporation is sought ;
- Chief place of business. (c) The place within Canada which is to be its chief place of business ;
- Capital. (d) The proposed amount of its capital stock—which, in the case of a loan company, shall not be less than one hundred thousand dollars ;
- Shares. (e) The number of shares and the amount of each share ;
- Names, &c., of applicants. (f) The names in full and the address and calling of each of the applicants, with special mention of the names of not more than fifteen and not less than three of their number, who are to be the first or provisional directors of the company, and the majority of whom shall be residents of Canada. 40 V., c. 43, s. 4.
- Petition for letters patent. **5.** At any time, not more than one month after the last publication of such notice, the applicants may petition the Governor in Council, through the Secretary of State, for the issue of such letters patent :
- What it shall contain. 2. Such petition shall state the facts set forth in the notice, the amount of stock taken by each applicant, the amount paid in upon the stock of each applicant, and the manner in which the same has been paid in, and is held for the company :
- A certain amount of stock must be taken. 3. The aggregate of the stock so taken shall be at least the one half of the total amount of the proposed capital stock of the company :
- And a certain amount paid up thereon. 4. The aggregate so paid in thereon shall, if the company is not a loan company, be at least ten per cent. of the stock so taken ; if the company is a loan company the aggregate

so paid in of the stock so taken shall be at least ten per cent. thereof, and shall not be less than one hundred thousand dollars :

5. Such aggregate shall be paid in to the credit of the company, or of trustees therefor, and shall be standing at such credit in some chartered bank or banks in Canada, unless the object of the company is one requiring that it should own real estate—in which case any portion not exceeding one half of such aggregate may be taken as paid in, if it is *bonâ fide* invested in real estate suitable to such object, which is duly held by trustees for the company, and is of the required value, over and above all incumbrances thereon :

Disposal of amount paid up.

6. The petition may ask for the embodying in the letters patent of any provision which, under this Act, might be made by by-law of the company ; and such provision so embodied shall not, unless provision to the contrary is made in the letters patent, be subject to repeal or alteration by by-law. 40 V., c. 43, s. 5.

Certain provisions may be inserted in letters patent.

6. Before the letters patent are issued, the applicants shall establish, to the satisfaction of the Secretary of State, or of such other officer as is charged by the Governor in Council to report thereon, the sufficiency of their notice and petition, and the truth and sufficiency of the facts therein set forth, and that the proposed name is not the name of any other known incorporated or unincorporated company ; and for that purpose, the Secretary of State, or such other officer, shall take and keep of record any requisite evidence in writing, by oath or affirmation or by solemn declaration. 40 V., c. 43, s. 6.

Preliminary matters to be established.

Proof of facts asserted.

7. The letters patent shall recite such of the established averments of the notice and petition as, to the Governor in Council, seems expedient. 40 V., c. 43, s. 7.

Facts to be recited in letters patent

8. The Governor in Council may give to the company a corporate name, different from that proposed by the applicants in their published notice, if the proposed name is objectionable. 40 V., c. 43, s. 8.

Governor may give another corporate name.

9. Notice of the granting of the letters patent shall be forthwith given by the Secretary of State, in the *Canada Gazette*, in the form A in the schedule to this Act ; and thereupon, from the date of the letters patent, the persons therein named, and their successors, shall be a body corporate and politic, by the name mentioned therein ; and a copy of every such notice shall forthwith be, by the company to which such notice relates, inserted on four separate occasions

Notice of issuing letters patent.

in at least one newspaper in the county, city or place where the head office or chief agency is established. 40 V., c. 43, ss. 9 and 106.

SUPPLEMENTARY LETTERS PATENT.

Change of name.

Governor
may change
name by sup-
plementary
patent.

10. If it is made to appear, to the satisfaction of the Governor in Council, that the name of any company (whether given by the original or by supplementary letters patent, or on amalgamation) incorporated under this Act, is the same as the name of an existing incorporated or unincorporated company, or so similar thereto as to be liable to be confounded therewith, the Governor in Council may direct the issue of supplementary letters patent, reciting the former letters and changing the name of the company to some other name which shall be set forth in the supplementary letters patent. 40 V., c. 43, s. 11.

Company
may obtain
change of
name.

11. When a company incorporated under this Act is desirous of adopting another name, the Governor in Council, upon being satisfied that the change desired is not for any improper purpose, may direct the issue of supplementary letters patent, reciting the former letters patent and changing the name of the company to some other name, which shall be set forth in the supplementary letters patent. 40 V., c. 43, s. 12.

Change not to
affect rights
or obliga-
tions.

12. No alteration of its name under the two sections next preceding shall affect the rights or obligations of the company; and all proceedings may be continued or commenced by or against the company under its new name that might have been continued or commenced by or against the company under its former name. 40 V., c. 43, s. 13.

Obtaining of further powers.

Company
may authorize
directors to
apply for
extension of
powers.

13. The company may, from time to time, by a resolution passed by the votes of shareholders representing at least two-thirds in value of the subscribed stock of the company, at a special general meeting called for the purpose, authorize the directors to apply for supplementary letters patent extending the powers of the company to such other purposes or objects, for which a company may be incorporated under this Act, as are defined in the resolution. 40 V., c. 43, s. 14.

Re-drafted

Application
by directors.

14. The directors may, at any time within six months after the passing of any such resolution, petition the

Governor in Council, through the Secretary of State, for the issue of such supplementary letters patent :

2. The applicants for such supplementary letters patent shall give at least one month's notice in the *Canada Gazette* of their intention to apply for the same, stating therein the purposes or objects to which it is desired to extend the powers of the company. 40 V., c. 43, s. 15. Notice of application to be given.

15. Before such supplementary letters patent are issued, the applicants shall establish to the satisfaction of the Secretary of State or of such other officer as is charged by the Governor in Council to report thereon, the due passing of the resolution authorizing the application and the sufficiency of their notice and petition; and for that purpose the Secretary of State, or such other officer, shall take and keep of record any requisite evidence in writing, by oath or affirmation, or by solemn declaration. 40 V., c. 43, s. 16. Proof to be furnished to Secretary of State.

16. Upon due proof so made, the Governor in Council may grant supplementary letters patent under the Great Seal, extending the powers of the company to all or any of the objects defined in the resolution; and notice thereof shall be forthwith given by the Secretary of State, in the *Canada Gazette*, in the form B in the schedule to this Act; and thereupon, from the date of the supplementary letters patent, the undertaking of the company shall extend to and include the other purposes or objects set out in the supplementary letters patent as fully as if such other purposes or objects were mentioned in the original letters patent; and a copy of every such notice shall forthwith be, by the company to which the notice relates, inserted on four separate occasions in at least one newspaper in the county, city or place where the head office or chief agency is established. 40 V., c. 43, ss. 17 and 106. Grant of supplementary letters patent.
Notice of issue thereof.

Increase or reduction of capital, &c.

17. The directors of the company, other than a loan company, may, at any time, make a by-law subdividing the existing shares into shares of a smaller amount. 40 V., c. 43, s. 19. Subdivision of shares.

18. The directors of the company may, at any time after the whole capital stock of the company has been taken up and fifty per cent. thereon paid in, make a by-law for increasing the capital stock of the company to any amount which they consider requisite for the due carrying out of the objects of the company : Increase of capital.

2. Such by-law shall declare the number of the shares of the new stock, and may prescribe the manner in which By-law for that purpose.

the same shall be allotted; and in default of its so doing, the control of such allotment shall vest absolutely in the directors. 40 V., c. 43, s. 20.

Reduction of capital.

19. The directors of the company may, at any time, make a by-law for reducing the capital stock of the company to any amount which they consider advisable and sufficient for the due carrying out of the undertaking of the company: but the capital stock of a loan company shall never be reduced to less than one hundred thousand dollars:

Proviso; as to loan companies.

By-law for that purpose.

2. Such by-law shall declare the number and value of the shares of the stock as so reduced, and the allotment thereof, or the manner in which the same shall be made:

Liability to creditors not affected.

3. The liability of shareholders to persons who were, at the time of the reduction of the capital, creditors of the company, shall remain the same as if the capital had not been reduced. 40 V., c. 43, ss. 21 and 22, *part*.

Such by-law to be approved by shareholders and confirmed by supplementary letters patent.

20. No by-law for increasing or reducing the capital stock of the company, or for subdividing the shares, shall have any force or effect whatsoever, until it is approved by the votes of shareholders representing at least two-thirds in value of all the subscribed stock of the company, at a special general meeting of the company duly called for considering the same, and afterwards confirmed by supplementary letters patent. 40 V., c. 43, s. 22, *part*.

Re-drafted

Petition for supplementary letters patent to confirm by-law.

21. At any time not more than six months after such sanction of such by-law, the directors may petition the Governor in Council, through the Secretary of State, for the issue of supplementary letters patent to confirm the same:

By-law, &c., to be produced with petition.

2. The directors shall, with such petition, produce a copy of such by-law, under the seal of the company, and signed by the president, vice-president or secretary, and establish to the satisfaction of the Secretary of State, or of such other officer as is charged by the Governor in Council to report thereon, the due passage and approval of such by-law, and the expediency and *bonâ fide* character of the increase or reduction of capital or subdivision of shares, as the case may be, thereby provided for:

Evidence may be taken and kept by Secretary of State.

3. The Secretary of State or such officer shall, for that purpose, take and keep of record any requisite evidence in writing, by oath or affirmation or by solemn declaration, as above mentioned. 40 V., c. 43, s. 23.

Granting of supplementary letters

22. Upon due proof so made, the Governor in Council may grant such supplementary letters patent under the

Great Seal; and notice thereof shall be forthwith given by the Secretary of State in the *Canada Gazette*, in the form in the schedule to this Act: and thereupon, from the date of the supplementary letters patent, the capital stock of the company shall be and remain increased or reduced, or the shares shall be subdivided, as the case may be, to the amount, in the manner and subject to the conditions set forth by such by-law; and the whole of the stock, as so increased or reduced, shall become subject to the provisions of this Act, in like manner, as far as possible, as if every part thereof had been or formed part of the stock of the company originally subscribed. 40 V., c. 43, s. 24.

POWERS OF THE COMPANY.

23. All powers given to the company by the letters patent or supplementary letters patent shall be exercised, subject to the provisions and restrictions contained in this Act. 40 V., c. 43, s. 25.

24. Every company incorporated under this Act may acquire, hold, sell and convey any real estate requisite for the carrying on of the undertaking of such company, and shall forthwith become and be invested with all property and rights, real and personal, theretofore held by or for it under any trust created with a view to its incorporation, and with all the powers, privileges and immunities requisite or incidental to the carrying on of its undertaking, as if it was incorporated by a special Act of Parliament, embodying the provisions of this Act and of the letters patent: Provided always, that the exercise by loan companies of the powers conferred by this section shall be subject to the special provisions respecting such companies hereinafter contained. 40 V., c. 43, s. 10.

Re-drafted

CAPITAL STOCK.

25. The stock of the company shall be personal estate, and shall be transferable, in such manner, and subject to all such conditions and restrictions as are prescribed by this Act or by the letters patent or by by-laws of the company. 40 V., c. 43, s. 34.

26. If the letters patent, or the supplementary letters patent, make no other definite provision, the stock of the company, or any increased amount thereof, so far as it is not allotted thereby, shall be allotted at such times and in such manner as the directors prescribe by by-law. 40 V., c. 43, s. 35.

Shares to be paid in cash, subject to certain exceptions.

27. Every share in the company shall, subject to the provisions of sub-section *five* of section *five* of this Act, be deemed to have been issued and to be held subject to the payment of the whole amount thereof in cash, unless the same has been otherwise agreed upon or determined by a contract duly made in writing and filed with the Secretary of State at or before the issue of such shares. 40 V., c. 43, s. 83.

DIRECTORS.

Board of directors.

28. The affairs of the company shall be managed by a board of not more than fifteen and not less than three directors. 40 V., c. 43, s. 26.

Provisional directors.

29. The persons named as such, in the letters patent, shall be the directors of the company, until replaced by others duly appointed in their stead. 40 V., c. 43, s. 27.

Qualifications of subsequent directors.

30. No person shall be elected or appointed as a director thereafter unless he is a shareholder, owning stock absolutely in his own right, and to the amount required by the by-laws of the company, and not in arrear in respect of any call thereon; and at all times the majority of the directors of the company shall be persons resident in Canada. 40 V., c. 43, s. 28.

Residence.

By-law for increase or decrease of number of directors.

31. The company may, by by-law, increase to not more than fifteen, or decrease to not less than three, the number of its directors, or may change the company's chief place of business in Canada; but no by-law for either of the said purposes shall be valid or acted upon unless it is approved by a vote of at least two thirds in value of the stock represented by the shareholders present at a special general meeting duly called for considering the by-law; nor until a copy of such by-law, certified under the seal of the company, has been deposited with the Secretary of State, and has also been published in the *Canada Gazette*. 40 V., c. 43, s. 18.

When to be valid.

Election of directors.

32. Directors of the company shall be elected by the shareholders, in general meeting of the company assembled at some place within Canada,—at such times, in such manner and for such term, not exceeding two years, as the letters patent, or, in default thereof, as the by-laws of the company, prescribe. 40 V., c. 43, s. 29.

Mode and times of election.

33. In the absence of other provisions in such behalf, in the letters patent or by-laws of the company,—

Yearly.

(a) The election of directors shall take place yearly, and all the directors then in office shall retire, but, if otherwise qualified, they shall be eligible for re-election;

(b) Notice of the time and place for holding general meetings of the company shall be given at least twenty-one days previously thereto, in some newspaper published in the place where the head office or chief place of business of the company is situate, or if there is no such newspaper, then in the place nearest thereto in which a newspaper is published : Notice.

(c) At all general meetings of the company, every shareholder shall be entitled to give one vote for each share then held by him : such votes may be given in person or by proxy—the holder of any such proxy being himself a shareholder ; but no shareholder shall be entitled, either in person or by proxy, to vote at any meeting unless he has paid all the calls then payable upon all the shares held by him. All questions proposed for the consideration of the shareholders shall be determined by the majority of votes—the chairman presiding at such meeting having the casting vote in case of an equality of votes ; Votes.
Proxies.
All calls must have been paid.
Majority to decide.
Casting vote.

(d) Every election of directors shall be by ballot ; Ballot.

(e) Vacancies occurring in the board of directors may be filled, for the remainder of the term, by the directors from among the qualified shareholders of the company ; Vacancies, how filled.

(f) The directors shall, from time to time, elect from among themselves a president and, if they see fit, a vice-president of the company ; and may also appoint all other officers thereof. 40 V., c. 43, s. 30. President, vice-president and officers.

34. If, at any time, an election of directors is not made, or does not take effect at the proper time, the company shall not be held to be thereby dissolved ; but such election may take place at any *subsequent* general meeting of the company duly called for that purpose ; and the retiring directors shall continue in office until their successors are elected. 40 V., c. 43, s. 31. Failure to elect directors, how remedied.

POWERS OF DIRECTORS.

35. The directors of the company may administer the affairs of the company in all things, and make or cause to be made for the company, any description of contract which the company may, by law, enter into ; and may, from time to time, make by-laws not contrary to law, or to the letters patent of the company, or to this Act, for the following purposes :— Powers and duties of directors.

(a) The regulating of the allotment of stock, the making of calls thereon, the payment thereof, the issue and registration of certificates of stock, the forfeiture of stock for non-payment, the disposal of forfeited stock and of the proceeds thereof, and the transfer of stock ; Stock.

- Dividends. (b) The declaration and payment of dividends ;
- Number, &c., of directors. (c) The number of the directors, their term of service, the amount of their stock qualification, and their remuneration. if any ;
- Agents and officers. (d) The appointment, functions, duties and removal of all agents, officers and servants of the company, the security to be given by them to the company and their remuneration ;
- Meetings. (e) The time and place for the holding of the annual meetings of the company, the calling of meetings, regular and special, of the board of directors and of the company, the quorum, the requirements as to proxies, and the procedure in all things at such meetings ;
- Penalties. (f) The imposition and recovery of all penalties and forfeitures which admit of regulation by by-law ;
- General powers. (g) The conduct, in all other particulars, of the affairs of the company ;

Confirmation of by-laws. And the directors may, from time to time, repeal, amend or re-enact the same ; but every such by-law, and every repeal, amendment or re-enactment thereof, unless in the meantime confirmed at a general meeting of the company, duly called for that purpose, shall only have force until the next annual meeting of the company, and in default of confirmation thereat, shall, at and from that time only, cease to have force :

Confirmation of by-laws for sale of stock below previous rate, &c. 2. No by-law for the issue, allotment or sale of any portion of the unissued stock at any greater discount or at any less premium than that which has been previously authorized at a general meeting, and no by-law for the remuneration of the president or any director, shall be valid or acted upon until the same has been confirmed at a general meeting. 40 V., c. 43, s. 32, *part.*

Re-drafted

Debts to company may be deducted from dividends. **36.** The directors may deduct from the dividends payable to any *shareholder* all such sums of money as are due from him to the company, on account of calls or otherwise 40 V., c. 43, s. 59.

Issue of bonds &c., by company. **37.** The directors may, when authorized by a by-law for that purpose, passed and approved of by the votes of shareholders, representing at least two thirds in value of the subscribed stock of the company represented at a special general meeting duly called for considering the by-law,—

(a) Borrow money upon the credit of the company and issue bonds, debentures or other securities for any sums borrowed, at such prices as are deemed necessary or expedient; but no such debentures shall be for a less sum than one hundred dollars;

Borrowing powers.

(b) Hypothecate or pledge the real or personal property of the company to secure any sums borrowed by the company;

Charging property.

But the amount borrowed shall not, at any time, be greater than seventy-five per cent. of the actual paid-up stock of the company: but the limitation made by this section shall not apply to commercial paper discounted by the company. 40 V., c. 43, s. 85.

Limitation of amount to be borrowed.

Exception.

CALLS.

38. The directors may, from time to time, make such calls upon the shareholders in respect of all moneys unpaid upon their respective shares, as they think fit, at such times and places and in such payments or instalments as the letters patent, or this Act, or the by-laws of the company require or allow. 40 V., c. 43, s. 52.

Calling in of moneys unpaid on shares.

39. A call shall be deemed to have been made at the time when the resolution of the directors authorizing such call was passed; and if a shareholder fails to pay any call due by him, on or before the day appointed for the payment thereof, he shall be liable to pay interest for the same; at the rate of six per cent. per annum, from the day appointed for payment to the time of actual payment thereof. 40 V., c. 43, s. 53.

Interest on calls overdue.

40. The directors may, if they think fit, receive from any *shareholder* willing to advance the same, all or any part of the amounts due on the shares held by such *shareholder*, beyond the sums then actually called for; and upon the moneys so paid in advance, or so much thereof as, from time to time, exceeds the amount of the calls then made upon the shares in respect of which such advance is made, the company may pay interest at such rate, not exceeding eight per cent. per annum, as the *shareholder* who pays such sum in advance and the directors agree upon. 40 V., c. 43, s. 54.

Payment in advance on shares.

Interest may be allowed.

41. If, after such demand or notice as is prescribed by the letters patent or by the by-laws of the company; any call made upon any share is not paid within such time as, by such letters patent or by the by-laws, is limited in that behalf, the directors, in their discretion, by vote to that effect duly

Forfeiture of shares for non-payment of calls.

Proviso : liability of holders continued.

recorded in their minutes, may summarily declare forfeited any shares whereon such payment is not made; and the same shall thereupon become the property of the company and may be disposed of as, by the by-laws of the company or otherwise, they prescribe; but, notwithstanding such forfeiture, the holder of such shares at the time of forfeiture shall continue liable to the then creditors of the company for the full amount unpaid on such shares at the time of forfeiture, less any sums which are subsequently received by the company in respect thereof. 40 V., c. 43, s. 55.

Enforcement of payment of calls by action.

42. The *directors* may, if they see fit, instead of declaring forfeited any share or shares, enforce payment of all calls, and interest thereon, by action in any court of competent jurisdiction; and in such action it shall not be necessary to set forth the special matter, but it shall be sufficient to declare that the defendant is a holder of one share or more, stating the number of shares, and is indebted in the sum of money to which the calls in arrear amount, in respect of one call or more, upon one share or more, stating the number of calls and the amount of each call, whereby an action has accrued to the company under this Act; and a certificate under their seal, and purporting to be signed by any officer of the company, to the effect that the defendant is a shareholder, that such call or calls has or have been made, and that so much is due by him and unpaid thereon, shall be received in all courts as *prima facie* evidence thereof. 40 V., c. 43, s. 56.

What only need be alleged and proved.

Certificate to be evidence.

BOOKS OF THE COMPANY.

Book to be kept and what to contain.

43. The company shall cause a book or books to be kept by the secretary, or by some other officer specially charged with that duty, wherein shall be kept recorded,—

Copy of letters patent, by-laws, &c.

(a) A copy of the letters patent incorporating the company, and of any supplementary letters patent, and of all by-laws thereof;

Names of shareholders.

(b) The names, alphabetically arranged, of all persons who are or have been shareholders;

Addresses.

(c) The address and calling of every such person, while such shareholder;

Number of shares.

(d) The number of shares of stock held by each shareholder;

Amounts paid, &c.

(e) The amounts paid in and remaining unpaid, respectively, on the stock of each shareholder;

(f) The names, addresses and calling of all persons who are or have been directors of the company, with the several dates at which each became or ceased to be such director : Names, &c., of directors.

2. A book called the register of transfers shall be provided, and in such book shall be entered the particulars of every transfer of shares in the capital of the company. Register of transfers.
40 V., c. 43, s. 36.

44. Such books shall, during reasonable business hours of every day, except Sundays and holidays, be kept open for the inspection of shareholders and creditors of the company, and their personal representatives, at the head office or chief place of business of the company ; and every such shareholder, creditor or *personal* representative may make extracts therefrom. Books to be open for inspection and taking extracts therefrom. 40 V., c. 43, s. 37.

45. Every director, officer or servant of the company, who knowingly makes or assists in making any untrue entry in any such book, or who refuses or wilfully neglects to make any proper entry therein, or to exhibit the same, or to allow the same to be inspected and extracts to be taken therefrom, is guilty of a misdemeanor. Penalty for false entries. 40 V., c. 43, s. 40.

46. Every company which neglects to keep such book or books as aforesaid, shall forfeit its corporate rights. Forfeiture for neglect. 40 V., c. 43, s. 38.

47. Such books shall be *primâ facie* evidence of all facts purporting to be thereby stated, in any action, suit or proceeding against the company or against any shareholder. Books to be primâ facie evidence. 40 V., c. 43, s. 39.

TRANSFER OF SHARES.

48. No transfer of shares, unless made by sale under execution, or under the decree, order or judgment of a court of competent jurisdiction, shall be valid for any purpose whatever, until entry thereof is duly made in the register of transfers, except for the purpose of exhibiting the rights of the parties thereto towards each other, and of rendering the transferee liable, in the meantime, jointly and severally, with the transferrer, to the company and its creditors. Transfer of shares valid only after entry. 40 V., c. 43, s. 41.

49. No transfer of shares, whereof the whole amount has not been paid in, shall be made without the consent of the directors ; and whenever any transfer of shares not fully paid in has been made with such consent, to a person who is not apparently of sufficient means to fully pay up such shares, the directors shall be jointly and severally liable to the creditors of the company, in the same manner and to the Liabilities of directors as regards transfers of shares in certain cases.

How only a director may avoid liability.

same extent as the transferring shareholder, but for such transfer, would have been ; but if any director present when any such transfer is allowed does forthwith, or if any director then absent does, within twenty-four hours after he becomes aware thereof and is able so to do, enter on the minute book of the board of directors his protest against the same, and within eight days thereafter publishes such protest in at least one newspaper published at the place in which the head office or chief place of business of the company is situated, or if there is no newspaper there published, then in the newspaper published nearest thereto ; such director may thereby, and not otherwise, exonerate himself from such liability. 40 V., c. 43, s. 42.

Provision when shares are transmitted otherwise than by transfer.

50. Whenever the interest in any shares of the capital stock of the company is transmitted by the death of any shareholder or otherwise, or whenever the ownership or legal right of possession in any shares changes by any lawful means, other than by transfer according to the provisions of this Act, and the directors of the company entertain reasonable doubts as to the legality of any claim to such shares, the company may make and file, in one of the superior courts in the Province in which the head office of the company is situated, a declaration and petition in writing, addressed to the justices of the court, setting forth the facts and the number of shares previously belonging to the person in whose name such shares stand in the books of the company, and praying for an order or judgment adjudicating and awarding the said shares to the person or persons legally entitled to the same,—by which order or judgment the company shall be guided and held fully harmless and indemnified and released from every other claim to the said shares or arising in respect thereof :

Order of court may be obtained on application.

Notice of application.

2. Notice of the intention to present such petition shall be given to the person claiming such shares, or to the attorney of such person duly authorized for the purpose, who shall, upon the filing of such petition, establish his right to the shares referred to in such petition ; and the time to plead and all other proceedings in such cases shall be the same as those observed in analogous cases before the said superior courts : Provided always, that the costs and expenses of procuring such order or judgment shall be paid by the person or persons to whom such shares are declared lawfully to belong ; and that such shares shall not be transferred *in the books of the company* until such costs and expenses are paid,—saving the recourse of such person against any person contesting his right to such shares. 40 V., c. 43, s. 43.

Proviso ; as to costs.

Restriction as to transfer.

51. No share shall be transferable until all previous calls thereon are fully paid in. 40 V., c. 43, s. 44.

52. The directors may decline to register any transfer of shares belonging to any *shareholder* who is indebted to the company. 40 V., c. 43, s. 45. As to transfer by debtor to the company.

53. Any transfer of the shares or other interest of a deceased *shareholder*, made by his personal representative, shall, notwithstanding such personal representative is not himself a *shareholder*, be of the same validity as if he had been a *shareholder* at the time of his execution of the instrument of transfer. 40 V., c. 43, s. 46. Transfer by personal representative.

LIABILITY OF SHAREHOLDERS.

54. The shareholders of the company shall not, as such, be responsible for any act, default or liability of the company, or for any engagement, claim, payment, loss, injury, transaction, matter or thing relating to or connected with the company, beyond the amount unpaid on their respective shares in the capital stock thereof. 40 V., c. 43, s. 48. Liability limited to amount unpaid on stock.

55. Every shareholder, until the whole amount of his shares has been paid up, shall be individually liable to the creditors of the company to an amount equal to that not paid up thereon; but he shall not be liable to an action therefor by any creditor until an execution at the suit of such creditor against the company has been returned, unsatisfied in whole or in part; and the amount due on such execution, not exceeding the amount unpaid on his shares, as aforesaid, shall be the amount recoverable, with costs, from such shareholder; and any amount so recoverable, if paid by the shareholder, shall be considered as paid on his shares. 40 V., c. 43, s. 47. Liability of shareholders. When to accrue.

56. No person, holding stock in the company as an executor, administrator, tutor, curator, guardian or trustee, shall be personally subject to liability as a shareholder; but the estate and funds in the hands of such person shall be liable in like manner, and to the same extent, as the testator or intestate, or the minor, ward or interdicted person, or the person interested in such trust fund would be, if living and competent to act and holding such stock in his own name; and no person holding such stock as collateral security shall be personally subject to such liability; but the person pledging such stock shall be considered as holding the same and shall be liable as a shareholder accordingly. 40 V., c. 43, s. 49. Trustees, &c., not personally liable.

57. Every such executor, administrator, curator, guardian or trustee shall represent the stock *held by him*, at all meetings of the company, and may vote as a shareholder; and every person who pledges his stock may represent the same at all such meetings and, *notwithstanding such pledge*, vote as a shareholder. 40 V., c. 43, s. 50. But entitled to vote.

LIABILITY OF DIRECTORS AND OFFICERS.

Liability of directors declaring a dividend when company is insolvent, &c.

58. If the directors of the company declare and pay any dividend when the company is insolvent, or any dividend, the payment of which renders the company insolvent, or *impairs* the capital stock thereof, they shall be jointly and severally liable, as well to the company as to the individual shareholders and creditors thereof, for all the debts of the company then existing, and for all thereafter contracted during their continuance in office, respectively; but if any director present when such dividend is declared does forthwith, or if any director then absent does, within twenty-four hours after he becomes aware thereof and able so to do, enter on the minutes of the board of directors his protest against the same, and within eight days thereafter publishes such protest in at least one newspaper published at the place in which the *head* office or chief place of business of the company is situated, or if there is no newspaper there published, then in the newspaper published nearest thereto, such director may thereby, and not otherwise, exonerate himself from such liability. 40 V., c. 43, s. 67.

How directors may avoid such liability.

No loan by company to shareholders, except by loan companies: liability of directors.

59. No loan shall be made by the company to any shareholder; if such loan is made, all directors and other officers of the company making the same, or in anywise assenting thereto, shall be jointly and severally liable for the amount of such loan, with interest, to the company,—and also to the creditors of the company for all debts of the company then existing, or contracted between the time of the making of such loan and that of the repayment thereof; but the provisions of this section shall not apply to loan companies. 40 V., c. 43, s. 68.

Liability of directors for wages.

60. The directors of the company shall be jointly and severally liable to the clerks, laborers, servants and apprentices thereof, for all debts not exceeding six months' wages due for service performed for the company whilst they are such directors respectively; but no director shall be liable to an action therefor, unless the company is sued therefor within one year after the debt becomes due, nor unless such director is sued therefor within one year from the time when he ceased to be such director, nor unless an execution against the company in respect of such debt is returned unsatisfied in whole or in part; and the amount unsatisfied on such execution shall be the amount recoverable with costs from the directors. 40 V., c. 43, s. 69.

Limitation of suits, &c.

DOMICILE—SERVICE OF PROCESS, &c.

Offices and agencies of the company in Canada.

61. The company shall, at all times, have an office in the city or town in which its chief place of business is situate, which shall be the legal domicile of the company in Canada;

and notice of the situation of such office and of any change therein shall be published in the *Canada Gazette*: and the company may establish such other offices and agencies elsewhere in Canada, as it deems expedient. 40 V., c. 43, s. 60.

62. Any summons, notice, order or other process or document required to be served upon the company, may be served by leaving the same at the said office in the city or town in which its chief place of business is situate, with any *adult* person in the employ of the company, or on the president or secretary of the company, or by leaving the same at the domicile of either of them, or with any *adult* person of his family or in his employ; or if the company has no known office or chief place of business, and has no known president or secretary, the court may order such publication as it deems requisite, to be made in the premises; and such publication shall be held to be due service upon the company. 40 V., c. 43, s. 61.

Service of process on the company.

63. Any summons, notice, order or proceeding requiring authentication by the company may be signed by any director, manager or other authorized officer of the company, and need not be under the seal of the company. 40 V., c. 43, s. 62.

Use of common seal dispensed with in certain cases.

64. Notices to be served by the company upon the shareholders may be served either personally or by sending them through the post, in registered letters, addressed to the shareholders at their places of abode as they appear on the books of the company. 40 V., c. 43, s. 63.

Service of notices upon members.

65. A notice or other document served by post by the company on a shareholder, shall be held to be served at the time when the registered letter containing it would be delivered in the ordinary course of post; and to prove the fact and time of service it shall be sufficient to prove that such letter was properly addressed and registered, and was put into the post office, and the time when it was put in, and the time requisite for its delivery in the ordinary course of post. 40 V., c. 43, s. 64.

Service of notice by post.

66. A copy of any by-law of the company, under its seal, and purporting to be signed by any officer of the company, shall be received as against any shareholder of the company as *prima facie* evidence of such by-law in all courts in Canada. 40 V., c. 43, s. 33.

Evidence of by-laws.

67. Any description of action may be prosecuted and maintained between the company and any shareholder thereof; and no shareholder shall, by reason of being a shareholder, be incompetent as a witness therein. 40 V., c. 43, s. 70.

Actions between company and shareholders.

Mode of incorporation, &c., how to be set forth in legal proceedings.

Proof of incorporation.

68. In any action or other legal proceeding, it shall not be requisite to set forth the mode of incorporation of the company, otherwise than by mention of it under its corporate name, as incorporated by virtue of letters patent—or of letters patent and supplementary letters patent, as the case may be—under this Act; and the notice in the *Canada Gazette*, of the issue of such letters patent or supplementary letters patent, shall be *prima facie* proof of all things therein contained; and on production of the letters patent or supplementary letters patent, or of any exemplification or copy thereof under the Great Seal, the fact of such notice shall be presumed; and *except* in any proceeding by *scire facias* or otherwise for *the purpose of rescinding or annulling the same* the letters patent or supplementary letters patent, or any exemplification or copy thereof under the Great Seal, shall be conclusive proof of every matter and thing therein set forth. 40 V., c. 43, s. 71.

PROVISIONS AS TO EXISTING COMPANIES.

Existing companies may apply for charters under this Act.

Effect of such charters.

69. Any company heretofore incorporated for any purpose or object for *which letters patent may be issued under this Act*, whether under a special or a general Act, and now being a subsisting and valid corporation, may apply for letters patent under this Act, and the Governor in Council, upon proof that notice of the application has been inserted for four weeks in the *Canada Gazette*, may direct the issue of letters patent incorporating the shareholders of the said company as a company under this Act; and thereupon all the rights or obligations of the former company shall be transferred to the new company, and all proceedings may be continued or commenced by or against the new company that might have been continued or commenced by or against the old company; and it shall not be necessary in any such letters patent to set out the names of the shareholders; and after the issue of the letters patent the company shall be governed in all respects by the provisions of this Act, except that the liability of the shareholders to creditors of the old company shall remain as at the time of the issue of the letters patent. 40 V., c. 43, s. 80.

Subsisting companies may apply for charters with extended powers.

70. If a subsisting company applies for the issue of letters patent under this Act, the Governor in Council may, by the letters patent, extend the powers of the company to such other objects for which letters patent may be issued under this Act as the applicant desires and as the Governor in Council thinks fit to include in the letters patent, and which have been mentioned in the notice of the application for the same, in the *Canada Gazette*; and the Governor in Council may, in the said letters patent, name the first directors of the new company; and the letters patent may be issued to the new company by the name of the old company or by another name. 40 V., c. 43, s. 81.

71. All the provisions of this Act in relation to the obtaining of supplementary letters patent by companies incorporated hereunder shall, so far as applicable, apply and extend to applications for letters patent under the two sections next preceding. 40 V., c. 43, s. 82.

Provisions touching supplementary letters patent to apply.

GENERAL PROVISIONS.

72. The company may have an agency or agencies in any city or town in *the United Kingdom*. 40 V., c. 43, s. 86.

Agencies in United Kingdom.

73. No dividend shall be declared which will impair the capital of the company. 40 V., c. 43, s. 58.

Dividend not to impair capital.

74. Shareholders who hold one fourth part in value of the subscribed stock of the company may, at any time, call a special meeting thereof for the transaction of any business specified in such written requisition and notice as they make and issue to that effect. 40 V., c. 43, s. 32, *part*.

Special general meetings.

75. Every deed which any person, lawfully empowered in that behalf by the company as its attorney, signs on behalf of the company, and seals with his seal, shall be binding on the company and shall have the same effect as if it was under the seal of the company. 40 V., c. 43, s. 65.

Acts of company's attorney valid.

76. Every contract, agreement, engagement or bargain made, and every bill of exchange drawn, accepted or indorsed, and every promissory note and cheque made, drawn or indorsed on behalf of the company, by any agent, officer or servant of the company, in general accordance with his powers as such under the by-laws of the company, shall be binding upon the company; and in no case shall it be necessary to have the seal of the company affixed to any such contract, agreement, engagement, bargain, bill of exchange, promissory note or cheque, or to prove that the same was made, drawn, accepted or indorsed, as the case may be, in pursuance of any by-law or special vote or order; and the person so acting as agent, officer or servant of the company shall not be thereby subjected individually to any liability whatsoever to any third person therefor: Provided always, that nothing in this Act shall be construed to authorize the company to issue any note payable to the bearer thereof, or any promissory note intended to be circulated as money, or as the note of a bank, or to engage in the business of banking or insurance. 40 V., c. 43, s. 66.

Contracts, &c., when to be binding on company.

No individual liability.

Proviso: as to bank notes.

77. Proof of any matter which is necessary to be made under this Act may be made by oath or affirmation, or by solemn declaration, before any justice of the peace, or any commissioner for taking affidavits, to be used in any of the courts in any of the Provinces of Canada, or any notary

Proof may be by declaration or affidavit.

public, who are hereby authorized and empowered to administer oaths and receive affidavits and declarations for that purpose. 40 V., c. 43, s. 76.

Certain informalities not to invalidate letters patent.

78. The provisions of this Act relating to matters preliminary to the issue of the letters patent or supplementary letters patent shall be deemed directory only, and no letters patent or supplementary letters patent issued under this Act shall be held void or voidable on account of any irregularity in any notice prescribed by this Act, or on account of the insufficiency or absence of any such notice, or on account of any irregularity in respect of any other matter preliminary to the issue of the letters patent or supplementary letters patent. 40 V., c. 43, s. 77.

Word "limited" to be inserted after name of company on all notices, &c.

79. The company shall keep painted or affixed, its name, with the word "limited" after the name, on the outside of every office or place in which the business of the company is carried on, in a conspicuous position, in letters easily legible, and shall have its name, with the said word after it, engraven in legible characters on its seal, and shall have its name, with the said word after it, mentioned in legible characters in all notices, advertisements and other official publications of the company, and in all bills of exchange, promissory notes, indorsements, cheques, and orders for money or goods, purporting to be signed by or on behalf of such company, and in all bills of parcels, invoices and receipts of the company :

Penalty for violation of preceding section.

2. Every company which does not keep painted or affixed, its name, with the word "limited" after it, in manner directed by this Act, shall incur a penalty of twenty dollars for every day during which such name is not so kept painted or affixed :

Penalty on director permitting violation.

3. Every director and manager of the company, who knowingly and wilfully authorizes or permits such default, shall be liable to the like penalty :

Penalty on directors or officers using or authorizing use of seal without "limited" on it.

4. Every director, manager or officer of the company, and every person on its behalf, who uses or authorizes the use of any seal purporting to be a seal of the company, whereon its name, with the said word "limited" after it, is not so engraven as aforesaid, or who issues or authorizes the issue of any notice, advertisement or other official publication of such company, or who signs or authorizes to be signed on behalf of such company any bill of exchange, promissory note, indorsement, cheque, order for money or goods, or who issues or authorizes to be issued any bill of parcels, invoice or receipt of the company, wherein its name, with the said word after it, is not mentioned in manner aforesaid, shall incur a penalty of two hundred dollars, and shall also be person-

ally liable to the holder of any such bill of exchange, promissory note, cheque, or order for money or goods, for the amount thereof, unless the same is duly paid by the company. 40 V., c. 43, ss. 78 and 79. Liability in addition.

80. Every prospectus of the company, and every notice inviting persons to subscribe for shares in the company, shall specify the dates and the names of the persons to any contract entered into by the company or the promoters, directors or trustees thereof, before the issue of such prospectus or notice, whether subject to adoption by the directors or the company or otherwise; and every prospectus or notice which does not specify the same shall, with respect to any person who takes shares in the company on the faith of such prospectus or notice, and who has not had notice of such contract, be deemed fraudulent on the part of the promoters, directors and officers of the company who knowingly issue such prospectus or notice. 40 V., c. 43, s. 84. Prospectus, &c., to specify certain contracts entered into by company, or be deemed fraudulent.

81. The company shall not be bound to see to the execution of any trust, whether express, implied or constructive, in respect of any share; and the receipt of the shareholder in whose name the same stands in the books of the company, shall be a valid and binding discharge to the company for any dividend or money payable in respect of such share, and whether or not notice of such trust has been given to the company; and the company shall not be bound to see to the application of the money paid upon such receipt. 40 V., c. 43, s. 51. Company not to be liable in respect of trusts.

82. Every director of the company, and his heirs, executors and administrators, and estate and effects, respectively, may, with the consent of the company, given at any general meeting thereof, from time to time, and at all times, be indemnified and saved harmless out of the funds of the company, from and against all costs, charges and expenses whatsoever which he sustains or incurs in or about any action, suit or proceeding which is brought, commenced or prosecuted against him, for or in respect of any act, deed, matter or thing whatsoever, made, done or permitted by him, in or about the execution of the duties of his office; and also from and against all other costs, charges and expenses which he sustains or incurs, in or about, or in relation to the affairs thereof, except such costs, charges or expenses as are occasioned by his own wilful neglect or default. 40 V., c. 43, s. 57. Directors indemnified in suits, &c., against the company. Except by their own neglect or default.

83. The charter of the company shall be forfeited by non-user during three consecutive years, or if the company does not go into actual operation within three years after it is granted. 40 V., c. 43, s. 72. Forfeiture of charter for non-user.

Fees on letters patent, &c., to be fixed by Governor in Council.

84. The Governor in Council may, from time to time, establish, alter and regulate the tariff of the fees to be paid on application for letters patent and supplementary letters patent under this Act, may designate the department or departments through which the issue thereof shall take place, and may prescribe the forms of proceeding and *registration* in respect thereof, and all other matters requisite for carrying out the objects of this Act :

Amount of fees may be varied.

2. The amount of the fees may be varied according to the nature of the company, the amount of the capital stock and other particulars as the Governor in Council thinks fit :

Must be paid before action is taken.

3. No steps shall be taken in any department towards the issue of any letters patent or supplementary letters patent under this Act, until after all fees therefor are duly paid. 40 V., c. 43, s. 74.

Full statement of affairs at each meeting for elections.

85. The directors of every company shall lay before its shareholders a full printed statement of the affairs and financial position of the company at or before each general meeting, of the company for the election of directors. 40 V., c. 43, s. 87.

LOAN COMPANIES.

Sections relating to loan companies.

86. The following sections of this Act apply to loan companies only. 40 V., c. 43, *Sub-title relating to loan companies.*

Shares.

87. The capital stock of every loan company shall be divided into shares of one hundred dollars each. 40 V., c. 43, s. 88.

Powers and business of the company.

Making loans, and on what securities.

88. Every loan company may, from time to time,—

(a) Lend and advance money, by way of loan or otherwise, for such periods as it deems expedient, on the security of real estate, or on the public securities of Canada, or of any of the Provinces thereof, or on the security of debentures of any municipal or other corporation, issued under or in pursuance of any statutory authority, and upon such terms and conditions as to the company seem satisfactory or expedient ;

Acquisition and sale of securities.

(b) Acquire, by purchase or otherwise, any security upon which it is authorized to lend or advance money, and re-sell the same as it deems advisable ;

Enforcing repayment.

(c) Do all acts that are necessary for advancing such sums of money, and for receiving and obtaining repayment thereof, and for compelling the payment of all interest accruing

from such sums so advanced, and the observance and fulfilment of any conditions annexed to such advance, and for enforcing the forfeiture of any term or property consequent on the non-fulfilment of such conditions, or of conditions entered into for delay of payment ;

(d) Give receipts, acquittances and discharges, either, absolutely and wholly or partially, and execute such deeds, assignments or other instruments as are necessary for carrying any such purchase or re-sale into effect :

Execution of deeds and discharges.

And for every and any of the foregoing purposes, and for every and any other purpose in this Act mentioned or referred to, the company may lay out and apply the capital and property, for the time being, of the company, or any part thereof, or any of the moneys authorized to be hereafter raised or received by the company in addition to its capital for the time being, and may authorize and exercise all acts and powers whatsoever, in the opinion of the directors of the company requisite or expedient to be done or exercised in relation thereto. 40 V., c. 43, s. 89.

Capital may be employed for such purposes.

89. The company may act as an agency association for the interest and on behalf of others who intrust it with money for that purpose, and may, either in the name of the company or of such others, lend and advance money to any person upon such securities as are mentioned in the next preceding section, or to any body corporate, or to any municipal or other authority, or to any board or body of trustees or commissioners, upon such terms and upon such security as to the company appear satisfactory, and may purchase and acquire any securities on which they are authorized to advance money, and again re-sell the same :

Company may act as agents and lend money, either on their own behalf or as agents for others.

2. The conditions and terms of such loans and advances, and of such purchases and re-sales, may be enforced by the company for its benefit, and for the benefit of the person or persons or corporation for whom such money has been lent and advanced, or such purchase and re-sale made ; and the company shall have the same power in respect of such loans, advances, purchases and sales as are conferred upon it in respect of loans, advances, purchases and sales made from its own capital :

Enforcement of conditions.

3. The company may also guarantee the repayment of the principal or the payment of the interest, or both, of any moneys intrusted to the company for investment :

Repayment may be guaranteed.

4. The company may, for every or any of the foregoing purposes, lay out and employ the capital and property, for the time being, of the company, or any part of the moneys authorized to be raised by the company in addition to its

General powers for such purposes.

capital for the time being, or any moneys so intrusted to it as aforesaid, and may do, assent to, and exercise all acts whatsoever, in the opinion of the directors of the company for the time being requisite or expedient to be done in regard thereto :

Money of which repayment is guaranteed, to be deemed borrowed. 5. All moneys of which the repayment of the principal or payment of interest is guaranteed by the company, shall, for the purposes of this Act, be deemed to be money borrowed by the company. 40 V., c. 43, s. 90.

Borrowing powers of company and security to be given by it. **90.** The directors may, from time to time, with the consent of the shareholders, obtained at any general meeting, borrow money on behalf of the company, at such rates of interest as are lawful under this Act, and upon such terms as they, from time to time, think proper ; and the directors may, for that purpose, execute any debentures, mortgages, bonds or other instruments, under the seal of the company, for sums of not less than one hundred dollars or twenty pounds sterling each, or may assign, transfer or deposit, by way of equitable mortgage or otherwise, for the sums so borrowed, any of the documents of title, deeds, muniments, securities or property of the company, and either with or without power of sale or other special provisions, as the directors deem expedient. 40 V., c. 43, s. 91.

Company may receive moneys on deposit. **91.** The directors may, from time to time, with the consent of the shareholders obtained at any general meeting, receive money on behalf of the company on deposit for such periods and at such rates of interest as are agreed upon ; and money so received on deposit shall, for the purposes of this Act, be deemed to be money borrowed by the company. 40 V., c. 43, s. 92.

\$100,000 to be paid up before borrowing. **92.** The company shall not borrow money unless at least one hundred thousand dollars of its subscribed capital stock has been paid up :

20 per cent to be paid up before borrowing. 2. The company shall not borrow money unless at least twenty per cent. of its subscribed capital stock has been paid up :

Amount borrowed by deposit limited. 3. If the company borrows money by way of deposit, under the next preceding section, the aggregate amount of the sums so borrowed, by way of deposit, shall not at any time, whether the company borrows solely by way of deposit or also in other ways, exceed the aggregate amount of its paid up capital, and of its other cash actually in hand, or deposited by it in any chartered bank or banks in Canada :

If the company borrows 4. If the company borrows money solely on debentures or other securities, and by guarantee *as hereinbefore authorized*

and not by way of deposit, under the *next preceding* section, solely on debentures, &c. the aggregate amount of the sums so borrowed shall not, at any time, exceed four times the amount of its paid up and unimpaired capital, or the amount of its subscribed capital, at the option of the company :

5. If the company borrows money both by way of debentures or other securities, or by guarantee, as aforesaid, and also by way of deposit, the aggregate amount of money so borrowed shall not, at any time, exceed the amount of the principal moneys remaining unpaid on securities then held by the company, nor shall it exceed double the amount of the then actually paid up and unimpaired capital of the company; but the amount of cash then actually in the hands of the company, or deposited by it in any chartered bank, or both, shall be deducted from the aggregate amount of the liabilities which the company has then incurred, as above mentioned, in calculating such aggregate amount for the purposes of this sub-section :

6. In the event of any company now incorporated, availing itself of the provisions of this Act for the purpose of enlarging its powers to borrow money by debentures, nothing herein contained shall be construed as affecting or in any wise impairing the right of the holders of debentures issued by such company. 40 V., c. 43, s. 93.

93. The company shall not use any of its funds in the purchase of stock in any other incorporated company. 40 V., c. 43, s. 94.

94. The company may hold such real estate as is necessary for the transaction of its business, not exceeding in yearly value the sum of ten thousand dollars, or *such real estate* as, being mortgaged or hypothecated to it, is acquired by it for the protection of its investments,—and may, from time to time, sell, mortgage, lease or otherwise dispose of the same: but the company shall sell any real estate acquired in satisfaction of any debt within seven years after it has been so acquired, otherwise it shall revert to the previous owner, or to his heirs or assigns. 40 V., c. 43, s. 95.

95. The company, when acting as an agency association, may charge such commission to the lender or borrower, or both, upon the moneys invested, as is agreed upon, or as is reasonable in that behalf. 40 V., c. 43, s. 96.

96. The company may stipulate for, take, reserve and exact any rate of interest or discount that may be lawfully taken by individuals, or, in the Province of Quebec, by incorporated companies under like circumstances, and may also receive an annual payment on any loan by way of a

Proviso; as to fines. sinking fund for the gradual extinction of such loan, upon such terms and in such manner as are regulated by the by-laws of the company: Provided always, that no fine or penalty shall be stipulated for, taken, reserved or exacted in respect of arrears of principal or interest which has the effect of increasing the charge in respect of arrears beyond the rate of interest or discount on the loan. 40 V., c. 43, s. 97.

Register of securities.

97. A register of all securities held by the company shall be kept; and within fourteen days after the taking of any security, an entry or memorandum specifying the nature and amount of such security, and the names of the parties thereto, with their proper additions, shall be made in such register. 40 V., c. 43, s. 98.

Company may unite with any other like company.

98. The company may unite, amalgamate and consolidate its stock, property, business and franchises with those of any other company or society incorporated or chartered for a like purpose or with those of any building, savings or loan company or society heretofore or hereafter incorporated or chartered, or may purchase and acquire the assets of any such company or society, and may enter into all contracts and agreements therewith necessary to such union, amalgamation, consolidation, purchase or acquisition. 40 V., c. 43, s. 99.

Agreement for such union how made, &c., and what to provide.

99. The directors of the company, and of any other such company or society, may enter into a joint agreement under the corporate seal of each of the said corporations, for the union, amalgamation or consolidation of the said corporations, or for the purchase and acquisition by the company of the assets of any other such company or society, prescribing the terms and conditions thereof, the mode of carrying the same into effect, the name of the new corporation, the number of the directors and other officers thereof, and who shall be the first directors and officers thereof, the manner of converting the capital stock of each of the said corporations into that of the new corporation, with such other details as they deem necessary to perfect such new organization, and the union, amalgamation and consolidation of the said corporations, and the subsequent management and working thereof, or the terms and mode of payment for the assets of any other such company or society purchased or acquired by the company. 40 V., c. 43, s. 100.

Approval of shareholders.

100. Such agreement shall be submitted to the shareholders of each of the said corporations at a meeting thereof to be held separately, for the purpose of taking the same into consideration:

Notice of meeting for such purpose

2. Notice of the time and place of such meetings, and the objects thereof, shall be given by written or printed

notices, addressed to each shareholder of the said corporations respectively, at his last known post office address or place of residence, and also by a general notice in a newspaper published at the chief place of business of such corporations respectively, once a week, for six successive weeks :

3. At such meetings of shareholders such agreement shall be considered, and a vote by ballot shall be taken for the adoption or rejection of the same—each share entitling the holder thereof to one vote in person or by proxy ; and if two-thirds of the votes of all the shareholders of such corporations are given for the adoption of such agreement, that fact shall be certified upon the agreement by the secretary of each of such corporations, under the corporate seal thereof: Proceedings at meeting.

4. If the agreement is so adopted at the respective meetings of the shareholders of each of the said corporations, the agreement so adopted and the said certificates thereon shall be filed in the office of the Secretary of State ; and the said agreement shall, from thenceforth, be taken and deemed to be the agreement and act of union, amalgamation and consolidation of the said corporations, or the agreement and deed of purchase and acquisition by the company of the assets of such company so selling, as the case may be: And if the agreement is adopted.

5. A copy of such agreement so filed, and of the certificates thereon properly certified, shall be evidence of the existence of such new corporation : Copy of agreement to be evidence.

6. Due proof of the foregoing facts shall be laid before the Governor in Council, and, if deemed expedient by the Governor in Council, letters patent shall be issued and notice thereof duly published by the Secretary of State in the *Canada Gazette*. 40 V., c. 43, s. 101. Letters patent may issue to the new company.

101. Upon the completion and perfection of the said agreement and act of consolidation, as provided in the next preceding section, the several corporations or societies, parties thereto, shall be deemed and taken to be consolidated, and to form one corporation, by the name in the said agreement provided, with a common seal, and shall possess all the rights, privileges and franchises of each of such corporations. 40 V., c. 43, s. 102. Effect of the agreement when perfected.

102. Upon the consummation of such consolidation as aforesaid, all and singular the business, property, real and personal, and all rights and incidents appurtenant thereto, all stock, mortgages or other securities, subscriptions and other debts due on whatever account, and other things in action belonging to such corporations or either of them, Business and rights of both companies vested in new company.

Proviso :
saving rights
of third
parties.

shall be taken and deemed to be transferred to and vested in such new corporation without further act or deed : Provided however, that all rights of creditors and liens upon the property of either of such corporations shall be unimpaired by such consolidation, and that all debts, liabilities and duties of either of the said corporations shall thenceforth attach to the new corporation, and may be enforced against it to the same extent as if the said debts, liabilities and duties had been incurred or contracted by it ; and that no action or proceeding, legal or equitable, by or against the said corporations so consolidated, or either of them, shall abate or be affected by such consolidation, but for all the purposes of such action or proceeding such corporation may be deemed still to exist, or the new corporation may be substituted in such action or proceeding in the place thereof. 40 V., c. 43, s. 103.

Annual state-
ment to
Minister of
Finance, and
what it must
show.

103. The company shall transmit, on or before the first day of March in each year, to the Minister of Finance and Receiver General a statement in duplicate, to the thirty-first day of December inclusive of the previous year, verified by the oath of the president or vice-president and the manager, setting out the capital stock of the company, and the proportion thereof paid up, the assets and liabilities of the company, the amount and nature of the investments made by the company, both on its own behalf and on behalf of others, and the average rate of interest derived therefrom—distinguishing the classes of securities, and also the extent and value of the lands held by it, and such other details as to the nature and extent of the business of the company as the Minister of Finance and Receiver General requires, and in such form and with such details as he, from time to time, requires and prescribes ; but the company shall, in no case, be bound to disclose the name or private affairs of any person who has dealings with it. 40 V., c. 43, s. 104.

Proviso ; as to
private mat-
ters.

SCHEDULE.

FORM A.

Public notice is hereby given that under “ *The Companies' Act* ” letters patent have been issued under the Great Seal of Canada, bearing date the _____ day of _____ incorporating [*here state names, address and calling of each corporator named in the letters patent*], for the purpose of [*here state the undertaking of the Company, as set forth in the letters patent*], by the name of [*here state the name of the Company as in the letters patent*] with a total capital stock of _____

dollars divided into shares of
dollars.

Dated at the office of the Secretary of State of Canada, this
day of 18 .

40 V., c. 43, sch. A.B.,
Secretary.

FORM B.

Public notice is hereby given, that under "*The Companies' Act*" supplementary letters patent have been issued under the Great Seal of Canada, bearing date the day of , whereby the undertaking of the Company has been extended to include [*here set out the other purposes or objects mentioned in the supplementary letters patent*].

Dated at the office of the Secretary of State of Canada, this
day of 18 .

40 V., c. 43, sch. A.B.,
Secretary.

FORM C.

Public notice is hereby given, that under "*The Companies' Act*" supplementary letters patent have been issued under the Great Seal of Canada, bearing date the day of ; whereby the total capital stock of [*here state the name of the Company*] is increased [*or reduced, as the case may be*] from dollars to . dollars.

Dated at the office of the Secretary of State of Canada, this
day of 18 .

40 V., c. 43, sch. A.B.,
Secretary.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
40 V., c. 43.....	The whole, except ss. 73, 75 105 and 107.	ss. 73, 75 and 105	s. 107.....	An Act respecting loans in Canada by British companies.

CHAPTER 114.

An Act respecting Banks and Banking.

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 Bank Act.*" 46 V., c. 20, s. 1.
- Interpretation. **2.** In this Act, unless the context otherwise requires:—
- "*Goods, wares and merchandise.*" (a) The expression "goods, wares and merchandise" includes in addition to the things usually understood thereby, timber, deals, boards, staves, saw-logs and other lumber, petroleum, crude oil, and all agricultural produce and other articles of commerce;
- "*Warehouse receipt.*" (b) The expression "warehouse receipt" means any receipt given by any person, firm or corporation for any goods, wares or merchandise in his or their actual, visible and continued possession, as bailee or bailees, in good faith, and not as of his or their own property, and includes receipts from any person who is the keeper of any harbor, cove, pond, wharf, yard, warehouse, shed, storehouse, tannery, mill or other place in Canada, for goods, wares or merchandise in the place or in one or more of the places so kept by him, whether such person is engaged in other business or not, and includes also specifications of timber;
- "*Bill of lading.*" (c) The expression "bill of lading" includes all receipts for goods, wares or merchandise, accompanied by an obligation to transport the same from the place where they were received to some other place, whether by land or water, or partly by land and partly by water, and by any mode of carriage whatever;
- "*Ship" or "shipment."* (d) The expression "ship" or "shipment" means the delivery of any article, for transport as aforesaid; 43 V., c. 22, s. 7, *part.*
- "*The Bank.*" (e) *The expression "The Bank" means any bank to which this Act applies.*
- To what banks the Act applies. **3.** The provisions of this Act apply to every bank incorporated *during the session of the Parliament of Canada held in the forty-third year of Her Majesty's reign or thereafter, or hereafter, whether this Act is specially mentioned in*

its Act of incorporation or not, as well as to all banks (except where otherwise expressly mentioned) whose charters or *Acts of incorporation* are hereby continued, but not to any other, unless extended to it under the special provisions hereinafter made. 34 V., c. 5, s. 2;—43 V., c. 22, s. 1.

4. The charters or Acts of incorporation of the several banks enumerated in the schedule A to this Act and any Acts amending them are hereby continued and shall, subject to the provisions of this Act, as to their incorporation, the amount of capital stock, the amount of each share of such stock, and the chief place of business of each respectively, remain in force until the first day of July, in the year one thousand eight hundred and ninety-one, subject to the right of any such bank to increase its capital stock in the manner hereinafter provided; and as to other particulars this Act shall form and be the charter or *Act of incorporation* of each of the said banks, until the said first day of July, one thousand eight hundred and ninety-one, and the provisions hereof shall apply to each of them respectively: *Provided always, that the said charters or Acts of incorporation are only hereby continued in force* in so far as they or any of them are not forfeited or void under the terms thereof or of this Act or any other Act passed or to be passed in that behalf, by non-performance of the conditions of such charters or *Acts of incorporation* respectively, or by insolvency or otherwise. 34 V., c. 5, s. 1;—43 V., c. 22, s. 11.

Charters continued to 1st July, 1891.

As to other particulars.

Provido; as to forfeiture.

CAPITAL STOCK.

5. The capital stock of every bank hereafter incorporated, the amount of each share, the name of the bank, and the place where its chief office is to be situate, shall be declared in the Act of incorporation of every such bank. 34 V., c. 5, s. 3.

Matters to be provided for in special Act.

6. No bank hereafter incorporated, unless it is otherwise provided by its Act of incorporation, shall issue notes or commence the business of banking until five hundred thousand dollars of capital have been *bonâ fide* subscribed and one hundred thousand dollars have been *bonâ fide* paid up, nor until it has obtained from the Treasury Board a certificate to that effect:

Conditions previous to commencing business by new banks.

2. Such certificate shall be granted by the Treasury Board when it is proved to the satisfaction of such board that such amounts of capital have been *bonâ fide* subscribed and paid respectively:

When certificate may be granted.

3. If at least two hundred thousand dollars of the subscribed capital of such bank have not been paid up before it commences business, such further amount as is

A certain sum to be paid up within two years.

required to complete the said sum shall be called in and paid up within two years thereafter; and it shall not be necessary that more than two hundred thousand dollars of the stock of any bank, whether incorporated before or after the passing of this Act, shall be paid up within any limited period from the date of its incorporation. 34 V., c. 5, s. 7.

Increase of capital.

7. The capital stock of the bank may be increased, from time to time, by the shareholders at any annual general meeting, or at any general meeting specially called for that purpose; and such increase may be agreed on by such proportions at a time as the shareholders determine, and shall be decided by the majority of the votes of the shareholders present at such meeting in person, or represented by proxy. 34 V., c. 5, s. 5.

How stock shall be allotted.

8. Any of the original unsubscribed capital stock, or the increased stock of the bank, shall, when the directors so determine, be allotted to the then shareholders of the bank *pro ratâ*, and at such rate as is fixed by the directors, but no fraction of a share shall be so allotted; and any of such allotted stock which is not taken up by the shareholder to whom such allotment has been made, within three months from the time when notice of the allotment was mailed to his address, may be opened for subscription to the public, in such manner and on such terms as the directors prescribe. 34 V., c. 5, s. 6.

INTERNAL REGULATIONS.

By-laws may be made.

9. The shareholders in the bank may regulate, by by-law, the following matters incident to the management and administration of the affairs of the bank, that is to say:— the number of the directors, which shall not be less than five and not more than ten, and the quorum thereof; their qualification; the method of filling up vacancies in the board of directors whenever the same occur during each year, and the time and proceedings for the election of directors, in case of a failure of any election on the day appointed for it; the remuneration of the president, vice-president and other directors; and the closing of the transfer book during a certain time, not exceeding fifteen days, before the payment of each semi-annual dividend:

Election.
Qualification of director.

2. The directors shall be elected annually by the shareholders, and shall be eligible for re-election: Provided, that no director shall hold less than three thousand dollars of the stock of the bank, when the paid-up capital thereof is one million dollars or less, or less than four thousand dollars of stock when the paid-up capital thereof is over one million and does not exceed three millions, or less than five thousand dollars of stock when the paid-up capital

thereof exceeds three millions: Provided also, that the foregoing provisions of this section, touching directors, shall not apply to a bank *en commandite*, which shall in these matters be governed by the provisions of its charter:

Proviso: as
to banks *en
commandite*

3. The shareholders (or if the bank is *en commandite*, the principal partners) may also regulate, by by-law, the amount of discounts or loans which may be made to directors (or if the bank is *en commandite*, to the principal partners), either jointly or severally, or to any one firm or person, or to any shareholder or to corporations:

Discounts to
directors.

4. Provided, that until it is otherwise prescribed by by-law under this section, the by-laws of the bank, on any matter which may be regulated by by-law under this section, shall remain in force, except as to any provision fixing the qualification of directors at an amount less than that hereby prescribed; and no person shall be elected or continue to be a director unless he possesses the number of shares hereby required, or such greater number as are required by any by-law in that behalf. 34 V., c. 5, ss. 28 and 30, *part*.

Certain by-
laws con-
tinued.

10. Every shareholder in the bank shall, on all occasions on which the votes of the shareholders are taken, have one vote for each share held by him for at least thirty days before the time of meeting: shareholders may vote by proxy, but no person but a shareholder shall be permitted to vote or act as such proxy, and no manager, cashier, bank clerk or other subordinate officer of the bank shall vote either in person or by proxy, or hold a proxy for that purpose:

Votes on
shares.

2. All questions proposed for the consideration of the shareholders shall be determined by the majority of their votes; the chairman elected to preside at any such meeting of the shareholders shall vote as a shareholder only, unless there is a tie, in which case, except as to the election of a director, he shall have a casting vote:

Majority to
determine.

Casting vote.

3. If two or more persons are joint holders of shares, any one of such joint holders may be empowered, by letter of attorney from the other joint holder or holders, or a majority of them, to represent the said shares, and vote accordingly:

As'to joint
holders of
shares.

4. In all cases when the votes of the shareholders are taken, the voting shall be by ballot. 34 V., c. 5, s. 27.

Ballot.

11. The directors of the bank, or any four of them,—any number not less than twenty-five of the shareholders of the bank, who are together proprietors of at least one tenth of the paid-up capital stock of the bank, by themselves or by their proxies,—may, at any time call a special general meeting

Special
general
meetings.

of the shareholders, to be held at their usual place of meeting, upon giving six weeks' previous public notice, specifying in such notice the object of such meeting :

Removal of
president,
director, &c.

2. If the object of any such special general meeting is to consider the proposed removal of the president or vice-president, or of a director of the bank, for mal-administration or other specified and apparently just cause, and if a majority of the votes of the shareholders at such meeting are given for such removal, a director to replace him shall be elected or appointed in the manner provided in the by-laws of the bank, or if there are no by-laws providing therefor, then by the shareholders at such meeting ; and if it is the president or vice-president who is removed, his office shall be filled up by the directors in the manner provided in case of a vacancy occurring in the office of president or vice-president. 34 V., c. 5, s. 29.

New election.

Board of
directors.

12. The stock, property, affairs and concerns of the bank shall be managed by a board of directors, the number of whom shall be fixed as herein provided, who shall choose from among themselves a president and vice-president ; the directors shall be natural-born or naturalized subjects of Her Majesty, and shall be elected on such day in each year as is appointed by the charter or by any by-law of the bank, and at such time of the day and at such place where the head office of the bank is situate, as a majority of the directors for the time being appoint ; and public notice shall be given by the directors, by publishing the same for at least four weeks in a newspaper published at the place where the said head office is situate, previous to the time of holding such election ; and the election shall be held and made by such of the shareholders of the bank as have paid all calls made by the directors and as attend for the purpose in person or are represented by proxy :

Notice of
election.

Ballot.
Proxies.

2. All elections of directors shall be by ballot ; and the said proxies shall be held and voted upon only by shareholders then present :

Who shall be
directors.

3. The persons, to the number fixed by by-law, as hereinafore provided, who have the greatest number of votes at any election, shall be directors :

Provision in
case of equal-
ity of votes.

4. If it happens at any election that two or more persons have an equal number of votes, and the election or non-election of one or more of such persons as a director or directors depends on such equality, then the directors who have a greater number, or the majority of them, shall determine which of the said persons so having an equal number of votes shall be the director or directors, so as to complete the full number ; and the said directors, as soon as may be

after the said election, shall proceed in like manner to elect, by ballot, two of their number to be president and vice-president respectively: Election of president, &c.

5. If a vacancy occurs in the board of directors, such vacancy shall be filled in the manner provided by the by-laws; but the non-filling of the vacancy shall not vitiate the acts of a quorum of the remaining directors; and if the vacancy so created is in the office of the president or vice-president, the directors, at the first meeting after completion of their number, shall, from among themselves, elect a president or vice-president, who shall continue in office for the remainder of the year. Vacancies, how filled 34 V., c. 5, s. 30.

13. No shareholder in any bank to which the three sections next preceding apply shall vote, either in person or by proxy, on any question proposed for the consideration of the shareholders of the bank at any meeting of such shareholders, or in any case in which the votes of the shareholders of the bank are taken, unless he has paid all calls made by the directors which are then due and payable. In certain cases calls must be paid before voting. 40 V., c. 44, s. 1.

14. No appointment of a proxy to vote at any meeting of the shareholders of the bank shall be valid for that purpose, unless it has been made or renewed in writing within the three years next preceding the time of such meeting. Renewal of proxies. 43 V., c. 22, s. 12, *part.*

15. If an election of directors is not made on any day when it should be made, the corporation shall not for that cause be deemed to be dissolved, but an election of directors may take place on any other day in such manner as is provided by the by-laws made by the shareholders in that behalf; and the directors then in office shall so remain until a new election is made. Provision in case of failure of election. 34 V., c. 5, s. 31.

16. At all meetings of the directors not less than three shall constitute a quorum for the transaction of business; and at such meetings the president, or in his absence the vice-president, or in the absence of both of them, one of the directors present, chosen to act *pro tempore*, shall preside; and the president, vice-president or president *pro tempore* so presiding, shall vote as a director, and if there is an equal division on any question, shall also have a casting vote. Quorum, &c. Casting vote. 34 V., c. 5, s. 32.

17. The directors for the time being, or a majority of them, may make by-laws and regulations (not repugnant to the provisions of this Act or the laws of Canada) touching the management and disposition of the stock, property, estate and effects of the bank, and touching the duties and conduct of the officers, clerks and servants General powers of directors.

Proviso; as to by-laws in force.

employed therein, and all such other matters as appertain to the business of a bank: Provided always, that all by-laws of the bank lawfully made before the fourteenth day of April, one thousand eight hundred and seventy-one, and now in force, in respect to any matter respecting which the directors may make by-laws under this section (including any by-laws for establishing a guarantee fund for the employees of the bank) shall remain in force until they are repealed or altered by others made under this Act. 34 V., c. 5, s. 33, *part*.

Appointment of officers, &c.

18. The directors may appoint as many officers, clerks and servants for carrying on the business of the bank, and with such salaries and allowances as they consider necessary—and they may also appoint a director or directors for any branch of the bank :

Security to be given.

2. Before permitting any cashier, officer, clerk or servant of the bank to enter upon the duties of his office, the directors shall require him to give bond or other security to the satisfaction of the directors, for the due and faithful performance of his duties. 34 V., c. 5, s. 33, *part*.

SHARES AND CALLS.

Subscription and transfer of stock in United Kingdom.

19. Books of subscription may be opened, and shares of the capital stock may be made transferable, and the dividends accruing thereon may be made payable in the United Kingdom, in like manner as such shares and dividends are respectively made transferable and payable at the head office of the bank; and for that purpose the directors may, from time to time, determine the proportion of the shares which shall be so transferable in the United Kingdom, and make such rules and regulations, and prescribe such forms, and appoint such agents, as they deem necessary. 34 V., c. 5, s. 17.

Payment of shares.

Proviso; ten per cent. payable on subscription.

20. The shares of the capital stock shall be paid in by such instalments, and at such times and places as the directors appoint, and executors, administrators and curators paying the instalments upon the shares of deceased shareholders shall be indemnified for paying the same: Provided always, that no share shall be held to be lawfully subscribed for, unless a sum equal to at least ten per centum on the amount subscribed for is actually paid at the time of or within thirty days after the time of subscribing. 34 V., c. 5, s. 18.

Calls on shares.

21. The directors may make such calls of money from the several shareholders for the time being, upon the shares subscribed for by them, respectively, as they find necessary :

2. Such calls shall be made at intervals of not less than thirty days, and upon notice to be given at least thirty days prior to the day on which such call shall be payable; and no such call shall exceed ten per cent. of each share subscribed. 34 V., c. 5, s. 34, *part.*

Time of calls
and notice.

Limitation.

22. The directors may, in the corporate name of the bank, sue for, recover and get in all such calls, or cause and declare such shares to be forfeited to the bank, in case of non-payment of any such call :

Recovery of
calls.

2. An action may be brought to recover any money due on any such call ; and it shall not be necessary to set forth the special matter in the declaration, but it shall be sufficient to allege that the defendant is holder of one share or more, as the case may be, in the capital stock of the bank, and is indebted to the bank for a call or calls upon such share or shares, in the sum to which the call or calls amount, as the case may be, stating the amount and number of such calls, whereby an action has accrued to the bank to recover the same from such defendant by virtue of this Act ; and to entitle the directors to recover in such action it shall be sufficient to prove by any one witness (a shareholder being competent) that the defendant, at the time of making any such call, was a shareholder in the number of shares alleged, and to produce the by-law or resolution of the directors making such call, and to prove notice thereof, given in conformity with such by-law or resolution ; and it shall not be necessary to prove the appointment of the directors or any other matter whatsoever. 34 V., c. 5, s. 34, *part.*

Recovery by
suit.

What only
need be
proved.

23. Provided always, that if any shareholder refuses or neglects to pay any instalment upon his shares of the capital stock at the time appointed by such call, as aforesaid, such shareholder shall incur a forfeiture to the use of the bank of a sum of money equal to ten per cent. on the amount of such shares ; and the directors of the bank may, without any previous formality, other than thirty days' public notice of their intention so to do, sell at public auction the said shares, or so many of the said shares as shall, after deducting the reasonable expenses of the sale, yield a sum of money sufficient to pay the unpaid instalments due on the remainder of the said shares and the amount of forfeitures incurred upon the whole ; and the president or vice-president, manager or cashier of the bank, shall execute the transfer to the purchaser of the shares so sold ; and such transfer, when accepted, shall be as valid and effectual in law as if the same had been executed by the original holder of the shares thereby transferred ; but the directors, or the shareholders, at a general meeting may, notwithstanding anything in this section contained, remit either in

Forfeiture of
shares for
non-payment
of calls.

Sale in such
case.

And transfer.

Proviso.

whole or in part, and conditionally or unconditionally, any forfeiture incurred by the non-payment of instalments as aforesaid, or the bank may enforce the payment of any call or calls by suit instead of declaring the shares forfeited. 34 V., c. 5, s. 35.

ANNUAL STATEMENT.

Statement to be laid before annual meeting.

24. At every annual meeting of the shareholders for the election of directors, the out-going directors shall submit a clear and full statement of the affairs of the bank, containing on the one part,—

liabilities.

The amount of the capital stock paid in, the amount of notes of the bank in circulation, the net profits made, the balances due to other banks and institutions, and the cash deposited in the bank, distinguishing deposits bearing interest from those not bearing interest; and on the other part,—

Assets.

The amount of the current coin, the gold and silver bullion, and the Dominion notes in the vaults of the bank, the balances due to the bank from other banks and institutions, the value of the real and other property of the bank, and the amount of debts owing to the bank, including and particularizing the amounts so owing upon bills of exchange, discounted notes, mortgages and other securities,—

What statement shall show.

Exhibiting on the one hand the liabilities of, or the debts due by the bank, and on the other hand, the assets and resources thereof: and the said statement shall also exhibit the rate and amount of the last dividend declared by the directors, the amount of reserved profits at the time of declaring the said dividend, and the amount of debts due to the bank, overdue and not paid, with an estimate of the loss which will probably accrue thereon. 34 V., c. 5, s. 36.

INSPECTION BY DIRECTORS.

Inspection of books, &c.

25. The books, correspondence and funds of the bank shall, at all times, be subject to the inspection of the directors, but no shareholder who is not a director shall be allowed to inspect the account of any person dealing with the bank. 34 V., c. 5, s. 37.

DIVIDENDS.

Dividends.

26. The directors of the bank shall declare half-yearly dividends of so much of the profits of the bank as to the majority of them seems advisable, and not inconsistent with the provisions of the two sections of this Act next following; and they shall give at least thirty days' public

notice of the payment of such dividends previously to the date fixed for such payment. 34 V., c. 5, s. 38.

27. No dividend or bonus shall ever be declared so as to impair the paid up capital; if any dividend or bonus is so declared or made payable, the directors who knowingly and wilfully concur therein, shall be jointly and severally liable for the amount thereof, as a debt due by them to the bank; and if any part of the paid-up capital is lost, the directors shall, if all the subscribed stock is not paid up, forthwith make calls upon the shareholders to an amount equivalent to such loss; and such loss (and the calls, if any) shall be mentioned in the next return made by the bank to the Minister of Finance and Receiver General: Provided, that in any case in which the capital has been impaired as aforesaid, all net profits shall be applied to make good such loss. 34 V., c. 5, s. 10.

Dividend not to impair capital.

Capital lost to be made up.

28. No division of profits, either by way of dividends or bonus, or both combined, or in any other way, exceeding the rate of eight per cent. per annum, shall be made by the bank, unless, after making the same, it has a rest or reserved fund equal to at least twenty per cent. of its paid-up capital; and all bad and doubtful debts shall be deducted before the amount of such rest is calculated. 34 V., c. 5, s. 11.

Dividend limited unless there is a certain reserve.

TRANSFER AND TRANSMISSION OF SHARES.

29. The shares of the capital stock shall be personal estate, and shall be assignable and transferable at the chief place of business of the bank or at any of its branches which the directors appoint for that purpose, and according to such form as the directors prescribe; but no assignment or transfer shall be valid unless it is made and registered and accepted by the person to whom the transfer is made, in a book or books kept by the directors for that purpose, nor unless the person making the same has, if required by the bank, previously discharged all his debts or liabilities to the bank which exceed in amount the remaining stock, if any, belonging to such person, valued at the then current rate; and no fractional part of a share, or less than a whole share, shall be assignable or transferable. 42 V., c. 45, s. 1, *part*.

Shares and transfer thereof.

30. A list of all transfers of shares registered each day in the books of the bank, showing the parties to such transfers and the number of shares transferred in each case, shall be made up at the end of each day and kept at the chief place of business of the bank for the inspection of its shareholders. 34 V., c. 5, s. 20.

List of transfers to be kept.

31. When any share of the capital stock has been sold under a writ of execution, the officer by whom the writ was

Sale of shares under execution.

executed shall, within thirty days after the sale, leave with the cashier, manager or other officer of the bank, an attested copy of the writ, with the certificate of such officer indorsed thereon, certifying to whom the sale has been made, and thereupon (but not until after all debts and liabilities of the holder of the share to the bank, and all liens existing in favor of the bank thereon, have been discharged as herein provided), the president, vice-president, manager or cashier of the bank shall execute the transfer of the share so sold to the purchaser; and such transfer when duly accepted, shall be, to all intents and purposes, as valid and effectual in law as if it had been executed by the holder of the said share. 42 V., c. 45, s. 1, *part*.

Transmission of shares otherwise than by transfer, how authenticated.

32. If the interest in any share in the capital stock becomes transmitted in consequence of the death, bankruptcy, or insolvency of any shareholder, or in consequence of the marriage of a female shareholder, or by any other lawful means than by a transfer according to the provisions of this Act, such transmission shall be authenticated by a declaration in writing, as hereinafter mentioned, or in such other manner as the directors of the bank require; and every such declaration shall distinctly state the manner in which and the person to whom such shares have been transmitted, and shall be made and signed by such person; and the person making and signing such declaration shall acknowledge the same before a judge of a court of record, or before the mayor, provost or chief magistrate of a city, town, borough or other place, or before a notary public, where the same is made and signed; and every declaration so signed and acknowledged shall be left with the cashier, manager or other officer or agent of the bank, who shall thereupon enter the name of the person entitled under such transmission in the register of shareholders; and until such transmission has been so authenticated no person claiming by virtue of any such transmission shall be entitled to participate in the profits of the bank, or to vote in respect of any such share of the capital stock: Provided always, that every such declaration and instrument as, by this and the next following section of this Act, are required to perfect the transmission of a share in the bank which is made in any other country than Canada, or any other British colony in North America or in the United Kingdom, shall be further authenticated by the British consul or vice-consul, or other the accredited representative of the British Government in the country where the declaration is made, or shall be made directly before such British consul or vice-consul or other accredited representative; and provided also, that the directors, cashier or other officer or agent of the bank may require corroborative evidence of any fact alleged in any such declaration. 34 V., c. 5, s. 21.

Proviso; as to declaration made out of Canada, &c.

Proviso; further evidence may be required.

33. If the transmission of any share of the capital stock has taken place by virtue of the marriage of a female shareholder, the declaration shall be accompanied by a copy of the register of such marriage, or other particulars of the celebration thereof, and shall declare the identity of the wife with the holder of such share, and shall be made and signed by such female shareholder and her husband; and they may include therein a declaration to the effect that the share transmitted is the separate property, and under the sole control of the wife, and that she may receive and grant receipts for the dividends and profits accruing in respect thereof, and dispose of and transfer the share itself, without requiring the consent or authority of her husband; and such declaration shall be binding upon the bank and the persons making the same, until the said persons see fit to revoke it by a written notice to that effect to the bank; but the omission of a statement in any such declaration that the wife making the same is duly authorized by her husband to make the same, shall not invalidate the declaration. 34 V., c. 5, s. 22.

Transmission
by marriage
of female
shareholder.

34. If the transmission has taken place by virtue of any testamentary instrument, or by intestacy, the probate of the will, or the letters of administration, or act of curatorship or an official extract therefrom, shall, together with such declaration, be produced and left with the cashier or other officer or agent of the bank, who shall, thereupon, enter the name of the person entitled under such transmission in the register of shareholders. 34 V., c. 5, s. 23.

Transmission
by decease.

35. If the transmission of any share of the capital stock has taken place by virtue of the decease of any shareholder, the production to the directors and the deposit with them of any authenticated copy of the probate of the will of the deceased shareholder, or of letters of administration of his estate granted by any court in Canada having power to grant such probate or letters of administration, or by any court or authority in England, Wales, Ireland or any British colony, or of any testamentary or testament dative, expedite in Scotland—or, if the deceased shareholder died out of Her Majesty's dominions, the production to and deposit with the directors of any authenticated copy of the probate of his will or letters of administration of his property, or other document of like import granted by any court or authority having the requisite power in such matters, shall be sufficient justification and authority to the directors for paying any dividend, or for transferring or authorizing the transfer of any share in pursuance of and in conformity to such probate, letters of administration, or other such document as aforesaid. 34 V., c. 5, s. 24.

Further
provision in
such case.

36. Whenever the interest in any share of the capital stock is transmitted by the death of any shareholder or

Provision in
case of doubt

as to person
entitled.

otherwise, or whenever the ownership of or legal right of possession in any such share changes by any lawful means, other than by transfer according to the provisions of this Act, and the directors of the bank entertain reasonable doubts as to the legality of any claim to and upon such share, the bank may make and file in one of the superior courts in the Province in which the head office of the bank is situated, a declaration and petition in writing, addressed to the justices of the court, setting forth the facts and the number of shares previously belonging to the person in whose name such shares stand in the books of the bank, and praying for an order or judgment declaring to whom the said shares belong,—by which order or judgment the bank shall be guided and held fully harmless and indemnified and released from every other claim to the said shares or arising therefrom: Provided always, that notice of such petition shall be given to the person claiming such share, or to the attorney of such person duly authorized for the purpose, who shall, upon the filing of such petition, establish his right to the several shares referred to in such petition; and the times to plead and all other proceedings in such cases shall be the same as those observed in analogous cases before the said superior courts: Provided also, that the costs and expenses of procuring such order or judgment shall be paid by the person to whom the said shares are declared lawfully to belong, and that such shares shall not be transferred until such costs and expenses are paid,—saving the recourse of such person against any person contesting his right. 34 V., c. 5, s. 25.

Proviso:
notice to be
given.

Proviso: as to
costs.

Bank not
bound to see
to trusts.

37. The bank shall not be bound to see to the execution of any trust, whether expressed, implied or constructive, to which any share of its stock is subject; and the receipt of the person in whose name any such share stands in the books of the bank, or, if it stands in the name of more persons than one, the receipt of one of such persons shall be a sufficient discharge to the bank for any dividend or any other sum of money payable in respect of such share, unless express notice to the contrary has been given to the bank: and the bank shall not be bound to see to the application of the money paid upon such receipt, whether given by one of such persons or all of them. 34 V., c. 5, s. 26.

Executors
and trustees
not person-
ally liable.

38. No person holding stock in the bank as executor, administrator, guardian or trustee, or for any person named in the books of the bank as being so represented by him, shall be personally subject to any liability as a shareholder, but the estate and funds in his hands shall be liable in like manner and to the same extent as the testator, intestate, ward or person interested in such trust fund would be, if living and competent to hold the stock in his own name; and if the trust is for a living person, such person shall also

himself be liable as a shareholder; but if such testator, Exception. intestate, ward or person so represented, is not so named in the books of the bank, the executor, administrator, guardian or trustee shall be personally liable in respect of such stock, as if he held it in his own name as owner thereof. 43 V., c. 22, s. 2.

OBLIGATIONS AND POWERS OF THE BANK.

39. The bank shall always hold, as nearly as practicable, one half of its cash reserves in Dominion notes, and the proportion of such reserves held in Dominion notes shall never be less than forty per cent. thereof; and every bank holding at any time a less amount of its cash reserves in Dominion notes than is prescribed by this section, shall incur a penalty of two hundred and fifty dollars for each and every time it appears, by the monthly statement hereinafter mentioned or otherwise, that such violation of this section has occurred:

Part of reserve to be in Dominion notes.

Penalty for not holding due proportion of Dominion notes.

2. The Minister of Finance and Receiver General shall make such arrangements as are necessary for ensuring the delivery of Dominion notes to any bank, in exchange for an equivalent amount of specie, at the several offices at which Dominion notes are redeemable, in the cities of Toronto, Montreal, Halifax, St. John (N.B.), Winnipeg, Charlottetown and Victoria, respectively. 34 V., c. 5, ss. 14 and 16; —43 V., c. 22, s. 3;—46 V., c. 20, s. 4.

Supply of Dominion notes.

40. The amount of notes of the bank intended for circulation, issued by the bank and outstanding at any time, shall never exceed the amount of its unimpaired paid-up capital: and no such note for a sum less than five dollars, or for any sum which is not a multiple of five dollars shall be issued or re-issued by the bank, and all notes for a less sum than five dollars, or which are not such multiple as aforesaid, heretofore issued, shall be called in and cancelled as soon as practicable:

Amount and denomination of bank notes.

2. If it appears by the monthly statement hereinafter mentioned, made by the bank, that the amount of its notes in circulation has, during the month to which such statement relates, exceeded the amount authorized by this section, such bank shall incur a penalty of one hundred dollars, if the amount of such excess of circulation is not over twenty thousand dollars—a penalty of one thousand dollars, if such excess is over twenty thousand and not over one hundred thousand dollars—a penalty of five thousand dollars, if such excess is over one hundred thousand dollars, and not over two hundred thousand dollars—and a penalty of ten thousand dollars, if such excess is over two hundred thousand dollars. 34 V., c. 5, s. 8;—43 V., c. 22, s. 12, *part*; —46 V., c. 20, s. 3.

Penalties on banks having excess of circulation.

Redemption
of notes.

41. The bank shall always receive in payment its own notes at par at any of its offices and whether they are made payable there or not; but shall not be bound to redeem them in specie or Dominion notes at any place other than that at which they are made payable :

Payable at
chief place of
business.

2. The chief place of business of the bank shall always be one of the places at which its notes shall be made payable. 34 V., c. 5, s. 9.

Payments in
Dominion
notes.

42. The bank, when making any payment, shall, on the request of the person to whom the payment is to be made, pay the same, or such part thereof not exceeding sixty dollars as such person requests, in Dominion notes for one, two, or four dollars each, at the option of the receiver. 43 V., c. 22, s. 12, *part* ;—46 V., c. 20, s. 5.

Bonds, notes,
&c., how and
by whom to
be signed.

43. The bonds, obligations and bills obligatory or of credit of the bank under its corporate seal and signed by the president or vice-president and countersigned by a cashier or assistant cashier, which are made payable to any person, shall be assignable by indorsement thereon; and bills or notes of the bank signed by the president, vice-president, cashier or other officer appointed by the directors of the bank to sign the same, promising the payment of money to any person or to his order, or to the bearer, though not under the corporate seal of the bank, shall be binding and obligatory on it in like manner and with the like force and effect as they would be upon any private person, if issued by him in his private or natural capacity, and shall be assignable in like manner as if they were so issued by a private person in his natural capacity: Provided always, that the directors of the bank may, from time to time, authorize or depute any cashier, assistant cashier or officer of the bank, or any director other than the president or vice-president, or any cashier, manager or local director of any branch or office of discount and deposit of the bank, to sign the bills of the bank intended for general circulation, and payable to order or to bearer on demand. 34 V., c. 5, s. 55.

Proviso :
power may be
deputed to
officer.

Notes may be
signed by
machinery.

44. All bank notes and bills of the bank whereon the name of any person entrusted or authorized to sign such notes or bills on behalf of the bank is impressed by machinery provided for that purpose, by or with the authority of the bank, shall be good and valid to all intents and purposes, as if such notes and bills had been subscribed in the proper handwriting of the person entrusted or authorized by the bank to sign the same respectively, and shall be bank notes and bills within the meaning of all laws and statutes whatever, and may be described as bank notes or bills in all indictments and civil or criminal proceedings whatsoever. 34 V., c. 5, s. 56.

45. The bank shall not, either directly or indirectly, lend money or make advances upon the security, mortgage or hypothecation of any lands or tenements, or of any ships or other vessels, or upon the security or pledge of any share of the capital stock of the bank, or of any goods, wares or merchandise, except as authorized in this Act; and the bank shall not, either directly or indirectly, deal in the buying and selling or bartering of goods, wares or merchandise, or engage or be engaged in any trade whatsoever, except as a dealer in gold and silver bullion, bills of exchange, discounting of promissory notes and negotiable securities, and in such trade generally as appertains to the business of banking; and the bank shall not, either directly or indirectly, purchase or deal in any share of the capital stock of the bank, except when it is necessary to realize upon any such share held by the bank as security for any pre-existing and matured debt:

Certain business (may not be transacted by the bank.

2. Every bank which violates any provision of this section shall incur a penalty not exceeding five hundred dollars. 34 V., c. 5, s. 40;—38 V., c. 17, s. 1;—46 V., c. 20, s. 9, *part.*

Penalty for contravention.

46. The bank may open branches and agencies and offices of discount and deposit, and may transact business at any place or places in Canada. 34 V., c. 5, s. 4.

Branches and agencies.

47. The bank may acquire and hold real and immovable property for its actual use and occupation and the management of its business, and may sell or dispose of the same, and acquire other property in its stead for the same purposes. 34 V., c. 5, s. 39.

Real estate for occupation.

48. The bank may take, hold and dispose of mortgages and *hypothèques* upon real or personal property, by way of additional security for debts contracted to the bank in the course of its business; and the rights, powers and privileges which the bank is hereby declared to have or to have had in respect of real property mortgaged to it, shall be held and possessed by it, in respect of any personal property which is mortgaged or hypothecated to it. 34 V., c. 5, s. 41.

Mortgages as additional security.

49. The bank may purchase any lands or real property offered for sale under execution, or in insolvency, or under the order or decree of a court, as belonging to any debtor to the bank, or exposed to sale by the bank under a power of sale given to it for that purpose, in cases in which, under similar circumstances, an individual could so purchase, without any restriction as to the value of the lands which it may so purchase, and may acquire a title thereto as any individual purchasing at sheriff's sale, or under a power of sale, in like circumstances, could do, and may take, have,

Purchase of land under execution, &c.

hold and dispose of the same at pleasure. 34 V., c. 5, s. 42 ;
—43 V., c. 22, s. 5.

Absolute title may be acquired.

50. The bank may acquire and hold an absolute title in or to land mortgaged to it as security for a debt due or owing to it, either by obtaining a release of the equity of redemption in the mortgaged property, or by procuring a foreclosure, or by other means whereby, as between individuals, an equity of redemption can, by law, be barred, and may purchase and acquire any prior mortgage or charge on such land : Provided always, that no bank shall hold any real or immovable property howsoever acquired, except such as is required for its own use, for any period exceeding seven years from the date of the acquisition thereof :

Proviso ; sale of property so acquired.

Penalty for contravention.

2. Every bank which violates any provision of this section shall incur a penalty not exceeding five hundred dollars. 34 V., c. 5, s. 43 :—43 V., c. 22, s. 6 ;—46 V., c. 20, s. 9, *part*.

Title to lands so acquired ; power of sale, &c.

51. Nothing in any charter, Act or law shall be construed as ever having prevented or as preventing the bank from acquiring and holding an absolute title to and in any such mortgaged lands, whatever the value thereof may be, or from exercising or acting upon any power of sale contained in any mortgage given to it or held by it, authorizing or enabling it to sell or convey away any lands so mortgaged. 34 V., c. 5, s. 44.

As to advances for building ships.

52. Every bank advancing money in aid of the building of any ship or vessel, shall have the same right of acquiring and holding security upon such ship or vessel, while building and when completed, either by way of mortgage, *hypothèque*, hypothecation, privilege or lien thereon, or purchase or transfer thereof, as individuals have in the Province wherein such ship or vessel is being built, and for that purpose may avail itself of all such rights and means of obtaining and enforcing such security, and shall be subject to all such obligations, limitations and conditions as are, by the law of such Province, conferred or imposed upon individuals making such advances. 35 V., c. 8, s. 7.

This section is made to apply to the whole of Canada.

Interpretation of "Agent."

53. In this section the expression "agent" means any person intrusted with the possession of goods, wares and merchandise, or to whom the same are consigned, or who is possessed of any bill of lading, warehouse-keeper's or wharfinger's receipt or order for the delivery of goods, wares and merchandise, bill of inspection of pot or pearl ashes, or any other document used in the course of business as proof of the possession or control of goods, wares and merchandise, or authorizing or purporting to authorize, either

by indorsement or by delivery, the possessor of such document, to transfer or receive goods, wares and merchandise thereby represented; and such person shall be deemed the possessor of such goods, wares and merchandise or bill of lading, warehouse-keeper's or wharfinger's receipt or order for the delivery of goods, wares and merchandise, bill of inspection of pot or pearl ashes or other document as aforesaid, as well if the same are held by any person for him or subject to his control as if he is in actual possession thereof: 43 V., c. 22, sch. A.

This definition is new, and has been drafted to cover the interpretation of "agent," as set forth in 43 V., c. 22, s. 7 and schedule A.

2. The bank may acquire and hold any warehouse receipt or bill of lading as collateral security for the payment of any debt incurred in its favor in the course of its banking business; and the warehouse receipt or bill of lading so acquired shall vest in the bank, from the date of the acquisition thereof, all the right and title of the previous holder or owner thereof, or of the person from whom such goods, wares and merchandise were received or acquired by the bank, if the warehouse receipt or bill of lading is made directly in favor of the bank instead of to the previous holder or owner of such goods, wares and merchandise:

Warehouse receipts may be taken as collateral security.

3. If the previous holder of such warehouse receipt or bill of lading is the agent of the owner of the goods, wares and merchandise mentioned therein, the bank shall be vested with all the right and title of the owner thereof, subject to his right to have the same re-transferred to him, if the debt, as security for which they are held by the bank, is paid:

When previous holder is an agent.

4. The bank shall not acquire or hold any warehouse receipt or bill of lading, to secure the payment of any bill, note or debt, unless such bill, note or debt is negotiated or contracted at the time of the acquisition thereof by the bank, or upon the *promise* that such warehouse receipt or bill of lading would be transferred to the bank, but such bill, note or debt may be renewed or the time for the payment thereof extended, without affecting such security:

When such security may be acquired.

5. The bank may, on shipment of any goods, wares and merchandise, for which it holds a warehouse receipt, surrender such receipt and receive a bill of lading in exchange therefor; or on the receipt of any goods, wares and merchandise for which it holds a bill of lading, it may surrender such bill of lading, store such goods, wares and merchandise, and take a warehouse receipt therefor; or may ship them or part of them, and take another bill of lading therefor:

Exchange of warehouse receipt for bill of lading and vice versa.

Penalty for
contravention ;

6. Every bank which violates any provision of this section, shall incur a penalty not exceeding five hundred dollars :

And for
making false
statement.

7. Every one is guilty of a misdemeanor and liable to imprisonment for a term not exceeding two years, who wilfully makes any false statement in any such receipt, acknowledgment or certificate as is in this section mentioned. 34 V., c. 5, ss. 65, *part*, and 67, *part* ;—43 V., c. 22, s. 7, *part* ;—46 V., c. 20, s. 9.

Re-drafted.

When ware-
houseman,
&c., is also
the owner.

54. If any person who grants a warehouse receipt or bill of lading is engaged in the calling, as his ostensible business, of keeper of a yard, cove, wharf or harbor, or of warehouseman, miller, saw-miller, maltster, manufacturer of timber, wharfinger, master of a vessel, or other carrier by land or by water, or by both, curer or packer of meat, tanner, dealer in wool or purchaser of agricultural produce, and is at the same time the owner of the goods, wares and merchandise mentioned in such warehouse receipt or bill of lading, every such warehouse receipt or bill of lading, and the right and title of the bank thereto and to the goods, wares and merchandise mentioned therein, shall be as valid and effectual as if such owner, and the person making such warehouse receipt or bill of lading, were different persons. 43 V., c. 22, s. 7, *part*.

Sale of goods
on non-pay-
ment of debt.

55. In the event of the non-payment at maturity of any debt secured by a warehouse receipt or bill of lading, the bank may sell the goods, wares and merchandise mentioned therein, or so much thereof as will suffice to pay such debt with interest and expenses, returning the overplus, if any, to the person from whom such warehouse receipt or bill of lading, or the goods, wares and merchandise mentioned therein, as the case may be, were acquired ; but such power of sale shall be subject to the provisions hereinafter made. 43 V., c. 22, s. 7, *part*.

As to goods
manufactured
from articles
pledged.

56. If any miller, maltster, or packer or curer of pork, grants a warehouse receipt for any cereal grains or hogs which are manufactured into flour or malt, pork, bacon or hams, respectively, while held thereunder, such warehouse receipt shall vest in any bank which is or becomes the lawful holder thereof, all the right and title to such manufactured article, which such bank acquired, under such warehouse receipt, to the article described in such warehouse receipt, and so manufactured ; and the bank shall continue to hold the same and all such right and title, for the same purposes and upon the same conditions as those upon which it previously held such material. 43 V., c. 22, s. 7, *part*.

57. All advances made on the security of any bill of lading or warehouse receipt, shall give to the bank making such advances a claim for the repayment of such advances on the goods, wares and merchandise therein mentioned, or into which they have been converted, prior to and by preference over the claim of any unpaid vendor. 43 V., c. 22, s. 7, *part.*

Prior claim of the bank over unpaid vendor.

58. No sale without the consent in writing of the owner of any timber, boards, deals, staves, saw logs or other lumber, shall be made under this Act until notice of the time and place of such sale has been given by a registered letter, mailed in the post office to the last known address of the pledger thereof, at least thirty days prior to the sale thereof; and no goods, wares or merchandise, other than timber, boards, deals, staves, saw logs or other lumber, shall be sold by the bank under this Act without the consent of the owner, until notice of the time and place of sale has been given by a registered letter, mailed in the post office to the last known address of the pledger thereof, at least ten days prior to the sale thereof:

Notice to be given before sale of goods pledged.

2. Every such sale of any article mentioned in this section, without the consent of the owner, shall be made by public auction, after a notice thereof by advertisement, stating the time and place thereof, in at least two newspapers published in or nearest to the place where the sale is to be made; and if such sale is in the Province of Quebec, then at least one of such newspapers shall be a newspaper published in the English language, and one other such newspaper shall be a newspaper published in the French language. 43 V., c. 22, s. 7, *part.*

Sale by auction after notice.

59. The bank shall not make loans or grant discounts on the security of its own stock, but shall have a privileged lien, for any debt or liability for any debt to the bank, on the shares and unpaid dividends of the debtor or person liable, and may decline to allow any transfer of the shares of such debtor or person until such debt is paid; and if such debt is not paid when due the bank may sell such shares, after notice has been given to the holder thereof of the intention of the bank to sell the same, by mailing such notice in the post office to the last known address of such holder, at least thirty days prior to such sale; and upon such sale being made, the president, vice-president, manager or cashier shall execute a transfer of such shares to the purchaser thereof in the usual transfer book of the bank,—which transfer shall vest in such purchaser all the rights in or to such shares which were possessed by the holder thereof, with the same obligation of warranty on his part as if he were the vendor thereof, but without any warranty from the bank or by the officer of the bank executing such transfer:

No loan to be made on its own stock, but bank to have a lien on stock for overdue debts.

Transfer in case of sale.

Penalty for
contraven-
tion.

2. Every bank which violates any provision of this section shall incur a penalty not exceeding five hundred dollars. 43 V., c. 22, s. 8, *part*;—46 V., c. 20, s. 9.

Provision as
to collateral
security.

60. Nothing in this Act contained shall prevent the bank from acquiring and holding, as collateral security for any advance made by the bank, or debt due to the bank, or for any credit or liability incurred by the bank to or on behalf of any person (and either at the time of the making of such advance, or the contracting of such debt, or the opening of such credit, or the incurring of such liability), Dominion, provincial, British or foreign public securities, or the stock, bonds or debentures of municipal or other corporations, except banks:

How collateral
security
may be dealt
with.

2. Such stock, bonds, debentures or securities may, in case of default to pay the debt for securing which they were so acquired and held, be dealt with, sold and conveyed in like manner and subject to the same restrictions as are herein provided in respect of stock of the bank on which it has acquired a lien under this Act; but the right to so deal with and dispose of such stock, bonds, debentures or securities in manner aforesaid may be waived or varied by any agreement between the bank and the owner of such stock, bonds, debentures or securities, made at the time at which such debt was incurred, or if the time of payment of such debt has been extended, then by an agreement made at the time of such extension. 43 V., c. 22, s. 8, *part*.

Provision may
be varied.

No penalty
for usury.

61. The bank shall not be liable to incur any penalty or forfeiture for usury; and may stipulate for, take, reserve or exact any rate of interest or discount not exceeding seven per centum per annum, and may receive and take in advance any such rate, but no higher rate of interest shall be recoverable by the bank; and the bank may allow any rate of interest whatever upon money deposited with it. 34 V., c. 5, s. 52.

What interest
may be al-
lowed.

No instrument
to be void on
ground of
usury.

62. No promissory note, bill of exchange or other negotiable security, discounted by or indorsed or otherwise assigned to the bank, shall be held to be void, usurious or tainted by usury, as regards such bank or any maker, drawer, acceptor, indorser or indorsee thereof, or other party thereto, or *bonâ fide* holder thereof, nor shall any party thereto be subject to any penalty or forfeiture, by reason of any rate of interest taken, stipulated or received by such bank, on or with respect to such promissory note, bill of exchange, or other negotiable security, or paid or allowed by any party thereto to another in compensation for, or in consideration of the rate of interest taken or to be taken thereon by such bank; but no party thereto, other than the bank, shall be entitled to recover or liable to pay more than

the lawful rate of interest in the Province where the suit is brought, nor shall the bank be entitled to recover a higher rate than seven per cent. per annum; and no innocent holder of or party to any promissory note, bill of exchange or other negotiable security, shall in any case be deprived of any remedy against any party thereto, or liable to any penalty or forfeiture, by reason of any usury or offence against the laws of any such Province, respecting interest, committed in respect of such note, bill or negotiable security, without the complicity or consent of such innocent holder or party. 35 V., c. 8, s. 2.

As to innocent holders.

This section is made to apply to the whole of Canada.

63. The bank may, in discounting at any of its places of business, branches, agencies or offices of discount and deposit, any note, bill or other negotiable security or paper payable at any other of its own places or seats of business, branches, agencies or offices of discount and deposit in Canada, receive or retain, in addition to the discount, any amount not exceeding the following rates per centum, according to the time it has to run, on the amount of such note, bill or other negotiable security or paper, to defray the expenses attending the collection thereof, that is to say:—under thirty days, one eighth of one per cent.—thirty days or over, but under sixty days, one-fourth of one per cent.—sixty days and over, but under ninety days, three eighths of one per cent.—ninety days and over, one half of one per cent. 34 V., c. 5, s. 53.

Collection fees.

64. The bank may, in discounting any note, bill or other negotiable security or paper, *bond fide* payable at any place in Canada, different from that at which it is discounted, and other than one of its own places or seats of business, branches, agencies or offices of discount and deposit in Canada, receive and retain in addition to the discount thereon, a sum not exceeding one half of one per centum on the amount thereof, to defray the expense of agency and charges in collecting the same. 34 V., c. 5, s. 54.

Agency fees.

65. The bank may receive deposits from any person whomsoever, whatever is his age, status or condition in life, and whether such person is qualified by law to enter into ordinary contracts or not; and, from time to time, may repay any or all of the principal thereof, and may pay the whole or any part of the interest thereon to such person, without the authority, aid, assistance or intervention of any person or official being required, unless before such repayment the money so deposited in and repaid by the bank is lawfully claimed as the property of some other person,—in which case it may be paid to the depositor with the consent of the claimant, or to the claimant with the consent of the depositor: Provided always, that if the person making any

Deposits may be received from persons unable to contract.

Proviso :
amount
limited.

such deposit, could not, under the law of the Province where the deposit is made, deposit and withdraw money in and from a bank without this section, the total amount to be received from such person on deposit shall not at any time exceed the sum of five hundred dollars :

Bank not
bound to see
to trusts in
relation to
such deposits.

2. The bank shall not be bound to see to the execution of any trust, whether expressed, implied or constructive, to which any deposit made under the authority of this section is subject ; and except only in the case of a lawful claim, by some other person before repayment, the receipt of the person in whose name any such deposit stands, or if it stands in the name of two persons the receipt of one, and if in the names of more than two persons the receipt of a majority of such persons, shall be a sufficient discharge to all concerned for the payment of any money payable in respect of such deposit, notwithstanding any trust to which such deposit is then subject, and whether or not the bank sought to be charged with such trust (and with whom the deposit has been made), had notice thereof ; and the bank shall not be bound to see to the application of the money paid upon such receipt. 35 V., c. 8, ss. 3 and 4.

This section is made to apply to the whole of Canada.

RETURNS BY THE BANK.

Monthly
returns to
Government.

66. Monthly returns shall be made by the bank to the Minister of Finance and Receiver General in the form set forth in schedule B to this Act, and shall be made up and sent in within the first twenty days of each month, and shall exhibit the condition of the bank on the last juridical day of the month next preceding ; and such monthly returns shall be signed by the chief accountant and by the president, or vice-president, or the director (or, if the bank is *en commandite*, the principal partner) then acting as president, and by the manager, cashier or other principal officer of the bank at its chief place of business :

Penalty for
not making up
monthly
returns in
due time.

2. Every bank which neglects to make up or to send in as aforesaid any monthly return required by this section of this Act within the time thereby limited shall incur a penalty of fifty dollars for each and every day after the expiration of the time hereby limited during which the bank neglects so to make up or send in such return ; and the date upon which it appears by the Post Office stamp or mark upon the envelope or wrapper enclosing such return for transmission to the Minister of Finance and Receiver General, that the same was deposited in the Post Office, shall be taken *primâ facie*, for the purposes of this section, to be the date upon which such return was made up or sent in. 34 V., c. 5, s. 13, *part* ;—43 V., c. 22, s. 4, *part* ;—46 V., c. 20, s. 7.

67. In addition to the returns specified in the next preceding section, the Minister of Finance and Receiver General may call for special returns from any particular bank, whenever, in his judgment, the same are necessary to afford a full and complete knowledge of its condition. 43 V., c. 22, s. 4, *part.*

Special returns may be called for.

68. Certified lists of the shareholders (or of the principal partners, if the bank is *en commandite*), with their additions and residences, and the number of shares they respectively hold, and the value at par of the said shares, shall be transmitted every year to the Minister of Finance and Receiver General, before the day appointed for the opening of the session of Parliament, and shall be by him laid before Parliament within fifteen days after the opening of the then next session; and such transmission shall be made by the delivery of such lists at the Department of Finance, or by registered post-letter, posted at such time that, in the ordinary course of the post, it may be delivered at the Department of Finance before the day appointed for the opening of the session:

Transmission of certified lists of shareholders to Minister of Finance.

2. Every bank which neglects to transmit to the Minister of Finance and Receiver General the lists mentioned in this section, within the time limited thereby, shall incur a penalty of fifty dollars for each and every day during which such neglect continues. 46 V., c. 20, s. 2.

Penalty for neglect to transmit such lists.

69. The annual returns required by this Act shall be made up to the thirty-first day of December, in the year next preceding each session of Parliament. 46 V., c. 20, s. 12.

Annual returns.

INSOLVENCY.

70. In the event of the property and assets of the bank being insufficient to pay its debts and liabilities, the shareholders of the bank shall be liable for the deficiency so far as that each shareholder shall be so liable to an amount, over and above any amount not paid up on his shares, equal to the amount of such shares. 34 V., c. 5, s. 58, *part.*

Liability of shareholders in case of insufficiency of assets.

71. Any suspension by the bank of payment of any of its liabilities as they accrue, in specie or Dominion notes, shall, if it continues for ninety days, constitute the bank insolvent and operate a forfeiture of its charter or Act of incorporation, so far as regards the issue or re-issue of notes and other banking operations; and the charter or Act of incorporation shall remain in force only for the purpose of enabling the directors or other lawful authority to make the calls mentioned in the next following section of this Act and to wind up its business. 34 V., c. 5, s. 57.

Suspension for 90 days to constitute insolvency.

Calls in such cases.

72. If any suspension of payment in full in specie or Dominion notes, of all or any of the notes or other liabilities of the bank continues for six months, *and if no proceedings are taken under any general or special Act for the winding up of the bank*, the directors shall make calls on such shareholders, to the amount they deem necessary to pay all the debts and liabilities of the bank, without waiting for the collection of any debts due to it or the sale of any of its assets or property :

How such calls shall be made and enforced.

2. Such calls shall be made at intervals of thirty days and upon notice to be given thirty days at least prior to the day on which such call shall be payable ; any such call shall not exceed twenty per cent. on each share ; and payment of such calls may be enforced in like manner as payment of calls on unpaid stock may be enforced ; and the first of such calls may be made within ten days after the expiration of the said six months :

Refusal to make calls under this section a misdemeanor.

3. Every director who refuses to make or enforce, or to concur in making or enforcing any call under this section, is guilty of a misdemeanor, and liable to imprisonment for any term not exceeding two years, and shall further be personally responsible for any damages suffered by such default. 34 V., c. 5, s. 58, *part*, and ss. 63 and 67.

Calls under winding-up Act.

73. *In the event of proceedings being taken under any general or special winding-up Act, in consequence of the insolvency of the bank, the said calls shall be made by the lawful authority and in the manner prescribed for the making of such calls in such general or special winding-up Act.*

New.

Forfeiture for non-payment.

74. Any failure on the part of any shareholder liable to any such call to pay the same when due, shall operate a forfeiture by such shareholder of all claim in or to any part of the assets of the bank,—such call and any further call thereafter being nevertheless recoverable from him as if no such forfeiture had been incurred. 34 V., c. 5, s. 58, *part*.

Liability of directors not diminished.

75. Nothing in the five sections next preceding contained shall be construed to alter or diminish the additional liabilities of the directors as hereinbefore mentioned and declared. 34 V., c. 5, s. 58, *part*.

As to banks *en commandite*.

76. If the bank is *en commandite* and the principal partners are personally liable, then, in case of any such suspension, their liability shall at once accrue and may be enforced against such principal partners, without waiting for any sale or discussion of the property or assets of the bank, or other preliminary proceedings whatsoever, and the provision respecting calls shall not apply to such bank. 34 V., c. 5, s. 58, *part*.

77. Persons who, having been shareholders in the bank, have only transferred their shares or any of them to others, or registered the transfer thereof within one month before the commencement of the suspension of payment by the bank, shall be liable to all calls on such shares, as if they had not transferred them, saving their recourse against those to whom they were transferred. 34 V., c. 5, s. 59, *part*.

Liability of shareholders who have transferred their stock.

78. If the bank is *en commandite*, the liability of the principal partners and of the *commanditaires* shall continue for such time after their ceasing to be such as is provided in the charter of the bank, and the foregoing provisions with respect to the transfer of shares or calls shall not apply to such bank. 34 V., c. 5, s. 59, *part*.

Liability if bank is *en commandite*.

79. The payment of the notes issued by the bank and intended for circulation, then outstanding, shall be the first charge upon the assets of the bank in case of its insolvency. 43 V., c. 22, s. 12, *part*.

Notes to be first charge on assets.

OFFENCES AND PENALTIES.

80. Every one is guilty of a misdemeanor and liable to imprisonment for a term not exceeding two years who, being the president, vice-president, director, principal partner *en commandite*, manager, cashier or other officer of the bank, wilfully gives or concurs in giving any creditor of the bank any fraudulent, undue or unfair preference over other creditors, by giving security to such creditor or by changing the nature of his claim or otherwise howsoever, and shall further be responsible for all damages sustained by any person in consequence of such preference. 34 V., c. 5, ss. 61 and 67.

President, &c., giving undue preference to any creditor, guilty of a misdemeanor.

Re-drafted.

81. The making of any wilfully false or deceptive statement in any account, statement, return, report or other document respecting the affairs of the bank is, unless it amounts to a higher offence, a misdemeanor punishable by imprisonment for a term not exceeding two years; and every president, vice-president, director, principal partner *en commandite*, auditor, manager, cashier or other officer of the bank, who prepares, signs, approves or concurs in such statement, return, report or document, or uses the same with intent to deceive or mislead any person, shall be held to have wilfully made such false statement, and shall further be responsible for all damages sustained by such person in consequence thereof. 34 V., c. 5, ss. 62 and 67.

Making false statement in returns, &c., a misdemeanor, &c.

82. Every person, firm or company assuming or using the title of "bank," "banking company," "banking house,"

Unauthorized use of title

"Bank," &c.,
a mis-
demeanor.

"banking association" or "banking institution," without adding to the said designation the words "not incorporated," or without being authorized so to do by this Act, or by some other Act in force in that behalf, is guilty of a misdemeanor and shall incur a penalty not exceeding five hundred dollars. 43 V., c. 22, s. 10;—46 V., c. 20, s. 8.

The penalty is an addition.

Penalty for
unauthorized
issue of notes
for circula-
tion.

S3. Every person or corporation, except a chartered bank, who issues or re-issues, makes, draws or indorses any bill, bond, note, cheque or other instrument, intended to circulate as money, or to be used as a substitute for money, for any amount whatsoever, shall incur a penalty of four hundred dollars, which shall be recoverable with costs, in any court of competent jurisdiction, by any person who sues for the same; and a moiety of such penalty shall belong to the person suing for the same, and the other moiety to Her Majesty for the public uses of Canada:

Re-drafted.

What shall be
deemed such
notes.

2. The intention to pass any such instrument as money, shall be presumed, if it is made for the payment of a less sum than twenty dollars, and is payable either in form or in fact to the bearer thereof, or at sight, or on demand, or at less than thirty days thereafter, or is over due, or is in any way calculated or designed for circulation, or as a substitute for money; unless such instrument is a cheque on some chartered bank, paid by the maker directly to his immediate creditor, or a promissory note, bill of exchange, bond or other undertaking, for the payment of money paid or delivered by the maker thereof to his immediate creditor, and is not designed to circulate as a substitute for money. 34 V., c. 5, s. 68, *part.*

NOTICES.

How notices
shall be given.

S4. The several public notices by this Act required to be given, shall be given by advertisement in one or more of the newspapers published at the place where the head office of the bank is situate, and in the *Canada Gazette*. 34 V., c. 5, s. 69.

FUTURE LEGISLATION.

Bank subject
to any gen-
eral Act.

S5. The bank shall always be subject to any general provisions respecting banks which Parliament deems necessary in the public interest. 34 V., c. 5, s. 71.

SPECIAL PROVISIONS AS TO CERTAIN BANKS.

How certain
Banks may

S6. This Act shall not apply to any bank *in existence at the commencement of the session of the Parliament*

of Canada held in the forty-third year of Her Majesty's reign, which is not mentioned in schedule A to this Act (except the Bank of British North America and La Banque du Peuple, to the extent hereinafter mentioned), unless the directors of such bank, by special resolution, apply to the Treasury Board, to have the provisions of this Act extended to such bank, nor unless the Treasury Board allows such application; and upon publication in the *Canada Gazette* of such resolution, and of the minute of the Treasury Board thereon, allowing such application, such bank shall come under the provisions of this Act. 34 V., c. 5, s. 73;—43 V., c. 22, ss. 1 and 11.

87. The Bank of British North America, which, by the terms of its present charter, is subject to the general laws of Canada with respect to banks and banking, shall not issue or re-issue in Canada, any note for a less sum than five dollars, or for any sum not being a multiple of five dollars; and any such note of the said bank outstanding shall be called in and redeemed as soon as practicable: and the provisions contained in the second, fourteenth, thirty-ninth, forty-first, forty-second, forty-fourth, *fifty-second*, fifty-third, fifty-fourth, fifty-fifth, fifty-sixth, fifty-seventh, fifty-eighth, fifty-ninth, sixtieth, sixty-first, sixty-second, sixty-third, sixty-fourth, sixty-fifth, sixty-sixth, sixty-seventh, sixty-eighth, sixty-ninth, seventy-ninth, eightieth, eighty-first, eighty-fourth and eighty-fifth sections of this Act shall apply to the said bank; and those contained in the other sections of this Act shall not apply to it. 34 V., c. 5, s. 72;—35 V., c. 8, s. 3;—40 V., c. 54;—43 V., c. 22, s. 1;—46 V., c. 20, ss. 1 and 12, *part*.

It is suggested that section 52 (which is added above) should be made to apply to the Bank of British North America.

88. All the provisions of this Act, except those contained in sections three, four, five, six, seven, eight, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, twenty-three, twenty-four, twenty-five, seventy, seventy-one, seventy-two, seventy-three, seventy-four, seventy-five, seventy-six, seventy-seven, seventy-eight, eighty-six and eighty-seven, and so much of section nine as is declared not to apply to the banks *en commandite*, shall apply to La Banque du Peuple: Provided, that wherever the word "directors" is used in any of the sections which apply to the said bank, it shall be read and construed as meaning the principal partners or members of the corporation of the said bank; and so much of the Act incorporating the said bank or of any Act amending or continuing it as is inconsistent with any section of this Act applying to the said bank, or which makes any provision in any matter provided for by the said sections, other than such as is hereby made, is hereby repealed. 34 V., c. 5, s. 75.

come under
this Act.

What sections
shall apply
to Bank of
B. N. A.

What provisions shall
apply to La
Banque du
Peuple.

Proviso: as to
directors.

Inconsistent
enactments
repealed.

SCHEDULE A.

BANKS WHOSE CHARTERS ARE CONTINUED BY THIS ACT.

1. The Bank of Montreal.
2. The Quebec Bank.
3. La Banque du Peuple.
4. The Consolidated Bank.
5. Molsons Bank.
6. The Bank of Toronto.
7. The Ontario Bank.
8. The Eastern Townships Bank.
9. La Banque Nationale.
10. La Banque Jacques Cartier.
11. The Merchants' Bank of Canada.
12. The Union Bank of Lower Canada.
13. The Canadian Bank of Commerce.
14. The Mechanics' Bank.
15. The Dominion Bank.
16. The Merchants' Bank of Halifax.
17. The Bank of Nova Scotia.
18. The Bank of Yarmouth.
19. The Bank of Liverpool.
20. The Exchange Bank of Canada.
21. La Banque Ville Marie.
22. The Standard Bank of Canada.
23. The Bank of Hamilton.
24. The Halifax Banking Company.
25. The Maritime Bank of the Dominion of Canada.
26. The Federal Bank of Canada.
27. La Banque d'Hochelaga.
28. The Stadacona Bank.
29. The Imperial Bank of Canada.
30. The Pictou Bank.
31. La Banque de St. Hyacinthe.
32. The Bank of Ottawa.
33. The Bank of New Brunswick.
34. The Exchange Bank of Yarmouth.
35. The Union Bank of Halifax.
36. The People's Bank of Halifax.—43 V., c. 22, *Schedule B*.
37. La Banque de St. Jean.—44 V., c. 9.

SCHEDULE B.

Return of the liabilities and assets of the
 on day of , A.D., 18
 Capital authorized.....\$
 Capital subscribed.....\$
 Capital paid up.....\$
 Amount of rest or reserve fund.....\$

Rate per cent. of last dividend declared..... per cent.

LIABILITIES.

1. Notes in circulation.....\$
2. Dominion Government deposits payable on demand.....
3. Dominion Government deposits payable after notice or on a fixed day.....
4. Deposits held as security for the execution of Dominion Government contracts and for insurance companies
5. Provincial Government deposits payable on demand.....
6. Provincial Government deposits payable after notice or on a fixed day.....
7. Other deposits payable on demand.....
8. Other deposits payable after notice or on a fixed day.....
9. Loans from or deposits made by other banks in Canada, secured...
10. Loans from or deposits made by other banks in Canada, unsecured.....
11. Due to other banks in Canada.....
12. Due to agencies of the bank or to other banks or agencies in foreign countries.....
13. Due to agencies of the bank, or to other banks or agencies in the United Kingdom.....
14. Liabilities not included under foregoing heads.....

\$

ASSETS.

1. Specie.....\$
2. Dominion notes.....
3. Notes of and cheques on other banks.....
4. Balances due from other banks in Canada.....
5. Balances due from agencies of the bank or from other banks or agencies in foreign countries.....

6. Balances due from agencies of the bank or from other banks or agencies in the United Kingdom.
7. Dominion Government debentures or stocks.....
8. Provincial, British or foreign or colonial public securities other than Canadian.....
9. Loans to the Government of Canada.
10. Loans to Provincial Governments.
11. Loans, discounts, or advances for which stock, bonds or debentures of municipal or other corporations, or Dominion, Provincial, British or foreign or colonial public securities other than Canadian, are held as collateral securities
12. Loans, discounts or advances on current account to municipal corporations
13. Loans, discounts or advances on current account to other corporations.
14. Loans to or deposits made in other banks. secured.....
15. Loans to or deposits made in other banks, unsecured.....
16. Other current loans, discounts and advances to the public.....
17. Notes and bills discounted overdue and not specially secured.....
18. Other overdue debts not specially secured.....
19. Notes and bills discounted overdue and other overdue debts secured, by mortgage or other deed, on real estate or by deposit of or lien on stock, or by other securities.....
20. Real estate, the property of the bank (other than the bank premises).....
21. Mortgages on real estate sold by the bank.....
22. Bank premises.....
23. Other assets not included under the foregoing heads.....

Aggregate amount of loans to and liabilities, direct or indirect, of directors, and firms or partnerships in which they or any of them have any interest, \$

Average amount of specie held during the month, \$

Average amount of Dominion Notes held during the month, \$

I declare that the above return has been prepared under my directions and is correct according to the books of the bank.

E. F.,
Chief Accountant.

We declare that the foregoing return is made up from the books of the bank, and that to the best of our knowledge and belief it is correct, and shews truly and clearly the financial position of the bank; and we further declare that the bank has never, at any time during the period to which the said return relates, held less than forty per cent. of its cash reserves in Dominion notes.

(Place) this day of

A. B., *President.*
C. D., *General Manager.*

43 V., c. 22, s. 4, *part*;—46 V. c. 20, s. 6

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
34 V., c. 5.....	The whole, except ss. 15, 60, 64, 65 (part), 66, 68 (part), 70, 74, 76 and 77.	ss. 15, 68 (part), 70, 74, 76 and 77.	ss. 60, 64, 65 (part), 66.	Criminal Law.
35 V., c. 8.....	The whole, except ss. 8 and 9.	s. 9.....	s. 8.....	A n A c t respecting Bills of Exchange and Promis-sory Notes.
38 V., c. 17.....	The whole.			
40 V., c. 44.....	The whole.			
42 V., c. 45.....	The whole.			
43 V., c. 22.....	The whole.			
44 V., c. 9.....	The whole.			
46 V., c. 20.....	The whole, except ss. 10 and 11.	s. 10.....	s. 11.....	A n A c t respecting Bills of Exchange and Promis-sory Notes.

CHAPTER 115.

An Act respecting Government Savings Banks.

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

INTERPRETATION.

Interpretation.

1. In this Act, unless the context otherwise requires :—

“Minister.”

(a) The expression “the Minister” means the Minister of Finance and Receiver General :

New.

“Agent.”

(b) The expression “agent” includes Assistant Receiver General. 34 V., c. 6, s. 1, *part*.

ESTABLISHMENT OF SAVINGS BANKS.

Assistant Receivers General may be appointed at certain places.

2. The Governor in Council may, from time to time, appoint at each of the cities of Toronto, Montreal, Halifax, St. John, N.B., and at any place within the Provinces of British Columbia, Prince Edward Island and Manitoba, and any Province which shall hereafter form part of Canada, a person who shall be called an Assistant Receiver General; and the Governor in Council may also establish a savings bank at each of the said cities and at any place in each of the said Provinces, and in any Province which shall hereafter form part of Canada,—of which savings banks respectively, the Assistant Receiver General appointed for the city or place where the savings banks are respectively established, shall have the management :

Savings Banks may be established at such places.

And at other places.

2. The Governor in Council may also establish, in any other places in the Provinces of Nova Scotia and New Brunswick, branch savings banks, and may appoint persons as agents for the management thereof. 34 V., c. 6, s. 1, *part*, and s. 18, *part*.

Partially re-drafted.

DEPOSITS AND DUTIES OF OFFICERS.

Deposits may be received.

3. Every agent shall, under regulations from time to time made in that behalf by the Treasury Board, with the approval of the Governor in Council, receive deposits of

money on account of the minister, and shall repay the same with interest to the depositor as hereinafter provided :

Re-drafted.

2. Such of the collectors of customs, in the Province of New Brunswick as are authorized to receive deposits of money as savings, shall continue to receive the same until other savings bank agents are appointed in their stead respectively, and shall be subject to all the provisions of this Act as such agents, and any moneys received by such collectors before the coming into force of this Act shall be dealt with by them as moneys received by them under this Act. 34 V., c. 6, s. 1, *part*.

Deposits with collectors of Customs in N.B.

4. The Governor in Council may also appoint an inspector or inspectors, to *inspect*, investigate and report upon the business which arises in carrying out the provisions of this Act,—to which inspectors the agents appointed to receive deposits and all other persons who are employed under this Act shall afford all needful facilities for such inspection and investigation ; and the duties and powers of such inspectors shall be such as are assigned to them under the regulations made under this Act. 34 V., c. 6, s. 14.

Inspectors may be appointed.
Their duties.

5. Every agent, officer, clerk and servant employed under this Act, who is intrusted with and has the custody of any moneys or valuable securities, shall, before entering upon *the duties of his office or employment*, give such security for the faithful discharge of the same, and for the due accounting for all such moneys, as is required of him by the Treasury Board ; and shall also take an oath or affirmation before a justice of the peace, faithfully to perform his said duties ; which oath or affirmation any justice of the peace is hereby authorized to administer :

Security to be given.
And oath taken.

2. Such oath or affirmation shall be in the form following, or in words to the same effect, that is to say :—

Form of oath.

I, A. B., of _____ being duly sworn, swear, (or do solemnly affirm) that so long as I am employed in assisting to carry out the provisions of the Act intituled "*An Act respecting Government Savings Banks*," I will perform faithfully and to the best of my ability the duties that are assigned to me.

And I have signed,

Sworn (or affirmed) at _____ this
day of _____, 18____, before me, A. B.,
Justice of the Peace for the _____ of _____
34 V., c. 6, s. 11.

From whom deposits may be received and to whom payments may be made.

6. Every agent appointed to receive deposits may receive deposits from any person, whatever is his status or condition in life, and whether such person is qualified by law to enter into ordinary contracts or not; and, from time to time, may pay any or all of the principal thereof and the whole or any part of the interest thereon to such person, without the authority, aid, assistance or intervention of any person or official being required, notwithstanding any law, usage or custom to the contrary: Provided always, that if the person who makes any such deposit could not, under the laws of the Province where the deposit is made, deposit and withdraw money in and from a bank, in such case the total amount of deposits to be received from such person shall not exceed the sum of five hundred dollars. 34 V., c. 6, s. 7.

Proviso: limit in a certain case.

Depositor to give his address, &c.

7. Every depositor, on making his first deposit, shall declare his name, residence and occupation; but the persons employed in the receipt or payment of such deposits shall not disclose the name of any depositor, or the amount deposited or withdrawn, except to the minister or to such of his officers as are appointed to assist in carrying into operation the provisions of this Act. 34 V., c. 6, s. 3.

Deposits how made, entered and proved.

8. Every such deposit received by such agent shall be entered by him, at the time, in a book to be kept by him for that purpose, and, at the same time, shall be entered by him in a pass book to be furnished to the depositor; and the entry in such pass book, attested by the signature or initials of the agent who receives the deposit, or of his deputy or clerk, shall be evidence of the claim of such depositor to the repayment thereof, with interest thereon, upon demand made *during office hours* by such depositor on such agent or his successor in office, at the office or place *where such deposits are payable*, subject to the provisions following, that is to say:—

Report to minister.

(a) Every agent shall report to the minister, at such times and in such forms as are prescribed by the regulations under this Act, all deposits received by him;

Periodical report, and its effect as to deposit accounts.

(b) At such times as are prescribed by the regulations made under this Act, but not at less intervals than the beginning of each calendar month, the officer appointed thereto by the minister shall send, by mail, to each depositor, to the address given by him, a notice stating the amount deposited by him since the statement of the same kind then last sent to him, if any, and the total amount then at his credit; and the amount mentioned in such notice, and no more, shall be the amount for which the Crown shall be liable, up to the last deposit therein mentioned, unless the depositor, within thirty days after the receipt of such notice, notifies the min-

ister, in such manner as is prescribed by the regulations then in force, that there is some error and what error, in such notice,—in which case the amount shall be ascertained, and the depositor shall be notified accordingly. 34 V., c. 6, s. 2.

9. Every agent shall, at such times as are prescribed by the regulations then in force, pay in to the account of the minister at such bank as *is prescribed by the minister*, all moneys received on deposit, and he shall pay all moneys which are withdrawn in such manner as by the said regulations is prescribed : Disposal of deposits and payment of withdrawals.

2. *Every agent* shall also, at such times as are prescribed, transmit to the minister, in such form as *is prescribed by the minister*, a detailed account of the business of his office during the time that has elapsed since the transmission of his next preceding account. 34 V., c. 6, s. 4. Detailed account to be furnished to the minister.

10. The interest payable to the persons making such deposits shall be at such rate, not less than four per centum per annum, as the Governor in Council, from time to time, prescribes ; but such interest shall not be calculated on any sum less than one dollar, or on any sum other than a dollar or the multiple of a dollar. 34 V., c. 6, s. 5. Interest on deposits.

11. On the thirtieth day of June in every year the interest accrued on deposits shall be added to and become part of the principal money. 34 V., c. 6, s. 6. Interest added yearly to capital.

12. No officer of the Government of Canada shall be bound to see to the execution of any trust, whether expressed, implied or constructive, to which any deposit made under the authority of this Act is subject ; and the receipt of the person in whose name any such deposit stands, or, if it stands in the name of more than one person, the receipt of any one of such persons shall be a sufficient discharge to all persons concerned for the payment of any money payable in respect of such deposit, notwithstanding any trust to which such deposit is then subject, and whether or not the agent sought to be charged with such trust, and with whom the deposit was made, or his successor, had notice thereof ; and no Agent or any other officer of the Government shall be bound to see to the application of the money paid upon such receipt. 34 V., c. 6, s. 8. Officers of Government not bound to see to trusts.

13. Every payment made in good faith to any person who appears *prima facie*, by the production of a declaration in writing and documents in support thereof, made under the provisions of this Act, to be entitled to any deposit or interest, shall be valid and shall discharge the *Crown and the agent* with whom the deposit has been made, and his Certain payments valid.

successors and all who might otherwise be liable, from all or any further claim by any person whomsoever for such deposit or interest. 34 V., c. 6, s. 9.

Deposits to form part of Con. Rev. Fund, &c.

14. All moneys deposited under this Act shall form part of the Consolidated Revenue Fund of Canada, and all moneys and interest paid to depositors, and all expenses incurred in maintaining the savings banks established under this Act, shall be paid out of the Consolidated Revenue Fund of Canada. 34 V., c. 6, s. 22, *part*.

REGULATIONS.

Governor in Council may make regulations for certain purposes.

15. The Governor in Council may make regulations for prescribing the mode of keeping, examining, inspecting, checking and reporting on the accounts of depositors, and of withdrawing deposits and interest, and the issuing of deposit certificates, and also respecting the payment or transmission thereof in case of infancy, death, bankruptcy, marriage or other change in the circumstances of any depositor, and for prescribing how and in what manner any such payment or transmission shall be made, and what declaration, documents or other evidence shall be necessary and sufficient in proof of the same, and also respecting the duties and powers of inspectors appointed under this Act, and all other matters which the Governor in Council deems incidental to the carrying of this Act into effect:

To be binding.

2. All regulations so made shall be binding on the persons interested in the subject matter thereof, to the same extent and as fully, to all intents and purposes, as if such regulations formed part of this Act; and such regulations, and all amendments thereof, shall be published in such way as the Governor in Council directs, and any copy of such regulations published as aforesaid shall be evidence thereof:

Publication.

Copies to be laid before Parliament.

3. Copies of all such regulations shall be laid before both Houses of Parliament, by the minister, within fourteen days after the commencement of the session held next following the making of such regulations. 34 V., c. 6, s. 10.

RETURNS.

Monthly statements by the minister.

16. As soon as possible after the end of each month, the *minister* shall prepare and insert in the *Canada Gazette* a statement of all moneys received or deposited and withdrawn during the preceding month, and of the total amount on deposit at the end of the preceding month, and the rate of interest payable on the same. 34 V., c. 6, s. 23.

Accounts to be laid before Parliament.

17. An account of the expenses incurred, of the amount of deposits received and paid, and of the total amount due

at the close of the financial year, to all depositors, under this Act, shall be laid before both Houses of Parliament *by the minister*, within ten days after the commencement of the next following session thereof. 34 V., c. 6, s. 22, *part*.

NOTE—The provision in section 22 of the original Act, as to post office savings banks, is omitted as covered by s. 77 of the Post Office Act.

INCREASE OF PUBLIC DEBT.

18. If, at the end of any month, by reason of the amount of deposits in the savings banks established under this Act, and in the Post Office Savings Bank, and the issue and sale of the five per cent. Dominion Stock *and any other public security, the issue and sale of which is authorized by "The Consolidated Revenue and Audit Act,"* or by any of the said causes, the amount of the public debt authorized by Parliament is exceeded, the minister shall report such excess to the Treasury Board, who shall thereupon direct him to purchase, to the extent of such excess, debentures of the Dominion of Canada already issued, or debentures of the late Province of Canada, or of either of the Provinces of Nova Scotia or New Brunswick, issued before the first day of July, one thousand eight hundred and sixty-seven, and such debentures shall then be cancelled, or may be held in reserve until there is authority to reissue them. 34 V., c. 6, s. 21.

Provision if public debt is increased by deposits beyond amount authorized.

OFFENCES AND PENALTIES.

19. Every agent appointed to receive deposits, as aforesaid, and every officer, clerk or servant employed under the provisions of this Act, who defaces, alters, erases or, in any manner or way whatsoever, changes the effect of the books of account that are kept under the provisions of this Act, or any entry in the said books of account, for any fraudulent purpose,—and every such agent, officer, clerk or servant who secretes, appropriates or embezzles any bond, obligation, bill or note, or any security for money, or any moneys or effects intrusted to him or in his custody, or to which he has obtained access as such agent, officer, clerk or servant, to whomsoever the said property belongs, is guilty of felony and liable to imprisonment for life. 34 V., c. 6, s. 12, *part*.

Punishment of agents, &c., committing certain offences.

20. Every person who, with intent to defraud, falsely pretends to be the owner of any deposit made under this Act, or of the interest upon such deposit, or of any part of such deposit or interest, and who is not such owner, and who demands or claims from the agent with whom such deposit has been made, or from any other person employed under this Act, the payment of such deposit or interest, or of any portion thereof, as the case may be, and whether he

Punishment of persons falsely pretending to be owners of deposits.

does or does not thereby obtain any such deposit or interest, or any part thereof, is guilty of a misdemeanor and shall be punishable accordingly. 34 V., c. 6, s. 13, *part*.

As to certain deposits in N.S. and N.B.

21. The capital represented by deposits in the savings banks in Nova Scotia and New Brunswick, in deposit accounts as to which there have been no deposits or withdrawals since the first day of July, one thousand eight hundred and sixty-seven, shall not be charged against those Provinces respectively as part of the debt with which they entered the Union, but all such accounts shall be transferred to a suspense ledger, and if any deposit or withdrawal is made in any such account, it shall be removed from the suspense ledger, and the capital represented by such account and the interest accrued since the first day of July, one thousand eight hundred and sixty-seven, shall be charged against Nova Scotia or New Brunswick, as the case may be. 34 V., c. 6, s. 17.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal	To be Consolidated elsewhere.	To be Consolidated with.
34 V., c. 6	All, except parts of ss. 12, 13 and 22, and ss. 15, 16, 19, 20, and 24.	parts of ss. 12, 13 and 22, and ss. 15, 16, 19 and 20.	s. 24	An Act respecting returns by certain persons and corporations receiving moneys on deposit at interest.

CHAPTER 116.

An Act respecting certain Savings Banks in the Provinces of Ontario and 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 "the bank" means any savings bank to which this Act applies.

Interpretation.
"The bank."

New.

CHARTERS CONTINUED.

2. The charters of the several *savings banks to which charters were granted by the Governor General in accordance with the Act passed by the Parliament of Canada in the thirty-fourth year of Her Majesty's reign, chapter seven, to all of which this Act applies*, are hereby continued and shall remain in force until the first day of July in the year one thousand eight hundred and ninety-one, except in so far as they or any of them are or become forfeited or void under the terms thereof, or of this Act, or of any other Acts *heretofore or hereafter passed relating to the said savings banks*, by non-performance of the conditions of such charters respectively, or by insolvency or otherwise. 44 V., c. 8, ss. 1 and 5.

Charters continued subject to certain conditions.

INTERNAL REGULATIONS.

3. Public notice shall be given by the directors of the bank of the holding of annual or other meetings, by publishing the same for at least four weeks in a newspaper at the place where the head office of the bank is situate; and if such head office is in the Province of Quebec, such notice shall be given both in the English and French languages. 44 V., c. 8, s. 3.

Notice of meetings.

4. The qualification of a director shall be the holding of twenty-five shares of stock; and the directors shall be elected annually at a general meeting of the shareholders, and shall be eligible for re-election :

Qualification and election of directors.

2. Each shareholder shall, on every occasion on which the votes of the shareholders are taken, have one vote for each share held by him for at least three months before the time of voting :

Votes on shares.

Proxy. 3. Shareholders may vote by proxy, but no person but a shareholder shall vote or act as such proxy :

Officer not to vote. 4. No cashier, bank clerk or other officer of the bank shall vote either in person or by proxy, or hold a proxy for that purpose :

Director becoming insolvent, &c. 5. Every director of the bank who becomes openly and notoriously insolvent, or assigns his estate and effects for the benefit of his creditors, or absents himself, without the consent of the board, for twelve consecutive months from the meetings of the directors, or is convicted of any felony, shall thereupon, *ipso facto*, cease to be a director, and the vacancy so created shall forthwith be filled up in the manner provided by the charter. 34 V., c. 7, ss. 7 and 27.

Failure to elect directors, how remedied. 5. No failure to elect directors of the bank shall operate any dissolution of the corporation ; but in case of such failure to elect, the required election shall be made as soon thereafter as possible, at a special meeting of the shareholders, which the directors are hereby authorized to call for that purpose ; and until such subsequent election takes place, the official acts of the directors holding office shall be valid. 34 V., c. 7, s. 26.

CALLS.

Calls on stock. 6. The directors may call up the stock subscribed for and remaining unpaid, by calls not exceeding five per cent., made at intervals of not less than three months, whenever it is, in their opinion, necessary or expedient to make such calls ; and all stock when paid up shall be invested in the manner hereinafter provided as to the investment of moneys deposited with the bank : Provided, that the limitation of the amount of any call, or of the intervals at which calls may be made, shall not apply to the case of deficiency of the funds of the bank to meet the claims of depositors and other liabilities hereinafter provided for. 34 V., c. 7, s. 9 ;—36 V., c. 72, s. 1, *part*.

Re-drafted.

Recovery of calls by action and proof in such case. 7. The amount of every such call, if not paid when due, may be recovered with interest by the directors, in the name of the bank, in any court having jurisdiction to the amount ; and in any action for the recovery thereof, it shall be sufficient to allege and prove the charter, and that the calls were made under this Act, and that the defendant is the holder of a share or shares in respect of which the amount is due, without alleging or proving any other matter or thing whatsoever, and the evidence of any officer of the bank, cognizant of any fact required to be proved, shall be sufficient proof thereof ; and any copy of the charter, purporting

to be certified as a true copy thereof by the Secretary of State of Canada, shall be deemed authentic and shall be *primâ facie* evidence of the charter and of the contents thereof. 34 V., c. 7, s. 10.

LIABILITY OF SHAREHOLDERS.

8. The shareholders of the bank shall, in the event of its funds in money and assets immediately convertible into money becoming insufficient to satisfy its debts and liabilities, be liable for the deficiency, so far as that each shareholder shall be liable to an amount equal to the amount, if any, not paid up, of his shares, and no more; and the directors may and shall make calls on the stock not paid up to the full amount not paid up, or to such less amount as they deem necessary to pay all such claims and other liabilities, without waiting for the collection of any debts due to the bank, or the sale of any of its assets or property :

Liability of shareholders in case of deficiency of assets.

Calls in such case.

2. Such calls shall be made at intervals of thirty days, and upon notice to be given thirty days at least prior to the day on which the call is payable :

Intervals and notice.

3. No such call shall exceed twenty per cent. on each share, and payment thereof may be enforced in the manner hereinbefore provided as to calls on unpaid-up stock :

Amount and enforcement.

4. The first of such calls shall be made within ten days after such deficiency is ascertained :

First call.

5. Failure, on the part of any shareholder liable to such call, to pay the same when due, shall operate a forfeiture by such shareholder of all claim in or to any part of the assets of the bank; but such call and any further call thereafter shall nevertheless be recoverable from him as if no such forfeiture had been incurred :

Effect of failure to pay.

6. Every director who refuses to make or enforce, or to concur in making or enforcing any call under this section, is guilty of a misdemeanor and shall be personally responsible for any damages suffered by reason of such default: and every liquidator or other officer or person appointed to wind up the affairs of the bank, in case of its insolvency, shall have the powers of the directors with respect to such calls. 34 V., c. 7, s. 11 and s. 12, part.

Liability of director failing to make such call.

9. Persons who, having been shareholders in the bank, have only transferred their shares or any of them to others or registered the transfer thereof, within one month before the commencement of the failure of the bank to meet the claims of its depositors on demand, shall be liable to calls on such shares under the next preceding section, as if they

Liability after transfer in a certain case.

had not transferred them, saving their recourse against those to whom they were transferred. 34 V., c. 7, s. 12, *part.*

DIVIDENDS.

Dividends and notice thereof.

10. The directors of the bank shall make half-yearly dividends of so much of the profits of the bank as to the majority of them seems advisable, and as is not inconsistent with the provisions of this Act, and they shall give public notice of the payment of such dividends at least thirty days previously, in the manner herein provided, as to notices of meetings. 44 V., c. 8, s. 4.

Re-drafted.

TRANSFER OF SHARES AND DEPOSITS.

Transfer of shares.

11. The shares in the bank shall be personal property and shall be transferable in the manner provided by the by-laws and regulations made *as prescribed by the charter*; and the transferee shall have the rights and shall be subject to the liabilities of the original holder :

Joint holders of shares.

2. No share shall be divided, and if any share is held by several persons jointly, one of them shall be appointed by *letter of attorney* by the others to vote thereon, to receive dividends and to do all things that require to be done in respect thereof; and *such letter of attorney* shall be lodged with the bank. 34 V., c. 7, s. 13.

Transmission of shares or deposits otherwise than by transfer.

12. If the interest in any deposit or share in the bank becomes transmitted in consequence of the death or *insolvency* of any depositor or shareholder, or in consequence of the marriage of a female depositor or shareholder, or by any other lawful means than by a transfer upon the books of the bank, or by deed *serv'd* upon the bank, such transmission shall be authenticated by a declaration in writing, —which declaration shall distinctly state the manner in which and the person to whom such deposit *or share* has been transmitted, and shall be, by such person, made and signed; and every such declaration shall be, by the person making and signing the same, sworn to before a judge or justice of a court of record or chief magistrate of a city, town, borough or other place, or before a notary public, where the same is made and signed; and every such declaration, so signed and sworn to, shall be left with the manager or other officer or agent of the bank, who shall thereupon enter the name of the person, so entitled to such deposit or share under such transmission, as proprietor thereof, in the books of the bank; and until such transmission is so authenticated, no person claiming by virtue of any such transmission, shall be entitled to receive such deposit

Declaration in such case.

or share, or any part thereof, or any interest or dividend thereon :

2. Every such declaration and instrument as by this and the next following section of this Act are required to perfect the transmission of a deposit or share in the bank, made in any other country than Canada or some other of the British colonies in North America, or in the United Kingdom of Great Britain and Ireland, shall be further authenticated by the British consul or vice-consul, or other accredited representative of the British Government in the country where the declaration is made, or shall be made directly before such British consul or vice-consul or other accredited representative :

How authenticated elsewhere than in a British possession.

3. Nothing in this Act contained shall prevent the directors, manager or other officer or agent of the bank from requiring corroborative evidence of any facts alleged in any such declaration :

Further evidence may be required.

4. If payment is made to any depositor of any deposit or of any interest thereon, or of any dividend on any share, after transmission thereof by any of the means mentioned in this section, but before such declaration is made and authenticated as aforesaid, such payment shall be valid and shall discharge the bank. 34 V., c. 7, s. 28.

Payment to discharge the bank.

13. If the transmission of any deposit or share is by virtue of the marriage of a female depositor, the declaration shall be accompanied by a copy of the register of such marriage and shall declare the identity of the wife with the holder of such deposit or share; and if the transmission has taken place by virtue of any testamentary instrument or by intestacy, or by the vacancy of the estate of a deceased depositor or shareholder, the probate of the will, or, if it is notarial, an authentic copy thereof, or the letters of administration or act of tutorship, or curatorship, or authentic certificates of birth, as the case may be, shall, together with such declaration, be produced and left with the manager or other officer or agent of the bank, who shall thereupon enter the name of the person entitled under such transmission in the books of the bank. 34 V., c. 7, s. 29.

Transmission by marriage.

By testamentary instrument.

DEPOSITS AND LOANS.

14. The bank may receive deposits of money for the benefit of persons depositing the same, and may invest the same as hereinafter provided, and may accumulate the revenues and profits derived from the investment of so much thereof as is not required to meet ordinary demands by the depositors and, out of such accumulation, may allow and pay to the depositors thereof such rate of interest on such

Bank may receive deposits and pay interest.

deposits as is, from time to time, fixed by the Governor in Council, not being more than five per cent. per annum. 34 V., c. 7, s. 14;—44 V., c. 8, s. 2.

Depositor to give name and address.

15. Every depositor, on making his first deposit in the bank, shall disclose and declare his name, residence, quality and occupation. 34 V., c. 7, s. 15.

Deposits by minors, &c.

16. The bank may receive deposits from any person, whatever is his status or condition of life, and whether such person is qualified by law to enter into ordinary contracts or not; and the bank may pay the principal or any part thereof, and the whole or any part of the interest thereon, to such person, without the authority, aid, assistance or intervention of any person or official being required: Provided always, that if the person making any deposit in the bank is not, by the laws of the Province where the bank is established, authorized so to do, the total amount of deposits made by such person shall not exceed the sum of two thousand dollars. 34 V., c. 7, s. 16.

Proviso.

Certain payments in good faith valid.

17. Any payment of interest or dividend, or of the whole or any part of any deposit, made in good faith to any person who appears *prima facie* to be entitled to such interest, dividend or deposit, by the production of a declaration in writing and of the documents herein mentioned in support thereof, shall be valid; and the discharge of such person shall be sufficient, and shall discharge the bank from all or any further claim by any person for such interest, dividend or deposit. 34 V., c. 7, s. 31.

Amount to be invested in Dominion securities, &c.

18. The bank shall always hold at least twenty per cent. of the moneys deposited with it in Dominion securities, or deposits in chartered banks, on call. 36 V., c. 72, s. 1, *part*.

Investment of deposits.

19. The bank may, *subject to the provisions in the next preceding section contained*, invest any moneys deposited therewith in any stock or public securities of Canada, or of any of the Provinces of Canada, or in any municipal debentures, or in the manner provided in the two sections next following, and not otherwise; but the bank may continue to hold any stock of any now existing chartered bank, held by it before it received its charter, and may sell and dispose of such stock. 34 V., c. 7, s. 17;—36 V., c. 72, s. 1, *part*.

Loans on certain securities.

20. The bank may also loan such moneys, upon the personal security of individuals, or to any corporate bodies, if collateral securities of the nature mentioned in the next preceding section, or British or foreign public securities, or stock of some chartered bank in Canada, or stock in any incorporated building society, or bonds or debentures, or stock of any incorporated institution or company, are taken in

addition to such personal or corporate security, with authority to sell such securities if the loan is not paid. 34 V., c. 7, s. 18, *part*;—36 V., c. 72, s. 1, *part*.

21. The bank shall not make any loan, directly or indirectly, upon the security of real property, or with any reference to the security of real property; but nothing herein contained shall prevent the bank from taking security upon real property in addition to such collateral securities, subsequently to the making of the loan and subsidiary to the security originally taken therefor. 34 V., c. 7, s. 18, *part*. No loans on real property.

22. If the bank makes any loan under the two sections next preceding, upon personal securities with collateral security, other than real property, for the repayment thereof, and if the repayment is not made within thirty days after such loan becomes due or payable, the bank may sell the collateral security, after notice to the borrower or person depositing such collateral security, by addressing and mailing, to his last known place of residence, a letter containing such notice: Enforcement of payment of loans made on collateral security.

2. Such sale may be so made, whatever is the nature of such collateral securities, whether consisting of stocks, bonds, debentures or negotiable paper; and the president or vice-president, manager, cashier or other officer of the bank, thereunto authorized by the directors, may transfer and convey any security so sold to the purchaser, in whom the property in such security shall become vested by such conveyance or transfer, but without any warranty from the bank, or from any officer thereof: Further provision in case of non-payment.

3. The bank shall only be bound to account to the person indebted to it in the amount of such loan, for the actual net proceeds of the sale of such collateral securities, after deduction of all costs and charges thereon: How far bank shall be accountable.

4. Nothing herein contained shall prevent the bank from collecting or realizing such debt, or any balance due thereon, out of such collateral securities, in any way which has been agreed on with the borrower depositing the same, or in any other lawful way that the directors deem for the interest of the bank. 34 V., c. 7, s. 19. Other recourse not affected.

Re-drafted.

23. The bank may purchase any lands or real property offered for sale under execution at the suit of the bank, or exposed to sale by the bank under a power of sale given to it for that purpose, in cases in which, under similar circumstances, an individual could so purchase, without any restriction as to the value of the lands which it may so purchase, and may acquire a title thereto as any individual Purchase of property mortgaged to the bank.

purchasing at sheriff's sale or under a power of sale, in like circumstances, could do, and may take, have, hold and dispose of the same at pleasure. 34 V., c. 7, s. 20.

Absolute title
may be ac-
quired.

24. The bank may acquire and hold an absolute title in or to land mortgaged to it as security for a debt due or owing to it, either by obtaining a release of the equity of redemption in the mortgaged property, or by procuring a foreclosure, or by other means whereby, as between individuals, an equity of redemption can, by law, be barred, or may purchase and acquire any prior mortgage or charge on such land. 34 V., c. 7, s. 21.

As to power
of sale, &c.

25. Nothing in any Act or law shall be construed as having prevented or as preventing the bank from acquiring and holding an absolute title to and in any such mortgaged lands, whatever the value thereof may be, or from exercising or acting upon any power of sale contained in any mortgage given to it or held by it, authorizing or enabling it to sell or convey away any lands so mortgaged. 34 V., c. 7, s. 22.

Deposits on
call in char-
tered banks.

26. Nothing herein contained shall prevent the bank from depositing money in any of the chartered banks carrying on the general business of banking in the same place as the bank; and such money shall be so deposited on call, and shall be subject to withdrawal at any time without notice, and either with or without interest. 34 V., c. 7, s. 24.

GENERAL PROVISIONS.

Distribution
to charitable
institutions.

27. The directors of the bank shall continue to distribute to charitable institutions yearly, as heretofore, the interest accruing on the amounts invested for that purpose :

Poor Fund at
Montreal.

2. The principal of the Poor fund of the City and District Savings Bank of Montreal, under the third sub-section of section five of the said Act, which has been ascertained and settled at one hundred and eighty thousand dollars, shall continue invested and shall be held by the said bank in debentures of the cities of Toronto, Ottawa, Kingston, St. Catharines and Hull, and of the town of Bowmanville,—with power to change the investment of the same or of any part thereof, from time to time, with the approval and permission of the Treasury Board, but not otherwise :

Charity Fund
at Quebec.

3. The principal of the Charity fund of *La Caisse d'Economie de Notre Dame de Quebec*, under the said sub-section of section twenty-five of the said Act, which has been ascertained and settled at eighty-three thousand dollars, shall continue invested and shall be held by the said bank in debentures of the city of Quebec,—with power to change the investment of the same or of any part thereof, from time

to time, with the approval and permission of the Treasury Board, but not otherwise. 34 V., c. 7, s. 25, *part*;—36 V., c. 72, ss. 3 and 4.

28. The bank shall not issue any bank note, or note intended to circulate as money or as a substitute for money, or be deemed a bank within the meaning of "*The Bank Act*." 34 V., c. 7, s. 35. Bank notes not to be issued.

29. The bank shall not be bound to see to the execution of any trust, whether expressed, implied or constructive, to which any deposit or share therein is subject; and the receipt of the person in whose name any such deposit or share stands in the books of the bank, or if it stands in the name of more persons than one, the receipt of one of the persons shall be a sufficient discharge to the bank for such deposit or share, interest or dividend thereon, or for any other sum of money payable in respect of such deposit or share, unless express notice to the contrary has been given to the bank, or such deposit is made upon express conditions as to the person or persons to whom such deposit shall be paid, in which case such deposit shall be governed by such conditions, notwithstanding any trust to which such deposit is then subject, and whether or not the bank has had notice of such trust; and the bank shall not be bound to see to the application of the money paid on such receipt, whether given by one of such persons or by all of them. 34 V., c. 7, s. 30. Bank not bound to see to trusts.

RETURNS.

30. Monthly returns shall be made, by the bank, to the Minister of Finance and Receiver General, and shall be made up within the first ten days of each month, and shall exhibit the condition of the bank on the last juridical day of the month next preceding; and such monthly returns shall be signed by the president or vice-president, or the director then acting as president and by the manager, cashier or other principal officer of the bank at its chief place of business, and shall be published in the *Canada Gazette*; and such monthly returns shall be in the form in the schedule to this Act, and shall be instead of any periodical returns if any, required by the charter of the bank, except the certified lists of shareholders. 36 V., c. 72, s. 2, *part*. Monthly returns to be made to the Minister of Finance.

31. The bank shall furnish, annually, to the Minister of Finance and Receiver General, to be laid before Parliament within fifteen days after the opening of each session, certified lists of the shareholders, with their additions and residences, and the number of shares they respectively hold and the amounts paid up thereon. 44 V., c. 8, s. 6. Annual lists of shareholders for Parliament.

OFFENCES AND PENALTIES.

Punishment of officers committing certain offences.

32. Every officer, clerk or servant who is employed under the provisions of this Act, and who defaces, alters, erases, or in any manner or way whatsoever, changes the effect of the books of account kept under the provisions of this Act, or any entry in the said books of account, for any fraudulent purpose,—and every such officer, clerk or servant who secretes, appropriates or embezzles any bond, obligation, bill or note, or any security for money, or any money or effects intrusted to him, or in his custody, or to which he has obtained access as such agent, officer, clerk or servant, to whomsoever the said property belongs, is guilty of felony, and, on conviction thereof, shall be liable to imprisonment for life: Provided always, that nothing herein contained, nor the conviction or punishment of the offender, shall prevent, lessen or impair any remedy which Her Majesty, or the Minister of Finance and Receiver General, or any other person, would otherwise have against any other person whatsoever. 34 V., c. 7, s. 32.

Proviso.

Punishment for falsely pretending to own deposits.

33. Every person who, with intent to defraud, falsely pretends to be the owner of any deposit made under this Act, or of the interest upon such deposit, and who is not such owner, and who demands or claims from the bank with which such deposit has been made, or from any person employed under this Act, the payment of such deposit or interest, or of any portion thereof, as the case may be, and whether he does or does not thereby obtain any part of such deposit or interest, is guilty of a misdemeanor, and shall be punishable accordingly. 34 V., c. 7, s. 33, *part*.

And for making false statement in any account, &c.

34. The making of any wilfully false or deceptive statement in any account, return, report or other document respecting the affairs of the bank is, unless it amounts to a higher offence, a misdemeanor; and every one who is a president, vice-president, director, auditor, cashier, or other officer of the bank, and who prepares, signs, approves or concurs in such statement, return, report or document, or uses the same with intent to deceive or mislead any person, shall be held to have wilfully made such false statement, and shall further be responsible for all damages sustained by such person in consequence thereof. 34 V., c. 7, s. 34.

SCHEDULE.

RETURN of the amount of liabilities and assets of the (*name of the bank*) on the day of 18 .
 CAPITAL STOCK, \$. CAPITAL PAID UP, \$.

LIABILITIES.

1. Dominion Government deposits, payable on demand \$ cts.

\$ cts.

2. Provincial Government deposits, payable on demand.....
3. Other deposits, payable on demand
4. Dominion Government deposits, payable after notice or on a fixed day.....
5. Provincial Government deposits, payable after notice or on a fixed day.....
6. Other deposits, payable after notice or on a fixed day.....
7. Special Poor Fund or Charity Fund Trust.....
8. Liabilities not included under the foregoing heads

ASSETS.

1. Dominion securities.....
2. Provincial or municipal securities.....
3. Loans for which Dominion or Provincial securities are held as collateral security.....
4. Loans for which bank stocks are held as collateral security
5. Loans for which other stocks, bonds or debentures, as authorized by law, are held as collateral security
6. Cash in hand or in deposit on call in chartered banks.....
7. Special Poor Fund or Charity Fund investments.....
8. Investments in bank stock made previous to the incorporation of the bank.....
9. Other assets, not included under the foregoing heads.....

We declare that the foregoing return is made up from the books of the bank, and that it is correct, to the best of our knowledge and belief.

(Place) this day of 18 .

A. B., *President, &c.*
C. D., *Cashier, &c.*

36 V., c. 72, s. 2, *part.*

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
34 V., c. 7	The whole, except ss. 1, 2, 3, 4, 5, 6, 8, 23 and 36, and parts of ss. 25 and 33.	ss. 1, 2, 3, 4, 5, 6, 8, 23, & 36, and parts of 25 and 33.		
26 V., c. 72.....	The whole, except s. 5.	s. 5.		
44 V., c. 8.....	The whole.			

CHAPTER 117.

An Act respecting Bills of Exchange and Promissory Notes.

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

On what days bills and notes shall mature.

1. Every bill of exchange or promissory note which is made payable at a month, or months, from and after the date thereof, shall become due and payable on the same numbered day of the month in which it is made payable as the day on which it is dated, unless there is no such day in the month in which it is made payable, in which case it shall become due and payable on the last day of that month, with the addition, in all cases, of the days of grace allowed by law. 35 V., c. 10, s. 1.

When last day of grace is a non-juridical day.

2. Whenever the last day of grace, in respect of the payment of a bill of exchange or a promissory note, falls on a legal holiday or non-juridical day in the Province where any such bill or note is payable, then the day next following not being a legal holiday or non-juridical day in such Province shall be the last day of grace as to such bill or note. 35 V., c. 8, s. 8, *part* ;—42 V., c. 47, s. 4.

Non-juridical days.

3. In all matters relating to bills of exchange and promissory notes, the following and no other shall be observed as legal holidays or non-juridical days, that is to say :—

Elsewhere than in Quebec.

(a) In all the Provinces of Canada, except the Province of Quebec—

Sundays ;
New Year's Day ;
Good Friday ;
Easter Monday ;
Christmas Day ;

The birthday (or the day fixed by proclamation for the celebration of the birthday) of the reigning Sovereign ;

The first day of July (Dominion Day), and if that day is a Sunday, then the second day of July as the same holiday ;

Any day appointed by proclamation for a public holiday, or for a general fast, or a general thanksgiving throughout

Canada; and the day next following New Year's Day and Christmas Day, when those days respectively fall on Sunday;

(b) And in the Province of Quebec the said days, and In Quebec. also—

The Epiphany;
The Annunciation;
The Ascension;
Corpus Christi;
St. Peter and St. Paul's Day;
All Saints' Day;
Conception Day;

(c) And also, in any one of the Provinces of Canada, any Days fixed by day appointed by proclamation of the Lieutenant Governor of such Province, for a public holiday, or for a fast or thanksgiving within the same. 35 V., c. 8, s. 8, *part*;—42 V., c. 47, s. 3;—46 V., c. 20, s. 11. proclamation.

4. No acceptance of any bill of exchange shall be sufficient to bind or charge any person, unless such acceptance is in writing on the bill, or if there is more than one part of such bill, then on one of the said parts. C. S. U. C., c. 42, s. 7;—C. S. L. C., c. 64, s. 5;—28 V. (N. S.), c. 10, s. 5;—R. S. N. B., c. 116, s. 4;—27 V. (P. E. I.), c. 6, s. 2. Acceptance to be in writing on the bill.

In N. B. and P. E. I. this provision is restricted to inland bills.

5. Notice of the protest or dishonor of any bill of exchange or promissory note payable in Canada shall be sufficiently given, if it is addressed, in due time, to any party to such bill or note entitled to such notice, at the place at which such bill or note is dated, unless any such party has, under his signature, on such bill or note, designated another place, —and in such latter case such notice shall be sufficiently given if addressed to him, in due time, at such other place; and such notices so addressed shall be sufficient, although the place of residence of such party is other than either of such before mentioned places. 37 V., c. 47, s. 1. What notice of protest or dishonor shall be sufficient.

6. No damages shall be recoverable in any action, suit or proceeding, brought in any Province of Canada, upon any bill of exchange drawn upon any person at any place in Canada or in the Island of Newfoundland, against any party thereto, except for the amount for which such bill of exchange is drawn, and for such further amounts as arise from the noting and protest of such bill of exchange, and interest thereon, and exchange and re-exchange thereon: Damages on bills payable in Canada or Newfoundland.

2. No damages shall be recoverable in any action, suit or proceeding, brought in any Province of Canada, And on bills payable elsewhere.

upon any bill of exchange drawn upon any person at any place not being in Canada or in the Island of Newfoundland against any party thereto, except for the amount for which such bill of exchange is drawn, and for two and one half per cent. thereon, and for such further amounts as arise from the noting and protest of such bill of exchange, and interest thereon, and exchange and re-exchange thereon. 38 V., c. 19, ss. 1 and 2.

Protest of non-accepted or unpaid bills or notes in Nova Scotia.

7. All bills of exchange and promissory notes drawn or made at any place in the Province of Nova Scotia, for the sum of forty dollars and upwards, upon or in favor of any person or persons in the said Province, may, on default of the acceptance or payment thereof, be protested by a notary public; and such protest shall, in any action on such bill or note, be *primâ facie* evidence of presentation and dishonor, and also of service of notice of such presentation and dishonor as stated in such protest; for which protest there shall be charged a notarial fee of fifty cents for protest and twenty-five cents for each notice. 42 V., c. 46, s. 1.

And in Prince Edward Island.

8. All bills of exchange and promissory notes payable at any place in the Province of Prince Edward Island, for the sum of forty dollars and upwards, may, on default of the acceptance or payment thereof, be protested by a notary public; and such protest shall, in any action on such bill or note, be *primâ facie* evidence of presentation and dishonor, and also of service of notice of such presentation and dishonor, as stated in such protest; for which protest there shall be charged a notarial fee of fifty cents for protest and twenty-five cents for each notice. 46 V., c. 22, s. 2.

General acceptance of a bill in P.E.I.

9. In the Province of Prince Edward Island, if any person accepts a bill of exchange, payable at the office or place of business of any bank or other place, without further expression in his acceptance, such acceptance shall be deemed and taken to be, to all intents and purposes, a general acceptance of such bill; but if the acceptor, in his acceptance, expresses that he accepts the bill payable at the office or place of business of any bank, or other place only, and not otherwise or elsewhere, such acceptance shall be deemed, and taken to be, to all intents and purposes, a qualified acceptance of such bill; and the acceptor shall not be liable to pay the said bill, unless payment has been first duly demanded at such office or place of business in such bank or other place. 27 V. (P. E. I.), c. 6, s. 1.

Qualified acceptance.

Notarial protest of note or bill evidence in N.B.

10. When any promissory note or bill of exchange is payable at any place out of the Province of New Brunswick, whether the same is drawn in or out of the said Province, a notarial protest of the presentment and dishonor of such

promissory note or bill of exchange shall be received in all courts in the said Province as evidence of the fact of presentment and dishonor stated in such protest, in like manner as in case of a protest of non-payment of a foreign bill of exchange. 22 V. (N.B.), c. 22, s. 4.

11. No clerk, teller or agent of any bank shall act as a notary in the protesting of any bill or promissory note, payable at the bank, or at any of the agencies of the bank, in which he is employed. C. S. C., c. 57, s. 3.

No officer of a bank to act as notary.

NOTE.—This section originally applicable to the former Province of Canada only, is extended to the whole Dominion.

12. Every bill of exchange or promissory note, the consideration of which consists, in whole or in part, of the purchase money of a patent right, or of a partial interest, limited geographically or otherwise, in a patent right, shall have written or printed prominently and legibly across the face thereof, before the same is issued, the words "given for a patent right." 47 V., c. 38, s. 1.

Bill given for a patent right to have certain words on its face.

13. The indorsee or other transferee of any such instrument having the words aforesaid so printed or written thereon, shall take the same subject to any defence or set-off in respect of the whole or any part thereof, which would have existed between the original parties. 47 V., c. 38, s. 2.

Transferee to take instrument subject to right of defence.

14. Every one who issues, sells or transfers, by indorsement or delivery, any such instrument not having the words "given for a patent right" printed or written in manner aforesaid across the face thereof, knowing the consideration of such instrument to have consisted, in whole or in part, of the purchase money of a patent right, or of a partial interest, limited geographically or otherwise, in a patent right, is guilty of a misdemeanor, and liable to imprisonment for any term not exceeding one year, or to such fine, not exceeding two hundred dollars, as the court thinks fit. 47 V., c. 38, s. 3.

Penalty for uttering such instrument not so marked.

15. Sections sixteen to twenty-six, both inclusive, apply to the Province of Ontario only.

Provisions applicable to Ontario

16. If any person accepts a bill of exchange, payable at a bank, or at any other particular place, without further expression in his acceptance, or makes a promissory note payable at a bank, or at any particular place, without further expression in that respect, such acceptance and such promise shall be deemed and taken to be a general acceptance and a general promise respectively:

General acceptance and promise.

2. If the acceptor expresses, in his acceptance, that he accepts the bill payable at a bank, or at any other particular

Qualified acceptance and promise.

place only and not otherwise or elsewhere, or if the maker of a promissory note expresses in the body of the note that he promises to pay at a bank, or at any other particular place only and not otherwise or elsewhere, then such acceptance or promise shall be deemed and taken to be a qualified acceptance or promise, and the acceptor or maker shall not be liable to pay the bill or note, unless payment has been first duly demanded at such bank or other place. C. S. U. C., c. 42, ss. 5 and 6:

Bill or note not void for usury in certain cases.

17. No bill of exchange or promissory note, although given for a usurious consideration, or upon a usurious contract, shall be void in the hands of an indorsee (or if a note transferable by delivery, in the hands of a person who acquired the same as bearer), for valuable consideration, unless such indorsee or bearer had, at the time of discounting or paying such consideration for the same, actual knowledge that such bill of exchange or promissory note was originally given for a usurious consideration or upon a usurious contract. C. S. U. C., c. 42, s. 8.

No presentment on non-judicial days.

18. No bill of exchange shall be presented for acceptance on any non-judicial day. C. S. U. C., c. 42, s. 19.

Damages and interest allowed in certain cases upon dishonored notes.

19. If any promissory note payable only at some place in the United States of America, or in some one of the Provinces, Territories or Districts of Canada other than the Provinces of Ontario and Quebec, or in the Island of Newfoundland, and not otherwise or elsewhere, is made or negotiated within the Province of Ontario, and is protested for non-payment, the holder shall, in addition to the principal sum mentioned in the note, recover damages at the rate of four per cent. upon such principal sum, and also interest thereon at the rate of six per centum per annum, to be reckoned from the day of the date of the protest, and such aggregate amount, together with the expenses of protesting the note, and all charges and postages incurred thereon, shall be paid to the holder at the current rate of exchange of the day when the protest is produced and repayment demanded, that is to say: the holder of any such note, returned under protest, may demand and recover from the maker or indorsers thereof so much current money of Canada as shall then be equal to the purchase of a bill of exchange of the like amount drawn on the same place at the same date or sight, together with the damages and interest above mentioned, and also the expense of protesting the note, and all charges and postages incurred thereon. C. S. U. C., c. 42, s. 11.

How rate of exchange shall be ascertained.

20. When the holder of a protested bill or note, returned for non-payment, notifies the drawer, maker or indorser of the dishonor thereof, in person, or delivers notice thereof, in writing, to an adult person at his or their counting house or

dwelling house, and they disagree about the then rate of exchange for commercial bills, the holder and the drawer, maker or indorser so notified, or any of them, may apply to the president or, in his absence, to the secretary of any board of trade or chamber of commerce in the city or town, in which the holder of such protested bill or note, or his agent, resides, or in the city or town nearest to the residence of such holder or agent, in which there is a board of trade or chamber of commerce, and obtain from such president or secretary a certificate in writing under his hand, stating the said rate of exchange; and the rate stated in such certificate shall be final and conclusive as to the then rate of exchange, and shall regulate the sum to be paid accordingly. C. S. U. C., c. 42, s. 12.

21. Every bill, draft and order drawn by any person in the Province of Ontario on any person in either of the Provinces of Ontario or Quebec, and every promissory note made or negotiated in the Province of Ontario, if protested for non-payment, shall be subject to interest from the date of the protest, or if interest is therein expressed as payable from a particular period, then from such period to the time of payment; and in case of protest, the expense of noting and protesting, and the postages thereby incurred, shall be allowed and paid to the holder, over and above the said interest. C. S. U. C., c. 42, s. 13.

Inland bills and notes to bear interest.

22. Every protest of inland or foreign bills of exchange or promissory notes, for dishonor, either by non-acceptance or non-payment, may be made on the day of such dishonor, at any time after non-acceptance, or in case of non-payment, at any time after the hour of three o'clock in the afternoon. C. S. U. C., c. 42, s. 15.

Protest may be made on day of dishonor.

23. A notice of such protest shall be sent to each of the parties to the bill or note, and such notice shall be deemed to have been duly served, for all purposes, upon the person to whom the same is addressed, if it is deposited in the post office nearest to the place of making presentment of such bill or note, at any time during the day whereon such protest has been made, or the next juridical day then following. C. S. U. C., c. 42, s. 16.

How notice of protest may be served.

24. Every such protest and notice may be according to the forms set forth in schedule A to this Act, or to the like effect. C. S. U. C., c. 42, s. 21, *part*.

Form of protest and notice.

25. The fees to be taken by notaries public, for the services hereinafter mentioned, shall be as follow, and no more, that is to say:—for the protest of any bill, draft, note or order, fifty cents; for every notice, twenty-five cents; and or postage, the amount actually expended. C. S. U. C., c. 42, s. 22;—C. S. C., c. 57, s. 1.

Notary's fees in Ontario.

Certain statutes respecting small notes not in force in Ontario.

26. The Act of the Parliament of Great Britain, passed in the fifteenth year of the reign of King George the Third, intituled "*An Act to restrain the negotiation of Promissory Notes and Inland Bills of Exchange, under a limited sum, within that part of Great Britain called England,*" and the Act of the said Parliament, passed in the seventeenth year of his said Majesty's reign, intituled "*An Act for further restraining the negotiation of Promissory Notes and Inland Bills of Exchange, under a limited sum, within that part of Great Britain called England,*" which are inapplicable to the Province of Ontario, shall not extend to or be in force therein, nor shall the said Acts make void any bills, notes, drafts or orders, which have been or may be made or uttered therein. C. S. U. C., c. 42, s. 1.

Provisions applicable to Quebec.

27. The following sections of this Act apply to the Province of Quebec only.

Notary's fees in Quebec.

28. The several fees and charges mentioned in schedule B to this Act, relating to the protesting and noting of bills and notes in the Province of Quebec, together with the postages pre-paid upon notices deposited at any post office, may be claimed from the holder of the bill or note by the notary or justice of the peace performing such duties, and shall be recovered from such parties thereto as are liable for the payment of the same. C. S. L. C., c. 64, s. 21.

Forms in Quebec.

29. The several notings, protests, notices thereof, and services of notices hereinbefore mentioned, shall be in the forms set forth in the said schedule. C. S. L. C., c. 64, s. 22.

Penalty if unqualified person notes or protests bills or notes.

30. Every person who represents himself to be a notary for or justice of the peace in the Province of Quebec, and who acts as such in and about the protesting of a bill or note, or in and about the noting of a bill, not being such notary for or justice in the Province of Quebec, is guilty of a misdemeanor, and liable to imprisonment for a term not exceeding six months. C. S. L. C., c. 64, s. 23.

SCHEDULE A.

On this _____ day of _____, in the year one thousand eight hundred and _____, at the request of _____, holder of the bill of exchange hereunto annexed, I, _____, a notary public for the Province of Ontario duly appointed, did exhibit the said bill unto _____, at _____, being the place where the same is payable, and speaking to *him*, did demand payment of the said bill; to which demand *he* answered _____; Wherefore, I, the said notary, at the request

aforesaid, have protested, and do hereby solemnly protest, as well against all the parties to the said bill as against all other persons whom it may concern, for all interest, damages, costs, charges, expenses and other losses suffered or to be suffered for want of payment of the said bill. And afterwards, on the day and year mentioned in the margin, I, the said notary public, did serve due notice, according to law, of the said presentment, non-payment and protest of the said bill, upon the several parties thereto, by depositing, in Her Majesty's post office at _____, being the nearest post office to the place of the said presentment, letters containing such notices, one of which letters was addressed to each of the said parties, severally; the superscription and address of which letters are respectively copied below, as follows, that is to say:

(Here insert the directions of the letters.)

In testimony whereof, I have hereunto set my hand and affixed my seal of office, the day and year first above written.

(Signature), L. S.

FORM OF NOTICE TO PARTIES.

To Mr. _____ (date.)

SIR,

Take notice that a bill of exchange, dated on the _____ day of _____, for the sum of \$ (or £) _____, drawn by _____, on _____ and accepted by _____, payable (three months) after the date thereof, at the bank of _____, in (Toronto), and indorsed by A.B., C.D., E.F., &c., was this day presented by me for payment at the said bank, and that payment thereof was refused, and that _____, the holder of the said bill, looks to you for payment thereof. Also, take notice that the same bill was this day protested by me for non-payment.

Your obedient servant,

A. H.,
Notary Public.

The above forms may be changed to suit protests for non-acceptance or non-payment of bills, or non-payment of notes. U. S. U. C., c. 42, s. 21, part.

SCHEDULE B.

TARIFF OF FEES AND CHARGES IN THE PROVINCE OF QUEBEC.

For presenting and noting for non-acceptance any bill of exchange, and keeping the same on record.....	\$1 00
Copy of the same when required by the holder.....	0 50

in the Province of Quebec, at the request of
 , did exhibit the original bill of exchange, whereof a true
 copy is above written, unto E.F., the { drawee } thereof
 { acceptor, }
 personally (or, at his residence, office or usual place of
 business in), and, speaking to himself (or his wife,
 his clerk, or his servant, &c.), did demand { acceptance }
 { payment }
 thereof; unto which demand { he } answered, "
 { she }

Wherefore I, the said notary, at the request aforesaid,
 have protested, and by these presents do protest against the
 acceptor, drawer and indorsers (or, drawer and indorsers)
 of the said bill, and other parties thereto or therein
 concerned, for all exchange, re-exchange, and all costs,
 damages and interest, present and to come, for want of
 { acceptance }
 { payment } of the said bill.

All of which I attest by my signature.
 (Protested in duplicate.)

A. B.,
Not. Pub.

FORM C.

PROTEST FOR NON-ACCEPTANCE OR FOR NON-PAYMENT OF A
 BILL PAYABLE AT A STATED PLACE.

(Copy of Bill and Indorsements.)

On this day of , in the year 18 , I,
 A. B., notary public for the Province of Quebec, dwelling at
 , in the Province of Quebec, at the request
 of , did exhibit the original bill of
 exchange, whereof a true copy is above written, unto E. F.,
 the { drawee } thereof, at , being
 { acceptor }
 the stated place where the said bill is payable, and there,
 speaking to , { acceptance }
 { payment } of the said
 bill; unto which demand he answered, "
 ."

Wherefore I, the said notary, at the request aforesaid,
 have protested, and by these presents do protest against the
 acceptor, drawer and indorsers (or drawer and indorsers) of
 the said bill, and all other parties thereto or therein con-
 cerned, for all exchange, re-exchange, and all costs, damages
 and interest, present and to come, for want of { acceptance }
 { payment }
 of the said bill.

All which I attest by my signature.

(Protested in duplicate.)

A. B.,
Not. Pub.

FORM D.

PROTEST FOR NON-PAYMENT OF A BILL NOTED, BUT NOT
PROTESTED FOR NON-ACCEPTANCE.

If the protest is made by the same notary who noted the bill, it should immediately follow the act of noting and memorandum of service thereof, beginning with the words "and afterwards, on, &c.," continuing as in the last preceding form, but introducing between the words "did exhibit," the word "again;" and, in a parenthesis, between the words "written" and "unto," the words ("and which bill was by me duly noted for non-acceptance on the day of last.")

But if the protest is not made by the same notary, then it should follow a copy of the original bill and indorsements and noting marked on the bill—and then in the protest introduce, in a parenthesis, between the words "written" and "unto," the words ("and which bill was on the day of last, by , public notary for the Province of Quebec, noted for non-acceptance, as appears by his note thereof marked on the said bill.")

FORM E.

PROTEST FOR NON-PAYMENT OF A NOTE PAYABLE GENERALLY.

(Copy of Note and Indorsements.)

On this day of , in the year 18 , I, A.B., notary public for the Province of Quebec, dwelling at , in the Province of Quebec, at the request of , did exhibit the original promissory note, whereof a true copy is above written, unto , the promisor, personally (*or, at his residence, office or usual place of business, in*), and speaking to himself (*or his wife, his clerk, or his servant, &c.*), did demand payment thereof; unto which demand { he } answered, " " { she }

Wherefore I, the said notary, at the request aforesaid, have protested, and by these presents do protest against the promisor and indorsers of the said note, and all other parties thereto or therein concerned, for all costs, damages and interest, present and to come, for want of payment of the said note.

All which I attest by my signature.

(Protested in duplicate.)

A. B.,
Not. Pub.

(Place and date of Noting or of Protest.)

2nd.

To C. D. (*indorser*),
or F. G.)

at

Sir,

Mr. P. Q.'s bill of exchange for \$ _____, dated at _____, the _____, upon E. F., in your favor (*or* in favor of C. D.), payable _____ days after { sight, } and by you indorsed, was this day, at the request of _____, duly { noted } by me for { non-acceptance. } { protested } { non-payment. }

A. B.,
Not. Pub.

FORM H.

NOTARIAL NOTICE OF PROTEST FOR NON-PAYMENT OF A NOTE

(Place and date of Protest.)

To _____,

at _____

Sir,

Mr. P. Q.'s promissory note for \$ _____, dated at _____, the _____, payable { days } { months } { on— } after date to { you } or order, and indorsed by you, was this day, at the request of _____, duly protested by me for non-payment.

A. B.,
Not. Pub.

FORM I.

NOTARIAL SERVICE OF NOTICE OF A PROTEST FOR NON-ACCEPTANCE OR NON-PAYMENT OF A BILL, OR OF NON-PAYMENT OF A NOTE (*to be subjoined to the Protest.*)

And afterwards, I, the aforesaid protesting notary public, did serve due notice in the form prescribed by law, of the

foregoing pro- { non-acceptance } of the { bill }
 test for { non-payment } thereby
 protested upon { P. Q., } the { drawer } personally, on
 { C. D., } { indorsers }
 the day of (or, at his residence, office, or
 usual place of business in , on the
 day of ; or, by depositing such notice, directed to
 the said { P. Q., } at , in Her Majesty's post office
 { C. D., }
 in this city (town or village), on the day of
 , and prepaying the postage thereon).

In testimony whereof, I have, on the last mentioned day
 and year, at aforesaid, signed these presents.

A. B.,
Not. Pub.

FORM J.

PROTEST BY A JUSTICE OF THE PEACE (WHERE THERE IS NO
 NOTARY) FOR NON-ACCEPTANCE OF A BILL, OR NON-PAY-
 MENT OF A BILL OR NOTE.

(*Copy of Bill or Note and Indorsements.*)

On this day of , in the year 18 ;
 I, N. O., one of Her Majesty's justices of the peace for the
 district of , in the Province of Quebec, dwelling
 at (or near the village of), in the said district,
 (there being no practising notary public resident at or near
 the said village, or any other legal cause), did, at the request
 of and in presence of , a house-
 holder in the said district, well known unto me, exhibit
 the original { bill } whereof a true copy is above
 { note }
 written unto P. Q., the { drawer }
 { acceptor } thereof, personally (or,
 { promisor }
 at his residence, office or usual place of business in
) and speaking to himself (his wife, his clerk or
 his servant, &c.), did demand { acceptance } thereof, unto
 { payment }
 which demand { he } answered, " " "
 { she }

Wherefore I, the said justice of the peace, at the request
 aforesaid, have protested, and by these presents do protest
 against the { drawer and indorsers }
 { promisor and indorsers } of the said
 { acceptor, drawer and indorsers }

{ bill }
 { note } and all other parties thereto and therein concerned, for all exchange, re-exchange, and all costs, damages and interest, present and to come, for want of { acceptance } of the said { bill. }
 { payment } { note. }

All which is by these presents attested by the signature of the said (*the witness*) and by my hand and seal.

(Protested in duplicate.)

(*Signature of the witness.*)

(*Signature and seal of the J. P.*)

C. S. L. C., c. 64, sch.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
35 V., c. 8.....	s. 8.....		Remainder.....	Act respecting Banks and Banking.
35 V., c. 10.....	The whole.			
37 V., c. 17.....	s. 1.			
38 V., c. 19.....	The whole, except s. 3.	s. 3.		
42 V., c. 46.....	The whole.			
42 V., c. 47.....	s.3(part) and s.4.			
46 V., c. 22.....	The whole, except s. 1.	s. 1.		
47 V., c. 38.....	The whole.			
C. S. C., c. 57.....	ss. 1, 2 and 3.....	ss. 4 and 5.		
C. S. U. C., c. 42.	The whole, except ss. 2, 3, 4, 9, 10, 14, 17, 18 and 20.	ss. 2, 3, 4, 9, 10, 17, 18 and 20.	s. 14 (Provincial).	
C. S. L. C., c. 64.	ss. 5, 21, 22, 23 and schedule.			
28 V. (N.S.), c. 10.	s. 5.....		Remainder is Provincial.	
R. S. N. B., c. 116	s. 4.....	Remainder.		
22 V. (N.B.) c. 22	s. 4.....	Remainder.		
27 V. (P.E.I.) c. 6	The whole, except s. 3 (Provincial.)			

CHAPTER 118.

An Act respecting Insurance.

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 Insurance Act.*" 40 V., Short title. c. 42, s. 1, *part.*

INTERPRETATION.

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

(a) The expression "*Minister,*" means the Minister of Finance and Receiver General; "Minister."

(b) The expression "*Superintendent*" means the Superintendent of Insurance; "Superintendent."

(c) The expression "*company*" means and includes any corporation or any society or association, incorporated or unincorporated, or any partnership carrying on the business of insurance; "Company."

(d) The expression "*Canadian company*" means a company incorporated in Canada, for the purpose of carrying on the business of insurance in Canada, and which has its head office therein; "Canadian company."

(e) The expression "*agent*" means the chief agent of the company in Canada, named as such in the power of attorney hereinafter referred to, by whatever name he is designated; "Agent."

(f) The expression "*chief agency*" means the principal office or place of business of the company in Canada; "Chief Agency."

(g) The expression "*inland marine insurance*" means marine insurance in respect to subjects of insurance at risk upon the waters of Canada above the harbor of Montreal; "Inland Marine Insurance."

(h) The expression "*Canadian policy*" or "*policy in Canada,*" as regards life insurance, means a policy issued by any company licensed under this Act to transact the business of life insurance in Canada, in favor of any person or persons resident in Canada at the time when such policy was issued, and "*Policy holder in Canada*" means any such person as aforesaid; "Canadian policy."

The same.

(i) *The expression "Canadian policy" or "policy in Canada," as regards fire and inland marine insurance, means a policy of insurance on any property within Canada. 38 V., c. 20, s. 1, part, and s. 3, part;—40 V., c. 42, s. 1, part.*

APPLICATION OF ACT.

To what companies this Act shall not apply.

3. The provisions of this Act shall not apply—

(a) To any company transacting, in Canada, ocean marine insurance exclusively; or—

(b) To any policy of life insurance in Canada, issued previously to the twenty-second day of May, in the year one thousand eight hundred and sixty-eight, by any company which has not subsequently received a license; or—

(c) To any company incorporated by an Act of the legislature of the late Province of Canada, or by an Act of the legislature of any Province now forming part of Canada which carries on the business of insurance, and effects insurance in respect to subjects wholly within the limits of that Province by the legislature of which it was incorporated, and which is within the exclusive control of the legislature of such Province; but any such company may, by leave of the Governor in Council, on the report of the Treasury Board, avail itself of the provisions of this Act, and, if it so avails itself, the provisions of this Act shall thereafter apply to it and such company shall have the power of transacting its business of insurance throughout Canada. 38 V., c. 20, ss. 2, part, and 3 part;—40 V., c. 42, s. 2, part, and s. 28.

Re drafted.

LICENSES.

What companies only may transact life, fire or inland marine insurance business in Canada.

4. No company shall accept any risk or issue any policy of fire or inland marine insurance or policy of life insurance, or grant any annuity on a life or lives, or receive any premium, or transact any business of life, fire or inland marine insurance, in Canada,—or prosecute or maintain any suit, action or proceeding, either at law or in equity, or file any claim in insolvency relating to such business, without first obtaining a license from the minister to carry on such business in Canada. 38 V., c. 20, s. 2, part, and s. 3;—40 V., c. 42, s. 2, part.

Form and duration of license.

5. The license shall be in such form as is, from time to time, determined by the minister, and shall specify the business to be carried on by the company; and it shall expire on the thirty-first day of March in each year, but shall be renewable from year to year. 38 V., c. 20, s. 4;—40 V., c. 42, s. 3.

6. The Minister, as soon as the company applying for the same has deposited in his hands the securities hereinafter mentioned, and has otherwise conformed to the requirements of this Act, shall, *upon the report of the superintendent*, issue such license as aforesaid. 38 V., c. 20, s. 5;—40 V., c. 42, s. 4.

License to issue on certain conditions.

DEPOSITS TO BE MADE BEFORE THE ISSUE OF LICENSE.

7. Every company carrying on the business of life insurance, and every Canadian company carrying on the business of fire or of inland marine insurance, or of both combined, shall, before the issue of such license, deposit with the minister, in such securities as are hereinafter mentioned, the sum of fifty thousand dollars; and every company incorporated out of Canada, carrying on the business of fire or of inland marine insurance, or of both combined, shall, before the issue of such license, deposit with the minister, in such securities as are hereinafter mentioned, the sum of one hundred thousand dollars. 38 V., c. 20, s. 6, *part*;—40 V., c. 42, s. 5, *part*.

Deposit of securities with the Minister.

8. All such deposits may be made by any company in securities of the Dominion of Canada, or in securities issued by any of the Provinces of Canada; and by any company incorporated in the United Kingdom in securities of the United Kingdom; and by any company incorporated in the United States, in securities of the United States; and the value of such securities shall be estimated *by the Treasury Board* at their market value at the time when they are so deposited:

Nature of securities.

Companies in U. K.

Companies in U. S.

Valuation of securities.

2. If any securities other than those above mentioned are offered as a deposit, they may be accepted, at such valuation and on such conditions as the Treasury Board directs:

Valuation of other securities.

3. If the market value of any of the securities which have been deposited by any company declines below that at which they were deposited, the minister may notify the company to make a further deposit, so that the market value of all the securities deposited by the company shall be equal to the amount which it is required by this Act to deposit; *and on failure by the company to make such further deposit within sixty days after being called upon so to do, the minister may withdraw its license*:

If the value declines, further deposit.

Penalty for failure.

The last sentence, which applied to life insurance only, is made applicable to fire and inland marine insurance.

4. Any company licensed under this Act may, at any time, deposit in the hands of the minister any further sums of money or securities beyond the sum herein required to be deposited; and any such further sums of money, or securities

Company may deposit further security.

How to be dealt with.

therefor, so deposited in the hands of the minister, shall be held by him and be dealt with according to the provisions of this Act in respect to the original sum required to be deposited by such company, and as if the same had been part of such original deposit, and no part of such *additional deposit shall be withdrawn, unless* with the sanction of the Governor in Council, on *such conditions as are approved of* by the Treasury Board. 38 V., c. 20, s. 6, *part, and* s. 7;—40 V., c. 42, s. 5, *part, and* s. 6.

Any deficiency of security to be made good by fire and inland marine companies.

9. If it appears from the annual statements, or from an examination of the affairs and condition of any company *carrying on the business of fire or inland marine insurance*, that the re-insurance value of all its risks outstanding in Canada, together with other liabilities in Canada, exceeds its assets in Canada, including the deposit in the hands of the minister, the company shall be notified by the minister to make good the deficiency; and on its failure so to do, *within sixty days after being so notified, he shall withdraw* its license. 38 V., c. 20, s. 8.

Penalty for default.

Any deficiency of security to be made good by other companies.

10. If it appears from the annual statements, or from an examination, as provided for by this Act, of the affairs and conditions of any company carrying on the business of life insurance, that its liabilities to policy-holders in Canada, including matured claims, and the full reserve or re-insurance value for outstanding policies, as hereinafter described, after deducting any claim the company has against such policies, exceed its assets in Canada, including the deposit in the hands of the minister, the company shall be called upon by the minister to make good the deficiency; and on its failure so to do within sixty days, he shall withdraw its license :

Penalty for default.

As to company incorporated elsewhere than in Canada.

2. If such company is incorporated elsewhere than within Canada, the assets in Canada as aforesaid shall be taken to consist of all deposits which the company has made with the minister under the foregoing provisions of this Act, and of such assets as have been vested in trust for the company for the purposes of this Act, in two or more persons resident in Canada, appointed by the company and approved by the minister :

Assets vested in trust.

3. The trust deed shall first be approved of by the minister, and the trustees may deal with such assets in any manner provided by the deed of trust appointing them, but so that the value of the assets held by them shall not fall below the value required by this section :

Proviso; as to companies which gave notice before

4. In the case of any such company, which gave written notice to the minister before the thirty-first day of March, in the year one thousand eight hundred and seventy-eight,

of its intention to avail itself of *the proviso contained in section 31st March, 1878.* seven of "The Consolidated Insurance Act, 1877," the foregoing requirements of this section shall not apply to policies issued previously to that date; and the deposit of such company, which was in the hands of the minister, on the twenty-eighth day of April, in the year one thousand eight hundred and seventy-seven, shall be dealt with in regard to such policies, in conformity with the fourth and fifth sections of an Act passed by the Parliament of Canada in the thirty-fourth year of her Majesty's reign, intituled "*An Act to amend the Act respecting Insurance Companies*;" and whenever the full liability under such policies falls below the amount so held by the minister, he may, with the concurrence of the Treasury Board, direct that the whole or such portion of the difference as he deems advisable, shall be released and handed over to the company, and so on, from time to time, until the total deposit with the minister is reduced to the amount of fifty thousand dollars required by this Act. 40 V., c. 42, s. 7. *Release of surplus securities to such company.*

11. So long as any company's deposit is unimpaired, and the conditions of this Act are satisfied, and no notice of any final judgment against the company, or order made by the proper court in that behalf *for the winding up of the company or the distribution of its assets*, is served upon the minister, the interest upon the securities forming the deposit shall be handed over to the company as it falls due. 38 V., c. 20, s. 9;—40 V., c. 42, s. 8. *Interest on securities—when to be payable to company.*

DOCUMENTS TO BE FILED.

12. Every company shall, before the issue of a license to it, file in the Department of Finance,— *Certain documents to be filed.*

(a) A copy of the charter, Act of incorporation, or articles of association of the company, certified by the proper officer in charge of the original thereof; *Copy of Charter.*

(b) A power of attorney from the company to its agent in Canada, under the seal of the company, if it has a seal, and signed by the president and secretary or other proper officers thereof, in presence of a witness, who shall make oath or affirmation as to the due execution thereof; and the official positions in the company held by the officers signing such power of attorney shall be sworn to or affirmed by some person cognizant of the facts necessary in that behalf; and— *Power of attorney to agent in Canada.*

(c) A statement, in such form as is required by the minister, of the condition and affairs of such company on the thirty-first day of December then next preceding, or up to the usual balancing day of the company, if such day

is not more than twelve months before the filing of the statement. 38 V., c. 20, s. 10, *part*;—40 V., c. 42, s. 9, *part*.

What the power of attorney shall contain.

13. Such power of attorney shall declare at what place in Canada the head office, or chief agency of such company is, or is to be established,—and shall expressly authorize such attorney to receive service of process in all suits and proceedings against such company in any Province of Canada, in respect of any liabilities incurred by the company therein, and also to receive from the minister and the superintendent, all notices which the law requires to be given, or which it is thought advisable to give,—and shall declare that service of process for or in respect of such liabilities, and receipt of such notices, at such office or chief agency, or personally on or by such attorney at the place where such head office or chief agency is established, shall be legal and binding on the company to all intents and purposes whatsoever. 38 V., c. 20, s. 10, *part*;—40 V., c. 42, s. 9, *part*.

Provision to be made for service of process.

If changes are made in a chief agency.

14. Whenever any such company changes its chief agent or chief agency in Canada, such company shall file a power of attorney, as hereinbefore mentioned, containing any such change or changes in such respect, and containing a similar declaration as to service of process and notices as hereinbefore mentioned; and every company shall, at the time of making the annual statement hereinafter provided for, declare that no change or amendment has been made in the charter, Act of incorporation or articles of association of the company, and that no change has been made in the chief agency or chief agent, without such amendment or change having been duly notified to the superintendent. 38 V., c. 20, s. 10, *part*;—40 V., c. 42, s. 9, *part*.

Declaration of no change to be made in the annual statement.

Duplicates of such documents to be filed in court.

15. Duplicates of all such documents, duly verified as aforesaid, shall be filed in the office of one of the superior courts in the Province in which the head office or chief agency of the company is situated—or if the chief agency is in the Province of Quebec, with the prothonotary of the Superior Court of the district wherein such chief agency is established. 38 V., c. 20, s. 10, *part*;—40 V., c. 42, s. 9, *part*.

SERVICE OF COMPANIES WITH PROCESS.

Service of process on company.

16. After such power of attorney and certified copies are filed as aforesaid, any process in any suit or proceeding against any such company, in respect of any liabilities incurred in any Province of Canada, may be validly served on the company at its chief agency; and such service shall be deemed to be service on the company. 38 V., c. 20, s. 11, *part*;—40 V., c. 42, s. 10.

Constructive service of process.

2. If such power of attorney becomes invalid or ineffective from any reason whatsoever, or if other service can-

not be effected, the court or a judge may order constructive service of any process or proceeding to be made, by such publication as is deemed requisite to be made in the premises, for at least one month in at least one newspaper ; and such publication shall be held to be due service upon the company of such process or proceeding.

New.

NOTICE OF LICENSE.

17. Every company on first obtaining such license shall forthwith give due notice thereof in the *Canada Gazette*, and in at least one newspaper in the county, city or place where the head office or chief agency is established, and shall continue the publication thereof for the space of four weeks :

Company to give notice of license.

2. The like notice shall be given, for the space of three calendar months, when a company ceases, or gives notice that it intends to cease, to carry on business in Canada. 38 V., c. 20, s. 12 ;—40 V., c. 42, s. 11.

And of ceasing business.

PUBLICATION OF LICENSED COMPANIES.

18. The minister shall cause to be published quarterly in the *Canada Gazette* a list of the companies licensed under this Act, with the amount of deposits made by each company ; and upon any new company being licensed, or upon the license of any company being withdrawn in the interval between two such quarterly statements, he shall publish a notice thereof in the *Canada Gazette* for the space of four weeks. 38 V., c. 20, s. 13 ;—40 V., c. 42, s. 12.

Notices by minister of companies licensed.

ANNUAL RETURNS BY COMPANIES.

19. The president, vice-president, or managing director, and the secretary or manager of every Canadian company licensed under this Act, shall prepare annually, under their own oath, and cause to be deposited at the Department of Finance, a statement of the condition and affairs of such company at the usual balancing day of the company in the preceding year.—which statement shall exhibit the assets and liabilities of the company, and its income and expenditure during the previous year, and such other information as s deemed necessary by the minister :

Statement to be prepared yearly and sent to Minister of Finance.

What it must show.

2. In the case of companies carrying on the business of life insurance, such statement shall be deposited as aforesaid on the first day of January in each year or within three months thereafter, and shall be made in the form and manner set forth in the form A in the schedule to this Act :

Form of statement and time for deposit by life companies.

And by fire
and marine
companies.

3. In the case of companies carrying on the business of fire or inland marine insurance, such statement shall be deposited as aforesaid on the first day of February in each year, or within one month thereafter, and shall be made in the form and manner set forth in the form B in the schedule to this Act :

To be sworn
to.

4. Such statements shall be sworn to before some person duly authorized to administer oaths in any legal proceeding, in the form C in the schedule to this Act :

Minister may
alter form of
statement.

5. The minister may, from time to time, make such changes in the form of such statements as seem to him best adapted to elicit from the companies a true exhibit of their condition in respect to the several points hereinbefore enumerated. 38 V., c. 20, s. 20 ;—40 V., c. 42, ss. 20 and 27.
Re-drafted.

Yearly state-
ments by com-
panies incor-
porated else-
where than in
Canada.

20. Every company incorporated elsewhere than in Canada, and at present licensed or hereafter licensed under this Act, and every company which is subject to the provisions of this Act, shall make annual statements of its condition and affairs under the oath of its chief agent, and shall furnish the same to the minister at the same time as Canadian companies ; and the form and manner of making of such statements shall, as to the Canada business of such company, be the same (so far as applicable) as is required of Canadian companies,—and as to its general business, shall be in such form and to such date as such company is required by law to furnish to the Government of the country in which its head office is situate, in a separate schedule attached. The blank forms of the statements of the Canada business shall be furnished in duplicate by the Department of Finance. 38 V., c. 20, s. 21 ;—40 V., c. 42, s. 21.

Blank forms.

PENALTIES AND FORFEITURES.

Penalty for
violation of
two next pre-
ceding sec-
tions.

21. Every company which violates any provision of either of the two sections next preceding shall incur a penalty of five hundred dollars for each violation, and an additional penalty of one hundred dollars for each month during which any such company neglects to make such publication or to file such affidavits and statements as are therein required :

Withdrawal
of license for
non-payment
of penalty.

2. If such penalties are not paid, the minister, with the concurrence of the Treasury Board, may order the license of such company to be suspended or withdrawn, as is deemed expedient. 38 V., c. 20, s. 22 ;—40 V., c. 42, s. 22.

Penalty for
issuing any
policy in con-
travention of
this Act.

22. Every person who delivers any policy of insurance, or who collects any premium (except only on policies of life insurance issued to persons not resident in Canada at the

time of issue) or transacts any business of insurance on behalf of any life, fire or inland marine insurance company, without such license as aforesaid, shall be liable to a penalty not exceeding one thousand dollars *and not less than fifty dollars* for each such violation of this Act, and in default of payment for one month, to imprisonment for a term not exceeding six months :

2. Such penalty shall be recoverable in any court of competent jurisdiction on information filed in the name of the Attorney General of Canada, *or shall be recoverable in a summary manner under the "Act respecting summary proceedings before Justices of the Peace,"* and a moiety of such penalty, when recovered, shall belong to Her Majesty, and the other moiety thereof to the informer. 38 V., c. 20, s. 14; —40 V., c. 42, s. 13.

How enforced and applied.

NOTE—The words in italics are inserted upon the recommendation of the Department.

23. Unless otherwise provided in the special Act incorporating any insurance company, passed by the Parliament of Canada after the twenty-eighth day of April, one thousand eight hundred and seventy-seven, or hereafter to be passed, such special Act and all Acts amending the same shall expire and cease to be in force at the expiration of two years from the passing thereof, unless within such two years the company thereby incorporated obtains a license from the minister under the provisions of this Act. 40 V., c. 42, s. 26.

As to duration of charters of companies incorporated by special Act and not obtaining a license under this Act.

SUPERINTENDENT AND HIS DUTIES.

24. The Governor in Council may appoint an officer, to be called the superintendent of insurance, who shall act under the instructions of the minister, and shall examine and report to the minister, from time to time, upon all matters connected with insurance, as carried on by the several companies licensed to do business in Canada, or required by this Act to make returns of their affairs :

Superintendent of Insurance; appointment, &c.

2. Such superintendent may be appointed at a salary not exceeding four thousand dollars *per annum* :

Salary.

3. The Governor in Council may, from time to time, appoint such officers and clerks under the superintendent as are necessary for the purposes of this Act :

Officers and clerks.

4. The superintendent shall keep a record of the several documents required to be filed by each company in the superior courts of Canada, under this Act; and shall,—

Duties of superintendent.

Entry of securities deposited.

(a) Enter in a book, under the heading of each company, the securities deposited on its account with the minister, naming in detail the several securities, their par value, and value at which they are received as deposit ;

Report before issue of license.

(b) In each case, before the issue of any new license, or the renewal of any license, make a report to the minister that the requirements of the law have been complied with, and that from the statement of the affairs of the company it is in a condition to meet its liabilities ;

Record of licenses.

(c) Keep a record of the licenses as they are issued ;

Inspection of affairs.

(d) Visit the head office of each company in Canada, at least once in every year, and examine carefully the statements of the condition and affairs of each company, as required under this Act, and report thereon to the minister as to all matters requiring his attention and decision ;

Report to Minister of Finance, for Parliament.

(e) Prepare for the minister, from the said statements, an annual report, showing the full particulars of each company's business, together with an analysis of each branch of insurance, with each company's name ; giving items, classified from the statements made by each company :

Provision if superintendent considers further inquiry necessary.

5. If the superintendent, after a careful examination into the condition and affairs and business of any company licensed to transact business in Canada, from the annual or other statements furnished by such company to the minister or for any other cause, deems it necessary and expedient to make a further examination into the affairs of such company and so reports to the minister, the minister may in his discretion, instruct the superintendent to visit the office of such company, to thoroughly inspect and examine into all its affairs, and to make all such further inquiries as are necessary to ascertain its condition and ability to meet its engagements, and whether it has complied with all the provisions of this Act applicable to its transactions :

Books to be open to inspection.

6. The officers or agents of such company shall cause their books to be open for the inspection of the superintendent, and shall otherwise facilitate such examination so far as it is in their power ; and for that purpose the superintendent may examine under oath the officers or agents of such company relative to its business :

Record of inspection and report.

7. A report of all companies so visited by the superintendent shall be entered in a book kept for that purpose, with notes and memoranda showing the condition of each company after such investigation ; and a special report shall be communicated in writing to the minister, stating the superintendent's opinion as to its standing and financial

position, and all other matters desirable to be made known to the minister :

8. If it appears to the superintendent that the assets of any company are insufficient to justify its continuance of business *under the requirements of sections seven, eight, nine and ten*, or that it is unsafe for the public to effect insurance with it, he shall make a special report on the affairs of such company to the minister ; and if the minister, after full consideration of the report, and after a reasonable time has been given to the company to be heard by him, and upon such further inquiry and investigation as he sees proper to make, reports to the Governor in Council that he agrees with the superintendent in the opinion so expressed in his report, the Governor in Council may, if he also concurs in such opinion, suspend or cancel the license of such company, and such company shall, during such suspension or cancellation, be held to be unlicensed :

Special report if the company appears unsafe.

Proceedings thereon.

Suspension or cancellation of license.

9. Every person who, after notification of the suspension or cancelling of such license in the *Canada Gazette*, delivers any policy of insurance, collects any premium or transacts any business of insurance, on behalf of such company, shall be liable to the penalties provided for in the *twenty-second section* of this Act :

Penalty for carrying on business in such case.

10. Once in every five years, or oftener, at the discretion of the minister, the superintendent shall himself value, or procure to be valued under his supervision, the Canadian policies of life insurance of all companies licensed under this Act to transact the business of life insurance in Canada ; and such valuation shall be based on the mortality table of the Institute of Actuaries of Great Britain, and on a rate of interest at four and one half per centum per annum, except in the case of bonus additions or profits accrued or declared before the twenty-eighth day of April, one thousand eight hundred and seventy-seven, and then valued on the basis of a rate of interest other than that above mentioned, which, in any such valuation, shall continue to be valued on such other basis :

Valuation of Canadian policies every five years.

11. The minister may, from time to time, instruct the superintendent to visit the head office of any company licensed under this Act and incorporated elsewhere than in Canada, and to examine into the general condition and affairs of such company ; and if such company declines to permit such examination, or refuses to give any information necessary for such purpose, in its possession or control, its license shall be withdrawn :

Examination of affairs of a company out of Canada.

12. Every company now licensed, and every company hereafter licensed under this Act, and every company trans-

Payments by companies towards ex-

penses of office of superintendent. acting life insurance business under the *twenty-ninth* section of this Act, shall annually contribute a sum in proportion to the gross premiums received by it in Canada during the previous year, towards defraying the expenses of the office of the superintendent,—which sum shall be paid upon the *demand of the superintendent*; and if such sum is not so paid the minister may withdraw its license :

Contribution by fire and marine companies limited. 13. The sum to be contributed annually by companies carrying on the business of fire or inland marine insurance *in respect exclusively of such business carried on by them* shall not exceed in all eight thousand dollars :

Superintendent not to be interested in any company. 14. The superintendent, or any officer or clerk under him, shall not, directly or indirectly, be interested as a shareholder in any insurance company doing business in Canada, or licensed under this Act :

Annual report for Parliament. 15. The minister shall lay the superintendent's annual report before Parliament within thirty days after the commencement of each session thereof. 38 V., c. 20, s. 23 ;—40 V., c. 42, s. 24.

Re-drafted.

PROVISIONS RELATING TO LIFE INSURANCE.

Provisions applicable to life companies. 25. The provisions of sections twenty-six to thirty-two inclusive apply only to life insurance companies and to other insurance companies carrying on life and other insurance, in so far as relates to the life insurance business of such companies.

New.

Forfeiture and Renewal of Licenses.

Withdrawal of license for non-payment of claims. 26. Whenever satisfactory proof has been furnished to the minister of any undisputed claim upon a company, arising on any policy of life insurance in Canada, remaining unpaid for the space of sixty days after becoming due, or of a disputed claim remaining unpaid after final judgment in a regular course of law and tender of a legal valid discharge made to the agent of such company, the minister may withdraw the license of such company. 40 V., c. 42, s. 14, *part*.

Renewal if claim is satisfied. 27. Such license may be renewed if within thirty days after such withdrawal such undisputed claims or final judgments upon or against the company are paid and satisfied. 40 V., c. 42, s. 14, *part*.

Renewal of license. 28. When the license of a company carrying on the business of life insurance has been withdrawn by the minister

under any of the foregoing sections of this Act, such license may be renewed if, within thirty days after such withdrawal, such company complies with the requirements of this Act to the satisfaction of the minister. 40 V., c. 42, s. 14, *part.*

Companies Ceasing to do Business and Release of Deposits.

29. In the case of any company which, previously to the twenty-eighth day of April, in the year one thousand eight hundred and seventy-seven, was licensed to transact the business of life insurance in Canada, and which ceased to transact such business before the thirty-first day of March, one thousand eight hundred and seventy-eight, having before that date given written notice to that effect to the minister, the premiums due or to become due on policies actually issued before the last mentioned date, may continue to be collected, and the claims arising thereon may be paid, and all business appertaining thereto may be transacted, and all proceedings appertaining thereto, either at law or in equity, may be continued or commenced and prosecuted; and the deposit at present in the hands of the minister shall be dealt with under the law as it existed previously to the first mentioned date, as if this Act had not been passed. 40 V., c 42, s. 17.

Provision for case of certain companies which have ceased business, after notice to minister.

How deposit shall be dealt with in such case.

30. When any company licensed under this Act desires to discontinue business and to have its assets in Canada released, and gives written notice to that effect to the minister, it may, with the consent of the policy holders, procure the transfer of its outstanding policies in Canada to some company or companies licensed under this Act in Canada, or may obtain the surrender of the policies, as far as is practicable:

Powers and proceedings of company ceasing business.

2. The trustees may employ any portion of the assets vested in them for the purpose of effecting such transfer or surrender:

Use of assets in such case.

3. The company shall file with the minister a list of all Canadian policy holders whose policies have been so transferred or have been surrendered, and also a list of those which have not been transferred or surrendered:

Lists of policy holders to be filed.

4. The company shall, at the same time, publish in the *Canada Gazette* a notice that it will apply to the minister for the release of its assets and securities on a certain day not less than three months after the date of the notice, and calling upon its Canadian policy holders opposing such release to file their opposition with the minister on or before he day so named:

Notice to be published.

Action there-
after of
minister as to
disposal of
assets or
securities.

5. After that day, upon the application for release being made, if the minister, with the concurrence of the Treasury Board, is satisfied that such transfer or surrender has been effected, he may direct that a portion of the assets held by the trustees, or securities held by the minister, shall be retained, sufficient in amount to cover the full equitable net surrender value of such policies (including bonus additions and accrued profits), as have not been transferred or surrendered, or in respect to which opposition has been filed, and may order the remaining assets or securities aforesaid to be released and transferred or paid over to the company :

Tenders to
policy holders

6. The portion retained shall be tendered in the manner hereinafter described to the aforesaid policy holders *pro ratá*, according to the aforesaid values of their respective policies ; and on the acceptance of the amount so tendered, such policies shall thereby be deemed to be cancelled : but if such tender is refused by any policy holder, the amount so tendered may be paid over to the company, and the policy shall continue in force, and such policy holder shall not be barred from any recourse he has, either in law or in equity, against the company to compel the fulfilment of its contract under such policy :

Policy holders
refusing the
tenders.

Surrender
values, how
determined.

7. The surrender values above mentioned shall be determined by the superintendent on the basis stated in the *twenty-fourth* section of this Act, and he shall collect from the company the expenses of such valuation at the rate of three cents for each policy or bonus addition, and shall pay the same to the minister before the latter shall hand over the securities :

Special
arrangements
may be made.

8. Nothing herein contained shall prevent any policy holder from making special arrangements with the company whereby his policy may be continued in force ; and, on proof being given of such arrangement, such policy may be omitted or removed from the above mentioned lists of policies, and this Act shall thereafter not apply in respect of such policy.
40 V., c. 42, s. 18.

How the tender
shall be
made.

31. The tender referred to in the next preceding section shall be made in the following manner :—

List and
notice to be
published in
*Canada
Gazette*.

(a) A list and notice in the form D in the schedule to this Act, or to the like effect, shall be published in the *Canada Gazette* for at least thirty days previously to the day named in such notice ;

And in other
papers.

(b) The company shall also cause the said list and notice to be published in such newspapers in Canada and for such length of time as the minister determines ;

(c) A notice in the form E in the schedule to this Act, or to the like effect, shall be sent by mail (postpaid or franked) from the office of the superintendent to each of the policy holders named in the said list, whose address is known to him, and such notice shall be deposited in some post office in Canada at least thirty days previously to the day named therein, which shall be the same day as that named in the list and notice above mentioned ;

Notice to be sent to each policy holder.

(d) Any policy holder who does not signify in writing to the superintendent his acceptance of the amount so tendered, on or before the day named in the said notice, shall be deemed to have refused the same ; but the minister may, at any time prior to the payment over to the company of the amount so refused, allow any policy holder to signify his acceptance of such amount,—which acceptance, so allowed, shall have the same effect as if made on or before the day named in the said notice. 40 V., c. 42, s. 19.

Policy holders not signifying acceptance deemed to have refused.

32. In computing or estimating the reserve necessary to be held in order to cover its liability to policy holders in Canada, each company may employ any of the standard tables of mortality as used by it in the construction of its tables, and any rate of interest not exceeding four and one half per centum per annum ; but if it appears to the superintendent that such reserve falls below that computed on the basis stated in the *twenty-fourth* section of this Act, he shall report the same to the minister, who may thereupon direct the superintendent to compute, or to procure to be computed under his supervision, the reserve on the basis therein mentioned, and the amount so computed, if it differs materially from the return made by the company, may be substituted in the annual statement of assets and liabilities ; and in such case the company shall furnish to the superintendent, on application, the full particulars of each of its policies necessary for such computation, and shall pay to the superintendent an amount at the rate of three cents for each policy or bonus addition so computed, which amount he shall pay over to the minister :

How reserve for covering liabilities to Canadian policy holders shall be calculated.

Minister may order re-computation.

Costs.

2. Any company instead of itself computing or estimating the reserve above mentioned, may require the same to be computed by the superintendent on the basis stated in the *twenty-fourth* section of this Act, on payment of a like amount as is mentioned in the next preceding sub-section :

Company may require computation by superintendent.

3. Provided always, that in the case of any bonus additions or other profits on the policies of any company, accrued or declared before the *twenty-eighth day of April, one thousand eight hundred and seventy-seven*, and which have been heretofore valued on the basis of a rate of interest other than that above mentioned, such company

Proviso: as to bonus addition or profits on policies.

And during ten years as to companies having heretofore computed the reserve on 5 per cent. interest.

may compute or have the same computed on such other basis: and provided also, that in the case of any company which has heretofore based its computation or estimate of its reserve necessary to cover its liability to policy holders in Canada (other than the reserve to cover the bonus additions or other profits in the last proviso mentioned) on a rate of interest of five per centum per annum, the basis of computation or estimates mentioned in the *twenty-fourth* section and in this section, shall not apply until the twenty-eighth day of April, *one thousand eight hundred and eighty-seven*, but such company may, until such date, compute such reserve, or have the same computed, at a rate of interest not exceeding five per centum per annum. 40 V., c. 42, s. 23.

PROVISIONS RELATING TO FIRE AND INLAND MARINE INSURANCE.

Provisions applicable to fire and inland marine companies.

33. The provisions of sections thirty-four to thirty-seven, inclusive, apply only to fire and inland marine insurance companies, and to other insurance companies carrying on fire and other insurance or inland marine and other insurance, in so far as relates to the fire or inland marine insurance business of such companies.

New.

Forfeiture and Renewal of Licenses.

Licenses forfeited by failure to make deposit or non-payment of claims.

34. Whenever any company fails to make the deposits under this Act at the time required, or whenever written notice has been served on the minister of any undisputed claim arising from loss insured against in Canada remaining unpaid for the space of sixty days after it becomes due, or of a disputed claim remaining unpaid after final judgment in a regular course of law and tender of a legal valid discharge, the license of such company shall *ipso facto* be null and void, and shall be deemed to be withdrawn. 38 V., c. 20, s. 15, *part*.

Renewal on certain conditions.

35. Such license may be renewed, and the company may again transact business, if, within sixty days after notice to the minister of the failure of the company to pay any undisputed claim, or the amount of any final judgment as provided in the next preceding section, undisputed claims or final judgments upon or against the company in Canada are paid and satisfied. 38 V., c. 20, s. 15, *part*.

Companies Ceasing to do Business and Release of Deposits.

Duty of company ceasing business.

36. When any company has ceased to transact business in Canada, and has given written notice to that effect to the minister, it shall insure, on behalf of its Canadian policy

holders, all its outstanding risks, in some company or companies licensed in Canada, or obtain the surrender of the policies; and its securities shall not be delivered to the company until the same is done to the satisfaction of the minister:

2. Upon making application for its securities, the company shall file with the minister a list of all Canadian policy holders who have not been so re-insured or who have not surrendered their policies; and it shall, at the same time, publish in the *Canada Gazette* a notice that it has applied to the minister for the release of its securities on a certain day, not less than three months after the date of the notice, and calling upon its Canadian policy holders opposing such release to file their opposition with the minister on or before the day so named; and after that day, if the minister, with the concurrence of the Treasury Board, is satisfied that the company has ample assets to meet its liabilities to Canadian policy holders, all the securities may be released to it by the Governor in Council, or a sufficient amount of them may be retained to cover the value of all risks outstanding or respecting which opposition has been filed, and the remainder may be released; and thereafter, from time to time, as such risks lapse, or proof is adduced that they have been satisfied, further amounts may be released on the authority aforesaid:

Conditions on which deposits may be released.

3. When a company has ceased to transact business in Canada after the notice hereby required, and its license has in consequence been withdrawn, such company may, nevertheless, pay the losses arising upon policies not re-insured or surrendered, as if such license had not been withdrawn.

Company may make payments, after license has been withdrawn, liable in certain cases..

38 V., c. 20, s. 18.

Fire Policies.

37. No fire policy shall be issued for or extend over a longer period than three years. 38 V., c. 20, s. 19.

Duration of fire policies.

INSURANCE OTHER THAN LIFE, FIRE OR INLAND MARINE.

38. No company shall issue any policy other than a life, fire or inland marine insurance policy, or receive any premium in respect thereto, or transact any business of insurance other than life, fire or inland marine insurance,—or maintain any suit, action or proceeding, either at law or in equity, or file any claim in insolvency relating to such business founded on any policy in Canada, without permission obtained from the minister, who, after report made by the Treasury Board, and approved by the Governor in Council, shall determine in each case, whether such permission shall be granted, and whether a license is proper or necessary to be issued, and

No company except those specified to transact business without permission.

whether any and what deposit shall be required to be made with the minister, *and the sections of this Act which shall apply to such company :*

Powers of the minister as respects companies receiving permission.

2. The minister may require annual statements under oath of such business, in such form and manner as he deems expedient, may revoke the permission or license granted if he sees cause therefor, and may grant to the superintendent the same powers with regard to such company as are conferred on him by this Act with regard to other insurance companies, and may require such company to contribute towards the expenses of the office of the superintendent such sum as he deems equitable :

Penalty for contravention.

3. Every company which transacts any such business without obtaining such permission or license, or after such permission or license is revoked, or which neglects or refuses to make the statements required,—and every person who delivers any policy of insurance, or collects any premium *or transacts any business of insurance* on behalf of such company, shall respectively incur the penalties mentioned in the *twenty-first* and *twenty-second* sections of this Act :

Ocean marine companies exempted.

4. This section shall not apply to companies carrying on in Canada ocean marine insurance business exclusively. 40 V., c. 42, s. 25.

SCHEDULE.

FORM A.

DETAILS OF YEARLY STATEMENT—LIFE INSURANCE.

A list of the stockholders, with the amount subscribed for, the amount paid thereon, and the residence of each stockholder.

Property or Assets held by the company, specifying Assets as per Ledger Accounts.

The value (as nearly as may be) of the real estate held by the company.

The amount secured by way of loan on real estate, whether by mortgages, bonds or any other security, distinguishing between those having first or second lien on such real estate.

The amount of loans secured by bonds or stocks or other collaterals.

The amount of loans, as above, on which interest has not been paid within one year previous to such statement, with a schedule thereof.

The amount of loans made in cash to policy holders on the company's policies assigned as collaterals.

Premium notes, loans or liens on policies in force, the reserve on each policy being in excess of all indebtedness thereon.

Par and market values of Canadian and other stocks and securities owned by the company, specifying in detail the amount, number of shares, and the par and market value of each kind.

Amount of cash at head office.

Amount of cash in banks, with details.

Bills receivable.

Agents' ledger balances.

Other Assets.

Interest due and accrued.

Rents due and accrued.

Due from other companies for losses or claims on policies of the company re-insured.

Net amount of uncollected and deferred premiums.

Commutated commissions.

All other property owned by the company, with details.

Liabilities.

Net present value of all outstanding policies in force, with mode of computation or estimation, deducting those re-insured.

Premium obligations in excess of net values of their policies.

Claims for death losses and matured endowments, and annuity claims, due and unpaid, or in process of adjustment, or adjusted but not due, or resisted.

Dividends to stockholders, and dividends of surplus or other profits to policy holders, due and unpaid.

Amount due on account of office expenses.

Amount of loans.

Amount of all other claims against the company.

Income.

Amount of cash premiums received, less re-insurance. Premium notes, loans or liens taken in part payment for premiums; and premiums paid by dividends, including re-converted additions, and by surrendered policies.

Cash received for annuities.

Amount of interest received.

Amount received for rents.

Net amount received for profits on bonds, stocks and other property actually sold.

All other income in detail.

Premium Note Account.

Premium notes, loans or liens on hand at date of last previous statement.

Additions and deductions in detail during the year.

Balance, note assets at date.

Expenditure.

Total amount actually paid for losses and matured endowments.

Cash paid to annuitants and for surrendered policies.

Premium notes, loans or liens used in purchase of surrendered policies.

The same voided by lapse.

Cash surrender values, including re-converted additions applied in payment of premiums.

Dividends paid to policy holders, or applied in payment of premiums.

Premium notes, loans or liens used in payment of dividends to policy holders.

Cash paid stockholders for interest or dividends.

Cash paid for commissions, salaries and other expenses of officials.

Cash paid for taxes, licenses, fees or fines.

All other expenditures in detail.

Exhibit of Policies.

Number and amount of policies and additions in full at the end of the previous year.

New policies and changes.

Policies terminated, and the manner of termination.

Number and amount of policies in force at date of statement.

Re-insurances. 40 V., c. 42, Sch. A.

FORM B.

DETAILS OF ANNUAL STATEMENTS—FIRE AND INLAND MARINE INSURANCE.

A list of the stockholders, with the amount subscribed for, the amount paid thereon, and the residence of each stockholder.

The Property or Assets held by the Company, specifying,—

The value (as nearly as may be) of the real estate held by such company ;

The amount of cash on hand and deposited in banks to the credit of the company—specifying in what banks the same are deposited, with amounts separately ;

The amount of cash in the hands of agents ;

The amount of loans secured by bonds and mortgages constituting either a first or second lien on real estate, in separate schedules ;

The amount of loans on which interest has not been paid within one year previous to such statement, with a schedule thereof;

The amounts due the company for which judgments have been obtained;

The amount of Canadian stocks held by the company, and of any other stocks owned by the company, specifying in detail the amount, number of shares, and par and market value of each kind of stock owned by the company absolutely;

The amount of stocks held as collateral security for loans, with the amount loaned on each kind of stock, its par and market value;

The amount of assessments on stock and premium notes, paid and unpaid;

The amount of interest actually due and unpaid; also the amount of interest accrued and unpaid;

The amount of premium notes on hand on which policies are issued, with amount paid thereon; also, bills receivable held by the company and considered good, the amounts of each class separately, and the amounts on each class overdue;

The amount of all other property belonging to the company, with a detail thereof.

The Liabilities of the Company, specifying,—

The amount of losses due and yet unpaid;

Amount of losses adjusted, but not due;

Amount of losses incurred during the year, including those claimed, not yet adjusted, and of those reported to the company upon which no action has been taken—the amounts of each class separately, carrying out the totals in one sum;

Amount of claims for losses resisted by the company, distinguishing those in suit;

Amount of dividends declared and due, and remaining unpaid;

Amount of dividends declared, but not yet due;

Amount of money borrowed, and security given for payment thereof—stating each loan separately, and the interest paid therefor ;

The amount of unearned fire premiums ;

Amount of unearned inland marine premiums ;

Amount received for marine (ocean) premiums, not marked off ;

Amount of all other claims against the company, with a detailed statement thereof ;

Aggregate amount of all unpaid losses, claims and liabilities whatsoever, except capital stock.

Income of the Company, specifying,—

Amount of cash premiums received, less re-insurance ;

Amount of notes received for premiums, less re-insurance ;

Amount of interest money received ;

Amount of income received from all other sources.

Expenditure of the Company, specifying,—

Amount paid for losses which occurred prior to the first day of January last, deducting savings and salvage, which losses were estimated in the last statement at \$;

Amount paid for losses which occurred during the year, deducting savings and salvage ;

Total amount actually paid during the year for losses in each branch, in separate columns ;

Amount and rate of dividends paid during the year ;

Amount of expenses paid during the year, including commissions and fees to agents and officers of the company ;

Amount of all other payments and expenditures, with details thereof.

Miscellaneous.

Gross amount of risks taken during the year, original and renewal, in each branch of the company's business separately—deducting amount of re-insurance effected thereon in each branch separately ;

And amount of risks in force at end of the year in each branch of the company's business, deducting re-insurance; and showing at foot, in separate columns, the net amount of risks then in force. 38 V., c. 20, s. 20.

FORM C.

Form of Declaration to accompany the Statement.

Province of
County of

President, and

Secretary of

Company being duly sworn, depose and say, and each for himself says, that they are the above described officers of the said company, and that on the day of last all the above described assets were the absolute property of the said company, free and clear from any liens or claims thereon, except as above stated, and that the foregoing statement, with the schedules and explanations hereunto annexed and by them subscribed, are a full and correct exhibit of all the liabilities, and of the income and expenditure, and of the general condition and affairs of the said company, on the said day of last, and for the year ending on that day, according to the best of their information, knowledge and belief, respectively.

Signatures.

Subscribed and sworn to before me, this day of
A.D. 18 . 38 V., c. 20, s. 20;—40 V., c. 42, s. 20.

FORM D.

In the matter of the *(here insert name of the company)*. Notice is hereby given that the Minister of Finance has, pursuant to the *thirtieth* and *thirty-first* sections of "*The Insurance Act*," directed assets to be retained, sufficient in amount to cover the full equitable net surrender value of the policies in the above company (including bonus additions and accrued profits) which have not been transferred or surrendered or in respect of which opposition has been filed as provided by the said *thirtieth* section; and the assets so retained are hereby tendered to the aforesaid policy holders *pro rata* according to the aforesaid values of their respective policies. A list of such policy holders and of the amounts tendered to them respectively is hereinunder given, and notice is hereby

given that any policy holder not signifying in writing to the Superintendent of Insurance his acceptance of the amount hereby tendered to him on or before the day of _____, A.D. 18 _____, shall be deemed to have refused the same, and the amount tendered may, pursuant to the said Act, be paid over to the company.

List of policy-holders and amounts tendered :

Name.	Address so far as known.	Amount and number of policies.	Amount tendered.
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Dated at Ottawa this _____ day of _____
A.D. 18 _____.

(Signed)

*Minister of Finance,
Canada.*

(Signed)

Superintendent of Insurance.

40 V., c 42, Sch. B.

FORM E.

OFFICE OF THE SUPERINTENDENT OF INSURANCE,
DEPARTMENT OF FINANCE,

OTTAWA,

18

In the matter of the (*here insert the name of the company.*)

You are hereby notified that the Minister of Finance has, pursuant to the *thirtieth* section of "*The Insurance Act,*" directed assets to be retained sufficient in amount to cover the full equitable net surrender value of the policies in the above company (including bonus additions and accrued profits) which have not been transferred or surrendered or in respect to which opposition has been filed as provided by the said *thirtieth* section. The assets so retained are tendered to the aforesaid policy holders *pro rata* according to the aforesaid values of their respective policies.

The amount hereby tendered to you, and the policy or policies in respect of which the same is tendered, are given below, and you are hereby notified that unless on or before the _____ day of _____ A. D., 18 _____, you signify in writing to the Superintendent of Insurance your acceptance of the amount hereby tendered, you shall be

deemed to have refused the same, and the amount tendered may, pursuant to the said Act, be paid over to the company.

Yours, &c.,
(Signed),

Superintendent of Insurance.

Name.	Number and Amount of Policy.	Amount Tendered.
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40 V., c. 42, Sch. C.

Proposed to be Consolidated.	Part Consol dated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
38 V., c. 20.....	The whole, except ss. 16, 17, and 24.	s. 24	ss. 16 and 17...	Winding-up Act.
40 V., c. 42..	The whole, except ss. 15, 16, 29 and 30.	ss. 29 and 30.....	ss. 15 and 16... "	Winding-up Act.

CHAPTER 119.

An Act respecting Loans in Canada by British companies.

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

1. Any institution or corporation duly incorporated under the laws of the Parliament of the United Kingdom, for the purpose of lending money, may, on receiving a license from the Secretary of State of Canada, authorizing it to carry on business within Canada, transact any loaning business, of any description whatsoever, within Canada, in its corporate name, except the business of banking,—and may take and hold any mortgages of real estate, and any railway, municipal, or other bonds of any kind whatsoever, on the security of which it lends its money, at any rate of interest not exceeding the rate permissible on such securities by the Acts incorporating similar companies in the several Provinces of Canada, and whether the said bonds form a charge on real estate within Canada or not,—and may also hold such mortgages in its corporate name, and may sell and transfer the same, and hold and convey the title to real estate acquired as mortgagees or chargees: Provided, that such corporation shall sell or dispose of the real estate so acquired within five years from the time when the mortgage on such real estate becomes due and payable under the terms of the instrument creating such mortgage. 37 V., c. 49, s. 1.

Certain British companies may be licensed by Secretary of State to carry on business in Canada. Their powers.

Proviso: real estate acquired to be sold within a certain time.

2. Every company which obtains such license as aforesaid shall, before commencing business, file in the office of the *Provincial* Secretary of each Province in which the company proposes to do business, a certified copy of the charter, Act of incorporation or articles of association of such company,—and also a power of attorney to the agent or manager of such company, in such Province, signed by the president or managing director and secretary thereof, and verified as to its authenticity by the oath of the principal agent or manager of such company in Canada, or by the oath of any person cognizant of the facts necessary for its verification:

Formalities to be observed by licensed corporation before commencing its business in Canada.

2. Such power of attorney shall expressly authorize such agent or manager, as far as respects business done by such agent or manager within such Province, to accept process in all suits and proceedings against such company, in such Province, for any liabilities incurred by such company therein, and shall declare that service of process on such

What power of attorney shall contain.

agent or manager for such liabilities shall be legal and binding on such company to all intents and purposes whatsoever, and shall waive all claims of error by reason of such service. 37 V., c. 49, s. 2.

Service of process in suits against such licensed corporation, and proceedings thereon.

3. After such certified copy of the charter, Act of incorporation or articles of association, and such power of attorney are filed as aforesaid, any process in any suit, action or proceeding against such company, for any liability incurred in any Province, may be served upon such manager or agent in the same manner as process is served upon the proper officer of any company incorporated in such Province; and all proceedings may be had thereupon to judgment and execution, in the same manner as in proceedings in any civil suit or action in such Province. 37 V., c. 49, s. 3.

Publication of notice of license or of having ceased to carry on business in any place.

4. Every company which obtains such license as aforesaid shall forthwith give due notice thereof in the *Canada Gazette*, and in at least one newspaper in the county, city or place where the principal manager or agent of such company transacts the business thereof, and shall continue the publication thereof for the space of one calendar month; and the like notice shall be given when such company ceases, or gives notice that it ceases, to carry on business within the Province. 37 V., c. 49, s. 4.

Evidence on which licenses shall be issued by Secretary of State.

5. The Secretary of State may, if he sees fit, issue such license as aforesaid, on being furnished with evidence of the due incorporation of the company, applying for such license, under the laws of the Parliament of the United Kingdom, —which evidence shall be a certified copy of the charter, Act of incorporation or articles of association of such company, —and on being furnished with a power of attorney from such company to the person appointed as the principal agent or manager of such company within Canada, under the seal of such company and signed by the president or managing director and secretary thereof, and verified by the oath of an attesting witness, expressly authorizing such agent or manager to apply for such license :

Fee for license.

2. The fee to be paid by such company, on the issuing of such license, shall be twenty dollars. 37 V., c. 49, s. 5.

“Or of any foreign state,” omitted in lines 4 and 5, in conformity with section one.

Corporations licensed to make returns as if incorporated under Companies' Act.

6. Every corporation or institution authorized under the provisions of *this Act* to lend and invest money in Canada, shall, by its agent or manager in Canada, make returns to the Minister of Finance and Receiver General of all the business done by it in Canada, at the same time and in the same manner as if such corporation or institution had been incorporated as a *loan company* under the provisions of “*The Companies' Act.*” 40 V., c. 43, s. 107.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
37 V., c. 49	The whole.			
40 V., c. 43	s. 107.....	.....	Remainder.....	The Compan- ies' Act.

CHAPTER 120.

An Act respecting returns by certain persons and corporations receiving moneys on deposit at interest.

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

Every person receiving savings on deposit bound to make returns, &c.

1. Every person, corporation or institution, except chartered banks, receiving money in small sums, on deposit at interest as savings, shall be bound to make such returns as to such deposits, and the investment thereof, as the Governor in Council, from time to time, requires, and to register with the Minister of Finance and Receiver General, and notify in such manner as the Governor in Council directs, the name of the institution, and that of the officer or person on whom process may be served in any suit or proceeding; and every wilful refusal or neglect to obey any such Order in Council shall be a misdemeanor. 34 V., c. 6, s. 24.

Penalty for default.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
34 V., c. 6.....	s. 24.....	.....	Remainder	Act respecting Government Savings Banks.

CHAPTER 121.

An Act respecting Interest.

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

1. Except as otherwise provided by this or by any other Act of the Parliament of Canada, any person may stipulate for, allow and exact, on any contract or agreement whatsoever, any rate of interest or discount which is agreed upon. Any person not excepted may agree for and receive any rate of interest.
C. S. C., c. 58, s. 3 ;—38 V., c. 18, s. 1.

2. Whenever interest is payable by the agreement of parties or by law, and no rate is fixed by such agreement or by law, the rate of interest shall be six per centum per annum : Six per cent. to be the rate if there is no other provision.

2. In the Province of British Columbia the jury or the court, whenever it has to decide the facts without a jury, may allow such rate of interest as is proved to be just and reasonable, and if no rate is so proved such rate not exceeding one per centum per mensem as appears just. What rate may be allowed in B.C. C. S. C., c. 58, s. 8 ;—36 V., c. 71, s. 1 ;—R. S. B. C., c. 71, s. 2.

INTEREST ON MONEYS SECURED ON MORTGAGE.

3. Whenever any principal money or interest secured by mortgage of real estate is, by the same, made payable on the sinking fund plan, or on any plan under which the payments of principal money and interest are blended, or on any plan which involves an allowance of interest on stipulated repayments, no interest whatever shall be chargeable, payable or recoverable, on any part of the principal money advanced, unless the mortgage contains a statement showing the amount of such principal money and the rate of interest chargeable thereon, calculated yearly or half-yearly, not in advance. No interest recoverable in certain cases unless the mortgage contains a certain statement. 43 V., c. 42, s. 1.

4. Whenever the rate of interest shown in such statement is less than the rate of interest which would be chargeable by virtue of any other provision, calculation or stipulation in the mortgage, no greater rate of interest shall be chargeable, payable or recoverable, on the principal money advanced, than the rate shown in such statement. No rate recoverable beyond that shown in such statement. 43 V., c. 42, s. 2.

No fine allowed on payments in arrear.

5. No fine or penalty or rate of interest shall be stipulated for, taken, reserved or exacted on any arrear of principal or interest secured by mortgage of real estate, which has the effect of increasing the charge on any such arrear beyond the rate of interest payable on principal money not in arrear; but nothing in this section contained shall have the effect of prohibiting a contract for the payment of interest on arrears of interest or principal at any rate not greater than the rate payable on principal money not in arrear. 43 V., c. 42, s. 3.

Proviso; as to interest on arrears of interest.

Overcharge may be recovered back.

6. If any sum is paid on account of any interest, fine or penalty not chargeable, payable or recoverable under the *three* sections next preceding, such sums may be recovered back, or deducted from any other interest, fine or penalty chargeable, payable or recoverable on the principal. 43 V., c. 42, s. 4.

No further interest payable after five years on certain conditions.

7. Whenever any principal money or interest secured by mortgage of real estate is not, under the terms of the mortgage, payable till a time more than five years after the date of the mortgage, then, if at any time after the expiration of such five years, any person liable to pay or entitled to redeem the mortgage tenders or pays to the person entitled to receive the money the amount due for principal money and interest to the time of payment, as calculated under the *four* sections next preceding, together with three months' further interest in lieu of notice, no further interest shall be chargeable, payable or recoverable at any time thereafter on the principal money or interest due under the mortgage. 43 V., c. 42, s. 5.

Application of five sections next preceding.

8. The provisions of the *five* sections next preceding shall only apply to moneys secured by mortgage on real estate executed after the first day of July, in the year one thousand eight hundred and eighty. 43 V., c. 42, s. 6.

ONTARIO AND QUEBEC.

Ontario and Quebec.

9. The two sections next following apply to the Provinces of Ontario and Quebec.

No higher rate than six per cent. to be taken by any corporation.

10. Except as otherwise provided by this or any other Act or law, no corporation or company or association of persons, not being a bank authorized by law before the sixteenth day of August, one thousand eight hundred and fifty-eight, to lend or borrow money, shall, upon any contract, take directly or indirectly, for loan of any moneys, wares, merchandise or other commodities whatsoever, above the value of six dollars for the advance or forbearance of one hundred dollars for a year, and so after that rate for a greater or less sum or value, or for a longer or shorter time :

2. Provided that any insurance company, incorporated by Act of the legislature of the late Province of Canada, or of either of the late Provinces of Upper or of Lower Canada, or by charter from Her Majesty, or by an Act of the Parliament of the United Kingdom, and any corporation constituted for religious, charitable or educational purposes, in the Provinces of Ontario or Quebec, authorized by law to lend or borrow money, may stipulate for, allow and exact, on any contract or agreement whatsoever, any rate of interest or discount which is agreed upon, not exceeding eight per centum per annum. C. S. C., c. 58, ss. 6 and 9, *part*;—C. S. U. C., c. 43, s. 4, *part*;—23 V. (Can.), c. 34;—36 V., c. 70.

Proviso; as to certain insurance companies.

11. All bonds, bills, promissory notes, contracts and assurances whatsoever made or executed in violation of the provisions of the section next preceding, whereupon or whereby a greater interest is reserved and taken than authorized by this or any other Act or law, shall be void; and every corporation, company and association of persons, not being a bank, authorized to lend or borrow money as aforesaid, which, directly or indirectly, takes accepts and receives a higher rate of interest, shall incur a penalty equal to treble the value of the moneys, wares, merchandise, or other commodities lent or bargained for:

Contracts void if foregoing provisions are violated.

Penalty.

2. Such penalty may be recovered by action in any court of competent jurisdiction, and one moiety thereof shall belong to Her Majesty for the public uses of Canada, and the other moiety to the person who sues for the same. C. S. C., c. 58, s. 9, *part*;—C. S. U. C., c. 43, s. 4, *part*.

Recovery and application of penalty.

NOVA SCOTIA.

12. The *five* sections next following apply to the Province of Nova Scotia, but shall not extend to any hypothecation or agreement in writing entered into for money advanced upon the bottom of a ship or vessel, her cargo or freight. R. S. N. S. (2nd S.), c. 82, s. 3;—36 V., c. 71, s. 4.

Nova Scotia.

13. Any person may stipulate and agree in writing for any rate of interest not exceeding seven per centum per annum, for the loan or forbearance of money to be secured on real estate or chattels real; and any person may stipulate in writing for or may receive in advance any rate of interest not exceeding ten per centum per annum, whenever the security for the payment of the money consists only of personal property or the personal responsibility of the person to whom forbearance is given, or of others. 36 V., c. 71, s. 2.

Seven per cent. may be stipulated for.

And ten per cent. in certain cases.

14. In any action brought on any contract whatsoever, in which there is, directly or indirectly, taken or reserved a rate of interest exceeding that authorized in the next pre-

Excessive interest to be deducted.

ceding section, the defendant may, the same being duly pleaded, as in other cases, prove such excessive interest, and it shall be deducted from the amount due on such contract. 36 V., c. 71, s. 3.

As to contracts entered into previous to 23rd May, 1873.

Penalty.

Limitation of time.

15. No person shall, upon any contract or security, made or entered into, given or taken before the twenty-third day of May, one thousand eight hundred and seventy-three, take, directly or indirectly, for the loan of moneys or goods, above the rate of six per centum per annum, and every such contract and security whereby a greater rate of interest is reserved shall be void; and every person who takes or receives, upon any such contract or security, a greater rate, shall incur a penalty equal to treble the value of the moneys or goods in such contract or security contracted for or secured; but no prosecution for any such penalty shall be commenced except within twelve months from the commission of the offence. R. S. N. S. (2nd S.), c. 82, ss. 1 and 6;— 36 V., c. 71, s. 6.

Banks exempted.

16. Nothing in the *three* sections next preceding shall apply to any chartered bank. 36 V., c. 71, s. 7.

As to contracts respecting grain and live stock.

17. Any person may contract for the loan or hire of grain or live stock, upon halves or otherwise, upon the lender taking upon himself all risk of such stock; but if it appears that the same, or any part thereof, perished or was lost through the wilful neglect of the borrower, he shall make good to the lender the full value thereof. R. S. N. S. (2nd S.), c. 82, s. 2.

NEW BRUNSWICK.

New Brunswick.

18. The *five* sections next following apply to the Province of New Brunswick with respect to,—

(a) Banks which are not subject to "*The Bank Act*;"

(b) Other incorporated companies, but subject to any special provision in any other Act; and—

(c) Contracts made between the thirteenth day of April in the year one thousand eight hundred and fifty-nine, and the eighth day of April, in the year one thousand eight hundred and seventy-five. 38 V., c. 18, ss. 2 and 3.

Not more than six per cent. to be taken.

19. No person shall, directly or indirectly, receive on any contract for the loan of any money or goods, more than six dollars for the forbearance of one hundred dollars for one year, and after that rate for a greater or lesser sum, and a longer or shorter time. 22 V. (N.B.), c. 21, s. 2, *part*.

20. No deed or contract for payment of any money loaned, or for the forbearance of any thing undertaken, upon or by which more than such rate of interest is reserved or received, shall be void by reason thereof. 22 V. (N.B.), c. 21, s. 2, *part*. Contracts not void.

21. In any action brought on any contract whatsoever, in which there is, directly or indirectly, taken or reserved a rate of interest exceeding six per centum per annum, the defendant, or his attorney, may, under the general issue, with notice of defence as in other cases, prove such excessive interest, and it shall be deducted from the amount due on such contract. 22 V. (N.B.), c. 21, s. 3. Excessive interest to be deducted.

22. Every bank not subject to the "Bank Act" which, upon any such deed or contract, receives or reserves, by means of any loan, bargain, exchange or transfer of any money or goods, or by any deceitful means, for the forbearing or giving day of payment beyond a year, of its money or goods, more than six dollars for one hundred dollars for one year, and after that rate for a greater or lesser sum and longer or shorter time, shall incur a penalty equal to the value of the principal sum or goods so loaned, bargained, exchanged or transferred, and all interest and other profits accruing therefrom; and such penalty may be recovered by action in any court of record in the county in which the offence was committed,—which action shall be brought within twelve months from the time of such offence and not afterwards; and one moiety of such penalty shall belong to Her Majesty for the public uses of Canada, and the other moiety to the person who sues for the same. 22 V. (N.B.), c. 21, s. 4. Penalty if bank takes more than lawful rate. Recovery and application.

23. Nothing in the *four* sections next preceding shall apply to bottomry bonds or contracts on the bottom of any vessel, damages on protested bills allowed by law, penalties incurred for the non-fulfilment of any contract, if such penalties are mutually binding, and contracts for the loan or hire of any grain, cattle, or live stock, let out as the parties agree, if the lender takes the risk of casualties upon himself, in which case the borrower shall not avail himself of any loss suffered through his wilful neglect, or any voluntary damage which is committed by him. 22 V. (N.B.), c. 21, s. 6. Certain matters excepted.

PRINCE EDWARD ISLAND.

24. The following provisions apply to the Province of Prince Edward Island. Prince Edward Island

25. No person shall recover, in any court, more than six per centum per annum interest on any account, contract or agreement, unless it appears to the court that a higher What rate of interest may be recovered.

rate of interest was agreed to in writing between the parties.
31 V. (P.E.I.), c. 8, s. 2.

Certain rights
and liabilities
not affected.

26. Nothing herein shall prejudice or affect the rights or remedies of any person, or diminish or alter the liabilities of any person, in respect of any act done previously to the fifteenth day of April, in the year one thousand eight hundred and seventy, and if interest was payable at that date upon any contract, express or implied, for the payment of the legal or current rate of interest or upon any debt or sum of money by any rule of law, the same shall be recoverable as if the provisions of the next preceding section had not been enacted. 31 V. (P.E.I.), c. 8, ss. 3 and 4.

Proposed to be Consolidated	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
C.S.C., c. 58.....	ss. 3, 6, 8 and 9.....	ss. 1, 2, 4, 5 and 7.		
C.S.U.C. c. 43..	s. 4.			
R. S. N. S. (2nd S.), c. 82.	ss. 1, 2, 3 and 6.....	ss. 4 and 5.		
22 V. (N.B.), c. 21.	ss. 2, 3, 4 and 6.....	ss. 1 and 5.		
R.S.B.C., c. 71...	s. 2.....	ss. 1 and 3.		
23 V. (Can.), c. 34.	The whole.			
31 V. (P.E.I.), c. 8.	ss. 2, 3 and 4	ss. 1 and 5.		
36 V., c. 70.....	The whole.			
36 V., c. 71.....	The whole, except s. 5.	s. 5.		
38 V., c. 18.....	The whole, except s. 4.	s. 4.		
43 V., c. 42.....	The whole.			

CHAPTER 122.

An Act respecting Pawnbrokers.

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 " pawnbroker " means any person who lawfully exercises the trade of receiving or taking, by way of pawn, pledge or exchange, any goods for the repayment of money lent thereon. C. S. C., c. 61, s. 6 ;—1 R. S. N. B., c. 17, s. 3, *part.*

Interpretation.
" Pawnbroker."

2. Every pawnbroker may take the following rates above the principal sum advanced, before he is obliged to re-deliver the goods pawned, that is to say, for every pledge upon which there has been lent not exceeding fifty cents, the sum of five sixths of one cent for any time not exceeding one month, and the same for every month afterwards, including the current month in which the pledge is redeemed, although such month has not expired ; and so on progressively and in the same proportion for every sum of fifty cents up to twenty dollars. C. S. C., c. 61, s. 10 ;—1 R. S. N. B., c. 17, s. 4, *part.*

Rates which may be taken.

3. When the sum lent exceeds twenty dollars, the pawnbroker may take upon all beyond that amount after the rate of five cents for every four dollars by the month, and so on in proportion for any fractional sum. C. S. C., c. 61, s. 11 ;—1 R. S. N. B., c. 17, s. 4, *part.*

When sum lent exceeds \$20.

4. Such sums respectively shall be in lieu of and taken as a full satisfaction for all interest due and charges for warehouse room. C. S. C., c. 61, s. 12 ;—1 R. S. N. B., c. 17, s. 4, *part.*

Rates to cover warehouse room.

5. The person entitled to and applying for the redemption of goods pawned, within fourteen days from the end of the first month after the same were pledged, may redeem such goods upon paying the rate or profit payable for one month and a-half ; but if redeemed after the expiration of the first fourteen days, and before the end of the second month, the pawnbroker may take a rate or profit of the whole second month ; and the like regulation and restriction shall take place in every subsequent month wherein application is made for redeeming goods pawned. C. S. C., c. 61, s. 13.

Time when and terms on which pledges may be redeemed.

Fractions.

6. Whenever the lowest fraction of the sum to be received by any pawnbroker from persons offering to redeem goods is less than five sixths of one cent, the pawnbroker may receive five sixths of one cent for the said fraction from the person redeeming the goods. C. S. C., c. 61, s. 14.

Forging pawnbroker's notes.

7. Every person who counterfeits, forges or alters any note or memorandum given by a pawnbroker for goods pledged, or causes or procures the same to be done, or utters, vends or sells such note or memorandum, knowing the same to be counterfeited, forged or altered, with intent to defraud any person, shall be liable, on summary conviction, to imprisonment for any term not exceeding three months. C. S. C., c. 61, ss. 24 and 25, *part.*

Offender may be arrested.

8. If any note or memorandum aforesaid is uttered, shown or offered to any person, and such person has reason to suspect that the same has been forged, he may seize the person offering the same, and deliver him to a peace officer or constable, who shall convey him before a justice of the peace to be dealt with according to law. C. S. C., c. 61, s. 25, *part.*

Not giving a satisfactory account of goods offered to be pawned, &c.

9. If any person offers to any pawnbroker, by way of pawn or pledge, or of exchange or sale, any goods, and is not able or refuses to give a satisfactory account of himself, or of the means whereby he became possessed of the goods, or wilfully gives any false information to the pawnbroker or his servant, as to whether such goods are his own property or not, or as to his name and place of abode, or as to the owner of the goods,—or if there is any other reason to suspect that such goods have been stolen or otherwise illegally or clandestinely obtained,—or if any person not entitled, or not having any color of title by law to redeem goods that have been pawned, attempts to redeem them, the person to whom the goods first above mentioned are offered to be pawned, or to whom the offer to redeem the goods in pawn is made, may seize and detain the person offering to pawn, and the goods offered to be pawned, or the person offering to redeem, as aforesaid, and shall convey such person and the goods offered to be pawned, or the person offering to redeem, and immediately deliver the person so offering to pawn and the goods offered to be pawned, or the person so offering to redeem, into the custody of a peace officer or constable, who shall, as soon as possible, convey such person and goods, or such person, as the case may be, before a justice of the peace of the district or county. C. S. C., c. 61, s. 26.

Offender may be arrested.

If a justice suspects that goods have been stolen,

10. If such justice of the peace, upon examination and inquiry, has cause to suspect that such goods have been stolen or illegally or clandestinely obtained, or that the

person offering to redeem them has not any pretence or color of right so to do, he shall commit the offender into safe custody for such reasonable time as is necessary for obtaining proper information, in order to be further examined, and if upon either examination it appears to the satisfaction of the justice that such goods were stolen or illegally or clandestinely obtained, or that the person offering to redeem them had not any pretence or color of right so to do, he shall, unless the offence authorizes such commitment by any other law, commit the offender to the common gaol of the district or county where the offence was committed, for any term not exceeding three months. C. S. C., c. 61, s. 27. &c., he may commit the offender.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
C. S. C., c. 61 ..	ss. 6, 10 to 14, and 24 to 27, all inclusive.	.....	Remainder is Provincial.	
1 R. S. N. B., c. 17.	s. 3 (part) and s. 4.	.....	Remainder is Provincial.	

CHAPTER 123.

An Act respecting Insolvent Banks, Insurance Companies, Loan Companies, Building Societies, and Trading Corporations.

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

SHORT TITLE.

Short title. **1.** This Act may be cited as "*The Winding Up Act.*"
New.

INTERPRETATION.

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

"Company." (a) The expression "company" includes any corporation subject to the provisions of this Act ;

"Insurance company." (b) The expression "insurance company" means a company carrying on, either as a mutual or a stock company, the business of insurance, whether life, fire, marine, ocean or inland marine, accident, guarantee or otherwise ;

"Trading company." (c) The expression "trading company" means any company, except a railway or telegraph company, carrying on business similar to that carried on by apothecaries, auctioneers, bankers, brokers, brickmakers, builders, carpenters, carriers, cattle or sheep salesmen, coach proprietors, dyers, fullers, keepers of inns, taverns, hotels, saloons or coffee houses, lime burners, livery stable keepers, market gardeners, millers, miners, packers, printers, quarrymen, share-brokers, shipowners, shipwrights, stock-brokers, stock-jobbers, victuallers, warehousemen, wharfingers, persons using the trade of merchandise by way of bargaining, exchange, bartering, commission, consignment or otherwise, in gross or by retail, or by persons who, either for themselves, or as agents or factors for others, seek their living by buying and selling or buying and letting for hire goods or commodities, or by the manufacture, workmanship or the conversion of goods or commodities or trees ;

"Court." (d) The expression "court" means, in the Province of Ontario, the High Court of Justice for Ontario ; in the Province of Quebec, the Superior Court for Lower Canada ; in the Province of Nova Scotia, the Supreme Court ; in the Pro-

vince of New Brunswick, the Supreme Court ; in the Province of Prince Edward Island, the Supreme Court ; in the Province of British Columbia, the Supreme Court ; in the Province of Manitoba, Her Majesty's Court of Queen's Bench for Manitoba ; and in the North-West Territories and the District of Keewatin, such court or magistrate or other judicial authority as is designated, from time to time, by proclamation of the Governor in Council, published in the *Canada Gazette* ;

(e) The expression "Official Gazette" means the *Canada Gazette* and the Gazette published under the authority of the Government of the Province, where the proceedings for the winding up of the business of the company are carried on, or used as the official means of communication between the Lieutenant Governor and the people, and if no such Gazette is published, then it means any newspaper published in the Province, which is designated by the court for publishing the notices required by this Act ;

(f) The expression "contributory" means a person liable to contribute to the assets of a company under this Act ; it also, in all proceedings for determining the persons who are to be deemed contributories and in all proceedings prior to the final determination of such persons, includes any person alleged to be a *contributory* ;

(g) The expression "winding-up order" means an order granted by the court under this Act to wind up the business of the company, and includes any order granted by the court to bring within the provisions of this Act any company in liquidation or in process of being wound up. 45 V., c. 23, ss. 3, 4, 5, 6, 8 and 13, *part*.

APPLICATION OF ACT.

3. This Act applies to incorporated banks, savings banks, incorporated insurance companies, loan companies having borrowing powers, building societies having a capital stock, and incorporated trading companies, doing business in Canada, wheresoever incorporated, and—

(a) Which are insolvent ; or—

(b) Which are in liquidation or in process of being wound up, and on petition by any of their shareholders or creditors, assignees or liquidators, ask to be brought under the provisions of this Act :

2. This Act does not apply to railway or telegraph companies or to building societies which have not a capital stock. 47 V., c. 39, s. 1.

Application
of certain

4. The provisions of sections *eight to ninety-six*, inclusive, are, in the case of a bank other than a savings bank, subject to the provisions contained in sections *ninety-seven to one hundred and four*, inclusive; and, in the case of an insurance company, the provisions of sections *eight to ninety-six*, inclusive, are subject to the provisions contained in sections *one hundred and five to one hundred and twenty-three*, inclusive. 45 V., c. 23, s. 2.

WHEN COMPANY DEEMED INSOLVENT.

When a com-
pany shall be
deemed in-
solvent.

5. A company is deemed insolvent—

- (a) If it is unable to pay its debts as they become due;
- (b) If it calls a meeting of its creditors for the purpose of compounding with them;
- (c) If it exhibits a statement showing its inability to meet its liabilities;
- (d) If it has otherwise acknowledged its insolvency;
- (e) If it assigns, removes or disposes of, or attempts or is about to assign, remove or dispose of, any of its property, with intent to defraud, defeat or delay its creditors, or any of them;
- (f) If, with such intent, it has procured its money, goods, chattels, lands or property to be seized, levied on or taken, under or by any process or execution;
- (g) If it has made any general conveyance or assignment of its property for the benefit of its creditors, or if, being unable to meet its liabilities in full, it makes any sale or conveyance of the whole or the main part of its stock in trade or assets, without the consent of its creditors, or without satisfying their claims;
- (h) If it permits any execution issued against it, under which any of its goods, chattels, land or property are seized, levied upon or taken in execution, to remain unsatisfied till within four days of the time fixed by the sheriff or proper officer for the sale thereof, or for fifteen days after such seizure. 45 V., c. 23, s. 9.

When a com-
pany shall be
deemed un-
able to pay its
debts.

6. A company is deemed to be unable to pay its debts as they become due, whenever a creditor, to whom the company is indebted in a sum exceeding two hundred dollars then due, has served on the company, in the manner in which process may legally be served on it in the place where service is made, a demand in writing, requiring the

company to pay the sum so due, and the company has, for ninety days, in the case of a bank, and for sixty days in all other cases, next succeeding the service of the demand, neglected to pay such sum, or to secure or compound for the same to the satisfaction of the creditor. 45 V., c. 23, ss. 10 and 11.

PROCEEDINGS FOR WINDING-UP ORDER.

7. The winding up of the business of a company shall be deemed to commence at the time of the service of the notice of presentation of the petition for winding up. 45 V., c. 23, s. 12.

When winding-up commences.

8. When a company becomes insolvent, a creditor for the sum of at least two hundred dollars may, after four days' notice of the application to the company, apply by petition to the court in the Province where the head office of the company is situated, or if there is no head office in Canada, then in the Province where its chief place or one of its chief places of business is situated, for a winding-up order. 45 V., c. 23, s. 13, *part*.

Application to court for winding-up order.

9. The court may make the order applied for, may dismiss the petition with or without costs, may adjourn the hearing conditionally or unconditionally, or may make any interim or other order that it deems just. 45 V., c. 23, s. 14.

Power of court on the application.

10. If the company opposes the application, on the ground that it has not become insolvent within the meaning of this Act, or that its suspension or default was only temporary, and was not caused by any deficiency in its assets, and shows reasonable cause for believing that such opposition is well founded, the court, in its discretion, may, from time to time, adjourn the proceedings upon such application for a time not exceeding six months from the date of the application; and may order an accountant, or other person, to inquire into the affairs of the company, and to report thereon within a period not exceeding thirty days from the date of such order. 45 V., c. 23, s. 15.

If company opposes application.

Court may adjourn the proceedings and order inquiry.

11. Upon the service on the company of an order made under the next preceding section, for an inquiry into the affairs of the company, the president, directors, officers and employees of the company and every other person shall respectively exhibit to the accountant or other person named for the purpose of making such inquiry, the books of account of the company and all inventories, papers and vouchers referring to the business of the company or of any person therewith, which are in his or their possession, custody or control, respectively; and they shall also respectively give all such information as is required by such accountant

Duty of company and its officers if inquiry is ordered.

Punishment for refusal to give information.

or other person as aforesaid, in order to form a just estimate of the affairs of the company; and any refusal on the part of the president, directors, officers or employees of the company to give such information, shall be a contempt of the court, and shall be punishable by fine or imprisonment, or by both, in the discretion of the court. 45 V., c. 23, s. 16.

Re-drafted.

Power of the court after report on inquiry.

12. Upon receiving the report of the *accountant* or person ordered to inquire into the affairs of the company, and after hearing such shareholders or creditors of the company as desire to be heard thereon, the court may either refuse the application or make the winding-up order. 45 V., c. 23, s. 17.

Actions against company may be restrained.

13. The court may, upon the application of the company, or of any creditor or contributory, at any time after the presentation of a petition for a winding-up order and before making the order, restrain further proceedings in any action, suit or proceeding against the company, upon such terms as the court thinks fit. 45 V., c. 23, s. 18.

As to companies in liquidation on 17th May, 1882.

14. Any shareholder, creditor, assignee, receiver or liquidator of any company which was in liquidation or in process of being wound up on the seventeenth day of May, one thousand eight hundred and eighty-two, may apply, by petition, to the court, asking that the company may be brought within and under the provisions of this Act, and the court may make such order, and the winding up of such company shall thereafter be carried on under this Act:

Liquidator in such case.

2. The court, in making such order, may direct that the assignee, receiver or liquidator of such company, if one has been appointed, shall become the liquidator of the company under this Act, or may appoint some other person to be liquidator of the company. 47 V., c. 39, ss. 2 and 3.

Re-drafted.

PROCEEDINGS AFTER WINDING-UP ORDER IS MADE.

Company to cease business.

15. The company, from the time of the making of the winding-up order, shall cease to carry on its business, except in so far as is, in the opinion of the liquidator, required for the beneficial winding up thereof:

Transfer of shares void.

2. All transfers of shares, except transfers made to or with the sanction of the liquidators, under the authority of the court, and every alteration in the status of the members of the company, after the commencement of such winding up, shall be void; but the corporate state and all the corporate powers of the company, notwithstanding it is otherwise provided by the Act, charter or instrument of incor-

Corporate state continued.

poration, shall continue until the affairs of the company are wound up. 45 V., c. 23, s. 19.

16. When the winding-up order is made, no suit, action or other proceeding shall be proceeded with or commenced against the company, except with the leave of the court and subject to such terms as the court imposes. 45 V., c. 23, s. 20. After winding up order, actions against company stayed.

17. Every attachment, sequestration, distress or execution put in force against the estate or effects of the company after the making of the winding-up order shall be void. 45 V., c. 23, s. 21. Executions, &c., against company void.

18. The court may, upon the application of any creditor or contributory, at any time after the winding-up order is made, and upon proof, to the satisfaction of the court, that all proceedings in relation to the winding-up ought to be stayed, make an order staying the same, either altogether or for a limited time, on such terms and subject to such conditions as it deems fit. 45 V., c. 23, s. 22. Court may stay winding up proceedings.

19. The court may, as to it seems just, as to all matters relating to the winding-up, have regard to the wishes of the creditors, contributories, shareholders or members, as proved to it by any sufficient evidence, and may, if it thinks it expedient, direct meetings of the creditors, contributories, shareholders or members to be summoned, held and conducted in such manner as the court directs, for the purpose of ascertaining their wishes, and may appoint a person to act as chairman of any such meeting, and to report the result of such meeting to the court: Wishes of creditors, &c., how ascertained.

2. In the case of creditors, regard shall be had to the amount of the debt due to each creditor, and in the case of shareholders or members, to the number of votes conferred on each shareholder or member by law or by the regulations of the company; and the court may prescribe the mode of preliminary proof of creditors' claims for the purpose of the meeting. 45 V., c. 23, s. 23. As to amount of claim and number of votes on shares. Court may require proof.

LIQUIDATORS.

20. The court, in making the winding-up order, may appoint a liquidator or more than one liquidator of the estate and effects of the company; but no such liquidator shall be appointed unless a previous notice is given to the creditors, contributories, shareholders or members, in the manner and form prescribed by the court. 45 V., c. 23, s. 24;—47 V., c. 39, s. 4. Liquidator to be appointed.

“May” substituted for “must,” in line 1

- An incorporated company may be appointed liquidator. **21.** An incorporated company may be appointed liquidator to the goods and effects of a company under this Act; and if an incorporated company is so appointed, it may act through one or more of its principal officers designated by the court. 45 V., c. 23, s. 25.
- Additional liquidators. **22.** The court may, if it thinks fit, after the appointment of one or more liquidators, appoint additional liquidators. 45 V., c. 23, s. 26.
- Quorum. **23.** If more than one liquidator is appointed, the court may declare whether any act to be done by a liquidator is to be done by all or any one or more of the liquidators. 45 V., c. 23, s. 27.
- Security. **24.** The court may also determine what security shall be given by a liquidator on his appointment. 45 V., c. 23, s. 28.
- If no liquidator. **25.** If at any time there is no liquidator, all the property of the company shall be deemed to be in the custody of the court. 45 V., c. 23, s. 29.
- Provisional liquidator. **26.** The court may, at any time after the presentation of the petition and before the first appointment of a liquidator, appoint provisionally a liquidator of the estate and effects of the company. 45 V., c. 23, s. 30.
- Resignation or removal of liquidator. **27.** A liquidator may resign or may be removed by the court on due cause shown, and every vacancy in the office of liquidator shall be filled by the court. 45 V., c. 23, s. 31.
- Remuneration of liquidator. **28.** The liquidator shall be paid such salary or remuneration, by way of percentage or otherwise, as the court directs, upon such notice to the creditors, contributories, shareholders or members, as the court orders; and if there is more than one liquidator, the remuneration shall be distributed amongst them in such proportions as the court directs. 45 V., c. 23, s. 32.
- Description of liquidator. **29.** In all proceedings connected with the company a liquidator shall be described as the "liquidator of the (*name of company*)," and not by his individual name only. 45 V., c. 23, s. 33.
- Duties of liquidator after appointment. **30.** The liquidator, upon his appointment, shall take into his custody or under his control, all the property, effects and choses in action to which the company is or *appears to be* entitled; and he shall perform such duties in reference to winding up the business of the company as are imposed by the court or by this Act. 45 V., c. 23, s. 34.
- Powers of liquidators. **31.** The liquidator may, with the approval of the court, and upon such previous notice to the creditors, contributories, shareholders or members, as the court orders—

(a) Bring or defend any action, suit or prosecution or other legal proceeding, civil or criminal, in his own name as liquidator or in the name or on behalf of the company, as the case may be; Suits.

(b) Carry on the business of the company as far as is necessary to the beneficial winding up of the same; Business of company.

(c) Sell the real and personal and heritable and movable property, effects and choses in action of the company, by public auction or private contract, and transfer the whole thereof to any person or company, or sell the same in parcels; Sale of property.

(d) Do all acts, and execute, in the name and on behalf of the company, all deeds, receipts and other documents, and for that purpose use, when necessary, the seal of the company; General acts.

(e) Prove, rank, claim and draw dividends in the matter of the bankruptcy, insolvency or sequestration of any contributory, for any balance against the estate of such contributory, and take and receive dividends in respect of such balance in the matter of the bankruptcy, *insolvency* or sequestration as a separate debt due from such bankrupt or insolvent and ratably with the other separate creditors; Proving in bankruptcy, &c.

(f) Draw, accept, make and indorse any bill of exchange or promissory note in the name and on behalf of the company; raise upon the security of the assets of the company, from time to time, any requisite sum or sums of money; and the drawing, accepting, making or indorsing of every such bill of exchange or promissory note, as aforesaid, on behalf of the company, shall have the same effect, with respect to the liability of such company, as if such bill or note had been drawn, accepted, made or indorsed by or on behalf of such company in the course of the carrying on of its business; Drawing or indorsing bills, &c., and raising funds.

(g) Do and execute all such other things as are necessary for winding up the affairs of the company and distributing its assets. 45 V., c. 23, s. 35. General powers.

32. The liquidator may, with the approval of the court, appoint a solicitor or law agent to assist him in the performance of his duties. 45 V., c. 23, s. 36. When solicitor may be appointed.

33. The liquidator may, with the approval of the court, compromise all calls and liabilities to calls, debts and liabilities capable of resulting in debts, and all claims, whether present or future, certain or contingent, ascertained or sounding only in damages, subsisting or supposed to subsist Debts, &c., due to the company may be compromised.

between the company and any contributory or other debtor or person apprehending liability to the company, and all questions in any way relating to or affecting the assets of the company or the winding up of the company upon the receipt of such sums, payable at such times, and generally upon such terms, as are agreed upon; and may take any security for the discharge of such debts or liabilities, and give a complete discharge in respect of all or any such calls, debts or liabilities. 45 V., c. 23, s. 37.

Powers of directors to cease.

34. Upon the appointment of the liquidator, all the powers of the directors shall cease, except in so far as the court or the liquidator sanctions the continuance of such powers. 45 V., c. 23, s. 38.

Moneys to be deposited in bank.

35. The liquidator shall deposit at interest in some chartered bank or post office savings bank or other Government savings bank designated by the court, all sums of money which he has in his hands belonging to the company, whenever and so often as such sums amount to one hundred dollars. 45 V., c. 23, s. 39.

A separate deposit account to be kept.

36. Such deposits shall not be made in the name of the liquidator *individually*, on pain of dismissal; but a separate account shall be kept for the company of the moneys belonging to the company in the name of the liquidator as such liquidator. 45 V., c. 23, s. 40.

Bank book to be produced at meeting.

37. At every meeting of the contributories, creditors, shareholders or members, the liquidator shall produce a bank pass book, showing the amount of the deposits made for the company, the dates at which such deposits were made, the amount withdrawn and dates of such withdrawal—of which production mention shall be made in the minutes of such meeting; and the absence of such mention shall be *prima facie* evidence that such pass book was not produced at the meeting. 45 V., c. 23, s. 41.

And on order of court.

38. The liquidator shall also produce such pass book whenever ordered so to do by the court, and on his refusal so to do, he may be treated as being in contempt of court. 45 V., c. 23, s. 42.

Liquidator subject to summary jurisdiction of court.

Remedies against estate obtained by summary order and not by suit, &c.

39. The liquidator shall be subject to the summary jurisdiction of the court in the same manner and to the same extent as the ordinary officers of the court are subject to its jurisdiction; and the performance of his duties may be compelled, and all remedies sought or demanded for enforcing any claim for a debt, privilege, mortgage, lien or right of property upon, in or to any effects or property in the hands, possession or custody of a liquidator, may be obtained by an order of the court on summary petition, and not by any action,

suit, attachment, seizure or other proceeding of any kind whatsoever; and obedience by the liquidator to such order may be enforced by the court under the penalty of imprisonment, as for contempt of court or disobedience thereto; and he may be removed, in the discretion of the court. 45 V., c. 23, s. 43.

40. The liquidator shall, within three days after the date of the final winding up of the business of the company, deposit in the bank appointed or designated as hereinbefore provided, any other money belonging to the estate then in his hands not required for any other purpose authorized by this Act, with a sworn statement and account of such money, and that the same is all that he has in his hands; and he shall incur a penalty not exceeding ten dollars, and not less than ten per cent. per annum interest upon the sums in his hands for every day on which he neglects or delays such payment; and he shall be deemed to be a debtor to Her Majesty for such money, and may be compelled as such to account for and pay over the same. 45 V., c. 23, s. 44.

Balance on hand by liquidator after final winding up to be deposited.

Penalty for neglect.

41. The money so deposited shall be left for three years in the bank, subject to be claimed by those entitled thereto, and shall be then paid over, with the interest, to the Minister of Finance and Receiver General, and if afterwards claimed, shall be paid to the person entitled thereto. 45 V., c. 23, s. 45.

If not claimed to be paid to Receiver General.

CONTRIBUTORIES.

42. As soon as may be after the commencement of the winding up of a company *under this Act*, the court shall settle a list of contributories. 45 V., c. 23, s. 46.

List of contributories.

43. In the list of contributories, persons who are contributories in their own right shall be distinguished from persons who are contributories as representatives of or liable for the debts of others; and it shall not be necessary, where the personal representative of any deceased contributory is placed on the list, to add the heirs or devisees of such contributory, but such heirs or devisees may be added as and when the court thinks fit. 45 V., c. 23, s. 47.

List of contributories must distinguish between those in their own right and those in a representative capacity.

44. Every shareholder or member of the company or his representative, shall be liable to contribute the amount unpaid on his shares of the capital, or on his liability to the company, or to its members or creditors, as the case may be, under the Act, charter or instrument of incorporation of the company, or otherwise; and the amount which he is liable to contribute shall be deemed an asset of the company, and a debt due to the company, payable as directed or appointed under this Act. 45 V., c. 23, s. 48.

Liability of shareholders or their representatives.

Liability after transfer of shares, &c.

45. If a shareholder has transferred his shares under circumstances which do not, by law, free him from liability in respect thereof, or if he is by law liable to the company or its members or creditors, as the case may be, to an amount beyond the amount unpaid on his shares, he shall be deemed a member of the company for the purposes of this Act, and shall be liable to contribute, as aforesaid, to the extent of his liabilities to the company or its members or creditors, independently of this Act; and the amount which he is so liable to contribute shall be deemed an asset and a debt as aforesaid. 45 V., c. 23, s. 49.

Nature of liability of a contributory.

46. The liability of any person to contribute to the assets of a company under this Act, in the event of the business of the same being wound up, shall create a debt accruing due from such person at the time when his liability commenced, but payable at the time or respective times when calls are made, as hereinafter mentioned, for enforcing such liability; and in the case of the bankruptcy or insolvency of any contributory, the estimated value of his liability to future calls, as well as calls already made, may be proved against his estate. 45 V., c. 23, s. 50, *part*.

Trustee, &c., of company may be ordered to pay over balance and deliver books, &c.

47. The court may, at any time after making a winding-up order, require any contributory for the time being settled on the list of contributories as trustee, receiver, banker, agent or officer of the company, to pay, deliver, convey, surrender or transfer forthwith, or within such time as the court directs, to or into the hands of the liquidator, any sum or balance, books, papers, estate or effects which are in his hands for the time being, and to which the company is *prima facie* entitled. 45 V., c. 23, s. 51.

Court may order debtors of company to pay.

48. The court may, at any time after making a winding-up order, make an order on any contributory for the time being settled on the list of contributories, directing payment to be made, in manner in the said order mentioned, of any moneys due from him or from the estate of the person whom he represents, to the company, exclusive of any moneys which he or the estate of the person whom he represents is liable to contribute by virtue of any call made in pursuance of this Act. 45 V., c. 23, s. 52.

When calls may be made on contributories.

49. The court may, at any time after making a winding-up order, and either before or after it has ascertained the sufficiency of the assets of the company, make calls on and order payment thereof by all or any of the contributories for the time being settled on the list of contributories, to the extent of their liability, for payment of all or any sums it deems necessary to satisfy the debts and liabilities of the company, and the costs, charges and expenses of

winding up, and for the adjustment of the rights of the contributories amongst themselves; and the court may, in making a call, take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same: Provided however, that no call shall compel payment of a debt before the maturity thereof, and that the extent of the liability of any contributory shall not be increased by anything in this section contained. 45 V., c. 23, s. 50, *part, and* s. 53. Proviso.

50. The court may order any contributory, purchaser or other person from whom money is due to the company, to pay the same into some chartered bank or post office savings bank or other Government savings bank, to the account of the court instead of to the liquidator; and such order may be enforced in the same manner as if it had directed payment to the liquidator. 45 V., c. 23, s. 54. Moneys may be ordered to be paid into court.

51. The court shall adjust the rights of the contributories among themselves, and distribute, among the persons entitled thereto, any surplus that remains. 45 V., c. 23, s. 55. Distribution of surplus.

52. The court may, at any time before or after it has made a winding-up order, upon proof being given that there is reasonable cause for believing that any contributory or any past or present director, manager, officer or employee of the company is about to quit Canada or otherwise abscond, or to remove or conceal any of his goods or chattels, for the purpose of evading payment of calls, or for avoiding examination in respect of the affairs of the company, cause such person to be arrested, and his books, papers, moneys, securities for moneys, goods and chattels to be seized, and him and them to be safely kept until such time as the court orders. 45 V., c. 23, s. 56. Contributory or official about to abscond, &c., may be arrested.
And his papers, &c., may be seized.

53. If the business of a company is being wound up under this Act, all books of the company and of the liquidators shall, as between the contributories of the company, be *prima facie* evidence of the truth of all matters purporting to be therein recorded. 45 V., c. 23, s. 57. Books, &c., of company to be *prima facie* evidence as between contributories.

54. After a winding-up order has been made, the court may make such order for the inspection, by the creditors, shareholders, members or contributories of the company, of its books and papers, as the court thinks just; and any books and papers in the possession of the company may be inspected in conformity with the order of the court, but not further or otherwise. 45 V., c. 23, s. 58. Court may allow inspection by creditors, &c., of company's books, &c.

55. No contributory, creditor, shareholder, or member shall vote at any meeting unless present personally or repre- Person entitled to vote to do so per-

sonally or by written proxy. sented by some person *acting under* a written authority, filed with the chairman or liquidator, to act *as such representative* at the meeting, or generally. 45 V., c. 23, s. 59.

CREDITORS' CLAIMS.

What debts may be proved against the company. **56.** When the business of a company is being wound up under this Act, all debts payable on a contingency, and all claims against the company, present or future, certain or contingent, ascertained or sounding only in damages, shall be admissible to proof against the company,—a just estimate being made, as far as is possible, of the value of all such debts or claims as are subject to any contingency or sound only in damages, or which, for some other reason, do not bear a certain value. 45 V., c. 23, s. 60, *part*.

Law of set-off to apply. **57.** The law of set-off, as administered by the courts, whether of law or equity, shall apply to all claims upon the estate of the company, and to all proceedings for the recovery of debts due or accruing due to the company at the commencement of the winding up, in the same manner and to the same extent as if the business of the company was not being wound up under this Act. 45 V., c. 23, s. 60, *part*.

Distribution of property of company. **58.** The property of the company shall be applied in satisfaction of its liabilities and the charges incurred in winding up its affairs; and unless it is otherwise provided by law or by the Act, charter or instrument of incorporation, any property or assets remaining shall be distributed amongst the members or shareholders, according to their rights and interests in the company. 45 V., c. 23, s. 61.

When creditors must send in claims. **59.** The court may fix a certain day or certain days on or within which creditors of the company and others who have claims thereon may send in their claims. 45 V., c. 23, s. 62.

After expiration of time for sending in claims, assets may be distributed. **60.** When the liquidator has given such notices of the said day as are ordered by the court, the liquidator may, at the expiration of the time named in the said notices or the last of the said notices, for sending in such claims, distribute the assets of the company, or any part thereof, amongst the persons entitled thereto, having regard to the claims of which the liquidator then has notice; and the liquidator shall not be liable, to any person of whose claim the liquidator had not notice at the time of distributing the said assets, or a part thereof, as the case may be, for the assets or any part thereof so distributed. 45 V., c. 23, s. 63.

Creditors may be compromised with. **61.** The liquidator may, with the approval of the court, make such compromise or other arrangement as the liquidator deems expedient with creditors or persons claiming to be creditors, or persons having or alleging themselves to

have any claim, present or future, certain or contingent, ascertained or sounding only in damages, against the company, or whereby the company may be rendered liable. 45 V., c. 23, s. 64.

62. If a creditor holds security upon the estate of the company, he shall specify the nature and amount of such security in his claim, and shall therein, on his oath, put a specified value thereon; and the liquidator, under the authority of the court, may either consent to the retention of the property and effects constituting such security or on which it attaches, by the creditor, at such specified value, or he may require from such creditor an assignment and delivery of such security, property and effects, at such specified value, to be paid by him out of the estate so soon as he has realized such security, together with interest on such value from the date of filing the claim till payment; and in case of such retention the difference between the value at which the security is retained and the amount of the claim of such creditor shall be the amount for which he may rank as aforesaid; and if a creditor holds a claim based upon negotiable instruments upon which the company is only indirectly or secondarily liable, and which is not mature or exigible, such creditor shall be considered to hold security within the meaning of this section, and shall put a value on the liability of the person primarily liable thereon as being his security for the payment thereof; but after the maturity of such liability and its non-payment, he shall be entitled to amend and revalue his claim. 45 V., c. 23, s. 65.

Duty of creditors holding security.

Security by negotiable instruments.

63. If the security consists of a mortgage upon ships or shipping, or upon real property, or of a registered judgment or an execution binding real property and excepted from the operation of section *sixty-six* of this Act, the property mortgaged or bound shall only be assigned and delivered to the creditor, subject to all previous mortgages, judgments, *executions*, hypothecs and liens thereon, holding rank and priority before his claim, and upon his assuming and binding himself to pay all such previous mortgages, judgments, *executions*, hypothecs and liens, and upon his securing the estate of the company to the satisfaction of the liquidator against any claim by reason of such previous mortgages, judgments, *executions*, hypothecs and liens; and if there are mortgages, judgments, *executions*, hypothecs or liens thereon, subsequent to those of such creditor, he shall only obtain the property by consent of the subsequently secured creditors, or upon their filing their claims specifying their security thereon as of no value, or upon his paying them the value by them placed thereon, or upon his securing the estate of the company to the satisfaction of the liquidator against any claim by reason of such subsequent mortgages,

If the security is a mortgage on real property or a ship.

If there are subsequent claims.

judgments, *executions*, hypothecs and liens. 45 V., c. 23, s. 66.

Duty of liquidator if a secured claim is filed.

64. Upon a secured claim being filed, with a valuation of the security, the liquidator shall procure the authority of the court to consent to the retention of the security by the creditor, or shall require from him an assignment and delivery thereof. 45 V., c. 23, s. 67.

Rank, &c., on dividend sheet.

65. In the preparation of the dividend sheet, due regard shall be had to the rank and privilege of every creditor, but no dividend shall be allotted or paid to any creditor holding security upon the estate of the company for his claim until the amount for which he may rank as a creditor upon the estate, as to dividends therefrom, is established, as herein provided. 45 V., c. 23, s. 68.

No lien by judgment and execution.

66. No lien or privilege upon either the real or personal property of the company shall be created for the amount of any judgment debt, or of the interest thereon, by the issue or delivery to the sheriff of any writ of execution, or by levying upon or seizing under such writ the effects or estate of the company; nor shall any lien, claim or privilege be created upon the real or personal property of the company, or upon any debts due or accruing or becoming due to the company, by the filing or registering of any memorial or minute of judgment, or by the issue or making of any attachment or garnishee order or other process or proceeding, if before the payment over to the plaintiff of the moneys actually levied, paid or received under such writ, memorial, minute, attachment, garnishee order or other process or proceeding, the winding up of the business of the company has commenced; but this section shall not affect any lien or privilege for costs, which the plaintiff possesses under the law of the Province in which such writ, attachment, garnishee order or other process or proceeding was issued. 45 V., c. 23, s. 69. *part.*

This provision not to apply to lien for costs.

Claim or dividend may be objected to.

67. Any creditor or contributory or shareholder or member may object to any claim filed with the liquidator, or to any dividend declared:

Objections to be filed in writing.

2. If a claim or a dividend is objected to, the objections shall be filed in writing with the liquidator, together with evidence of the previous service of a copy thereof on the claimant:

Answers and replies.

3. The claimant shall have six days to answer the objections, or such further time as the court allows, and the contestant shall have three days to reply, or such further time as the court allows:

4. Upon the completion of the issues upon the objections, the liquidator shall transmit to the court all necessary papers relating to the contestation, and the court shall then, on the application of either party, fix a day for taking evidence upon the contestation, and hearing and determining the same: Day to be fixed for hearing.

5. The court may make such order as seems proper in respect to the payment of the costs of the contestation by either party, or out of the estate of the company: Costs.

6. If, after a claim or dividend has been duly objected to, the claimant does not answer the objections, the court may, on the application of the contestant, make an order barring the claim or correcting the dividend, or may make such other order in reference thereto as appears right: If claimant does not answer objections.

7. The court may order the person objecting to a claim or dividend to give security for the costs of the contestation within a limited time, and may, in default, dismiss the contestation or stay proceedings thereon, upon such terms as the court thinks just. 45 V., c. 23, s. 70. Security for costs.

FRAUDULENT PREFERENCES.

68. All gratuitous contracts, or conveyances or contracts without consideration, or with a merely nominal consideration, respecting either real or personal property made by a company in respect to which a winding-up order under this Act is afterwards made, with or to any person whatsoever, whether such person is its creditor or not, within three months next preceding the commencement of the winding up or at any time afterwards,—and all contracts by which creditors are injured, obstructed or delayed, made by a company unable to meet its engagements and in respect to which a winding-up order under this Act is afterwards made, with a person knowing such inability or having probable cause for believing such inability to exist, or after such inability is public and notorious—whether such person is its creditor or not—shall be presumed to be made with intent to defraud its creditors. 45 V., c. 23, s. 71. Gratuitous contracts, &c., to be void. Contracts injuring or obstructing creditors.

69. A contract or conveyance for consideration, respecting either real or personal property, by which creditors are injured or obstructed, made by a company unable to meet its engagements with a person ignorant of such inability, whether such person is its creditor or not, and before such inability has become public and notorious, but within thirty days next before the commencement of the winding up of the business of such company under this Act, or at any time afterwards, is voidable, and may be set aside by any court of competent jurisdiction, upon such terms as to the protec- When contracts with consideration shall be voidable.

tion of such person from actual loss or liability by reason of such contract, as the court orders. 45 V., c. 23, s. 72.

As to contracts made in fraud or to obstruct or delay creditors.

70. All contracts or conveyances made and acts done by a company, respecting either real or personal property, with intent fraudulently to impede, obstruct or delay its creditors in their remedies against it, or with intent to defraud its creditors or any of them,—and so made, done and intended with the knowledge of the person contracting or acting with the company, whether such person is its creditor or not,—and which have the effect of impeding, obstructing or delaying the creditors of their remedies, or of injuring them, or any of them, shall be null and void. 45 V., c. 23, s. 73.

Securities given by company for payment, when to be void.

71. If any sale, deposit, pledge or transfer is made of any property, real or personal, by a company in contemplation of insolvency under this Act, by way of security for payment to any creditor,—or if any property, real or personal, movable or immovable, goods, effects or valuable security, are given by way of payment by such company to any creditor, whereby such creditor obtains or will obtain an unjust preference over the other creditors, such sale, deposit, pledge, transfer or payment shall be null and void; and the subject thereof may be recovered back for the benefit of the estate by the liquidator, in any court of competent jurisdiction: and if the same is made within thirty days next before the commencement of the winding up under this Act, or at any time afterwards, it shall be presumed to have been so made in contemplation of insolvency. 45 V., c. 23, s. 74.

Payments by company, when to be void.

72. Every payment made within thirty days next before the commencement of the winding up under this Act by a company unable to meet its engagements in full, to a person knowing such inability, or having probable cause for believing the same to exist, shall be void, and the amount paid may be recovered back by the liquidator by suit or action in any court of competent jurisdiction: but if any valuable security is given up in consideration of such payment, such security or the value thereof shall be restored to the creditor upon the return of such payment. 45 V., c. 23, s. 75.

Proviso.

As to debts of company transferred to contributories.

73. When a debt due or owing by the company has been transferred within the time and under the circumstances in the next preceding section mentioned, or at any time afterwards, to a contributory who knows or has probable cause for believing the company to be unable to meet its engagements, or in contemplation of its insolvency under this Act, for the purpose of enabling such contributory to set up, by way of compensation or set-off, the debt so transferred, such debt shall not be set up by way of compensation or set-off against the claim upon such contributory. 45 V., c. 23, s. 76.

APPEALS.

74. Any person dissatisfied with an order or decision of the court *or a single judge* in any proceeding under this Act may, by leave of a judge of the court, appeal therefrom, if the question to be raised on the appeal involves future rights, or if the order or decision is likely to affect other cases of a similar nature in the winding up proceedings, or if the amount involved in the appeal exceeds five hundred dollars :

2. Such appeal shall lie,—

In Ontario, to the Court of Appeal for Ontario ;

In Quebec, to the Court of Queen's Bench ;

In any of the other Provinces, to the full court :

3. In the North-West Territories *and Keewatin* any person dissatisfied with an order or decision of the court *or a single judge*, in any proceeding under this Act may, by leave of a judge of the Supreme Court of Canada, appeal therefrom to the Supreme Court of Canada :

Re-drafted

4. All appeals shall be regulated, as far as possible, according to the practice in other cases of the court appealed to : but no such appeal shall be entertained unless the appellant has, within fourteen days from the rendering of the order or decision, or within such further time as the court appealed from allows, *taken proceedings therein to perfect his appeal*, nor unless, within the said time, he has made a deposit or given sufficient security, according to the practice of the court that he will duly prosecute the said appeal and pay such damages and costs as may be awarded to the respondent. 45 V., c. 23, s. 78, *part*, and s. 79.

Practice.

Security on appeal ; and time for, limited.

75. If the party appellant does not proceed with his appeal, according to the law or the rules of practice, as the case may be, the court appealed to, on the application of the respondent, may dismiss the appeal, with or without costs. 45 V., c. 23, s. 80.

If not proceeded with appeal may be dismissed.

76. An appeal shall lie to the Supreme Court of Canada, by leave of a judge of the said Supreme Court, from the judgment of the Court of Appeal for Ontario, the Court of Queen's Bench in Quebec, or the full court in any of the other Provinces, as the case may be, if the amount involved in the appeal exceeds two thousand dollars. 45 V., c. 23, s. 78, *part*.

Further appeal to Supreme Court.

PROCEDURE.

How the powers of the Court may be exercised.

77. The powers conferred by this Act upon the court may, subject to the appeal in this Act provided for, be exercised by a single judge thereof; and such powers may be exercised in chambers, either during term or in vacation:

In Ontario.

2. In the Province of Ontario such powers may, subject to an appeal according to the ordinary practice of the court, be exercised by the master, referee or other officer who, under the practice or procedure of the court, presides in chambers, or by the master in ordinary, or by any local master or referee. 45 V., c. 23, s. 77;—47 V., c. 39, s. 5.

Orders of Court to be deemed judgments.

78. Every order of the court or a judge for the payment of money or costs, charges or expenses made under this Act, shall be deemed a judgment of the court, and shall bind the lands, and may be enforced against the person or goods and chattels, lands and tenements of the person ordered to pay, in the same manner in which judgments or decrees of any superior court obtained in any suit may bind lands or be enforced in the Province where the court enforcing the same is situate. 46 V., c. 23, s. 1.

How to be executed.

Attachment and garnishment how effected.

79. Debts due to any person against whom such order for the payment of money, costs or expenses has been obtained, may be attached and garnished in the same manner as debts due to a judgment debtor may be attached and garnished by a judgment creditor in any Province where the attachment and garnishment of debts is allowed by law. 46 V., c. 23, s. 2.

Witnesses' attendance how secured.

80. In any action, suit, proceeding or contestation under this Act, the court may order the issue of a writ of *subpœna ad testificandum* or of *subpœna duces tecum*, commanding the attendance, as a witness, of any person who is within Canada. 45 V., c. 23, s. 81.

Persons having information may be examined.

81. The court may, after it has made a winding-up order, summon before it or before any person named by it, any officer of the company or person known or suspected to have in his possession any of the estate or effects of the company, or supposed to be indebted to the company, or any person whom the court deems capable of giving information concerning the trade, dealings, estate or effects of the company; and the court may require any such officer or person to produce any book, paper, deed, writing or other document in his custody or power relating to the company:

If person summoned refuses to attend.

2. If any person so summoned, after being tendered a reasonable sum for his expenses, refuses, without a lawful

excuse, to attend at the time appointed, the court may cause such person to be apprehended and brought up for examination; but in cases in which any person claims any lien on papers, deeds, writings or documents produced by him, such production shall be without prejudice to such lien, and the court shall have jurisdiction in the winding up, to determine all questions relating to such lien. 45 V., c. 23, s. 82.

Proviso; as to question of lien on papers.

82. The court or the person so named may examine, upon oath, either by word of mouth or upon written interrogatories, any person appearing or brought up in manner aforesaid, concerning the affairs, dealings, estate or effects of the company, and may reduce to writing the answers of any such person, and require him to subscribe the same; and if such person, without lawful excuse, refuses to answer the questions put to him, he shall be liable to be punished as for contempt of court. 45 V., c. 23, s. 83.

Examination to be on oath.

Refusal to answer, to be contempt.

83. When, in the course of the winding up of the business of a company under this Act, it appears that any past or present director, manager, liquidator, receiver, employee or officer of such company has misapplied or retained in his own hands, or become liable or accountable for any moneys of the company, or been guilty of any misfeasance or breach of trust in relation to the company, the court may, on the application of any liquidator, or of any creditor or contributory of the company, notwithstanding that the offence is one for which the offender is criminally liable, examine into the conduct of such director, manager, liquidator, receiver, officer or employee, and compel him to repay any moneys so misapplied or retained, or for which he has become liable or accountable, together with interest, at such rate as the court thinks just, or to contribute such sums of money to the assets of the company, by way of compensation in respect of such misapplication, retention, misfeasance or breach of trust, as the court thinks fit. 45 V., c. 23, s. 84; —47 V., c. 39, s. 6.

Officer of company, &c., mis-applying money, may be compelled to repay.

84. The courts of the various Provinces, and the judges of the said courts respectively, shall be auxiliary to one another for the purposes of this Act; and the winding up of the business of the company or any matter or proceeding relating thereto may be transferred from one court to another with the concurrence, or by the order or orders, of the two courts, or by an order of the Supreme Court of Canada. 45 V., c. 23, s. 86.

Various provincial courts to be auxiliary to one another.

85. When any order made by one court is required to be enforced by another court, an office copy of the order so made, certified by the clerk or other proper officer of the court which made the same, and under the seal of such

Order of one court may be enforced by another.

court, shall be produced to the proper officer of the court required to enforce the same, and the production of such copy shall be sufficient evidence of such order having been made; and thereupon such last mentioned court shall take such steps in the matter as are requisite for enforcing such order, in the same manner as if it was the order of the court enforcing the same. 45 V., c. 23, s. 87.

Rules of procedure and as to amendments to apply.

86. The rules of procedure, for the time being, as to amendments of pleadings and proceedings in the court, shall apply, as far as practicable to all pleadings and proceedings under this Act; and any court before which such proceedings are being carried on shall have full power and authority to apply the appropriate rules as to amendments of the proceedings. 45 V., c. 23, s. 88, *part*.

No proceeding void for irregularity.

87. No pleading or proceeding shall be void by reason of any irregularity or default which may be amended or disregarded under the rules and practice of the court. 45 V., c. 23, s. 88, *part*.

Before whom affidavits may be made.

88. Every affidavit, affirmation or declaration required to be sworn or made under the provisions or for the purposes of this Act, *or to be used in the court in any proceeding under this Act*, may be sworn or made in Canada before a liquidator, judge, notary public, commissioner for taking affidavits or justice of the peace; and out of Canada, before any judge of a court of record, any commissioner for taking affidavits to be used in any court in Canada, any notary public, the chief municipal officer of any town or city, any British consul or vice-consul, or any person authorized by or under any Statute of Canada, or of any Province, to take affidavits. 45 V., c. 23, s. 89.

Judicial notice of seals, &c.

89. All courts, judges, justices, commissioners and persons acting judicially shall take judicial notice of the seal, or stamp or signature, as the case may be, of any such court, judge, notary public, commissioner, justice, chief municipal officer, consul, vice-consul, liquidator or other person attached, appended or subscribed to any such affidavit, affirmation or declaration, or to any other document to be used for the purposes of this Act. 45 V., c. 23, s. 90.

Powers conferred on court by this Act are in addition to the other powers of the court.

90. Any powers by this Act conferred on the court are in addition to, and not in restriction of, any other powers subsisting either at law or in equity, of instituting proceedings against any contributory, or the estate of any contributory, or against any debtor of the company, for the recovery of any call or other sums due from such contributory or debtor, or his estate; and such proceedings may be instituted accordingly. 45 V., c. 23, s. 92.

91. All costs, charges and expenses properly incurred in the winding up of a company, including the remuneration of the liquidator, shall be payable out of the assets of the company, in priority to all other claims. 45 V., c. 23, s. 93. Costs payable out of estate.

92. In Ontario, the judges of the High Court of Justice; in Quebec, the judges of the Court of Queen's Bench; and in the other Provinces the judges of the court, or a majority of the judges in each case, of whom the chief justice shall be one, from time to time may make and frame and settle the forms, rules and regulations to be followed and observed in proceedings under this Act, and may make rules as to the costs, fees and charges which shall or may be had, taken or paid in all such cases by or to attorneys, solicitors or counsel, and by or to officers of courts, whether for the officers or for the Crown, and by or to sheriffs, or other persons, or for any service performed or work done under this Act. 45 V., c. 23, s. 97. Judges may make rules.

93. Until such forms, rules and regulations are made, the various forms and procedures, including the tariff of costs, fees and charges in cases under this Act, unless otherwise specially provided, shall, as nearly as may be, be the same as those of the court in other cases. 45 V., c. 23, s. 98. Until rules are made, present procedure to apply.

UNCLAIMED DIVIDENDS.

94. All dividends deposited in a bank and remaining unclaimed at the time of the final winding up of the business of the company, shall be left for three years in the bank where they are deposited, subject to the claim of the person entitled thereto, and if still unclaimed, shall then be paid over by such bank, with interest accrued thereon, to the Minister of Finance and Receiver General, and, if afterwards duly claimed, shall be paid over to the persons entitled thereto. 45 V., c. 23, s. 91. Unclaimed dividends to be paid to Receiver General.

OFFENCES.

95. Every person who, with intent to defraud or deceive any person, destroys, mutilates, alters or falsifies any book, paper, writing or security, or makes or is privy to the making of any false or fraudulent entry in any register, book of account or other document belonging to the company, the business of which is being wound up under this Act, is guilty of a misdemeanor and liable to imprisonment in the penitentiary for any term not less than two years, or to imprisonment in any gaol or place of confinement for any term less than two years, with or without hard labor. 45 V., c. 23, s. 85. Officer of Company, &c., destroying, &c., books, &c., of company guilty of misdemeanor.

96. When a winding-up order is made, if it appears in the course of such winding up that any past or present Court may direct criminal proceed-

ings against
officers of the
company
guilty of
offences.

director, manager, officer or member of the company is guilty of any offence in relation to the company for which he is criminally liable the court may, on the application of any person interested in such winding up, or of its own motion, direct the liquidator to institute and conduct a prosecution or prosecutions for such offence, and may order the costs and expenses to be paid out of the assets of the company. 45 V., c. 23, s. 95.

PROVISIONS APPLICABLE TO BANKS.

Provisions
applicable to
banks.

97. The provisions of sections *ninety-eight to one hundred and four* inclusive, apply to banks only, not including savings banks. 45 V., c. 23, *sub-title*.

Provision as
to winding-up
order in case
of bank.

98. In the case of a bank, the application for a winding-up order shall be made by a creditor for a sum of not less than one thousand dollars, and the court shall, before making the order, direct a meeting of the shareholders of the bank and a meeting of the creditors of the bank to be summoned, held, and conducted as the court directs, for the purpose of ascertaining their respective wishes as to the appointment of liquidators. 47 V., c. 39, s. 7, *part*.

Chairman of
meetings of
shareholders
and of credi-
tors.

99. The court may appoint a person to act as chairman of the meeting of shareholders, and in default of such appointment, the president of the bank, or other person who usually presides at a meeting of shareholders, shall preside; the court may also appoint a person to act as chairman of the meeting of creditors, and in default of such appointment, the creditors shall appoint a chairman. 47 V., c. 39, s. 7, *part*.

Scale of votes.

100. In taking a vote at such meeting of shareholders, regard shall be had to the number of votes conferred by law or by the regulations of the bank on each shareholder present or represented at such meeting; and in the case of creditors, regard shall be had to the amount of the debt due to each creditor. 47 V., c. 39, s. 7, *part*.

Chairman to
report result
of vote.

101. The chairman of each meeting shall report the result thereof to the court, and if a winding-up order is made, the court shall appoint three liquidators, to be selected in its discretion, after such hearing of the parties as it deems expedient, from among the persons nominated by the majorities and minorities of the shareholders and creditors at such meetings respectively. 47 V., c. 39, s. 7, *part*.

Appointment
of liquidators.

If liquidators
have not been
nominated.

102. If no one has been so nominated, the three liquidators shall be chosen by the court, and if less than three have been nominated, the requisite additional liquidator or liquidators shall be chosen by the court. 45 V., c. 23, s. 103.

103. The liquidators shall ascertain as nearly as possible, the amount of notes of the bank intended for circulation and actually outstanding, and shall reserve, until the expiration of at least two years after the date of the winding-up order, or until the last dividend, if that is not made until after the expiration of the said time, dividends on such part of the said amount in respect of which claims are not filed; and if claims are not filed and dividends applied for in respect of any part of the said amount before the period herein limited, the dividends so reserved shall form the last or part of the last dividend. 45 V., c. 23, s. 104.

Reservation of dividends in respect to outstanding notes.

104. Publication in the *Canada Gazette* and in the official *Gazette* of each Province of Canada, and in two newspapers issued at or nearest the place where the head office of a bank is situate, of notice of any proceeding of which, under this Act, creditors should be notified, shall be sufficient notice to holders of bank notes in circulation; and if the head office is situated in the Province of Quebec, one of the newspapers in which publication is to be made shall be a newspaper published in English and the other a newspaper published in French. 45 V., c. 23, s. 105.

What is sufficient notice to holders of notes.

In Quebec.

PROVISIONS APPLICABLE TO LIFE INSURANCE COMPANIES.

105. The provisions of sections *one hundred and six to one hundred and fourteen* inclusive, apply only to life insurance companies, and to insurance companies doing life and other insurance, in so far as relates to the life insurance business of such companies. 45 V., c. 23, *sub-title*.

Provisions applicable to life insurance companies.

106. Except in the cases provided for in the *twenty-ninth* and *thirtieth* sections of "*The Insurance Act*," a company shall be liable to be dealt with in the manner herein prescribed for the case of insolvency, whenever its license has expired or been withdrawn, under the said Act, and has not been renewed within thirty days after such expiry or withdrawal. 40 V., c. 42, s. 15, *part*.

Company whose license is withdrawn, &c., liable as for insolvency.

107. In case of the insolvency of any company, the deposits of such company held by the Minister of Finance and Receiver General, and the assets held by the trustees under "*The Insurance Act*," shall be applied *pro rata* towards the discharge of all claims of policy holders in Canada duly authenticated against such company. 40 V., c. 42, s. 15, *part*;—45 V., c. 23, s. 107.

Application of deposits and of assets held by trustees, in case of insolvency.

108. Upon the insolvency of any such company and the making of a winding-up order under this Act, the policy holders in Canada shall be entitled to claim for the full net values of their several policies at the time of the winding-up order (including bonus additions and profits accrued),

Rights of policy holders.

less any amount previously advanced by the company on the security of the policy; and such claims shall rank with judgments obtained and claims matured on Canadian policies, in the distribution of the assets:

Valuation of policies—on what basis.

2. The liquidator may require the superintendent of insurance to value, or procure to be valued under his supervision, the policies before mentioned, basing such valuation on the mortality table of the Institute of Actuaries of Great Britain and on a rate of interest at four and one half per centum per annum,—except in the case of bonus additions or other profits accrued or declared before the twenty-eighth day of April, one thousand eight hundred and seventy-seven and then valued on the basis of a rate of interest other than that above mentioned, which, in any such valuation, shall continue to be valued on such other basis; and the expenses of such valuation, at a rate of three cents for each policy or bonus addition so valued, shall be retained by the Minister of Finance and Receiver General from the securities held by him:

Exception.

Cost of valuation.

Sale of securities on completion of schedule by assignees.

3. Upon the completion by the liquidator of the statement to be prepared by him of all judgments against the company upon policies in Canada, and of all claims upon policies matured or outstanding as aforesaid, the court shall cause the securities held by the Minister of Finance and Receiver General for such company, and the assets held by the trustees provided in “*The Insurance Act*,” or any part of them, to be sold or realized in such manner and after such notice and formalities as the court appoints:

Distribution of proceeds.

4. The proceeds thereof, after paying expenses incurred, shall, except in so far as they have been applied, under this Act, to effect a re-insurance of policies, be distributed *pro rata* amongst the claimants according to such statement, and if the said proceeds are not sufficient to cover in full all claims recorded in the statement, such policy holders shall not be barred from any recourse they have, either in law or equity, against the company issuing the policy or against any shareholder or director thereof, other than for a share in the distribution of the proceeds above mentioned, or in any distribution of the general property and assets of the company, other than the deposit and the assets vested in trustees:

If the assets do not cover the claims.

Proviso: as to policy holders insured on the mutual principle.

5. Provided always, that in all cases of distribution of the proceeds of the deposit in the hands of the Minister of Finance and Receiver General, and the assets vested in the trustees as provided for in this section, if it appears from the charter, Act of incorporation or articles of association of the company, and from the conditions of the policy, that any Canadian policy holder claiming

a share in such distribution has been insured on the "mutual" principle—then such policy holder shall be entitled only to claim a share in the distribution as aforesaid, at the same rate as all other holders of policies under the same conditions are entitled to claim in the distribution of the total assets of the company, whether they are holders of Canadian policies or otherwise; but this proviso shall only apply in respect to those companies chartered, incorporated or associated together in a country (other than Canada) under the laws of which the holder of a Canadian policy issued by any such company is entitled to claim a share in the distribution in such country at the same rate as all other holders of policies, under the same conditions, are entitled to claim in the distribution of the total assets of the company, and to enjoy all the rights and privileges as policy holders which are enjoyed by the policy holders who are natives of or naturalized in such country. 40 V., c. 42, s. 16, *part*;—45 V., c. 23, s. 108, *part*.

Application of foregoing proviso as to companies incorporated elsewhere than in Canada.

109. Whenever the company or the liquidator, or the holder of the policy or contract of insurance exercises any right, which it or he has, to cancel the policy or contract, the holder shall be entitled to claim as a creditor for the sum which, under the terms of the policy or contract, is due to him upon such cancellation. 45 V., c. 23, s. 108, *part*.

If the policy is cancelled.

110. The liquidator shall, without the filing of any claim, notice or evidence, or the taking of any action by any person, make a statement of all the persons, appearing by the books and records of the officers of the company, to be creditors or claimants under the two sections next preceding, and of the amounts due to each such person thereunder, and every such person shall be collocated and ranked as and be entitled to the rights of a creditor or claimant for such amount, without filing any claim, notice or evidence, or taking any action; but any such collocation may be contested by any person interested, and any person who is not collocated or who is dissatisfied with the amount for which he is collocated, may file his own claim :

Statement of creditors to be prepared by the liquidator, and certain claims collocated without proof.

Proviso: for contestation.

2. A copy of such statement, certified by the liquidator, shall forthwith, after the making of such statement, be filed in the office of the Superintendent of Insurance at Ottawa; and notice of such filing shall forthwith be given by the liquidator by notice in the *Canada Gazette* and in the official *Gazette* of each Province of Canada, and in two newspapers issued at or nearest the place where the head office in Canada of the company is situate; and the liquidator shall also, forthwith, send by mail, prepaid, a notice of such filing to each creditor named in the statement, addressed to the addresses in Canada of such creditors, as far as the same are known, and in the case of foreign creditors, addressed to the

Copy of statement to be filed with superintendent, and notice thereof given.

addresses of their representatives or agents in Canada, as far as the same are known. 45 V., c. 23, s. 109.

As to claims accruing after the winding-up order, but within 30 days thereof.

111. The holder of a policy or contract of life insurance, upon which a claim accrues after the date of the winding-up order and before the expiration of thirty days after the filing, in the office of the superintendent of insurance, of the statement referred to in the next preceding section, shall be entitled to claim as a creditor for the full net amount of such claim—less any amount previously advanced by the company on the security of the policy or contract; and the said statement and the dividend sheet shall, if necessary, be amended accordingly :

Claims accruing after 30 days.

2. No claim which accrues after the expiration of the thirty days above mentioned, shall rank upon the estate unless and until there is sufficient to pay all creditors in full. 45 V., c. 23, s. 110.

If the holder gives notice of willingness to accept insurance in another company.

112. If, before the expiration of the thirty days hereinbefore mentioned, the holder of a policy or contract of life insurance, on which a claim has not accrued, signifies, in writing, to the liquidator, his willingness to accept an insurance in some other company for the amount which can be secured by the dividend on his claim to which such holder is or may become entitled, the liquidator may, with the sanction of the court, effect for such holder an insurance to the amount aforesaid in another company or companies, approved of by the superintendent of insurance, and may apply to that purpose the dividend on his claim to which such holder is or may become entitled : but such insurance shall be effected only as part of a general scheme for the assumption, by some other company or companies, of the whole or part of the outstanding risks and liabilities of the insolvent company. 45 V., c. 23, s. 111.

Proviso.

Report to superintendent of insurance.

113. If the company is licensed under "*The Insurance Act*," the liquidator shall report to the superintendent of insurance once in every six months, or oftener as the superintendent requires, on the condition of the affairs of the company, with such further particulars as the superintendent requires. 45 V., c. 23, s. 112.

What is sufficient notice to certain policy holders.

114. Publication in the *Canada Gazette* and in the official *Gazette* of each Province of Canada, and in two newspapers issued at or nearest the place where the head office in Canada of an insurance company is situate, of notice of any proceeding of which, under this Act, creditors should be notified, shall be sufficient notice to holders of policies or contracts of insurance in respect of which no notice of claim has been received. 45 V., c. 23, s. 106.

PROVISIONS APPLICABLE TO INSURANCE COMPANIES OTHER
THAN LIFE INSURANCE COMPANIES.

115. The following provisions of this Act, apply only to insurance companies other than life insurance companies, and to insurance companies doing life and other insurance, in so far as relates to the insurance business of such companies which is not life insurance business. 45 V., c. 23, *sub-title*.

Provisions applicable to insurance companies other than life.

116. Any company shall be deemed insolvent upon its failure to pay any undisputed claim arising, or loss insured against, in Canada, upon any policy held in Canada, for the space of sixty days after becoming due, or, if disputed, after final judgment and tender of a legal valid discharge,—and (in either case) after notice thereof to the Minister of Finance and Receiver General :

When a company shall be deemed insolvent.

2. Provided, that in any case when a claim for loss is, by the terms of the policy, payable on proof of such loss, without any stipulated delay, the notice to the Minister of Finance and Receiver General under this section shall not be given until after the lapse of sixty days from the time when the claim becomes due. 38 V., c. 20, s. 16, *part*.

Proviso, if payment of any loss is to be on proof.

117. Any deposit held by the Minister of Finance and Receiver General for policy holders, shall be applied *pro ratâ* towards the payment of all claims duly authenticated against such company, upon or in respect of policies issued to policy holders in Canada. 38 V., c. 20, s. 16, *part* ; —45 V., c. 23, s. 114, *part*.

Application of deposit held by Receiver General.

118. Holders of policies or contracts of insurance on which no claim has accrued at the time the winding-up order is made, shall be entitled to claim as creditors, for a part of the premium paid, proportionate to the period of their policies or contracts respectively unexpired at the date of the winding-up order; and such return or unearned premium shall rank with judgments obtained and claims accrued, in the distribution of the assets :

As to policies on which no claim has accrued at time of winding-up order.

2. Upon the completion of the statement to be prepared by the liquidator under this Act, the court shall cause the securities held by the Minister of Finance and Receiver General for such company, or any part of them, to be sold in such manner and after such notice and formalities as the court appoints; and the proceeds thereof, after paying expenses incurred, shall (except in so far as they have been applied under this Act to effect a reinsurance of the policies) be distributed *pro ratâ* amongst the

Sale of securities.

Application of proceeds.

claimants according to such statement; and, if the proceeds are not sufficient to cover in full all claims recorded in the statement, such policy holders shall not be barred from any recourse they have either at law or in equity against the company issuing the policy, other than that for a share in the distribution of the proceeds of the securities held for such company by the Minister of Finance and Receiver General:

Re-drafted.

As to cancellation of policy.

3. Whenever the company or the liquidator, or the holder of the policy or contract of insurance, exercises any right which it or he has to cancel the policy or contract, the holder shall be entitled to claim as a creditor for the sum which, under the terms of the policy or contract, is due to him upon such cancellation. 38 V., c. 20, s. 17, *part*;—45 V., c. 23, s. 115, *part*.

The last sentence of section 115 of 45 V., c. 23, is omitted as being inconsistent with the latter part of section 117 of that Act.

Statement to be made by liquidators.

119. The liquidator shall, without the filing of any claim, notice or evidence, or the taking of any action by any person, make a statement of all the persons, appearing by the books and records of the officers of the company, to be creditors or claimants under the next preceding section, and of the amounts due to each such person thereunder; and every such person shall be collocated and ranked as and shall be entitled to the rights of a creditor or claimant for such amount, without filing any claim, notice or evidence, or taking any action; but any such collocation may be contested by any person interested, and any person not collocated or dissatisfied with the amount for which he is collocated, may file his own claim:

Proviso.

Copy to be filed with superintendent of insurance.

2. A copy of such statement, certified by the liquidator shall, forthwith, after the making of such statement, be filed in the office of the superintendent of insurance, at Ottawa, and notice of such filing shall be forthwith given by the liquidator by notice in the *Canada Gazette*, and in the official *Gazette* of each Province of Canada, and in two newspapers issued at or nearest the place where the head office in Canada of the company is situate; and the liquidator shall also forthwith send by mail, prepaid, a notice of such filing to each creditor named in the statement, addressed to the addresses in Canada of such creditors, as far as the same are known—and in the case of foreign creditors, addressed to the addresses of their representatives or agents in Canada, as far as the same are known. 45 V., c. 23, s. 116.

Notice to each creditor.

If a claim accrues after the winding-up

120. The holder of a policy or contract of insurance, other than life insurance, upon which a claim accrues after

the date of the winding-up order, and before the expiration of thirty days after the filing, in the office of the superintendent of insurance, of the statement referred to in the next preceding section, shall be entitled to claim, as a creditor, for the full net amount of such claim; and the said statement and the dividend sheet shall, if necessary, be amended accordingly:

order, but within 30 days of filing of statement.

2. No claim which accrues after the expiration of the thirty days hereinbefore mentioned, shall rank upon the estate, unless and until there is sufficient to pay all creditors in full. 45 V., c 23, s. 117.

Claims accruing after thirty days.

121. Before the expiration of the thirty days above mentioned, the liquidator may, with the sanction of the court, arrange with any incorporated insurance company, approved of for such purpose by the superintendent of insurance, for the re-insurance by such company of the outstanding risks of the insolvent company, and for the assumption by such company of the whole or any part of the other liabilities of the insolvent company; and in case of such arrangement the liquidator may pay or transfer to such company, such of the assets of the insolvent company as may be agreed on as the consideration for such re-insurance or assumption, and in such case the arrangement for re-insurance shall be in lieu of the claim for unearned premium: Provided always, that any remaining assets of the insolvent company shall be retained by the liquidator as a security to the creditors for the payment of their claims, and shall, if necessary, be so applied, and shall not be returned to the company, except on the order of the court after the satisfaction of such claims. 45 V., c. 23, s. 118.

Arrangements may be made for re-insurance of risks, &c.

Payment or transfer of assets in such case.

Application of surplus.

This section has been re-drafted in the terms of 41 V., c. 21, s. 16, at the instance of the superintendent of insurance.

122. If the company is licensed under "*The Insurance Act*," the liquidator shall report to the superintendent of insurance once in every six months, or oftener, as the superintendent requires, on the condition of the affairs of the company, with such further particulars as the superintendent requires. 45 V., c. 23, s. 119.

Report to superintendent of insurance.

123. Publication in the *Canada Gazette*, and in the official *Gazette* of each Province of Canada, and in two newspapers issued at or nearest the place where the head office of an insurance company is situate, of notice of any proceeding of which, under this Act, creditors are to be notified, shall be sufficient notice to holders of policies or contracts of insurance, in respect of which no notice of claim has been received. 45 V., c. 23, s. 113.

What publication of notice sufficient.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
38 V., c. 20.....	ss. 16 and 17, <i>parts.</i>	.....	Remainder.....	Insurance Act.
40 V., c. 42.....	ss. 15 and 16, <i>parts.</i>	ss. 7, 69 <i>part</i> , 91 and 96.	do	do
45 V., c. 23.....	The whole, ex- cept ss. 7, 69 (<i>part</i>), 91 and 96.			
46 V., c. 23.....	The whole.			
47 V., c. 39.....	The whole, ex- cept s. 8.	s 8		

CHAPTER 124.

An Act respecting the incorporation of Boards of Trade.

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:—
- Interpretation.
- (a) *The expression "district" means the city, county, town, village or judicial district within and for which a board is established under this Act;* "District."
- (b) *The expression "Board of Trade," includes Chamber of Commerce. 39 V., c. 34, s. 1, part.* "Board of Trade."
- 2.** Any number of persons not less than thirty, who are merchants, traders, brokers, mechanics, manufacturers, managers of banks or insurance agents, and residents of any district which has a population of not less than two thousand five hundred, may associate themselves together as a Board of Trade, and appoint a secretary. 39 V., c. 34, s. 1, part. Formation of Boards of Trade.
- 3.** The persons so associating themselves together as a Board of Trade shall, under their hands and seals, make a certificate specifying the name assumed by the association, and by which it shall be known,—also the name as hereinbefore defined, of the district in which the same is situate and its business is transacted, and the name of the person by them appointed secretary to the said Board of Trade. 39 V., c. 34, s. 1, part. Certificate of formation.
- 4.** Such certificate shall be acknowledged before a notary public, commissioner for taking affidavits, or justice of the peace, by the secretary of the said Board of Trade, and shall be forwarded to the Secretary of State, who shall cause the same to be recorded in a register to be kept for that purpose; and a copy thereof, duly certified by the Secretary of State, shall be evidence of the existence of such association. 39 V., c. 34, s. 1, part. Certificate to be sent to Secretary of State.
- 5.** The persons named as corporators in the said certificate, and such other persons as afterwards join them, are hereby authorized to carry into effect the objects for which such association was constituted, and to exercise the powers and privileges conferred by this Act; and they and their associates, successors and assigns, by the name and style specified in the said certificate, shall be a body corporate Persons incorporated to have certain powers.

and politic, with power to acquire, sell and convey any real estate, necessary for the objects of such association. 37 V., c. 51, s. 4, *part*.

The mention of certain implied corporate powers in the original section 4 is omitted, as unnecessary.

Domicile.

6. The usual place of meeting of the said corporation shall be held to be the legal domicile thereof, at which service of any notice or process may be made. 37 V., c. 51, s. 4, *part*.

Officers and Council of Board of Trade.

7. The officers of every Board of Trade shall be a president, vice-president and secretary, who, together with not less than eight other members, shall constitute a council, which shall be called "The Council of the Board of Trade of _____," (*adding the name of the district as hereinbefore defined*), and who shall have the powers and perform the duties hereinafter

First meeting for election of officers, &c.

mentioned; and when the foregoing provisions have been complied with, it shall be competent for a majority of the persons named as corporators in the said certificate, to hold a meeting for the election of a president, vice-president and members of the said council, and without notice, to make and enact such by-laws, rules and regulations as are hereinafter mentioned. 37 V., c. 51, s. 5;—39 V., c. 34, s. 2.

General quarterly meetings.

8. The members of the said corporation shall hold general quarterly meetings in each year, at some place within the district, of which notice, naming the time and place, shall be given by the secretary of the council for the time being, at least three days previous to such meeting, through one newspaper or otherwise, as is thought necessary by the council; and at the first quarterly meeting held in each year, the members of the said corporation present, or a majority of them, shall elect, in the manner prescribed by the by-laws, from among the members of the corporation, a president, vice-president and secretary, and at least eight other members of the council, who, with the president, vice-president and secretary, shall form the council of the corporation, and shall hold their offices until others are elected in their stead, at the next first quarterly meeting of the ensuing year, as aforesaid, or until they are removed from office, or vacate the same under the provisions of the by-laws of the corporation :

Election of President and members of Council.

Provision, in case of failure of election.

2. If the said election does not take place at such first quarterly meeting, as aforesaid, the said corporation shall not be thereby dissolved, but such election may be held at any general meeting of the corporation, called in the manner hereinafter provided, and the members of the council in office shall remain members until the election held. 37 V., c. 51, s. 6.

President and vice-president to take oath of office.

9. The president and vice-president shall, before entering upon the duties of their office, take and subscribe before the mayor of the city or town, constituting the district, or

before any justice of the peace an oath in the form following, that is to say:—

“I swear that I will faithfully and truly perform my duty as Form of oath. of the Board of Trade, and that I will, in all matters connected with the discharge of such duty, do all things, and such things only, as I shall truly and conscientiously believe to be adapted to promote the objects for which the said board was constituted, according to the true intent and meaning of the same. So help me God.” 37 V., c. 51, s. 7.

10. If any member of the council dies or resigns his office, or is absent for six months continuously from the meetings of the council, the council may, at any meeting thereof, elect a member of the corporation to be a member of the council, in the place of the member who has died or resigned, or is absent; and such new member shall be so elected by a majority of the members of the council present at any meeting of the same, if there is a quorum present at such meeting; and the member so elected shall hold office until the next annual election. 37 V., c. 51, s. 8. Vacation of office, and filling vacancies in council.

11. At any annual or general meeting of the corporation, whether for the purpose of electing members of the council or for any other purpose, a majority of members present at such meeting shall be competent to do and perform all acts which, either under this Act or under any by-law of the corporation, are or shall be directed to be done at any such general meeting. 37 V., c. 51, s. 9. Majority present at meetings of corporation to have full power.

12. Any member of the corporation, who intends to retire therefrom or to resign his membership, may do so, at any time, upon giving to the secretary ten days' notice, in writing, of such intention, and upon discharging any lawful liability which is standing upon the books of the corporation against him at the time of such notice. 37 V., c. 51, s. 10. Retirement of members.

13. The majority of the members of the corporation present at any general meeting may make by-laws and regulations, and from time to time repeal, alter and amend the same, for the government of the corporation, providing for the admission, and subscriptions of members, for the imposing of penalties, for the expulsion or the retirement of members, for the management of its council, officers and affairs, for the guidance of the board of arbitrators hereinafter mentioned, and for fixing the date and place of the regular meetings of the council, and all other by-laws in accordance with the requirements of this Act or the laws of Canada: Making by-laws and regulations; for what purpose.

2. Such by-laws shall be binding on all members of the corporation, its officers and servants, and all other persons, whomsoever, lawfully under its control:

Notice of proposed by-laws to be given.

3. No by-law shall be made by the corporation, except as hereinbefore mentioned, without notice in writing thereof having been given by one member and seconded by another member at a previous meeting, and duly entered in the books of the corporation as a minute of the corporation. 37 V., c. 51, s. 11.

Who may become members of the corporation, and how.

14. Every person resident within the district, who is or has been a merchant, broker, trader, mechanic, manufacturer, manager of a bank or insurance agent, shall be eligible to become a member of the corporation; and at any general meeting of the corporation, any member of the corporation may propose any such person, as aforesaid, as a candidate for becoming a member of the corporation; and if such proposition is carried by a majority of two thirds of the members of the corporation then present, he shall thenceforth be a member of the corporation, and shall have all the rights and be subject to all the obligations which the other members possess or are subject to: Provided always, that any person who is not a merchant or trader, broker, mechanic, manufacturer, manager of a bank or insurance agent, shall be eligible to become a member of the corporation, in manner aforesaid, if such person is recommended by the council of the Board of Trade at any such meeting. 37 V., c. 51, s. 12.

Proviso; as to persons not being traders, &c.

Special general meetings of corporation.

15. The council, or a majority of them, by a notice inserted in one or more newspapers published within the district, one day previously to the meeting, or by a circular letter to each member, signed by the secretary of the corporation, and mailed one day previously to the meeting, may call a general meeting of the corporation for any of the purposes of this Act. 37 V., c. 51, s. 13.

Meeting of council, how convened, &c.

16. The council may hold meetings, from time to time, and adjourn the same when necessary, and may, at such meetings, transact such business as is, by this Act or by the by-laws of the corporation, assigned to it; and such meetings of the council shall be convened by the secretary, at the instance of the president, or upon the request of any two members of the council:

Powers.

2. The council shall, in addition to the powers hereby expressly conferred on it, have such powers as are assigned to it by any by-law of the corporation, except the power of enacting or altering any by-law, or admitting any member, which shall be done only in the manner provided for by this Act:

Exception.

Quorum.

3. Any five or more members of the council, lawfully met, shall be a quorum, and a majority of such quorum may do all things within the powers of the council:

Who to preside.

4. At all meetings of the council, and at all general meetings of the corporation, the president, or in his absence,

the vice-president, or if both are absent, any member of the council then present who is chosen for the occasion shall preside, and in all cases of equality of votes upon any division, he shall have a casting vote. 37 V., c. 51, s. 14. Casting vote.

17. The council shall frame such by-laws, rules and regulations as appear to it best adapted to promote the welfare of the corporation, and the purposes of this Act, and shall submit the same for adoption, at a general meeting of the corporation, called for that purpose, in the manner hereinbefore provided. 37 V., c. 51, s. 15. Council to frame by-laws, &c., to be submitted at a general meeting.

18. All subscriptions of members due to the corporation, under any by-law, all penalties incurred under any by-law, by any person bound thereby, and all other sums of money due to the corporation, shall be paid to the secretary thereof, and in default of payment, shall be recoverable in an action brought in the name of the corporation; and it shall only be necessary, in such action, to allege that such person is indebted to the corporation in the sum of money, and the amount of such arrearage on account of such subscription, penalty or otherwise, whereby an action has accrued to the corporation by virtue of this Act. 37 V., c. 51, s. 16. Recovery of subscriptions, &c.

19. On the trial or hearing of any such action, it shall be sufficient for the corporation to prove that the defendant, at the time the demand was made, was or had been a member of the corporation, and that the amount claimed as such subscription, penalty or otherwise, was standing unpaid upon the books of the corporation. 37 V., c. 51, s. 17. Proof in action brought in such case.

20. The meetings of the council shall be open to all members of the corporation who may attend at the same, but who shall take no part in any proceedings thereat; and minutes of the proceedings at all meetings, whether of the council or of the corporation, shall be entered, in books to be kept for that purpose, by the secretary of the corporation; and the entry thereof shall be signed by the president or vice-president or the other person who presides at the meeting; and such books shall be open at all reasonable hours to any member of the corporation free of any charge. 37 V., c. 51, s. 18. Meetings of council to be open to members.
Minutes.
Record thereof.

21. At the time hereby appointed for the election of the council, and in the same manner, the members of the corporation may elect, from their number, twelve persons, who shall form a board, which shall be called "The Board of Arbitration;" and any three of such persons shall have power to arbitrate upon, and make their award in any commercial case or difference which is voluntarily referred to them by the parties concerned; and whenever such parties agree to bind themselves, by bond or otherwise, to submit the matter in dispute between them to the decision Board arbitration.
Powers.

of the board of arbitration, such submission shall be understood to be made to any three members of the said board, who may, either by the special order of the said board, or by virtue of any general rules adopted by them, or under any by-law of the corporation touching the consideration of any cases so submitted, be appointed to hear, arbitrate and decide upon the case or cases so submitted to them; and such decision shall be binding upon the said board of arbitration and the parties making the submission; and any such submission shall be according to the form A in the schedule to this Act, or to the same effect. 37 V., c. 51, s. 19.

Form of submission to board.

Members of board to be sworn.

22. The several members of the board of arbitration shall, before they act as such, take and subscribe, before the president or vice-president of the corporation, an oath in the form B in the schedule to this Act, that they will faithfully, impartially and diligently perform their duties as members of the board of arbitration, and such oath shall be kept among the documents of the corporation. 37 V., c. 51, s. 20.

Members of council may be arbitrators.

23. Any member of the council may, at the same time, be a member of the board of arbitration. 37 V., c. 51, s. 21.

Powers of arbitrators as to examination in hearing cases.

24. The three members appointed to hear any case submitted for arbitration, as aforesaid, or any two of them, shall have full power to examine, upon oath (which oath any one of such three members is hereby empowered to administer), any party or witness who, appearing before them, is so examined, and shall give their award thereupon in writing; and their decision, or that of any two of them, given in such award shall bind the parties according to the terms of the submission and the provisions of this Act. 37 V., c. 51, s. 22.

Award.

Power of council to appoint board of examiners of inspectors.

25. The council of the corporation may appoint five persons to constitute a board of examiners to examine applicants for the office of inspector of flour and meal, or of any other article subject to inspection, and may do all such other acts, matters and things connected with the inspection of flour and meal or any other article, and shall have as full power and be subject to the same conditions as those conferred upon and required of the councils of the Boards of Trade by "*The General Inspection Act*"; and the said examiners and inspector shall be subject to all the provisions touching their office set forth in the said Act. 37 V., c. 51, s. 23.

Boards of trade may affiliate with Dominion

26. Any Board of Trade duly registered as aforesaid, under the provisions of this Act, may become affiliated with the Dominion Board of Trade, on duly complying with all

the terms and requirements of that organization, and may be represented at all its ordinary or special general meetings, held from time to time : Provided always, that the delegates or representatives to the Dominion Board of Trade shall be elected at a general meeting, duly convened, of the Board of Trade desiring such affiliation as aforesaid. 37 V., c. 51, s. 25.

Board of Trade.
Proviso.

SCHEDULE OF FORMS.

FORM A.

Know all men, that the undersigned and the undersigned (*if there are more parties, that is, more separate interests, mention them*) having a difference as to the respective rights of the said parties, as in the case hereunto subjoined, have agreed and bound themselves under a penalty of dollars, to perform and abide by the award to be made by the Board of Arbitration of the Board of Trade of in the case aforesaid, under the penalty aforesaid, to be paid by the party refusing to perform or abide by such award to the party ready and willing to perform or abide by the same.

In witness whereof, the said parties have hereunto set their hands and affixed their seals at the of on the day of , A.D. 18 .

A. B. [L.S.]
C. D. [L.S.]

37 V., c. 51, sch. part.

FORM B.

I swear that I will faithfully, impartially and diligently perform my duty as a member of the Board of Arbitration of the Board of Trade of , and that I will, in all cases in which I shall act as arbitrator, give a true and just award, according to the best of my judgment and ability, without fear, favor or affection, of or for any person whomsoever : So help me God. 37 V., c. 51, sch. part.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
37 V., c. 51.	The whole, except ss. 24 and 26.	ss. 24 and 26.		
39 V., c. 34.	The whole.			

CHAPTER 125.

An Act respecting Trade Unions.

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

SHORT TITLE.

Short title. **1.** This Act may be cited as "*The Trade Unions Act.*" 35 V., c. 30, s. 1.

INTERPRETATION.

Interpreta-
tion.
"Trade
Union."

2. In this Act, unless the context otherwise requires, the expression "Trade Union" means such combination, whether temporary or permanent, for regulating the relations between workmen and masters, or for imposing restrictive conditions on the conduct of any trade or business, as would, but for this Act have been deemed to be an unlawful combination by reason of some one or more of its purposes being in restraint of trade. 35 V., c. 30, s. 22, *part.*

APPLICATION OF ACT.

Certain
agreements
not affected.

3. This Act shall not affect,—

(1) Any agreement between partners as to their own business ;

(2) Any agreement between an employer and those employed by him as to such employment ;

(3) Any agreement in consideration of the sale of the goodwill of a business, or of instruction in any profession, trade or handicraft. 35 V., c. 30, s. 22, *part.*

Certain legal
proceedings
not authoriz-
ed by this
Act.

4. Nothing in this Act shall enable any court to entertain any legal proceeding instituted with the object of directly enforcing or recovering damages for the breach of any of the following agreements, that is to say :—

(1) Any agreement between members of a trade union as such, concerning the conditions on which any members for the time being of the trade union shall, or shall not, sell their goods, transact business, employ or be employed ;

(2) Any agreement for the payment by any person of any subscription or penalty to a trade union ;

(3) Any agreement for the application of the funds of a trade union,—

(a) To provide benefits to members ; or—

(b) To furnish contributions to any employer or workman, not a member of such trade union, in consideration of such employer or workman acting in conformity with the rules or resolutions of such trade union ; or—

(c) To discharge any fine imposed upon any person by sentence of a court of justice ;

(4) Any agreement made between one trade union and another ;

(5) Any bond to secure the performance of any of the above mentioned agreements :

But nothing in this section shall be deemed to constitute any of the agreements above mentioned unlawful. 35 V., c. 30, s. 4. But agreements not unlawful thereunder.

5. No Act in force in Canada providing for the constitution and incorporation of charitable, benevolent or provident institutions, shall include or apply to trade unions, and this Act shall not apply to any trade union not registered under this Act. 35 V., c. 30, s. 5. Application of certain Acts.

CONSTITUTION OF TRADE UNIONS.

6. Any seven or more members of a trade union may, by subscribing their names to the rules of the union and otherwise complying with the provisions of this Act with respect to registry, register such trade union under this Act, but if any one of the purposes of such trade union is unlawful, such registration shall be void. 35 V., c. 30, s. 6. Trade union may be registered.

7. Any trade union registered under this Act, may purchase, or take upon lease, in the names of the trustees for the time being of such trade union, any land not exceeding one acre, and may sell, exchange, mortgage or let the same ; and no purchaser, assignee, mortgagee or tenant, shall be bound to enquire whether the trustees have authority for any sale, exchange, mortgage or letting, and the receipt of the trustees shall be a discharge for the money arising therefrom ; and for the purposes of this section, every branch of a trade union shall be considered a distinct union. 35 V., c. 30, s. 7. Powers as to land.

Property
vested in
trustees.

8. All real and personal property whatsoever belonging to any trade union registered under this Act, shall be vested in the trustees for the time being of such trade union, appointed as provided by this Act, for the use and benefit of such trade union and the members thereof; and the real or personal property of any branch of a trade union shall be vested in the trustees of such branch and be under the control of such trustees, their respective executors or administrators, according to their respective claims and interests; and upon the death or removal of any such trustees the same shall vest in the succeeding trustees for the same estate and interest as the former trustees had therein, and subject to the same trusts, without any conveyance or assignment whatsoever,—save and except in the case of Dominion stock, which shall be transferred into the names of such new trustees :

Whose the
property may
be stated to
be.

2. In all actions, suits or indictments or summary proceedings before any court of summary jurisdiction, touching or concerning any such property, the same shall be stated to be the property of the persons for the time being holding the said office of trustee, in their proper names, as trustees of such trade union, without any further description. 35 V., c. 30, s. 8.

Powers as to
suits and
actions.

9. The trustees of any trade union registered under this Act, or any other officer of such trade union who is authorized so to do by the order thereof, may bring or defend, or cause to be brought or defended, any action, suit, prosecution or complaint, in any court of competent jurisdiction, touching or concerning the property, right or claim to property of the trade union—and may, in all cases concerning the property, real or personal, of such trade union, sue and be sued, plead and be impleaded, in any such court, in their proper names, without other description than the title of their office :

Not abated by
vacation of
office.

2. No such action, suit, prosecution or complaint, shall be discontinued or abated by the death or removal from office of such persons, or any of them, but the same shall be proceeded in by or against their successor or successors, as if such death, resignation or removal had not taken place; and such successors shall pay and receive the like costs as if the action, suit, prosecution or complaint had been commenced in their names, for the benefit of, or to be reimbursed from the funds of such trade union :

Service of
process.

3. Any summons to any such trustee or other officer may be served by leaving the same at the registered office of the trade union. 35 V., c. 30, s. 9.

Liability of
trustee.

10. A trustee of any trade union registered under this Act shall not be liable to make good any deficiency which

arises or happens in the funds of such trade union, but such trustee shall be liable only for the moneys actually received by him on account of such trade union. 35 V., c., 30, s. 10.

11. Every treasurer or other officer of a trade union registered under this Act shall, at such times as by the rules of such trade union he is required to render such account as hereinafter mentioned, or upon being called on so to do, render to the trustees of the trade union, or to the members of such trade union, at a meeting thereof, a just and true account of all moneys received and paid by him since he last rendered a like account, and of the balance then remaining in his hands, and of all bonds or securities of such trade union :

2. The trustees shall cause such account to be audited by some fit and proper person or persons appointed by them; and such treasurer, if thereunto required, upon such account being audited, shall forthwith hand over to the trustees the balance which, on such audit, appears to be due by him, and shall also, if required, hand over to such trustees all securities and effects, books, papers and property of such trade union in his hands or custody; and if he fails so to do, the said trustees may sue such treasurer, in any court of competent jurisdiction, for the balance appearing to have been due from him upon the last account rendered by him, and for all moneys since received by him on account of such trade union, and for the securities and effects, books, papers and property in his hands or custody,—leaving him to set off in such action the sums, if any, which he has since paid on account of such trade union; and in such action the trustees shall be entitled to recover their full costs of suit, to be taxed as between solicitor and client. 35 V., c. 30, s. 11.

12. If any officer, member or other person who is, or represents himself to be a member of a trade union registered under this Act, or the nominee, executor, administrator or assignee of a member thereof, or any person whatsoever, by false representation or imposition, obtains possession of any moneys, securities, books, papers or effects of such trade union, or, having the same in his possession, wilfully withholds or fraudulently misapplies the same, or wilfully applies any part of the same to purposes other than those expressed or directed in the rules of such trade union, or any of them, the magistrate or justices having jurisdiction in cases of complaint for offences under this Act, for the place in which the registered office of the trade union is situate, upon a complaint made by any person on behalf of such trade union, or by the registrar, may, by summary order, order such officer, member or other person, to deliver up all such moneys, securities, books, papers or other effects to the trade

Account to be rendered.

Audit.

Payment, &c., to trustees.

Recovery in case of default.

Costs.

Fraudulently obtaining, misapplying, &c., funds, books and effects.

Order of restitution may be made.

union, or to repay the amount of money paid improperly, and to pay, if the court thinks fit, a further sum of money not exceeding one hundred dollars, together with costs not exceeding five dollars; and in default of such delivery of effects or payment of such amount of money, or payment of such penalty and costs, as aforesaid, the said court may order the person so convicted to be imprisoned, with or without hard labor, for any term not exceeding three months :

As to proceedings by indictment.

2. Nothing in this Act shall prevent the trade union from proceeding by indictment against the said person, but no person shall be proceeded against by indictment if a conviction has been previously obtained for the same offence under the provisions of this Act. 35 V., c. 30, s. 12.

REGISTRY OF TRADE UNIONS.

Registrar.

13. The Registrar General of Canada shall be the registrar under this Act. 35 V., c. 30, s. 17, *part.*

Registry to be subject to certain provisions.

14. With respect to the registry, under this Act, of trade unions, the following provisions shall have effect :—

(1) An application to register the trade union and printed copies of its rules, together with a list of the titles and names of its officers, shall be sent to the registrar under this Act :

(2) The registrar, upon being satisfied that the trade union has complied with the regulations respecting registry in force under this Act, shall register such trade union and such rules :

(3) No trade union shall be registered under a name identical with that under which any other trade union has been registered, or so nearly resembling such name as to be likely to deceive the members or the public :

(4) If a trade union which applies to be registered has been in operation for more than a year before the date of such application, there shall be delivered to the registrar, before the registry thereof, a general statement of the receipts, funds, effects and expenditure of such trade union, in the same form and showing the same particulars as if it was the annual general statement required, as hereinafter mentioned to be transmitted annually to the registrar :

(5) The registrar, upon registering such trade union, shall issue a certificate of registry,—which certificate, unless it is proved to have been withdrawn or cancelled, shall be conclusive evidence that the regulations of this Act, with respect to registry, have been complied with :

(6) The Governor in Council may, from time to time, make regulations respecting registry under this Act, and respecting the seal, if any, to be used for the purpose of such registry, and the inspection of documents kept by the registrar under this Act, and respecting the fees, if any, to be paid on registry, not exceeding the fees specified in the first schedule to this Act, and generally for carrying this Act into effect. 35 V., c. 30, s. 13.

15. With respect to the rules of a trade union registered under this Act, the following provisions shall have effect:— Rules of registered union.

(1) The rules of every such trade union shall contain provisions in respect of the several matters mentioned in the second schedule to this Act:

(2) A copy of the rules shall be delivered by the trade union to every person on demand, on payment of a sum not exceeding twenty-five cents. 35 V., c. 30, s. 14.

16. Every trade union registered under this Act shall have a registered office, to which all communications and notices may be addressed; and if any trade union registered under this Act is in operation for seven days without having such an office, such trade union and every officer thereof shall each incur a penalty not exceeding twenty-five dollars for every day during which it is so in operation: Union to have registered office.

2. Notice of the situation of such registered office and of any change therein, shall be given to the registrar and recorded by him, and until such notice is given, the trade union shall not be deemed to have complied with the provisions of this Act. 35 V., c. 30, s. 15. Notice of such office to be given.

17. A general statement of the receipts, funds, effects and expenditure of every trade union registered under this Act shall be transmitted to the registrar, before the first day of June in each year, and shall show fully the assets and liabilities at the date, and the receipts and expenditure of the trade union, during the year next preceding the date to which it is made out, and shall show, separately, the expenditure in respect of the several objects of the trade union, and shall be prepared and made out to such date, in such form and shall comprise such particulars as the registrar, from time to time, requires; and every member of and depositor in any such trade union shall be entitled to receive, on application to the secretary or treasurer of the trade union, a copy of such general statement, without making any payment for the same: General statement of affairs for registrar.

2. There shall be sent to the registrar, together with such general statement, a copy of all alterations of rules, and new rules and changes of officers, made by the trade union Copies for members.

2. There shall be sent to the registrar, together with such general statement, a copy of all alterations of rules, and new rules and changes of officers, made by the trade union Copies of rules to accompany statement.

during the year preceding the date up to which the general statement is made out, and a copy of the rules of the trade union as they exist at that date. 35 V., c., 30, s. 16, *part*.

PENALTIES.

Penalty for violation of preceding section.

18. Every trade union that fails to comply with or acts in violation of the next preceding section, and every officer of the trade union failing so to act, shall each incur a penalty not exceeding twenty-five dollars for each offence :

And for making false entries.

2. Every person who wilfully makes, or orders to be made, any false entry in or any omission from any such general statement, or in or from the return of such copies or rules or alterations of rules, shall incur a penalty not exceeding two hundred dollars for each offence. 35 V., c. 30, s. 16, *part*.

Punishment for circulating false copies of rules of a union.

19. Every person who, with intent to mislead or defraud, gives to any member of a trade union registered under this Act, or to any person intending or applying to become a member of such trade union, a copy of any rules or of any alterations or amendments of the same, other than those respectively which exist for the time being, on the pretence that the same are the existing rules of such trade union, or that there are no other rules of such trade union,—or who, with the intent aforesaid, gives a copy of any rules to any person under the pretence that such rules are the rules of a trade union registered under this Act, which is not so registered, is guilty of a misdemeanor, *and liable to a penalty not exceeding one hundred dollars, or to imprisonment for a term not exceeding six months, or to both, in the discretion of the court.* 35 V., c. 30, s. 18.

The offence being one that may be tried in a summary manner, the above penalty is suggested.

Summary convictions Act to apply.

20. All offences and penalties under this Act may be prosecuted and recovered under the "*Act respecting summary proceedings before Justices of the Peace* : "

Before whom complaint may be brought.

2. The complaint or information shall be brought, heard and determined before some stipendiary or police magistrate or other functionary having, by law, the powers of two justices of the peace, if the offence is committed in any city, town or place in which any such magistrate or functionary has jurisdiction ; and if the offence is committed elsewhere, then before two justices of the peace :

Description of offence.

3. The description of any offence against this Act in the words of this Act shall be sufficient in law :

How exception, exemption, proviso, excuse or qualification, exempt-

4. Any exception, exemption, proviso, excuse or qualification, whether it does or does not accompany the description

of the offence in this Act, may be proved by the defendant, but need not be specified in the information; and if so specified and negatived, no proof in relation to the matters specified and negatived shall be required on the part of the informant or prosecutor. 35 V., c. 30, s. 19.

tion, &c., may be proved.

GENERAL PROVISIONS.

21. No person who is a master, or the father, son or brother of a master, in the particular trade or business in or in connection with which any offence under this Act is charged to have been committed, shall act as a magistrate or justice of the peace, in any case of complaint or information under this Act, or as a member of any court for hearing any appeal in any such case. 35 V., c. 30, s. 21.

Certain persons not to act as magistrates.

22. The purposes of any trade union shall not, by reason merely that they are in restraint of trade, be deemed to be unlawful, so as to render any member of such trade union liable to criminal prosecution for conspiracy or otherwise, or so as to render void or voidable any agreement or trust. 35 V., c. 30, ss. 2 and 3.

Purposes of trade union not unlawful.

23. The Registrar General of Canada shall lay before Parliament annual reports with respect to the matters transacted by him as registrar under this Act and in pursuance thereof. 35 V., c. 30, s. 17, *part*.

Annual reports for Parliament.

SCHEDULES.

FIRST SCHEDULE.

Maximum Fees.

For registering a trade union.....	\$4 00
For registering alterations in rules.....	2 00
For inspection of documents.....	0 50

35 V., c. 30, 2nd sch.

SECOND SCHEDULE.

Matters to be provided for by the Rules of Trade Unions registered under this Act.

1. The name of the trade union and place of meeting for the business of the trade union ;
2. Every object for which the trade union is to be established, the purposes for which the funds thereof shall be applicable, and the conditions under which any member may

become entitled to any benefit assured thereby, and the fines and forfeitures which may be imposed on any member of such trade union :

3. The manner of making, altering, amending and rescinding rules :

4. A provision for the appointment and removal of a general committee of management, and of a trustee or trustees, treasurer and other officers :

5. A provision for the investment of the funds, and for an annual or periodical audit of accounts :

6. The inspection of the books and names of members of the trade union by every person having an interest in the funds of the trade union. 35 V., c. 30, 1st sch.

Proposed to be Consolidated.	Part Consolidated	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
35 Vic., c. 30.....	The whole, except ss. 20 & 23	ss. 20 and 23.		

CHAPTER 126.

An Act respecting Electric Telegraph Companies.

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 Electric Telegraph Companies Act.*" Short title.

New.

2. In this Act, unless the context otherwise requires, the expression "the company" means a company incorporated by letters patent under "*The Companies Act*" for the purpose of constructing a line or lines of electric telegraph in Canada. Interpretation.
"Company."

New.

3. Every company may construct the lines of telegraph, authorized by its charter, along any and upon any of the public roads and highways, or across or under any of the navigable waters within Canada, by the erection of the necessary fixtures, including posts, piers or abutments for sustaining or protecting the wires or cables of such lines; but the same shall be so constructed as not to incommode the public use of such roads or highways, or to impede free access to any house or other building erected in the vicinity of the same, or injuriously to interrupt the navigation of such waters. Powers for the
construction
of the line.

C. S. C., c. 67, s. 8.

Re-drafted.

4. Nothing herein contained shall confer on the company the right of building a bridge over any navigable water. No bridge
over navigable
water.

C. S. C., c. 67, s. 9.

5. The company shall transmit all despatches in the order in which they are received; and every company which violates the provisions of this section shall incur a penalty not exceeding one hundred dollars and not less than twenty dollars, which shall be recoverable with costs, under the "*Act respecting summary proceedings before Justices of the Peace,*" by the person whose despatch has been postponed out of its order. Order of
transmission
of despatches.

C. S. C., c. 67, s. 14.

Re-drafted.

6. Every message in relation to the administration of justice, the arrest of criminals, the discovery or prevention Preferential
messages.

of crime, and Government messages or despatches, shall always be transmitted in preference to any other message or despatch, if so required by any person connected with the administration of justice, or any person thereunto authorized by the Secretary of State of Canada. C. S. C., c. 67, s. 15.

Government may assume the line and works temporarily.

7. Her Majesty may, at any time, assume, and for any length of time retain, possession of any such telegraph line and of all things necessary to the sufficient working thereof, and may, for the same time, require the exclusive service of the operators and other persons employed in working such line; and the company shall give up possession thereof, and the operators and other persons so employed shall, during the time of such possession, diligently and faithfully obey such orders, and transmit and receive such despatches as they are required to receive and transmit by any duly authorized officer of the Government of Canada; and every company, operator or other person violating any of the provisions of this section shall incur a penalty not exceeding one hundred dollars for every refusal or neglect to comply with the requirements thereof, which shall be recoverable by the Crown for the public uses of Canada, with costs, in any way in which debts of like amount are recoverable by the Crown. C. S. C., c. 67, s. 17.

Penalty for non-compliance.

Re-drafted.

Her Majesty may assume the property of the line.

8. Her Majesty may, at any time after the commencement of the operation of a telegraph line under this Act, and after two months' notice to the company, assume the possession and property thereof, and upon such assumption, such line and all the property, real or personal, essential to the working thereof, and all the rights and privileges of the company, as regards such line, shall be vested in the Crown. C. S. C., c. 67, s. 18.

Mode of settling the compensation in case of difference of opinion.

9. If any difference arises between the company and those who act for the Crown, as to the compensation which ought to be paid to the company, for any telegraph line and appurtenances taken possession of or temporarily and exclusively used by the Crown under this Act, such difference shall be referred to three arbitrators, one to be appointed on the part of the Crown, another by the company, and the third by the two arbitrators so appointed, and the award of any two of the said arbitrators shall be final; and if the company refuses or neglects to appoint an arbitrator on its behalf, or if the two arbitrators cannot agree upon a third arbitrator, then such arbitrator or third arbitrator shall be appointed by any two *judges of the Supreme Court of Canada*, on application on the part of the Crown. C. S. C., c. 67, s. 19.

10. The word "telegraph" and its derivatives in this Act or in any other Act of the Parliament of Canada, or in any Act of the Legislature of any Province now forming part of Canada passed before such Province entered the Union, on any subject which by "*The British North America Act, 1867*," was placed within the legislative powers of the Parliament of Canada, shall not be held or construed to include the word "telephone" and its derivatives. 45 V., c. 40, s. 1.

Word "telegraph" does not include "telephones."

Proposed to be Consolidated	Part Consolidated.	Left for Repeal	To be Consolidated elsewhere.	To be Consolidated with.
C. S. C., c. 67.... 45 V., c. 40.	ss. 8, 9, 14, 15, 17, 18, 19. s. 1	ss. 21, 22 and 23. s. 2.	s. 20 is Provincial.	

CHAPTER 127.

An Act respecting Marine Electric Telegraphs.

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 :—

“Company.”

(a) The expression “the company” means any company or association of persons in the next following section mentioned ;

“Minister.”

(b) *The expression “the Minister,” means the Minister of Marine and Fisheries.* 38 V., c. 26, s. 2.

Application of Act.

2. This Act applies—

To certain companies.

(a) To every company hereafter authorized by any special or general Act of the Parliament of Canada, or under the provisions of this Act, to construct or maintain telegraphic wires or cables, in, upon, under or across any gulf, bay or branch of any sea or any tidal water within the jurisdiction of Canada, or the shore or bed thereof respectively, so as to connect any Province with any other Province of Canada, or to extend beyond the limits of any Province ;

And to certain others.

(b) To every company authorized to construct or maintain such telegraphic wires or cables before the eighth day of April, one thousand eight hundred and seventy-five, by any such special or general Act of the Parliament of Canada, or by any other special Act or charter of any of the Provinces constituting the Dominion, and at the said date in force in Canada. 38 V., c. 26, s. 1.

Limitation of powers of company.

3. The company shall not place any telegraphic wire, cable or work connected therewith, in, under, upon, over, along or across any gulf, bay or branch of the sea, or any tidal water, or the shore or bed thereof respectively, except with the consent of all persons having any right of property or other right, or any power, jurisdiction or authority in, over or relating to the same, which may be affected or be liable to be affected by the exercise of the powers of the company. 38 V., c. 26, s. 3.

Plans of works, &c., to be deposit-

4. Before commencing the construction of any such telegraph or work as last aforesaid, or of any buoy or sea-mark

connected therewith—except in cases of emergency, for repairs to any work previously constructed or laid, and then as speedily after the commencement of such work as may be—the company shall deposit, at the Department of Marine, a plan thereof, for the approval of the Minister of Marine and Fisheries :

ed in the department of Marine for approval.

2. The work shall not be constructed otherwise than in accordance with such approval ; and if any work is constructed contrary to this provision, the minister may, at the expense of the company, abate and remove it, or any part of it, and restore the site thereof to its former condition. 38 V., c. 26, s. 4.

Work to be constructed accordingly.

5. The company may, in or about the construction, maintenance or repairs of any such work, use on board ship or elsewhere any light or signal allowed by any regulation made in that behalf by the minister. 38 V., c. 26, s. 5.

Use of lights and signals.

6. If any such work, buoy or sea-mark is abandoned or allowed to fall into decay, the minister may, if and as he thinks fit, at the expense of the company, abate and remove it, and restore the site thereof to its former condition ; and the minister may, at any time, at the expense of the company, cause to be made a survey and examination of any such work, buoy or sea-mark, or of the site thereof. 38 V., c. 26, s. 6.

Abandoned or decayed work may be removed by department.

7. Whenever the minister, under the authority of this Act, does, in relation to any such work, any act or thing which he is, by this Act authorized to do at the expense of the company, the amount of such expense shall be a debt due by the company to the Crown, and shall be recoverable as such, with costs,—or the same shall be recoverable, with costs, in the same manner that a penalty is recoverable from the company. 38 V., c. 26, s. 7.

Recovery by department from company, of expenses, &c.

8. The company may, with the consent of the Governor in Council, take and appropriate for the use of the company, for its stations, offices and works, but shall not alienate, so much of the land held by the Crown for the purposes of Canada, and the shore or bed adjacent to or covered by any gulf, bay or branch of the sea, or by any tidal water, as is necessary for constructing, completing and using the telegraph and works of the company. 38 V., c. 26, s. 8.

Extent of Crown lands to be taken, limited.

9. The company may also acquire from any Province of Canada any land or other property necessary for the construction, maintenance, accommodation and use of the telegraph and works of the company, and may also alienate, sell and dispose of the same when no longer required for the purposes of the company. 38 V., c. 26, s. 9.

Provincial lands may be acquired.

Company may acquire other lands and a certain extent may be taken by compulsory process, under Railway Act.

10. The company may also acquire any land necessary for the construction, maintenance and use of the telegraphic cable and works of the company, adjacent to or near the shore end or place of landing of the telegraph; and if the company, and the person from whom the land is to be acquired fail to agree as to the possession or price of such land, the company may enter upon and take such land, not exceeding five acres in extent, under the powers, authorities and provisions of "*The Railway Act*," the sections of which, in respect to compulsory powers for the acquisition of lands, shall apply to every company to which this Act applies; and the powers and authorities contained in the said sections of "*The Railway Act*" shall be vested in and may be exercised by every such company for the purpose aforesaid. 38 V., c. 26, s. 10.

Works not to be proceeded with until plans, &c., are submitted to and approved by Governor in Council.

11. The company shall not exercise any of the powers by this Act conferred until it has submitted to the Governor in Council a plan and survey of the proposed site and location of such telegraph, and its approaches at the shore, and of all its stations, offices and accommodations on land, and of all the intended works thereunto appertaining,—and until such plan, site and location have been approved by the Governor in Council, and until such conditions as he thinks fit for the public good to impose, touching the said telegraph and works, have been complied with. 38 V., c. 26, s. 11.

What companies only may extend their wires or cables beyond limits of any one Province.

12. No company other than those companies mentioned in the second section of this Act, or which is incorporated in Canada under the following provisions of this Act, shall maintain, construct or use any telegraphic wire or cable connecting two or more Provinces of Canada, or extending beyond the limits of any Province, in, upon, under or across any gulf, bay or branch of any sea or any tidal water within the jurisdiction of Canada, or the shore or bed thereof respectively; but nothing in this section contained shall prevent any existing telegraph company from continuing to receive and transmit messages over its line of marine telegraph, until such time as another company, under the authority and within the provisions of this Act, constructs and is operating a line or lines of marine telegraph, which has been determined by the Governor in Council to afford reasonable facilities for the transmission of marine telegraphic messages, in lieu of the line or lines of such existing telegraph company, or to be a line or lines for doing business over a route of a competitive nature, and until the Order in Council declaring such determination has been published for three months in the *Canada Gazette*. 38 V., c. 26, s. 14.

Proviso; as to existing companies.

Transmission of messages

13. The company shall transmit all messages in the order in which they are received, and at equal and cor-

responding tariff rates ; and every company violating any of the provisions of this section shall incur a penalty not exceeding two hundred dollars, and not less than fifty dollars,—which penalty shall be recoverable, with costs, by the person aggrieved, under the “*Act respecting summary proceedings before Justices of the Peace.*” 38 V., c. 26, s. 12, *part.*

Re-drafted.

14. The company may charge for the transmission of messages, and may demand and collect in advance such rates of payment therefor as are fixed by by-law of the company as its tariff rates. 38 V., c. 26, s. 12, *part.*

Re-drafted.

15. Notwithstanding anything contained in the two sections next preceding, arrangements may be made by any such company with the proprietors or publishers of newspapers for the transmission, for the purpose of publication, of intelligence of general and public interest, out of its regular order and at less rates of charge than its regular tariff rates. 38 V., c. 26, s. 12, *part.*

Partially re-drafted.

16. Every message in relation to the administration of justice, the arrest of criminals, the discovery or prevention of crime, and Government messages or despatches, shall always be transmitted in preference to any other message or despatch, if required by any person officially charged with the administration of justice, or any person thereunto authorized by the Secretary of State of Canada, or by the Secretary of State for the Colonies on behalf of the Government of the United Kingdom. 38 V., c. 26, s. 13.

17. If any company is now or hereafter authorized by any special Act of the Parliament of the United Kingdom, or is incorporated under the Statutes of the Parliament of the United Kingdom relating to joint stock companies, or any other general Act of the Parliament of the United Kingdom or by Royal charter, for establishing or maintaining telegraphic communication, in, upon, under or across any gulf, bay or branch of any sea or tidal water within the jurisdiction of Canada, the Governor in Council may, by letters patent under the Great Seal of Canada, and upon the terms and conditions contained therein, grant a charter to the persons forming such company, upon the company petitioning therefor ; and such persons and others who become shareholders in the company, shall be constituted a body corporate and politic, by the same name, and with the same power and constitution in Canada, for the said purpose and object of establishing and maintaining their said telegraph and works within the jurisdiction of Canada ; but

Charter to be subject to this Act. any such grant shall be expressly subject to this Act, and conditional upon the company observing and performing the several provisions hereof :

Effect of letters patent. 2. Such letters patent, when published in the *Canada Gazette* with any Orders in Council relating thereto, shall have the like force and effect, as if the company had been incorporated by special Act of Parliament :

Reciprocity in favor of companies incorporated in Canada. 3. No such letters patent or grant of corporate powers to be exercised within the jurisdiction of Canada shall be made to or conferred upon any company which possesses any exclusive privilege of landing wire or cable for a marine telegraph in or upon the coast of any State, Province or country in America, Europe or elsewhere, unless an equal or reciprocal right or privilege of landing wire or cable, and establishing a marine telegraph upon the same coast is conceded to any and each of the companies in the *second* section of this Act mentioned, or which are now or hereafter incorporated in Canada under the provisions of this section :

Charters under this section may be revoked for non-user, and in certain other cases. 4. Every grant of corporate and other powers made to or conferred upon any company under this section may be revoked and declared forfeited by an Act of the Parliament of Canada for non-user for three consecutive years, or if the company does not go into actual operation within three years after the issue of the letters patent granting such powers, or if the company, at any time, possesses or acquires any exclusive privilege of landing wire or cable for a marine telegraph in or upon the coast of any State, Province or country in America, Europe or elsewhere, and an equal or reciprocal right or privilege of landing wire or cable and establishing a marine telegraph on the same coast is not conceded to any and each of the companies mentioned in the *second* section of this Act, or to which the provisions hereof apply. 38 V., c. 26, s. 15.

Companies under ss. 2 and 17 prohibited from entering into certain agreements, &c. 18. No company mentioned in the *second* section, of this Act, or which becomes incorporated in Canada under the section next preceding, shall enter into any agreement for the transmission or interchange of messages, or for participation in profits, or for the union or consolidation of capital stock, with any company which at any time possesses or acquires any such exclusive privilege of landing wire or cable for a marine telegraph, in Newfoundland or the Danish possessions, unless an equal or reciprocal right is conceded, as in the next preceding section mentioned ; and every agreement contrary to the provisions of this section shall be illegal and void. 38 V., c. 26, s. 16.

19. This Act shall not affect any franchise, right or privilege which the New York, Newfoundland and London Telegraph Company or any other company, or person lawfully entitled thereto, actually acquired and exercised or operated in Prince Edward Island before and up to the first day of July, eighteen hundred and seventy-three, under any Act of the legislature of Prince Edward Island made and passed before the said first day of July, one thousand eight hundred and seventy-three, and subject to the provisions thereof respectively. 38 V., c. 26, s. 17.

Rights of a certain company under Acts of P. E. Island saved.

Proposed to be Consolidated.	Part Consolidated	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
38 V., c. 26.....	The whole except ss. 18, 19.	ss. 18 and 19.		

CHAPTER 128.

An Act respecting secrecy by officers and persons employed on Telegraph Lines.

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

- Certain telegraph operators to make a declaration of secrecy.
1. Every person who is employed in connection with any telegraph line under the control of the Government of Canada, or which, under any contract or agreement with any person or corporation is partly under such control, as an operator or in any other capacity in which he has opportunities of becoming acquainted with information connected with matters of state or other information, shall, subject to the provision herein contained, before entering upon the duties of such employment, take and subscribe, before a justice of the peace or before a person appointed by the Governor in Council to take declarations under this Act, a declaration, in the form set forth in the schedule to this Act ; but the Minister of Public Works, or such officer or person as he appoints for that purpose, may decide whether any such employee shall or shall not be required to take or make and subscribe the said declaration. 44 V., c. 26, ss. 1, *part, 2 and 3.*
- Exemption in certain cases.
2. All declarations taken under this Act shall be forwarded to the Department of Public Works, and shall there be kept on file ; and a register thereof shall be kept in the said department. 44 V., c. 26, s. 4.
- Registration of declaration, &c.
3. Every person who has made the declaration herein before mentioned, and who, either directly or indirectly, divulges to any person, except when lawfully authorized or directed so to do, any information which he acquires by virtue of his employment, is guilty of an offence against this Act, and shall, on summary conviction before a justice of the peace, be liable to a penalty not exceeding one hundred dollars and not less than fifty dollars, or to imprisonment for a term not exceeding six months, or to both penalty and imprisonment. 44 V., c. 26, s. 5.
- Punishment of operator so declaring and divulging information.
4. Every telegraph operator or other person in the employ of a telegraph company, who divulges the contents of any telegram, except when lawfully authorized or directed so to do, is guilty of an offence against this Act, and shall, on summary conviction before a justice of the peace, be liable
- Punishment of other operators divulging contents of telegram.

to a penalty not exceeding one hundred dollars and not less than fifty dollars, or to imprisonment for a term not exceeding six months, or to both penalty and imprisonment. 44 V., c. 26, s. 6.

SCHEDULE.

“I, A. B., solemnly and sincerely promise and declare that I will faithfully and honestly fulfil the duties which devolve upon me as operator (*or in other capacity, as the case may be*) upon (*state the line of telegraph*), and that I will not, either directly or indirectly, divulge to any person, except when lawfully authorized or directed so to do, any information which I acquire by virtue of my employment as such operator (*or in other capacity, as the case may be.*)

(Signature)

A. B.”

Declared before me, }
 &c., &c., }
 44 V., c. 26, s. 1, part.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
44 V., c. 26.....	ss. 1, 2, 3, 4, 5 and 6	ss. 7 and 8.		

CHAPTER 129.

An Act respecting the Supreme and Exchequer Courts.

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

SHORT TITLE.

Short title. **1.** This Act may be cited as “ *The Supreme and Exchequer Courts Act.* ” 38 V., c. 11, s. 81.

INTERPRETATION.

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

“ Supreme Court.” (a) The expression “ the Supreme Court ” or “ the court ” means the Supreme Court of Canada ;

“ Exchequer Court.” (b) The expression “ the Exchequer Court ” means the Exchequer Court of Canada ;

“ Judge.” (c) The expression “ judge ” includes the chief justice ;

“ Judgment.” (d) The expression “ judgment,” when used with reference to the court appealed from, includes any judgment, rule, order, decision, decree, decretal order or sentence thereof; and when used with reference to the Supreme Court, includes any judgment or order of that court ;

“ Final judgment.” (e) The expression “ final judgment ” means any judgment, rule, order or decision, whereby the action, suit, cause, matter or other judicial proceeding, is finally determined and concluded ;

“ Appeal.” (f) The expression “ appeal ” includes any proceeding to set aside or vary any judgment of the court appealed from ;

“ The court appealed from.” (g) The expression “ the court appealed from ” means the court from which the appeal is brought directly to the Supreme Court, whether such court is a court of original jurisdiction or a court of appeal. 38 V., c. 11, ss. 2, 5 and 11 ;—42 V., c. 39, s. 9.

THE COURTS.

Courts continued. **3.** The court of common law and equity in and for Canada, now existing under the name of “ the Supreme Court

of Canada," and the Court of Exchequer, now existing under the name of "the Exchequer Court of Canada," are hereby continued under the names aforesaid and shall continue to be courts of record. 38 V., c. 11, ss. 1 and 2.

THE JUDGES.

4. The Supreme Court shall consist of a chief justice and five puisne judges, who shall be appointed by the Governor in Council by letters patent under the Great Seal: Constitution of court.

2. Any person may be appointed a judge of the court who is or has been a judge of a superior court of any of the Provinces of Canada, or a barrister or advocate of at least ten years' standing at the bar of any of the said Provinces: Who may be appointed judge.

3. Two at least of the judges of the court shall be appointed from among the judges of the Court of Queen's Bench, or of the Superior Court, or the barristers or advocates of the Province of Quebec: Judges from bar of Quebec.

4. No judge of the court shall hold any other office of emolument, either under the Government of Canada or under the Government of any Province of Canada: No other office of profit to be held.

5. The judges of the court shall reside at the city of Ottawa, or within five miles thereof. 38 V., c. 11, s. 3, *part*, and ss. 4 and 10. Residence.

5. 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. 38 V., c. 11, s. 5. Tenure of office.

6. The chief justice and judges of the Supreme Court shall be respectively the chief justice and judges of the Exchequer Court. 38 V., c. 11, s. 4, *part*. To be judges of both courts.

7. There shall be paid and payable out of the Consolidated Revenue Fund of Canada, the yearly sums following, as and for the salaries of the said judges, as judges of both courts, that is to say: to the chief justice, the sum of eight thousand dollars, and to each of the puisne judges the sum of seven thousand dollars, which sums shall be paid, free and clear of all deductions whatsoever, by monthly instalments; the first payment shall be made *pro rata* on the first day of the month which occurs next after the appointment of the judge entitled to receive the same; and if any judge resigns his office or dies, he or his executor or administrator shall be entitled to receive such proportionate part of the salary aforesaid, as has accrued during the time that he has executed such office since the last payment. 38 V., c. 11, s. 6. Salaries and how payable.

Retiring allowances and how payable.

8. If any judge has continued in the office of judge of the said courts for fifteen years or upwards, or in the said office, and that of judge of one or more of the superior courts or of the courts of vice-admiralty in any of the Provinces of Canada, for periods amounting together to fifteen years or upwards, or becomes afflicted with a permanent infirmity, disabling him from the due execution of his office, and if such judge resigns his office, Her Majesty may, by letters patent under the Great Seal of Canada, reciting such period of office or such permanent infirmity, grant unto such judge an annuity equal to two-thirds of his salary as such judge at the time of his resignation, to commence immediately after his resignation and to continue thenceforth during his natural life, and to be payable by monthly instalments, and *pro rata* for any period less than a year during such continuance, out of any unappropriated moneys forming part of the Consolidated Revenue Fund of Canada. 38 V., c. 11, s. 7.

Oath to be taken.

9. Every judge shall, previously to entering upon the duties of his office as such judge, take an oath in the form following:—

Form of oath.

“ 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 chief justice (*or as one of the judges*) of the Supreme Court and of the Exchequer Court of Canada. “ So help me God.” 38 V., c. 11, ss. 8 and 60.

How administered.

10. Such oaths shall be administered to the chief justice before the Governor General, or person administering the Government of Canada, in Council, and to the puisne judges by the chief justice, or in his absence or illness, by any other judge of the court present at Ottawa. 38 V., c. 11, s. 9;—42 V., c. 39, s. 12.

REGISTRAR AND OTHER OFFICERS.

Appointment of registrar.

11. The Governor in Council may, by an instrument under the Great Seal, appoint a fit and proper person, being a barrister of at least five years' standing, to be the registrar of the Supreme Court, and such registrar shall hold office during pleasure, shall reside and keep an office at the city of Ottawa, and shall be paid a salary of two thousand six hundred dollars per annum; and the Governor in Council may, from time to time, appoint such other clerks and servants of the Supreme Court, and of the Exchequer Court, as are necessary,—all of whom shall hold office during pleasure. 38 V., c. 11, s. 69.

Clerks and servants.

Registrar to act for both courts.

12. The registrar of the Supreme Court shall be the registrar of the Exchequer Court. 38 V., c. 11, s. 70.

13. The Governor in Council may appoint a *précis* writer Précis writer. to report the decisions of the Supreme Court and of the Exchequer Court, and such *précis* writer shall act as secretary to the chief justice and judges, and shall be paid such salary as the Governor in Council determines. 38 V., c. 11, s. 71.

14. The provisions of "*The Civil Service Act*" and of "*The Civil Service Superannuation Act*" shall, so far as Civil Service and superannuation acts to apply. applicable, extend and apply to such officers, clerks and servants at the seat of Government. 39 V., c. 26, s. 38.

15. The sheriff of the county of Carleton, in the Province of Ontario, shall be *ex officio* an officer of the Supreme Court and of the Exchequer Court, and shall perform the duties and functions of a sheriff in connection therewith. Sheriff. 40 V., c. 22, s. 3.

BARRISTERS AND ATTORNEYS.

16. All persons who are barristers or advocates in any of the Provinces, may practise as barristers, advocates and counsel in the Supreme Court and the Exchequer Court. Who may practise as barristers. 38 V., c. 11, s. 76.

17. All persons who are attorneys or solicitors of the superior courts in any of the Provinces, may practise as attorneys, solicitors and proctors in the Supreme Court and Exchequer Court. And as solicitors. 38 V., c. 11, s. 77.

18. All persons who may practise as barristers, advocates, counsel, attorneys, solicitors or proctors in the Supreme Court or Exchequer Court, shall be officers of such courts respectively. Practitioners to be officers of the courts. 38 V., c. 11, s. 78.

THE SUPREME COURT.

SESSIONS AND QUORUM.

19. Any five of the judges of the Supreme Court shall constitute a quorum and may lawfully hold the court: Quorum of judges. Provided always, that it shall not be necessary for all the judges who have heard the argument in any case to be present in order to constitute the court for delivery of judgment in such case, but in the absence of any judge, from Judgment may be given by a majority of the judges who have heard the case. illness or any other cause, judgment may be delivered by a majority of the judges who were present at the hearing, and any judge who has heard the case and is absent at the delivery of judgment, may hand his opinion in writing to any judge present at the delivery of judgment, to be read or announced in open court and then to be left with the registrar or reporter of the court. 38 V., c. 11, ss. 3 and 12;—42 V., c. 39, s. 18.

Three sessions
of appeal
yearly.

20. The Supreme Court, for the purpose of hearing and determining appeals, shall hold in each year, at the city of Ottawa, three sessions; the first beginning on the third Tuesday of February, the second, on the first Tuesday in May, and the third, on the fourth Tuesday in October, in each year; and each of the said sessions shall be continued until the business before the court is disposed of. 42 V., c. 39, s. 16.

Power to
adjourn.

21. The Supreme Court may adjourn any session from time to time, and meet again at the time appointed for the transaction of business; and notice of such adjournment and of the day fixed for the continuance of such session shall be given by the registrar in the *Canada Gazette*. 38 V., c. 11, s. 14, *part*.

Court may be
convened at
any time.

22. The court may be convened at any time by the chief justice, or in the event of his absence or illness, by the senior puisne judge, in such manner as is prescribed by the rules of court. 38 V., c. 11, s. 14, *part*.

JURISDICTION—APPEALS.

Jurisdiction
over all Can-
ada.

23. The Supreme Court shall have, hold and exercise an appellate, civil and criminal jurisdiction within and throughout Canada. 38 V., c. 11, s. 15.

Appeal.

24. An appeal shall lie to the Supreme Court,—

From final
judgments.

(a) From all final judgments of the highest court of final resort now or hereafter established in any Province of Canada, whether such court is a court of appeal or of original jurisdiction, in cases in which the court of original jurisdiction is a superior court;

Upon a
special case.

(b) From the judgment upon a special case unless the parties agree to the contrary, and the Supreme Court shall draw any inference of fact from the facts stated in the special case which the court appealed from should have drawn;

Points re-
served.

(c) From the judgment upon any motion to enter a verdict or non-suit upon a point reserved at the trial;

Motion for
new trial.

(d) From the judgment upon any motion for a new trial upon the ground that the judge has not ruled according to law;

Decrees in
equity courts.

(e) From any *judgment*, decree, decretal order, or order in any action, suit, cause, matter or other judicial proceeding originally instituted in any superior court of equity in any Province of Canada other than the Province

of Quebec, and from any *judgment*, decree, decretal order, or order in any action, suit, cause, matter or judicial proceeding, in the nature of a suit or proceeding in equity, originally instituted in any superior court in any Province of Canada other than the Province of Quebec ;

(f) From the judgment, rule, order or decision upon any motion to set aside an award, or upon any motion by way of appeal from an award made in any superior court in any of the Provinces of Canada other than the Province of Quebec ;

Motion to set
aside award.

(g) From the judgment in any case of proceedings for or upon a writ of *habeas corpus*, not arising out of a criminal charge,—and in any case of proceedings for or upon a writ of *mandamus*,—and in any case in which a by-law of a municipal corporation has been quashed by rule or order of court, or the rule or order to quash it has been refused after argument. 38 V., c. 11, s. 11, *part*, s. 17, *part*, and ss. 18, 19, 20 and 23 ;—42 V., c. 39, ss. 1, 4 and 13.

Habeas corpus, mandamus and
municipal by-laws.

25. The court shall also have jurisdiction,—

Further jurisdiction.

(a) In appeals in criminal cases as hereinafter provided ;

Criminal cases.

(b) In appeals from the Exchequer Court as hereinafter provided, and as provided in the "*Act respecting the Official Arbitrators* ;"

Exchequer Court.

(c) In appeals from the Maritime Court of Ontario as provided in "*The Maritime Court Act* ;"

Maritime Court, Ont.

(d) In appeals from the court or judge as provided in "*The Dominion Elections Act*," and—

Election cases.

(e) In appeals from the court or judge as provided in "*The Winding-up Act*."

Insolvency.

New.

26. Except as otherwise provided in this Act or in the Act providing for the appeal, no appeal shall lie to the Supreme Court but from the highest court of last resort having jurisdiction in the Province in which the action, suit, cause, matter or other judicial proceeding was originally instituted, whether the judgment or decision in such action, suit, cause, matter or other judicial proceeding was or was not a proper subject of appeal to such highest court of last resort :

Appeal to be from court of last resort.

2. Provided, that an appeal shall lie directly to the Supreme Court from the judgment of the court of original jurisdiction, by consent of parties :

Appeal by consent.

Appeal by
leave of court
or judge.

3. Provided also, that an appeal shall lie to the Supreme Court by leave of such court, or a judge thereof, from any judgment, decree, decretal order, or order made or pronounced by a superior court of equity, or made or pronounced by any judge in equity, or by any superior court in any action, cause, matter or other judicial proceeding in the nature of a suit or proceeding in equity, and from the final judgment of any superior court of any Province other than the Province of Quebec, in any action, suit, cause, matter or other judicial proceeding originally commenced in such superior court, without any intermediate appeal being had to any intermediate court of appeal in the Province. 38 V., c. 11, s. 11, *part*, and s. 27 ;—42 V., c. 39, ss. 5, 6 and 7.

No appeal
from orders
made in exer-
cise of judi-
cial discre-
tion.

Exception.

27. No appeal shall lie from any order made in any action, suit, cause, matter or other judicial proceeding made in the exercise of the judicial discretion of the court or judge making the same ; but this exception shall not include decrees and decretal orders in actions, suits, causes, matters or other judicial proceedings in equity, or in actions or suits, causes, matters or other judicial proceedings in the nature of suits or proceedings in equity instituted in any superior court. 42 V., c. 39, s. 2.

Appeals from
final judg-
ments in cases
specified.

28. Except as provided in this Act or in the Act providing for the appeal, an appeal shall lie only from final judgments in actions, suits, causes, matters and other judicial proceedings originally instituted in the superior court of the Province of Quebec, or originally instituted in a superior court in any of the Provinces of Canada other than the Province of Quebec. 42 V., c. 39, s. 3.

In what cases
appeal shall
lie in Quebec.

29. No appeal shall lie *under this Act* from any judgment rendered in the Province of Quebec in any action, suit, cause, matter or other judicial proceeding, wherein the matter in controversy does not amount to the sum or value of two thousand dollars, unless such matter, if less than that amount,—

Validity of
Act or ordi-
nance.

(a) Involves the question of the validity of an Act of the Parliament of Canada, or of the Legislature of any of the Provinces of Canada, or of an Ordinance or Act of any of the councils or legislative bodies of any of the Territories or Districts of Canada ; or—

Fees to the
Crown, title
to property,
&c.

(b) Relates to any fee of office, duty, rent, revenue or any sum of money payable to Her Majesty, or to any title to lands or tenements, annual rents or such like matters or things where the rights in future might be bound :

To be only
from court of
Q.B.

2. Provided that such appeals shall lie only from the Court of Queen's Bench. 38 V., c. 11, s. 17, *part* ;—42 V., c. 39, s. 8.

30. Nothing in the *three* sections next preceding shall in any way affect appeals in Exchequer cases, cases of rules for new trials and cases of *mandamus*, *habeas corpus* and municipal by-laws. 42 V., c. 39, s. 11. Certain matters excepted.

31. No appeal shall be allowed in any case of proceedings for or upon a writ of *habeas corpus* arising out of any claim for extradition made under any treaty. 39 V., c. 26, s. 31, *part*. Extradition.

HABEAS CORPUS.

32. Every judge of the court shall have concurrent jurisdiction with the courts or judges of the several Provinces, to issue the writ of *habeas corpus ad subjiciendum*, for the purpose of an inquiry into the cause of commitment, in any criminal case under any Act of the Parliament of Canada, but such judge shall not have such jurisdiction in *habeas corpus* matters arising out of any claim for extradition made under any treaty: Concurrent jurisdiction in *habeas corpus* matters.

2. If the judge refuses the writ or remands the prisoner, an appeal shall lie to the court. 38 V., c. 11, s. 51;—39 V., c. 26, s. 31, *part*. Appeal to the court.

33. In any *habeas corpus* matter before a judge of the Supreme Court, or on any appeal to the Supreme Court in any *habeas corpus* matter, the court or judge shall have the same power to bail, discharge or commit the prisoner or person, or to direct him to be detained in custody or otherwise to deal with him as any court, judge or justice of the peace having jurisdiction in any such matters in any Province of Canada. 39 V., c. 26, s. 29. Powers of the court in such cases.

34. On any appeal to the Supreme Court in any *habeas corpus* matter, it shall not be necessary, unless the court otherwise orders, for any prisoner or person on whose behalf such appeal is made, to be present in court; but the prisoner or person shall remain in the charge or custody to which he was committed or had been remanded, or in which he was at the time of giving the notice of appeal, unless at liberty on bail, by order of a judge of the court which refused the application or of a judge of the Supreme Court; but the Supreme Court may, by writ or order, direct that such prisoner or person shall be brought before it. 39 V., c. 26, s. 30. Prisoner need not be present in court.

35. An appeal to the Supreme Court in any *habeas corpus* matter shall be heard at an early day, whether in or out of the prescribed sessions of the court. 39 V., c. 26, s. 28. When such appeals shall be heard.

CERTIORARI.

Writ of *certiorari*.

36. A writ of *certiorari* may, by order of the court or a judge thereof, issue out of the Supreme Court, to bring up any papers or other proceedings had or taken before any court, judge or justice of the peace and which are considered necessary with a view to any inquiry, appeal or other proceeding had or to be had before the court. 39 V., c. 26, s. 34.

SPECIAL CASES REFERRED TO THE COURT.

Governor may refer matter for opinion.

37. The Governor in Council may refer to the Supreme Court, for hearing or consideration, any matter which he thinks fit to refer; and the court shall thereupon hear or consider the same and certify their opinion thereon to the Governor in Council: Provided, that any judge or judges of the court who differ from the opinion of the majority may, in like manner, certify his or their opinion or opinions to the Governor in Council. 38 V., c. 11, s. 52.

Report upon private bill or petition.

38. The Supreme Court, or any two of the judges thereof, shall examine and report upon any private bill or petition for a private bill presented to the Senate or House of Commons and referred to the court under any rules or orders made by the Senate or House of Commons. 38 V., c. 11, s. 53.

PROCEDURE IN APPEALS.

Perfecting Appeal.

Proceedings in appeal.

39. Proceedings in appeals shall, when not otherwise provided for by this Act, or by the Act providing for the appeal, or by the general rules and orders of the Supreme Court, be as nearly as possible in conformity with the present practice of the Judicial Committee of Her Majesty's Privy Council. 38 V., c. 11, s. 24.

When appeal shall be brought.

40. Except as otherwise provided, every appeal shall be brought within thirty days from the signing or entry or pronouncing of the judgment appealed from. 38 V., c. 11, s. 25, *part*.

Notice of appeal in cases specified.

41. No appeal upon a special case, or from the judgment upon a motion to enter a verdict or non-suit upon a point reserved at the trial, or from the judgment upon a motion for a new trial, upon the ground that the judge has not ruled according to law, shall be allowed, unless notice thereof is given in writing to the opposite party, or his attorney of record, within twenty days after the decision complained of, or within such further time as the court appealed from, or a judge thereof, allows. 38 V., c. 11, s. 21.

42. Provided always, that the court proposed to be appealed from, or any judge thereof, may, under special circumstances, allow an appeal, notwithstanding that the same is not brought within the time hereinbefore prescribed in that behalf; but in such case, the court or judge shall impose such terms as to security or otherwise as seems proper under the circumstances; but the provisions of this section shall not apply to any appeal in the case of an election petition. 38 V., c. 11, s. 26.

Allowance of appeal in special cases on terms.

43. No writ shall be required or issued for bringing any appeal in any case to or into the Supreme Court, but it shall be sufficient that the party desiring so to appeal shall, within the time herein limited in the case, have given the security required and obtained the allowance of the appeal:

Proceedings requisite to bring cases into supreme court.

2. Whenever error in law is alleged, the proceedings in the Supreme Court shall be in the form of an appeal. 38 V., c. 11, ss. 16 and 28.

When error is alleged.

44. The appeal shall be upon a case to be stated by the parties or, in the event of difference, to be settled by the court appealed from, or a judge thereof; and the case shall set forth the judgment objected to and so much of the pleadings, evidence, affidavits and documents as is necessary to raise the question for the decision of the court. 38 V., c. 11, s. 29.

Appeal to be on a special case.

45. The clerk or other proper officer of the court appealed from shall, upon payment to him of the proper fees and the expenses of transmission, transmit the case forthwith after such allowance to the registrar of the Supreme Court, and further proceedings shall thereupon be had according to the practice of that court. 38 V., c. 11, s. 30.

Transmission of case by clerk of the court appealed from.

Security and Staying Execution.

46. No appeal shall be allowed until the appellant has given proper security, to the extent of five hundred dollars, to the satisfaction of the court from whose judgment he is about to appeal, or a judge thereof, or to the satisfaction of the Supreme Court, or a judge thereof, that he will effectually prosecute his appeal and pay such costs and damages as may be awarded against him by the Supreme Court:

Security to be given.

2. This section shall not apply to appeals in election cases, in cases in the Exchequer Court, *in criminal cases*, or in proceedings for or upon a writ of *habeas corpus*. 38 V., c. 11, s. 31;—42 V., c. 39, s. 14.

Exceptions.

47. Upon the perfecting of such security, execution shall be stayed in the original cause, except in the following cases:—

Execution stayed. Exceptions.

If the judgment orders delivery of documents or personalty.

(a) If the judgment appealed from directs an assignment or delivery of documents or personal property, the execution of the judgment shall not be stayed, until the things directed to be assigned or delivered have been brought into court, or placed in the custody of such officer or receiver as the court appoints, nor until security has been given to the satisfaction of the court appealed from, or of a judge thereof, in such sum as the court or judge directs, that the appellant will obey the order or judgment of the Supreme Court ;

Or execution of conveyance.

(b) If the judgment appealed from directs the execution of a conveyance or any other instrument, the execution on the judgment shall not be stayed, until the instrument has been executed and deposited with the proper officer of the court appealed from, to abide the order or judgment of the Supreme Court ;

If the court appealed from is one of appeal.

(c) If the court appealed from is a court of appeal and such assignment or conveyance, document, instrument, property or thing, as aforesaid, has been deposited in the custody of the proper officer of the court in which the cause originated, the consent of the party desiring to appeal to the Supreme Court, that it shall so remain to abide the judgment of the Supreme Court, shall be binding on him and shall be deemed a compliance with the foregoing requirements of this section ;

If the judgment directs sale, &c., of realty.

(d) If the judgment appealed from directs the sale or delivery of possession of real property, chattels real or immovables, the execution of the judgment shall not be stayed, until security has been entered into to the satisfaction of the court appealed from, or a judge thereof, and in such amount as the said last mentioned court or judge directs, that during the possession of the property by the appellant he will not commit, or suffer to be committed, any waste on the property,—and that if the judgment is affirmed, he will pay the value of the use and occupation of the property from the time the appeal is brought until delivery of possession thereof,—and also, if the judgment is for the sale of property and the payment of a deficiency arising upon the sale, that the appellant will pay the deficiency ;

If the judgment directs payment of money as a debt, &c.

(e) If the judgment appealed from directs the payment of money, either as a debt or for damages or costs, execution thereof shall not be stayed, until the appellant has given security to the satisfaction of the court appealed from, or of a judge thereof, that if the judgment or any part thereof is affirmed, the appellant will pay the amount thereby directed to be paid, or the part thereof as to which the judgment is affirmed, if it is affirmed only as to part, and all damages awarded against the appellant on such appeal :

2. Provided that in any case in which execution may be stayed on the giving of security under this section, such security may be given by the same instrument whereby the security prescribed in the next preceding section is given. 38 V., c. 11, s. 32.

As to instrument for giving such security.

48. When the security has been perfected and allowed, any judge of the court appealed from may issue his fiat to the sheriff, to whom any execution on the judgment has issued, to stay the execution, and the execution shall be thereby stayed, whether a levy has been made under it or not; and if the court appealed from is a court of appeal, and execution has been already stayed in the case, such stay of execution shall continue without any new fiat, until the decision of the appeal by the Supreme Court: Provided always, that upon any judgment appealed from, on which any execution is issued before the judge's fiat to stay the execution is obtained, no poundage shall be allowed against the appellant, unless a judge of the court appealed from otherwise orders. 38 V., c. 11, s. 33.

Fiat to sheriff when security is perfected.

If the court appealed from is one of appeal.

Proviso; as to poundage.

49. If, at the time of the receipt by the sheriff of the fiat, or of a copy thereof, the money has been made or received by him, but not paid over to the party who issued the execution, the party appealing may demand back from the sheriff the amount made or received under the execution, or so much thereof as is in his hands not paid over, and in default of payment by the sheriff, upon such demand, the party appealing may recover the same from him in an action for money had and received, or by means of an order or rule of the court appealed from. 38 V., c. 11, s. 35.

Money levied and not paid over before fiat to be repaid.

50. If the judgment appealed from directs the delivery of perishable property, the court appealed from, or a judge thereof, may order the property to be sold and the proceeds to be paid into court, to abide the judgment of the Supreme Court. 38 V., c. 11, s. 36.

Perishable property.

Discontinuance of Proceedings.

51. An appellant may discontinue his proceedings by giving to the respondent a notice entitled in the Supreme Court and in the cause, and signed by the appellant, his attorney or solicitor, stating that he discontinues such proceedings; and thereupon the respondent shall be at once entitled to the costs of and occasioned by the proceedings in appeal; and may, in the court of original jurisdiction, either sign judgment for such costs or obtain an order from such court, or a judge thereof, for their payment, and may take all further proceedings in that court as if no appeal had been brought. 38 V., c. 11, s. 39.

Discontinuing proceedings.

Consent to Reversal of Judgment.

Consent to reversal.

52. A respondent may consent to the reversal of the judgment appealed against, by giving to the appellant a notice entitled in the Supreme Court and in the cause, and signed by the respondent, his attorney or solicitor, stating that he consents to the reversal of the judgment; and thereupon the court, or any judge thereof, shall pronounce judgment of reversal as of course. 38 V., c. 11, s. 40.

Dismissal for Delay.

Dismissal for delay to proceed.

53. If an appellant unduly delays to prosecute his appeal, or fails to bring the appeal on to be heard at the first session of the Supreme Court, after the appeal is ripe for hearing, the respondent may, on notice to the appellant, move the Supreme Court, or a judge thereof in chambers, for the dismissal of the appeal; and such order shall thereupon be made as the said court or judge deems just. 38 V., c. 11, s. 41.

Death of Parties.

Case of death of one of several appellants.

54. In the event of the death of one of several appellants, pending the appeal to the Supreme Court, a suggestion may be filed of his death, and the proceedings may, thereupon, be continued at the suit of and against the surviving appellant, as if he were the sole appellant; but such suggestion, if untrue, may be set aside on motion made to the Supreme Court, or a judge thereof in chambers. 38 V., c. 11, s. 42.

Of sole appellant or of all the appellants.

55. In the event of the death of a sole appellant, or of all the appellants, the legal representative of the sole appellant, or of the last surviving appellant, may, by leave of the court or a judge, file a suggestion of the death, and that he is such legal representative, and the proceedings may thereupon be continued at the suit of and against such legal representative as the appellant; and if no such suggestion is made, the respondent may proceed to an affirmance of the judgment, according to the practice of the court, or take such other proceedings as he is entitled to; and such suggestion, if untrue, may, on motion, be set aside by the court or a judge thereof. 38 V., c. 11, s. 43.

Of one of several respondents.

56. In the event of the death of one of several respondents, a suggestion may be filed of such death, and the proceedings may be continued against the surviving respondent, but such suggestion, if untrue, may, on motion, be set aside by the court or a judge thereof. 38 V., c. 11, s. 44.

Of sole respondent or of all the respondents.

57. In the event of the death of a sole respondent, or of all the respondents, the appellant may proceed, upon giving

one month's notice of the appeal and of his intention to continue the same, to the representative of the deceased party, or if no such notice can be given, then upon such notice to the parties interested as a judge of the Supreme Court directs. 38 V., c. 11, s. 45.

Entry of Causes.

58. The appeals set down for hearing shall be entered by the registrar of the court, on a list, divided into three parts, and to be numbered and headed as follows: "Number one, Maritime Provinces cases;" "Number two, Quebec cases;" "Number three, Ontario cases;" and the registrar shall enter all appeals from the Provinces of Nova Scotia, New Brunswick and Prince Edward Island on part numbered one, and all appeals from the Province of Quebec on part numbered two, and all appeals from the Provinces of Ontario, Manitoba and British Columbia on part numbered three, in the order in which they are respectively received; and such appeals shall be heard and disposed of in the order in which they are so entered, unless otherwise ordered by the court. 42 V., c. 39, s. 15.

Entry of appeals on list and order of hearing.

Judgments.

59. The Supreme Court may quash proceedings in cases brought before it, in which an appeal does not lie, or whenever such proceedings are taken against good faith. 38 V., c. 11, s. 37.

Quashing proceedings in certain cases.

60. The Supreme Court may dismiss an appeal, or give the judgment and award the process or other proceedings which the court, whose decision is appealed against, should have given or awarded. 38 V., c. 11, s. 38, *part*.

Appeal may be dismissed or judgment given.

61. On any appeal, the court may, in its discretion, order a new trial if the ends of justice seem to require it, although such new trial is deemed necessary upon the ground that the verdict is against the weight of evidence. 43 V., c. 34, s. 4.

New trial may be ordered.

Costs.

62. The Supreme Court may, in its discretion, order the payment of the costs of the court appealed from, and also of the appeal, or any part thereof, as well when the judgment appealed from is *varied or reversed* as where it is affirmed. 38 V., c. 11, s. 38, *part*.

Payment of costs.

Amendments.

63. At any time during the pendency of any appeal before the Supreme Court, the court may, upon the application of

Necessary amendments may be made.

any of the parties, or without any such application, make all such amendments as are necessary for the purpose of determining the appeal, or the real question or controversy between the parties, as disclosed by the pleadings, evidence or proceedings. 43 V., c. 34, s. 1.

At whose instance.

64. Any such amendment may be made, whether the necessity for the same is or is not occasioned by the defect, error, act, default or neglect of the party applying to amend. 43 V., c. 34, s. 2.

Conditions of amendment.

65. Every amendment shall be made upon such terms as to payment of costs, postponing the hearing or otherwise, as to the court seems just. 43 V., c. 34, s. 3.

Interest.

Interest to be allowed.

66. If on appeal against any judgment, the Supreme Court affirms such judgment, interest shall be allowed by the court for such time as execution has been delayed by the appeal. 38 V., c. 11, s. 34.

Certificate of Judgment.

Judgment to be carried out by the court below.

67. The judgment of the Supreme Court in appeal shall be certified by the registrar of the court to the proper officer of the court of original jurisdiction, who shall thereupon make all proper and necessary entries thereof; and all subsequent proceedings may be taken thereupon as if the judgment had been given or pronounced in the said last mentioned court. 38 V., c. 11, s. 46.

APPEALS IN CRIMINAL CASES.

In what criminal cases an appeal shall lie.

68. Any person convicted of any indictable offence before any Court of Oyer and Terminer or Gaol Delivery or before the Court of Queen's Bench in the Province of Quebec, on its Crown side, or before any other superior court having criminal jurisdiction, whose conviction has been affirmed by any court of last resort, or, in the Province of Quebec, by the Court of Queen's Bench on its appeal side, may appeal to the Supreme Court against the affirmance of such conviction; and the Supreme Court shall make such rule or order therein, either in affirmance of the conviction or for granting a new trial, or otherwise, or for granting or refusing such application, as the justice of the case requires, and shall make all other necessary rules and orders for carrying such rule or order into effect: Provided that no such appeal shall be allowed if the court affirming the conviction is unanimous, nor unless notice of appeal in writing has been served on the Attorney General for the proper Province, within fifteen days after such affirmance. 38 V., c. 11, s. 49;—39 V., c. 26, s. 31.

Proceedings thereupon.

No appeal in certain cases.

69. Unless such appeal is brought on for hearing by the appellant at the session of the Supreme Court during which such affirmance takes place, or the session next thereafter, if the said court is not then in session, the appeal shall be held to have been abandoned, unless otherwise ordered by the Supreme Court. 38 V., c. 11, s. 50.

When the appeal must be brought to hearing.

APPEALS FROM THE EXCHEQUER COURT.

70. Any party to a suit in the Exchequer Court who is dissatisfied with the decision therein, and desirous of appealing against the same, may, within thirty days from the day on which such decision has been given, or within such further time as a judge of such court allows, deposit with the registrar of such court the sum of fifty dollars by way of security for costs; and thereupon the registrar shall set the appeal down for hearing before the Supreme Court on the first day of the next session; and the party appealing shall thereupon, within three days after the deposit, give to the parties affected by the appeal, or their respective attorneys, by whom such parties were represented before the judge of the Exchequer Court, notice in writing that the case has been so set down to be heard in appeal as aforesaid; and in such notice the said party so appealing may, if he so desires, limit the subject of the appeal to any special defined question or questions; and the said appeal shall thereupon be heard and determined by the Supreme Court. 38 V., c. 11, s. 68.

Appeals from the Exchequer court and conditions thereof.

JUDGMENT FINAL AND CONCLUSIVE.

71. The judgment of the Supreme Court shall, in all cases, be final and conclusive, and no appeal shall be brought from any judgment or order of the Supreme Court to any court of appeal established by the Parliament of Great Britain and Ireland, by which appeals or petitions to Her Majesty in Council may be ordered to be heard: saving any right which Her Majesty may be graciously pleased to exercise by virtue of her royal prerogative. 38 V., c. 11, s. 47.

Judgment to be final.

Saving H. M. prerogative.

SPECIAL JURISDICTION OF SUPREME AND EXCHEQUER COURTS.

72. When the Legislature of any Province of Canada has passed an Act agreeing and providing that the Supreme Court and the Exchequer Court, or the Supreme Court alone, as the case may be, shall have jurisdiction in any of the following cases, that is to say:—

Powers to be exercised with consent of Provincial Legislatures.

First. Of controversies between the Dominion of Canada and such Province;

Second. Of controversies between such Province and any other Province or Provinces which have passed a like Act;

Third. Of suits, actions or proceedings in which the parties thereto, by their pleadings, have raised the question of the validity of an Act of the Parliament of Canada, when, in the opinion of a judge of the court in which the same are pending, such question is material ;

Fourth. Of suits, actions or proceedings in which the parties thereto, by their pleadings, have raised the question of the validity of an Act of the Legislature of such Province, when, in the opinion of a judge of the court in which the same are pending, such question is material :

This section and the *two* sections of this Act next following shall be in force in the class or classes of cases in respect of which such Act so agreeing and providing has been passed. 38 V., c. 11, s. 54.

Proceedings in cases first and secondly mentioned.

And in those thirdly and fourthly mentioned.

Decision to be sent to court appealed from.

To what cases preceding sections apply.

73. The proceedings in the cases firstly and secondly mentioned in the next preceding section shall be in the Exchequer Court, and an appeal shall lie in any such case to the Supreme Court ; and in the cases thirdly and fourthly mentioned in such section, the judge who has decided that such question is material shall, at the request of the parties, and may, without such request, if he thinks fit, order the case to be removed to the Supreme Court for the decision of such question, and it shall be removed accordingly ; and after the decision of the Supreme Court the said case shall be sent back, with a copy of the judgment on the question raised, to the court or judge whence it came, to be then and there dealt with as to justice appertains. 38 V., c. 11, ss. 55 and 56 ;—39 V., c. 26, s. 17.

74. The two sections next preceding shall apply only to cases of a civil nature, and shall take effect in the cases therein provided for respectively, whatever is the value of the matter in dispute, and there shall be no further appeal to the Supreme Court on any point decided by it in any such case, nor on any other point in such case, unless the value of the matter in dispute exceeds five hundred dollars. 38 V., c. 11, s. 57.

The reference in section 57 of 38 V., c. 11 was limited to sections 55 and 56, but was, it is thought, intended also to include section 54 as well.

THE EXCHEQUER COURT.

JURISDICTION.

Concurrent jurisdiction of the Exchequer Court.

75. The Exchequer Court shall have and possess concurrent original jurisdiction in Canada,—

(a) In all cases in which it is sought to enforce any law of Canada relating to the revenue, including actions, suits

and proceedings, by way of information, to enforce penalties and proceedings by way of information *in rem*, and as well in *qui tam* suits for penalties or forfeitures as where the suit is on behalf of the Crown alone; and—

(b) In all cases in which demand is made or relief sought in respect of any matter which might, in England, have been the subject of a suit or action in the Court of Exchequer on its plea side against any officer of the Crown :

2. The Exchequer Court shall have exclusive original jurisdiction in all cases in which demand is made or relief sought in respect of any matter which might, in England, have been the subject of a suit or action in the Court of Exchequer on its revenue side against the Crown. 38 V., c. 11, s. 58 ;—39 V., c. 26, s. 18. Exclusive original jurisdiction.

76. The Exchequer Court shall also have concurrent original jurisdiction with the courts of the several Provinces, in all other suits of a civil nature at common law or equity, in which the Crown, in the interest of the Dominion of Canada, is plaintiff or petitioner. 38 V., c. 11, s. 59. Cases in which the Dominion is interested.

77. The Exchequer Court shall have appellate jurisdiction in all cases of arbitration arising under "*The Act respecting the official arbitrators*," when the claim exceeds in value the sum of five hundred dollars, according to the *bonâ fide* belief of any of the parties complaining of such arbitration, as shown on affidavit. 42 V., c. 8, s. 2 ;—44 V., c. 25, s. 40, *part.* In case of appeal from the official arbitrators.

SITTINGS OF THE COURT.

78. Subject to rules of court, the judges of the Exchequer Court, respectively, may sit and act at any time and at any place for the transaction of the business of the Exchequer Court, or any part thereof; and the hearing and trial of any case shall be by and before one judge of the court sitting alone, and such judge shall decide such case, and his decision shall be the judgment of the court therein, and such judge shall have the same power and authority as the court. 38 V., c. 11, s. 62. Sittings at any time and at any place. Judge to sit alone.

PROCEDURE.

79. The procedure in suits and actions within the jurisdiction of the Exchequer Court shall, unless it is otherwise provided for by general rules made in pursuance of this Act, be regulated by the practice and procedure in similar suits in Her Majesty's Court of Exchequer at Westminster. 38 V., c. 11, s. 61 ;—39 V., c. 26, s. 19. Rules of practice.

Issues of fact,
how tried. **80.** Issues of fact, in cases before the Exchequer Court shall be tried according to the laws of the Province in which the cause originated, including the laws of evidence. 38 V., c. 11, s. 63.

Without a
jury in cer-
tain cases. **81.** Issues of fact in cases arising under the *seventy-fifth* section shall be tried by the judge without a jury. 38 V., c. 11, s. 64.

Reference of
matter or peti-
tion. **82.** The Exchequer Court may, for the purposes of taking accounts and making enquiries, refer any cause, matter or petition, over which it has jurisdiction, to the registrar or any other officer of the court, or to any other referee. 39 V., c. 26, s. 20.

Jurors.

Jurors in
cases speci-
fied. **83.** A judge of the Exchequer Court may, for the trial of issues of fact in any case arising under the *seventy-sixth* section, order a writ of *venire facias* to be issued, directed to the sheriff of any county or other judicial division, or if the sheriff is disqualified, to any of the coroners of such county or district, commanding him to summon a panel of jurors to attend at the time and place in the said writ named, and the sheriff or coroner shall execute and return the said writ as directed thereby :

Number of
jurors to be
summoned. 2. The number of such jurors to be summoned on any panel shall never be less than double nor more than three times the number of jurors required in civil cases to form a jury for the trial of causes in the superior courts of the Province where the issues are to be tried ; but within these limits, the judge who orders the writ of *venire facias* to issue, may exercise his discretion as to the number to be summoned. 38 V., c. 11, s. 65 ;—39 V., c. 26, s. 22.

Qualification,
&c., of jurors. **84.** The qualifications, exemptions and mode of summoning jurors shall be according to the law applicable to the superior courts of the Province where the issues are to be tried. 39 V., c. 26, s. 21.

Tales in de-
fault of jurors. **85.** When, from challenges or other causes, a complete jury for the trial of any cause cannot be obtained, the presiding judge may direct the sheriff or other proper officer to summon and return a *tales* according to the law applicable to the superior courts of the Province where the issues are to be tried. 39 V., c. 26, s. 23.

Executions.

What writs of
execution
may be issued. **86.** In addition to any writs of execution which are prescribed by general rules or orders, the Exchequer Court

may issue writs of execution against the person or the goods, lands or other property of any party, of the same tenor and effect as those which are issued out of any of the superior courts of the Province in which any judgment or order is to be executed; and when, by the law of the Province, an order of a judge is required for the issue of any writ of execution, a judge of the Exchequer Court may make a similar order, as regards like executions to issue out of the Exchequer Court. 39 V., c. 26, s. 24.

If judge's order is necessary.

87. No person shall be taken in custody under process of execution for debt issued out of the Exchequer Court at the suit of the crown, unless he might be taken in custody under the laws of the Province in which he happens to be, in a similar case between subject and subject; and any person taken in custody under such process may be discharged from imprisonment, upon the same grounds, as would entitle him to be discharged under the laws in force relating to imprisonment for debt in the Province in which he is in custody. 39 V., c. 26, s. 25.

In what case only a person may be taken into custody under process.

88. All writs of execution against real or personal property, as well those prescribed by general rules and orders as those hereinbefore authorized shall, unless otherwise provided by general rule or order, be executed as regards the property liable to execution and the mode of seizure and sale, as nearly as possible in the same manner as similar writs issued out of the superior courts of the Province in which the property to be seized is situated are, by the law of the Province, required to be executed; and such writs shall bind property in the same manner as such similar writs, and the rights of purchasers thereunder shall be the same as those of purchasers under similar writs. 39 V., c. 26, s. 26.

Execution of writs and effect thereof.

89. Every claim made by any person to property seized under a writ of execution issued out of the Exchequer Court, or to the proceeds of the sale of such property, shall, unless otherwise provided by general rule or order, be heard and disposed of, as nearly as may be, according to the procedure applicable to like claims to property seized under similar writs of execution issued out of the courts of the Province. 39 V., c. 26, s. 27.

Claims to property seized or proceeds of sale.

Sheriff's Fees.

90. Sheriffs and coroners shall receive and take to their own use such fees as the judges of the Exchequer Court, by general order, fix and determine. 38 V., c. 11, s. 67.

Fees of officers.

SUPREME AND EXCHEQUER COURTS.

EVIDENCE.

91. All persons authorized to administer affidavits to be used in any of the superior courts of any Province, may

Affidavits.

administer *oaths, affidavits and affirmations* in such Province to be used in the Supreme Court or in the Exchequer Court. 38 V., c. 11, s. 74.

Commissioners for receiving affidavits may be appointed.

92. The Governor in Council may, by commission, from time to time, empower such persons as he thinks necessary, within or out of Canada, to administer oaths and take and receive affidavits, declarations and affirmations in or concerning any proceeding had or to be had in the Supreme Court or in the Exchequer Court; and every such oath, affidavit, declaration or affirmation so taken or made shall be as valid and of the like effect, to all intents, as if it had been administered, taken, sworn, made or affirmed before that one of the said courts in which it is intended to be used, or before any judge or competent officer thereof in Canada:

Style of commissioner.

2. Every commissioner so empowered shall be styled "a commissioner for administering oaths in the Supreme Court and in the Exchequer Court of Canada." 39 V., c. 26, s. 10.

Before whom affidavits, &c., may be made out of Canada.

93. Any oath, affidavit, affirmation or declaration, administered, sworn, affirmed or made out of Canada, before any commissioner authorized to take affidavits to be used in Her Majesty's High Court of Justice in England, or before any notary public, and certified under his hand and official seal, or before the mayor or chief magistrate of any city, borough or town corporate in Great Britain or Ireland, or in any colony or possession of Her Majesty, out of Canada, or in any foreign country, and certified under the common seal of such city, borough or town corporate, or before a judge of any court of supreme jurisdiction in any colony or possession of Her Majesty or dependency of the Crown out of Canada, or before any consul, vice-consul, acting consul, pro-consul or consular agent of Her Majesty exercising his functions in any foreign place, and certified under his official seal, concerning any proceeding had or to be had in the Supreme Court or Exchequer Court, shall be as valid and of like effect, to all intents, as if it had been administered, sworn, affirmed or made before a commissioner appointed under this Act. 39 V., c. 26, s. 12.

Their effect.

No proof required of signature or seal of commissioner, &c.

94. Every document purporting to have affixed, imprinted or subscribed thereon or thereto, the signature of any commissioner appointed under this Act *or the signature of any person authorized to take affidavits to be used in any of the superior courts of any Province*, or the signature of any such commissioner authorized to receive affidavits to be used in Her Majesty's High Court of Justice in England, or the signature and official seal of any such notary public, or the signature of any such mayor or chief magistrate, and the common seal of the corporation, or the signature of any

such judge, and the seal of the court or the signature and official seal of any such consul, vice-consul, acting consul, pro-consul or consular agent, in testimony of any oath, affidavit, affirmation or declaration, having been administered, sworn, affirmed or made by or before him, shall be admitted in evidence without proof of any such signature or seal being the signature or signature and seal of the person whose signature or signature and seal the same purport to be, or of the official character of such person. 39 V., c. 26, s. 13.

95. No informality in the heading or other formal requisites of any affidavit, declaration or affirmation, made or taken before any person under any provision of this or any other Act, shall be an objection to its reception in evidence in the Supreme Court or the Exchequer Court, if the court or judge before whom it is tendered thinks proper to receive it; and if the same is actually sworn to, declared or affirmed by the person making the same before any person duly authorized thereto, and is received in evidence, no such informality shall be set up to defeat an indictment for perjury. 39 V., c. 26, s. 15.

Informality not to be an objection in the discretion of the judge.

Nor to be set up as defence in case of perjury.

96. If any party to any proceeding had or to be had in either the Supreme Court or the Exchequer Court, is desirous of having therein the evidence of any person, whether a party or not, or whether resident within or out of Canada, the court or any judge thereof, if in its or his opinion it is, owing to the absence, age or infirmity, or the distance of the residence of such person from the place of trial, or the expense of taking his evidence otherwise, or for any other reason, convenient so to do, may, upon the application of such party, order the examination of any such person upon oath, by interrogatories or otherwise, before the registrar of the court, or any commissioner for taking affidavits in the court, or any other person or persons to be named in such order, or may order the issue of a commission under the seal of the court for such examination; and may, by the same or any subsequent order, give all such directions touching the time, place and manner of such examination, the attendance of the witnesses and the production of papers thereat, and all matters connected therewith, as appears reasonable:

Examination on interrogatories or by commission of persons who cannot conveniently attend.

2. The person, whether a party or not, to be examined under the provisions of this Act, is hereinafter called a "witness." 39 V., c. 26, s. 1.

Interpretation. "Witness."

97. Every person authorized to take the examination of any witness, in pursuance of any of the provisions of this Act, shall take such examination upon the oath of the witness, or upon affirmation, in any case in which affirmation instead of oath is allowed by law. 39 V., c. 26, s. 2, *part*; —40 V., c. 22, s. 1.

Duty of persons taking such examination.

Further examination may be ordered.

98. The Supreme Court or Exchequer Court, or a judge thereof, may, if it is considered for the ends of justice expedient so to do, order the further examination, before either the court or a judge thereof, or other person, of any witness; and if the party on whose behalf the evidence is tendered neglects or refuses to obtain such further examination, the court or judge, in its or his discretion, may decline to act on the evidence. 39 V., c. 26, s. 3.

Penalty for non-compliance.

99. Such notice of the time and place of examination as is prescribed in the order, shall be given to the adverse party. 39 V., c. 26, s. 4.

Notice to adverse party.

Neglect or refusal to attend to be deemed contempt of court.

100. When any order is made for the examination of a witness and a copy of the order, together with a notice of the time and place of attendance, signed by the person or one of the persons to take the examination, has been duly served on the witness within Canada, and he has been tendered his legal fees for attendance and travel, his refusal or neglect to attend for examination or to answer any proper question put to him on examination, or to produce any paper which he has been notified to produce, shall be deemed a contempt of court and may be punished by the same process as other contempts of court; but he shall not be compelled to produce any paper which he would not be compelled to produce, or to answer any question which he would not be bound to answer in court. 39 V., c. 26, s. 5;—40 V., c. 22, s. 2.

As to production of papers, &c.

Effect of consent of parties.

101. If the parties in any case pending in either of the said courts consent, in writing, that a witness may be examined within or out of Canada by interrogatories or otherwise, such consent and the proceedings had thereunder shall be as valid in all respects as if an order had been made and the proceedings had thereunder. 39 V., c. 26, s. 6.

Return of examinations taken in Canada.

102. All examinations taken in Canada, in pursuance of any of the provisions of this Act, shall be returned to the court; and the depositions certified under the hands of the person or one of the persons taking the same may, without further proof, be used in evidence, saving all just exceptions. 39 V., c. 26, s. 7.

Use thereof.

And of those taken out of Canada.

103. All examinations taken out of Canada, in pursuance of any of the provisions of this Act, shall be proved by affidavit of the due taking of such examinations, sworn before some commissioner or other person authorized under this or any other Act to take such affidavit, at the place where such examination has been taken, and shall be returned to the court; and the depositions so returned, together with such affidavit, and the order or commission, closed under the hand and seal of the person or one of the persons author-

Use thereof.

ized to take the examination, may, without further proof, be used in evidence, saving all just exceptions. 39 V., c. 26, s. 8.

104. When any examination has been returned, any party may give notice of such return, and no objection to the examination being read shall have effect, unless taken within the time and in the manner prescribed by general order. 39 V., c. 26, s. 9. Reading examination.

GENERAL PROVISIONS.

105. The process of the Supreme Court and the process of the Exchequer Court shall run throughout Canada, and shall be tested in the name of the chief justice, or in case of a vacancy in the office of chief justice, in the name of the senior puisné judge of the court, and shall be directed to the sheriff of any county or other judicial division into which any Province is divided; and the sheriffs of the said respective counties or divisions shall be deemed and taken to be *ex officio* officers of the Supreme and Exchequer Courts respectively, and shall perform the duties and functions of sheriffs in connection with the said courts; and in any case where the sheriff is disqualified, such process shall be directed to any of the coroners of the county or district. 38 V., c. 11, ss. 66 and 75. Process and officers of the court.

106. Every commissioner for administering oaths in the Supreme Court and in the Exchequer Court of Canada, who resides within Canada, may take and receive acknowledgments or recognizances of bail, and all other recognizances in the Supreme Court and in the Exchequer Court. 39 V., c. 26, s. 11. Further powers of commissioners.

107. An order in either the Supreme Court or the Exchequer Court for payment of money, whether for costs or otherwise, may be enforced by the same writs of execution as a judgment in the Exchequer Court. 39 V., c. 26, s. 35. Enforcement of orders for payment of money.

108. No attachment as for contempt shall issue in either the Supreme Court or the Exchequer Court for the non-payment of money only. 39 V., c. 26, s. 36. No attachment for non-payment only.

109. The judges of the Supreme Court, or any five of them, may, from time to time, make general rules and orders for regulating the procedure of and in the Supreme Court, and the bringing of cases before it from courts appealed from or otherwise, and the procedure of the Exchequer Court,—and for the effectual execution and working of this Act, and the attainment of the intention and objects thereof,—and for fixing the fees and costs to be taxed and allowed to, and received and taken by, and the Judges may make rules of procedure and as to costs.

rights and duties of the officers of the said courts,—and for awarding and regulating costs in each of the said courts in favor of and against the Crown, as well as the subject; and such rules may extend to any matter of procedure or otherwise not provided for by this Act, but for which it is found necessary to provide, in order to ensure the proper working of this Act and the better attainment of the objects thereof; and all such rules which are not inconsistent with the express provisions of this Act, shall have force and effect as if herein enacted, and copies of all such rules shall be laid before both Houses of Parliament at the session next after the making thereof. 38 V., c. 11, s. 79;—39 V., c. 26, ss. 32 and 37.

How costs to and against the Crown shall be paid.

110. Any costs awarded to Her Majesty in either of the said courts shall be paid to the Minister of Finance and Receiver General, and he shall pay, out of any moneys in his hands for the time being legally applicable thereto, or voted by Parliament for the purpose, any costs awarded to any person against Her Majesty. 39 V., c. 26, s. 33.

Fees to be paid by stamps.

111. All fees payable to the registrar under the provisions of this Act shall be paid by means of stamps, which shall be issued for that purpose by the Minister of Inland Revenue, who shall regulate the sale thereof; and the proceeds of the sale of such stamps shall be paid into the Consolidated Revenue Fund of Canada. 38 V., c. 11, s. 72.

Publication of reports of decisions.

112. The reports of the decisions of the Supreme Court and of the Exchequer Court, shall, subject to the direction of the judges of the courts, be published by the registrar appointed under this Act. 38 V., c. 11, s. 73.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
38 V., c. 11.	The whole, except ss. 6 (part), 25 (part), 48 and 80	s. 80.....	s. 6 (part)..... ss. 25, (part) and 48	Consolidated Revenue and Audit Act. The Dominion Controverted Elections Act.
39 V., c. 26.....	The whole, except part of s. 2 and s. 14.	s. 2 (part)...	s. 14	Forgery.
40 V., c. 22.....	The whole.			
42 V., c. 39.....	The whole, except ss. 10, 17 and 19	ss. 17 and 19	s. 10.....	The Dominion Controverted Elections Act.
42 V., c. 8	s. 2.			
43 V., c. 34.....	The whole, except s. 5.	s. 5.		
44 V., c. 25.	s. 40.			

CHAPTER 130.

An Act respecting proceedings against the Crown by
Petition of Right.

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 Petition of Right Act.*" Short title. 39 V., c. 27, s. 22.

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

(a) The expression "court" means the Exchequer Court of Canada; "Court."

(b) The expression "judge" means the chief justice or any judge of the said court; "Judge."

(c) The expression "relief" includes every species of relief claimed or prayed for in a petition of right, whether a restitution of any incorporeal right or a return of lands or chattels, or a payment of money, or damages, or otherwise. "Relief." 39 V., c. 27, s. 21.

3. A petition of right may be addressed to Her Majesty to the effect of the form A in the schedule to this Act. 39 V., c. 27, s. 2. Form of petition of right.

4. The petition shall be left with the Secretary of State of Canada, for submission to the Governor General, so that he may consider it and, if he thinks fit, grant his fiat that right be done; and nothing shall be payable by the suppliant on leaving or upon receiving back the petition. 39 V., c. 27, s. 3. To be left for Governor's fiat.

5. Upon the Governor General's fiat being obtained, the petition and fiat shall be filed in the Exchequer Court of Canada, which court shall have exclusive original cognizance of such petitions, and thereafter a copy of the petition and fiat shall be left at the office of the Attorney General of Canada, with an indorsement thereon to the effect of the form B in the schedule to this Act. 39 V., c. 27, s. 4. When and how to be filed.

6. There shall be no preliminary inquisition finding the truth of the petition, or the right of the suppliant, but the statement in defence or demurrer, or both, shall be filed Time for filing statement in defence.

within four weeks after service of the petition, or such further time as is allowed by the court or a judge. 39 V., c. 27, s. 5.

Service on other parties affected by the petition.

7. If the petition is presented for the recovery of any real or personal property, or any right in or to the same, which has been granted away or disposed of by or on behalf of Her Majesty, or Her predecessors, a copy of the petition and fiat, indorsed with a notice to the effect of the form C in the schedule to this Act, shall be served upon or left at the last or usual or last known place of abode of the person in the possession or occupation of such property or right; and it shall not be necessary to issue any *scire facias* or other process to such person for the purpose of requiring him to file his statement in defence, but if he intends to contest the petition he shall, within four weeks after such copy has been so served or left, or within such further time as is allowed by the court or a judge, file his statement of defence or demurrer, or both. 39 V., c. 27, s. 6.

Noscire facias.

What defence may be raised.

8. The statement of defence or demurrer may raise, besides any legal or equitable defences in fact or in law available under this Act, any legal or equitable defences which would have been available if the proceeding had been a suit or action in a competent court between subject and subject; and any grounds of defence which would be sufficient on behalf of Her Majesty may be alleged on behalf of any such person. as aforesaid. 39 V., c. 27, s. 7.

Certain issues triable without a jury.

9. Every issue of fact or assessment of damages to be tried or made under this Act shall be tried or made by a judge without a jury. 39 V., c. 27, s. 8.

Where trial may be had. Evidence.

10. The trial of any issue of fact or assessment of damages may, by order of the court or a judge, take place partly at one place and partly at another; and the evidence of any witness may, by like order, be taken by commission, or on examination or affidavit. 39 V., c. 27, s. 9.

Judgment by default.

11. In case of default, on behalf of Her Majesty or of such other person as aforesaid, to file a statement in defence or demurrer in due time, the suppliant may apply to the court or a judge for an order that the petition may be taken as confessed; and the court or judge may, on being satisfied that there has been such failure, order that the petition be taken as confessed as against Her Majesty, or such other person, and thereupon the suppliant may have judgment, but such judgment may afterwards be set aside by the court or a judge, in its or his discretion, upon such terms as to the court or judge seem fit. 39 V., c. 27, s. 10.

May be set aside on terms.

Form of judgment.

12. The judgment on every petition of right shall be that the suppliant is not entitled to any portion, or that he is

entitled to the whole or to some specified portion of the relief sought by his petition, or to such other relief, and upon such terms and conditions, if any, as are just. 39 V., c. 27, s. 11.

13. In all cases in which the judgment commonly called a judgment of *amoveas manus*, was formerly given in England upon a petition of right, a judgment that the suppliant is entitled to relief, as herein provided, shall be of the same effect as such judgment of *amoveas manus*. 39 V., c. 27, s. 12. Effect of judgment for suppliant.

14. Upon any such petition of right, the suppliant shall be entitled to costs against Her Majesty, and also against any other person appearing or pleading, or answering to any such petition of right, in like manner and subject to the same rules, regulations and provisions, restrictions and discretion, so far as they are applicable, as are or may be usually adopted or in force in respect to the right to recover costs in proceedings between subject and subject; and for the recovery of any such costs from any such person other than Her Majesty, appearing or pleading, or answering, in pursuance hereof, to any such petition of right, such and the same remedies and writs of execution as are authorized for enforcing payment of costs upon rules, orders, decrees or judgments, in personal actions between subject and subject, shall and may be prosecuted, sued out and executed on behalf of such suppliant. 39 V., c. 27, s. 17, *part.* Costs may be awarded to suppliant. Recovery thereof.

15. Whenever, on a petition of right, judgment is given that the suppliant is entitled to relief and there is no appeal, and whenever, upon appeal, judgment is affirmed or given that the suppliant is entitled to relief, and whenever any rule or order is made, entitling the suppliant to costs, any judge shall, upon application after the lapse of fourteen days from the making, giving, or affirming of such judgment, rule or order, certify to the Minister of Finance and Receiver General the tenor and purport of the same, to the effect of the form D in the schedule to this Act; and such certificate may be sent to, or left at the Department of Finance. 39 V., c. 27, s. 17, *part.* Judgment for relief or order for costs to suppliant to be certified to Minister of Finance.

16. The Minister of Finance and Receiver General shall pay out of any moneys in his hands for the time being lawfully applicable thereto, or which are thereafter voted by Parliament for that purpose, the amount of any moneys or costs which have been so certified to him to be due to any suppliant. 39 V., c. 27, s. 18. Payment by Minister of Finance.

17. Any costs adjudged to Her Majesty on a petition of right shall be paid to the Minister of Finance and Receiver General. 39 V., c. 27, s. 16. Payment of costs to the Crown.

Judges of
Supreme
Court may
make rules.

18. The judges of the Supreme Court, or any five of them, may, from time to time, make general rules and orders for regulating, in every particular, the pleadings, practice, procedure and costs on petitions of right, and for the effectual execution and working of this Act and the attainment of the intention and object thereof; and such rules and orders may extend as well to matters provided for as to any matter not provided for by this Act, but for which it is found necessary to provide, in order to ensure the proper working of this Act and the better attainment of the objects thereof; and all such rules and orders which are consistent with such express provisions of this Act as are not subject to alteration by rules or orders, shall have the force and effect of law, and copies of all such rules and orders shall be laid before both Houses of Parliament at the next session thereof:

Their effect.

To be laid be-
fore Parlia-
ment.

Rules may be
suspended.

2. The Governor in Council may, by proclamation published in the *Canada Gazette*, or either House of Parliament may, by any resolution passed at any time within thirty days after such rules and orders have been laid before Parliament, suspend any rule or order made under this Act; and such rule or order shall, thereupon, cease to have force or effect until the end of the then next session of Parliament. 39 V., c. 27, s. 14.

English rules
to apply in
default of
rules under
this Act.

19. Unless it is otherwise provided, either by this Act or by general rules and orders made under the authority of this Act, the rules of pleading, practice and procedure in force with regard to petitions of right in England shall, as to all matters, including the question of costs, so far as applicable, and unless the court or a judge otherwise orders, apply and extend to a petition of right under this Act. 39 V., c. 27, s. 15.

Provisions of
Supreme and
Exchequer
Courts Act to
apply.

20. All the provisions of "*The Supreme and Exchequer Courts Act*" not inconsistent with this Act, shall extend and apply to the jurisdiction by this Act conferred, in like manner as if such jurisdiction had been conferred on the Exchequer Court by the said Act. 39 V., c. 27, s. 13.

Act not to
affect H. M.
prerogative.

21. Nothing in this Act contained shall,—

(1) Prejudice or limit, otherwise than is herein provided, the rights, privileges or prerogatives of Her Majesty or Her successors; or—

Proceedings
as heretofore.

(2) Prevent any suppliant from proceeding as before the passing of this Act; or—

Or give
remedy not

(3) Give to the subject any remedy against the Crown,—

(a) In any case in which he would not have been entitled to such remedy in England under similar circumstances, by the laws in force there, prior to the passing of an Act of the Parliament of the United Kingdom, passed in the session held in the twenty-third and twenty-fourth years of Her Majesty's reign, chapter thirty-four, intituled "*An Act to amend the law relating to Petitions of Right, to simplify the proceedings and to make provisions for the costs thereof;*" or—

allowed in
England be-
fore 23-24 V.,
c. 34.

(b) In any case in which, either before or within two months after the presentation of the petition, the claim is, under the statutes in that behalf, referred to arbitration by the head of the proper department, who is hereby authorized, with the approval of the Governor in Council, to make such reference upon any petition of right. 39 V., c. 27, s. 19.

Or if the case
is referred to
arbitration
under statute.

SCHEDULE.

FORM A.

PETITION OF RIGHT.

In the Exchequer Court of Canada.

To the Queen's Most Excellent Majesty :

County (or district) of (*place proposed for trial*) to wit :

The humble petition of A. B., of _____, showeth that (*state with convenient certainty the facts on which petitioner relies as entitling him to relief*).

Conclusion.

Your suppliant therefore humbly prays that (*state the relief claimed*).

Dated the _____ day of _____, A.D. _____.

(Signed) _____ A. B.

or C. D., Counsel for A. B.

FORM B.

The suppliant prays for a statement in defence on behalf of Her Majesty, within four weeks after the date of service hereof, or otherwise that the petition may be taken as confessed.

FORM C.

To A. B. :

You are hereby required to file a statement in defence to the within petition in Her Majesty's Exchequer Court of Canada, within four weeks after the date of service hereof.

Take notice, that if you fail to file a statement in defence or demurrer in due time, the said petition may, as against you, be ordered to be taken as confessed.

Dated the day of , A.D.

FORM D.

To the Honorable the Minister of Finance and Receiver General :

Petition of right of A. B. in Her Majesty's Exchequer Court of Canada, at

I hereby certify, that on the day of , A.D. , it was, by the said court adjudged (*or ordered*) that the above named suppliant was entitled to, &c.

(Judge's signature).

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
39 V., c 27.....	The whole, except ss. 1 and 20.....	ss. 1 and 20.		

CHAPTER 131.

An Act respecting the Maritime Court of Ontario.

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 Maritime Court Act.*" Short title. 40 V., c. 21, s. 22.

INTERPRETATION.

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

(a) The expression "*the court*" means the *Maritime Court of Ontario*; "Court."

(b) The expression "*judge*" means the *judge of the Maritime Court of Ontario*; and— "Judge."

(c) The expression "*ship*" includes every description of vessel used in navigation not propelled by oars. "Ship." 45 V., c. 34, s. 5.

COURT AND JUDGES.

3. The superior court of maritime jurisdiction now existing in the Province of Ontario, under the name of "*The Maritime Court of Ontario*," is hereby continued under such name, and shall continue to be a court of record. 40 V., c. 21, s. 2, *part.* Court continued.

4. The Governor in Council may appoint any judge of any superior or county court in Ontario, or any barrister in Ontario, of not less than seven years' standing, to be the judge of the court. 40 V., c. 21, s. 5. Appointment of judge.

5. The judge shall hold office during good behavior, but shall be removable by the Governor General on address of the Senate and House of Commons. 40 V., c. 21, s. 6, *part.* Tenure of office.

6. The judge shall receive no fees, but shall receive a salary of six hundred dollars per annum, free and clear from all deductions whatsoever, and *pro ratâ* for any shorter time Remuneration.

than a year, which salary shall be paid out of any unappropriated moneys forming part of the Consolidated Revenue Fund of Canada, in like manner as the salaries of other judges. 40 V., c. 21, s. 7.

Appointment
of surrogate
judges.

7. The Governor in Council may, from time to time, appoint one or more judges of county courts in Ontario, or barristers of not less than seven years' standing in Ontario, to be a surrogate judge or surrogate judges of the said court :

Powers.

2. Such surrogate judge shall have such of the powers of the judge as are conferred by the commission appointing him :

Tenure of
office.

3. He shall hold office during pleasure, but his appointment shall not be vacated by a vacancy in the office of the judge :

Remunera-
tion.

4. He may, if resident elsewhere than in Toronto, receive emoluments fixed, from time to time, by the Governor in Council, raised out of funds provided by suitor's fees, payable under a tariff fixed, from time to time, by the Governor in Council :

Tariff to be
laid before
Parliament.

5. Copies of the tariff shall be, as soon as possible, laid before both Houses of Parliament, and entered on the records of the court, and published in the *Canada Gazette* :

Disposal of
fees.

6. The fees payable by suitors under the tariff shall be paid over, by the officer appointed to collect them, to the Minister of Finance and Receiver General, and shall form part of the Consolidated Revenue Fund of Canada ; and the emoluments of the surrogate judge shall be paid therefrom. 40 V., c. 21, ss. 11, 12 and 14.

Judges to
take oath of
office.

8. Every judge and surrogate judge appointed in pursuance of this Act, shall, previously to his executing the duties of his office, take, before a judge of any superior or county court in Ontario, an oath in the form following, that is to say :

Form of oath.

" I do sincerely and solemnly 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 judge (or as a surrogate judge, as the case may be) of the Maritime Court of Ontario. So help me God." 40 V., c. 21, s. 17.

OFFICERS.

Appointment
of officers.

9. The Governor in Council may appoint a registrar, marshal, deputy registrars and deputy marshals, and ex-

aminers and other necessary officers for the court, with such of the powers belonging to registrars and marshals of British Vice-Admiralty Courts, and such other powers for the effectual working of this Act as are prescribed by general rules. 40 V., c. 21, s. 15.

10. The judge shall, from time to time, submit, for the approval of the Minister of Justice, a list of persons of nautical or engineering, or other technical skill and experience, to act as assessors in the court; and shall cause the approved list to be published in the *Canada Gazette*, and every person named in the approved list shall attend the court, under such circumstances and in such rotation, and subject to such regulations, and shall receive such fees, as are provided by general rules. 40 V., c. 21, s. 10.

And of assessors.

BARRISTERS AND PROCTORS.

11. All persons entitled to act as barristers or advocates in any superior court in any Province of Canada may act as such in the court; and all persons entitled to practise as solicitors or attorneys-at-law, in Ontario, may practise as proctors or solicitors in the court; and all persons acting as barristers, advocates, proctors, or solicitors in the court, shall be officers thereof. 40 V., c. 21, s. 18.

Who may practice in the court.

12. The principal seat of the court shall be at Toronto, but sittings of the court may be held at any city, town or place within the Province of Ontario. 40 V., c. 21, s. 4.

When sittings may be held.

JURISDICTION AND PROCEDURE.

13. Except as herein otherwise provided, all persons shall have, in the Province of Ontario, the like rights and remedies in all matters including cases of contract and tort and proceedings *in rem* and *in personam* arising out of or connected with navigation, shipping, trade or commerce on any river, lake, canal or inland water, of which the whole or part is in the Province of Ontario, as such persons would have in any existing British Vice-Admiralty Court if the process of such court extended to the said Province. 40 V., c. 21, s. 1.

Rights and remedies in Ontario as to matters respecting shipping &c.

14. Subject to the provisions in this section contained, the court, for the enforcement of such rights and remedies, shall, as to the matters mentioned in the next preceding section, have all such jurisdiction as belongs to any existing British Vice-Admiralty Court in similar matters within the reach of its process:

Jurisdiction of the court.

2. In any such matter arising within reach of the process of the Vice-Admiralty Court at Quebec, the court shall have

As to matters arising in Quebec.

the same jurisdiction as any existing British Vice-Admiralty Court has under like circumstances, in any like matter arising beyond the reach of its process :

Jurisdiction as to ships registered at a port of Quebec.

3. The jurisdiction of the court in respect of claims touching the ownership, possession, employment or earnings of ships, shall extend to the case of a ship registered in a port in the Province of Quebec, but navigating the waters aforesaid :

No jurisdiction in certain cases.

4. The court shall not have jurisdiction, save as aforesaid, in any matter to which the process of any existing British Vice-Admiralty Court extends,—nor shall the court have jurisdiction in any prize cause, or in any criminal matter, or in any case of breach of the regulations and instructions relating to Her Majesty's navy, or arising out of droits of Admiralty, or out of any seizure for breach of the revenue, customs, trade or navigation laws, or out of any violation of the Act of the Parliament of the United Kingdom, known as "*The Foreign Enlistment Act*," or of the laws relating to the abolition of the slave trade, or to the capture and destruction of pirates and piratical vessels :

Limitation as to remedies given by this Act only.

5. No right or remedy *in rem* given by this Act only shall be enforced as against any subsequent *bonâ fide* purchaser or mortgagee of a ship, unless the proceedings for the enforcement thereof are begun within ninety days from the time when the same accrued :

Rights of certain mortgagees protected.

6. No right or remedy *in rem* given by this Act, except a right or remedy *in rem* for the wages of seamen and other persons employed on board a ship on any river, lake, canal or inland water, of which the whole or part is in the Province of Ontario, shall be enforced as against any *bonâ fide* mortgagee under a mortgage duly executed and registered prior to the first day of October, one thousand eight hundred and seventy-eight. 40 V., c. 21, s. 2, *part*, s. 3;—42 V., c. 40, s. 1;—45 V., c. 34, s. 1.

Practice in cases unprovided for in rules.

15. The practice, pleading, writs and procedure in force at the time of its abolition in the instance side of the High Court of Admiralty in England shall, so far as applicable, apply and extend to proceedings instituted under this Act, when no other provision is made by this Act or the general rules made under this Act. 40 V., c. 21, s. 9.

Effect of decrees and orders of the court.

16. All decrees and orders of the court, or of the judge or a surrogate judge thereof, whereby any moneys are payable to any person, shall have the same effect as decrees of the Court of Chancery in Ontario had on the sixteenth day of April, in the year one thousand eight hundred and seventy-eight, and all powers of enforcing its decrees then possessed

by the said Court of Chancery or any judge thereof, with respect to matters pending in that court, are hereby conferred on the court with respect to matters therein pending, and all remedies possessed on that date by those to whom money was payable under a decree of the said Court of Chancery, are hereby conferred on persons to whom any moneys are payable by orders or decrees of the court, or of the judge or a surrogate judge thereof. 41 V., c. 1, s. 1.

17. Any judicial act begun or partly proceeded with by a surrogate judge may, under general rules, be proceeded with or completed by the judge. 40 V., c. 21, s. 13.

Continuation of proceedings begun before surrogate judge.

18. An appeal shall lie to the Supreme Court of Canada from every decision of the court having the force and effect of a definitive sentence or final order. 40 V., c. 21, s. 19.

Appeal to Supreme Court.

19. The practice, procedure and powers as to costs, and otherwise, of the Supreme Court of Canada in other appeals shall, so far as applicable, and unless such court otherwise orders, apply and extend to appeals under this Act, when no other provision is made, either by this Act or the general rules made under this Act, or under "*The Supreme and Exchequer Courts Act.*" 40 V., c. 21, s. 20.

Procedure in such appeal.

GENERAL PROVISIONS.

20. The judge, any surrogate judge, the registrar, any deputy registrar, and any person who has power to administer oaths and affirmations in matters pending in the Supreme Court of Canada or the Exchequer Court of Canada, may administer oaths and affirmations in relation to any matter pending in the court. 40 V., c. 21, s. 16, *part.*

By whom oaths may be administered.

21. The judge may, with the approval of the Governor in Council, from time to time, make, alter and rescind general rules for establishing and regulating the practice, pleading, writs, procedure, costs and fees to practitioners and officers in suits instituted under this Act, and for the effectual working of this Act; and such rules may extend to any matter of procedure, or otherwise, not provided for by this Act, but for which it is found necessary to provide, in order to insure the proper working of this Act and the better attainment of the objects thereof; and every such rule, not being inconsistent with the express provisions of this Act, shall have force and effect as if herein enacted:

Rules of practice and tariff of fees may be made.

Their effect.

2. Copies of all such rules shall, as soon as possible, be laid before both Houses of Parliament and entered on the records of the court, and published in the *Canada Gazette*:

Copies for Parliament.

Rule or order
may be sus-
pended.

3. The Governor in Council may, by proclamation published in the *Canada Gazette*, or either House of Parliament may, by a resolution passed at any time within thirty days after such rules and orders have been laid before Parliament, suspend any rule or order made under this Act; and such rule or order shall thereupon cease to have force or effect until the end of the then next session of Parliament. 40 V., c. 21, s. 8.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
40 V., c. 21.....	The whole, except ss 6 (part), 16 (part), and 21.	ss 6 (part), 16 (part), and 21.		
41 V., c. 1.....	s. 1	ss. 2 and 3.		
42 V., c. 40.....	The whole			
45 V., c. 34.....	ss. 1 and 5	ss. 3 and 4.	s. 2	Inland waters Seamen's Act.

CHAPTER 132.

An Act respecting the Judges of Provincial Courts.

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:— Interpretation.

(a) The expression “judge,” as applied to a superior court, “Judge,” includes the chief justice, and as applied to county courts, includes a junior judge;

(b) The expression “county” includes district. 45 V. “County.”
c. 12, s. 1.

JUDGES OF COUNTY COURTS.

2. Every judge of a county court in any of the Provinces of Canada shall, subject to the provisions of this Act, hold office during good behavior and his residence within the county or union of counties for which the court is established: Conditions under which county court judges hold office.

2. A judge of a county court may be removed from office by the Governor in Council for misbehavior, or for incapacity or inability to perform his duties properly, on account of old age, ill health or any other cause; if— Causes for removal.

(a) The circumstances respecting the misbehavior, incapacity or inability are first inquired into; and— Inquiry.

(b) Such judge is given reasonable notice of the time and place appointed for the inquiry, and is afforded an opportunity, by himself or his counsel, of being heard thereat, and of cross-examining the witnesses and adducing evidence on his own behalf: Notice to the judge.

3. If any such judge is removed from office for any of such reasons, the order in council providing for such removal, and all reports, evidence and correspondence relating thereto, shall be laid before Parliament within the first fifteen days of the next ensuing session: Report to Parliament.

4. The Governor General in Council may, for the purpose of making inquiry into the circumstances respecting the misbehavior, inability or incapacity of such judge, Commission of inquiry may be appointed.

Powers may
be conferred.

issue a commission to one or more judges of the Supreme Court of Canada, or to any one or more judges of any superior court in any Province of Canada, empowering him or them to make such inquiry and to report,—and may, by such commission, confer upon the person or persons appointed, full power to summon before him or them any person or witnesses, and to require 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 the commissioner or commissioners deem requisite to the full investigation of the matters into which they are appointed to inquire :

Attendance of
witnesses.

5. The commissioner or commissioners shall have the same power to enforce the attendance of such person or witness, and to compel him to give evidence, as is, in civil cases, vested in any superior court of the Province in which the inquiry is being conducted ; but no such person or witness shall be compelled to answer any question, by his answer to which he would render himself liable to a criminal prosecution :

Application
of this section.

6. This section shall apply to judges now holding office as well as to those hereafter appointed, and a judge now holding office may be removed under this section for misbehavior, incapacity or inability, occurring or existing before the passing of this Act. 45 V., c. 12, ss. 2, 3, 4 and 5.

SALARIES.

SUPERIOR COURTS.

Salaries of
Judges of
Supreme
Court of
Judicature
Ontario.

3. The salaries of the judges of the Supreme Court of Judicature of Ontario shall be as follows :—

The Chief Justice of Ontario.....	\$6,000	per annum.
Four Justices of Appeal, each.....	5,000	“
The Chief Justice of the Queen’s Bench..	6,000	“
Two judges of the High Court of Justice, Queen’s Bench Division, each.....	5,000	“
The Chancellor of Ontario.....	6,000	“
Two judges of the High Court of Justice, Chancery Division, each.....	5,000	“
The Chief Justice of the Common Pleas..	6,000	“
Two judges of the High Court of Justice, Common Pleas Division, each.....	5,000	“

Salary of
Chief Justice,
&c., if ap-
pointed to
Court of
Appeal.

2. If the Chief Justice of the Queen’s Bench, the Chancellor of Ontario or the Chief Justice of the Common Pleas, is appointed to the Court of Appeal, the Governor in Council may direct that he be paid a salary not less than that previously enjoyed by him as such Chief Justice or Chancellor. 45 V., c. 11, s. 1 ;—46 V., c. 9, ss. 1 and 2.

4. The salaries of the judges of the Court of Queen's Bench and of the Superior Court, in the Province of Quebec, shall be as follows:—

The Chief Justice of the Queen's Bench..	\$6,000	per annum.	Salaries of Judges of Queen's Bench and Superior Court, Que- bec.
Five puisné judges of the said court, each	5,000	"	
The Chief Justice of the Superior Court..	6,000	"	
Eleven puisné judges of the said court, whose residences are fixed at Montreal or Quebec, each.....	5,000	"	
Thirteen puisné judges of the said court, whose residences are fixed within dis- tricts other than Bonaventure and Gaspé or Saguenay, each.....	4,000	"	
Two puisné judges of the said court, whose residences are fixed within the districts of Bonaventure and Gaspé or Saguenay, each.....	3,500	"	

37 V., c. 4, s. 5, *part*;—44 V., c 5;—46 V., c. 9, s. 4.

5. The salaries of the judges of the Supreme Court of the Province of Nova Scotia shall be as follows:—

The Chief Justice of the said court.....	\$5,000	per annum.	Salaries of judges, Nova Scotia.
The Judge in Equity.....	4,000	"	
Five puisné judges of the said court, each	4,000	"	

36 V., c. 31, s. 6;—42 V., c. 3, s. 2.

6. The salaries of the judges of the Supreme Court of the Province of New Brunswick shall be as follows:—

The Chief Justice of the said court.....	\$5,000	per annum.	Salaries of judges, New Brunswick.
The Judge in Equity.....	4,000	"	
Four puisné judges of the said court, each	4,000	"	

37 V., c. 4, s. 4;—42 V., c. 3, s. 1.

7. The salaries of the judges of the Supreme Court of the Province of Prince Edward Island shall be as follows:—

The Chief Justice of the said court, being also judge of the Court of Vice-Admir- alty.....	\$4,000	per annum.	Salaries of judges, Prince Edward Island.
One assistant judge, being also Master of the Rolls in Chancery.....	3,200	"	
One assistant judge, being also Vice- Chancellor.....	3,200	"	

44 V., c. 6, s. 1.

8. The salaries of the judges of the Court of Queen's Bench for the Province of Manitoba shall be as follows:—

The Chief Justice of the said court.....	\$5,000	per annum.	Salaries of judges, Manitoba.
Three puisné judges of the said court, each	4,000	"	

36 V., c. 31, s. 8;—47 V., c. 13, s. 1, *part*.

Salaries of
judges,
British
Columbia.

9. The salaries of the judges of the Supreme Court for the Province of British Columbia shall be as follows:—

The Chief Justice of the said court.....\$5,000 per annum.
Four puisné judges of the said court, each 4,000 “

Proviso.

Provided, that during the incumbency of the present Chief Justice, his salary shall continue to be \$5,820 per annum, and that while the present senior puisné judge remains in office, his salary shall continue to be \$4,850 per annum. 35 V., c. 20, s. 5 ;—36 V., c. 31, s. 9 ;—43 V., c. 4.

COUNTY COURTS.

Salaries of
judges of
county courts.

10. The salaries of the judges of the county courts shall be as follows:—

Ontario.

Ontario.

The judge of the County Court of the county of York, \$2,400 per annum ;

The judges of other county courts, each \$2,000 per annum, during the first three years of service, and after three years of service as such judge (*service as a junior judge not to be taken into account*), each \$2,400 per annum ;

Junior judges of county courts, each \$2,000 per annum ;

The salary of any judge now receiving a greater salary than the maximum herein allowed, shall, during his incumbency, remain at its present rate.

Nova Scotia.

Nova Scotia.

The judge of the County Court of the county of Halifax, \$2,400 per annum ;

Six other county court judges, each \$2,000 per annum, during the first three years of service, and after three years of service, each \$2,400 per annum.

New Brunswick.

New Brun-
swick.

The judge of the County Court of the city and county of St. John, \$3,000 per annum ;

Five other county court judges, each \$2,000 per annum, during the first three years of service, and after three years of service, each \$2,400 per annum.

Prince Edward Island.

Three county court judges, each \$2,000 per annum, during the first three years of service, and after three years of service, each \$2,400 per annum. Prince Edward Island.

Manitoba.

Three county court judges, each \$2,000 per annum, during the first three years of service, and after three years of service, each \$2,400 per annum. Manitoba.

British Columbia.

The judge of the County Court of Cariboo, \$2,400 per annum.—36 V., c. 31, s. 10, *part*;—39 V., c. 29, s. 1, *part*;—42 V., c. 4, s. 1;—45 V., c. 11, s. 2, *part, and ss. 3 and 4*;—46 V., c. 9, s. 5, *part*;—47 V., c. 12, s. 1, *part*. British Columbia.

VICE-ADMIRALTY COURTS.

11. The salaries of the judges of the Vice-Admiralty Courts, as such judges, shall be as follows:— Salaries of judges of Vice-Admiralty Courts.

The judge of the Vice-Admiralty Court of Quebec, \$2,000 per annum;

The judge of the Vice-Admiralty Court of Nova Scotia, \$600 per annum;

The judge of the Vice-Admiralty Court of New Brunswick, \$600 per annum. 31 V., c. 33, *sch. part*;—32-33 V., c. 8, s. 7.

TRAVELLING ALLOWANCES.

12. There shall be paid to the judges, for travelling allowances, the sums following, that is to say:— Travelling allowances.

In the Province of Ontario,—

Ontario.

To each of the judges of the High Court of Justice of that Province, one hundred dollars for each time he holds any court for the trial of causes, in any county except the county of York and city of Toronto;

In the Province of Quebec,—

Quebec.

To each of the judges of the Court of Queen's Bench, for each term (appeal side and criminal side) attended by him elsewhere than at his place of residence, one hundred dollars;

To each of the judges of the said Court of Queen's Bench, for attending any other court, for each day he is absent from his place of residence, six dollars ;

To each of the judges of the Superior Court, attending, as such, any court held at any place other than that at which he is directed to reside, for each day he is absent from his said place of residence, six dollars :

Provided that any judge of the Superior Court, required to attend, as such, the Court of Queen's Bench, appeal side or criminal side, elsewhere than at his said place of residence, during the whole of the term, shall receive the same allowance as a judge of the Court of Queen's Bench performing the like duty ; but this provision shall not apply to a judge of the Superior Court attending the Court of Queen's Bench, appeal side or criminal side, for a part only of a term, or for the purpose of disposing of cases already heard ; and in the two cases last mentioned, the allowance shall be six dollars for each day's absence from his place of residence,—except that three days' absence at least shall always be allowed for ;

Nova Scotia. In the Province of Nova Scotia,—

To each of the judges of the Supreme Court of that Province, and to the Judge in Equity, one hundred dollars for each time he holds any court for the trial of causes (not being an adjourned court) in any county except the county of Halifax ;

New Brunswick. In the Province of New Brunswick,—

To each of the judges of the Supreme Court of that Province, and to the judge in equity, one hundred dollars for each time he holds any court for the trial of causes (not being an adjourned court) in any county except the county of York ;

Prince Edward Island. In the Province of Prince Edward Island,—

To each judge of the Supreme Court, such a sum, not exceeding two hundred dollars, as the Governor in Council prescribes ;

Manitoba. In the Province of Manitoba,—

To each of the judges of the Queen's Bench, such travelling allowances as the Governor in Council, from time to time, determines ;

British Columbia. In the Province of British Columbia,—

To each of the judges of the Supreme Court of that Province, such travelling allowances as the Governor in Council, from time to time, determines;

In the Provinces of Ontario, Nova Scotia, New Brunswick and Prince Edward Island,— Allowances to judges of county courts.

To each judge of a county court, an annual sum of two hundred dollars;

In the Provinces of Manitoba and British Columbia,—

To each judge of a county court, such a sum as the Governor in Council prescribes :

Except in the case of the annual sums paid to judges of the Supreme Court of Prince Edward Island, and to judges of County Courts in the Provinces of Ontario, Nova Scotia, New Brunswick and Prince Edward Island, every application for the payment of any such allowance shall be accompanied by a certificate of the judge applying for it, of the number of circuits or days for which he is entitled to claim such allowance. 32-33 V., c. 8, s. 1;—35 V., c. 21;—36 V., c. 31, s. 10;—37 V., c. 4, s. 2, *part*;—39 V., c. 29, s. 1, *part*;—40 V., c. 24;—45 V., c. 11, s. 2, *part*;—46 V., c. 9, s. 5, *part*, and s. 7;—47 V., c. 12, s. 1, *part*. Certificate required in certain cases.

SUPERANNUATION.

13. If any judge of a Superior Court, or of a Court of Vice-Admiralty, in any of the Provinces, who has continued in the office of judge of one or more of the Superior Courts, or of the Court of Vice-Admiralty, in any one of the said Provinces, for fifteen years or upwards, or who becomes afflicted with some permanent infirmity, disabling him from the due execution of his office, resigns his office, Her Majesty may, by letters patent, under the Great Seal of Canada, reciting such period of office or permanent infirmity, grant unto such judge an annuity equal to two thirds of the salary annexed to the office he held at the time of his resignation, to commence immediately after his resignation, and to continue thenceforth during his natural life. 31 V., c. 33, s. 3, *part*;—39 V., c. 28, s. 1, *part*;—46 V., c. 9, s. 3. Superannuation allowance to judges of Superior Courts.

14. If any judge of a county court, after having continued in office as such judge for a period of at least ten years, becomes afflicted with some permanent infirmity, disabling him from the due execution of his office, and resigns his office, or if a judge of a county court, after having continued in office as such judge for a period of at least twenty-five years, resigns his office, Her Majesty may, by letters patent, under the Great Seal of Canada, grant to And to judges of county courts.

him a pension equal to two thirds of the annual salary of which he was in receipt at the time of his resignation, to continue thenceforth during his natural life :

When pension may be reduced in amount.

2. If any person, receiving a pension under this section, becomes entitled to any salary in respect of any public office under the Government of Canada, such salary shall be reduced by the amount of such pension. 45 V., c. 12, s. 6, *part*, and s. 8.

GENERAL PROVISIONS.

Payment out of Con. Rev. Fund.

15. The salaries and retiring allowances or annuities of the judges shall be payable out of any moneys forming part of the Consolidated Revenue Fund of Canada :

Pro ratâ payment.

2. For any period less than a year, the salaries and retiring allowances or annuities shall be paid *pro ratâ* :

Payments to be clear of deductions.

3. The salaries and retiring allowances or annuities shall be free and clear of all taxes and deductions whatsoever, imposed under any Act of the Parliament of Canada. 31 V., c. 33, s. 2, *part*, and s. 3 ;—32-33 V., c. 8, ss. 4 and 8 ;—36 V., c. 31, s. 11, *part* ;—37 V., c. 4, s. 7 ;—39 V., c. 28, s. 1, *part*, and c. 29, s. 1, *part* ;—45 V., c. 11, s. 5, and c. 12, s. 7 ;—46 V., c. 9, s. 6 ;—47 V., c. 12, s. 2.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
31 V., c. 33.....	ss. 2, (part), 3, and part of schedule.			
32-33 V., c. 8.....	The whole, except ss. 2, 3, 5 and 9.	ss. 2, 3, 5 & 9.		
35 V., c. 29.....	s. 5, (part).			
35 V., c. 21.....	The whole.			
36 V., c. 31.....	ss. 6, 8, 9, 10 and 11, (part).	s. 7.		
37 V., c. 4.....	ss. 2, (part), 4, 5, (part), and 7.	Remainder except s. 1.		
39 V., c. 28.....	The whole.			
39 V., c. 29.....	s. 1.....	s. 2.		
42 V., c. 3.....	The whole.			
42 V., c. 4.....	s. 1.....	s. 2.		
43 V., c. 4.....	The whole.			
44 V., c. 5.....	The whole.			
44 V., c. 6.....	s. 1.....	s. 2.		
45 V., c. 11.....	The whole.			
45 V., c. 12.....	The whole, except s. 9.	s. 9.		
46 V., c. 9.....	The whole.			
47 V., c. 12.....	The whole.			

CHAPTER 133.

An Act respecting Evidence.

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 Evidence Act.*" 44 V., Short title. c. 28, s. 6.

2. *Primâ facie* evidence of any proclamation, order, regulation or appointment, made or issued by the Governor General or by the Governor in Council or by or under the authority of any minister or head of any department of the Government of Canada, may be given in all courts of justice established by the Parliament of Canada, and in all legal proceedings whatsoever, civil or criminal, over which the Parliament of Canada has legislative authority in all or any of the modes hereinafter mentioned, that is to say :—

Primâ facie evidence of proclamations, &c., of Governor General, &c.

(a) By the production of a copy of the *Canada Gazette* or of a volume of the *Acts of the Parliament of Canada* purporting to contain a notice of such proclamation, order, regulation or appointment;

Canada Gazette, &c.

(b) By the production of a copy of such proclamation, order, regulation or appointment, purporting to be printed by the Queen's Printer for Canada; and—

Copy printed by Q. P.

(c) By the production, in the case of any proclamation, order, regulation or appointment made or issued by the Governor General or by the Governor in Council, of a copy or extract purporting to be certified to be true by the clerk, or assistant or acting clerk of the Queen's Privy Council for Canada,—and in the case of any order, regulation or appointment made or issued by or under the authority of any such minister or head of a department, by the production of a copy or extract purporting to be certified as true by the minister, or by his deputy or acting deputy, or by the secretary or acting secretary of the department over which he presides. 44 V., c. 25, ss. 90, *part*, 91, and c. 28, s. 1.

Copy or extract certified by proper authority.

3. *Primâ facie* evidence of any proclamation, order, regulation or appointment made or issued by a Lieutenant Governor or Lieutenant Governor in Council of any Province, or by or under the authority of any member of the

Primâ facie evidence of proclamations, &c., of Lieutenant Governor, &c.

Executive Council, being the head of any department of the Government of the Province, may be given in all courts of justice established by the Parliament of Canada and in all legal proceedings whatsoever, civil or criminal, over which the Parliament of Canada has legislative authority, in all or any of the modes hereinafter mentioned, that is to say:—

Official Gazette.

(a) By the production of a copy of the official gazette for the Province, purporting to contain a notice of such proclamation, order, regulation or appointment;

Copy printed by Government Printer.

(b) By the production of a copy of such proclamation, order, regulation or appointment, purporting to be printed by the Government Printer for the Province;

Copy or extract certified by the proper authority.

(c) By the production of a copy or extract of such proclamation, order, regulation or appointment, certified to be true by the clerk or assistant or acting clerk of the Executive Council, or by the head of any department of a Provincial Government, or by his deputy or acting deputy, as the case may be. 44 V., c. 28, s. 2.

Proof of handwriting, &c., not requisite.

4. No proof shall be required of the handwriting or official position of any person certifying, in pursuance of this Act, to the truth of any copy of or extract from any proclamation, order, regulation or appointment; and any such copy or extract may be in print or in writing, or partly in print and partly in writing. 44 V., c. 28, s. 3.

Order signed by Secretary of State.

5. Any order in writing, signed by the Secretary of State of Canada, and purporting to be written by command of the Governor General, shall be received in evidence as the order of the Governor General. 41 V., c. 7, s. 6, *part*.

Copies of notices, &c., in *Canada Gazette*.

6. All copies of official and other notices, advertisements and documents, printed in the *Canada Gazette* shall be *prima facie* evidence of the originals, and of the contents thereof. 32-33 V., c. 7, s. 4.

How this Act shall be construed.

7. The provisions of this Act shall be deemed to be in addition to and not in derogation of any powers of proving documents given by any existing statute or existing at common law. 44 V., c. 28, s. 5.

Application of provincial laws of evidence.

8. In all proceedings over which the Parliament of Canada has legislative authority, the laws of evidence in force in the Province in which such proceedings are taken shall, subject to the provisions of this and other Acts of the Parliament of Canada, apply to such proceedings.

New.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
32-33 V., c. 7.....	s. 4 .....	.....	Remainder.....	Act respecting Department of Secretary of State.
41 V., c. 7	s. 6 (part).			
44 V., c. 25	s. 90 (part) and s			
44 V., c 28.	The whole except	s 4.....	Act respecting
	s. 4.	t		forgery.

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CHAPTER 134.

An Act respecting the taking of Evidence relating to proceedings in Courts out of Canada

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:—

“ Court.”

(a) The expression “ court ” means and includes the Supreme Court of Canada, and every Superior Court in any Province of Canada ;

“ Judge.”

(b) The expression “ judge ” means and includes any judge of the Supreme Court of Canada and any judge of any Superior Court in any Province of Canada ;

“ Cause.”

(c) The expression “ cause ” includes a proceeding against a criminal. 31 V., c. 76, s. 6, *part*;—46 V., c. 35, s. 1, *part*.

Order may be made for examination in Canada of a witness in relation to a matter pending out of Canada.

2. Whenever, upon an application for that purpose, it is made to appear to any court or judge, that any court or tribunal of competent jurisdiction, in any other of Her Majesty's dominions, or in any foreign country, before which any civil, commercial or criminal matter is pending, is desirous of obtaining the testimony in relation to such matter, of any party or witness within the jurisdiction of such first mentioned court, or of the court to which such judge belongs or of such judge, such court or judge may, in its or his discretion, order the examination upon oath upon interrogatories, or otherwise, of such party or witness or persons named in such order, of such party or witness accordingly, and by the same or any subsequent order may command the attendance of such party or witness for the purpose of being examined, and for the production of any writings or other documents mentioned in such order, and of any other writings or documents relating to the matter in question that are in the possession or power of such party or witness. 31 V., c. 76, s. 1;—46 V., c. 35, s. 1, *part*.

Enforcement of such order.

3. Upon the service upon such party or witness of such order and of an appointment of a time and place for the examination of such party or witness, signed by the person named in such order for taking the same, or if more than one person is named, then by one of the persons named, and upon payment or tender of the like conduct money as is properly payable as upon attendance at a trial, such order may be enforced in like manner as an order made by such

court or judge in a cause depending in such court or before such judge. 31 V., c. 76, s. 2.

4. Every person whose attendance is required in manner aforesaid shall be entitled to the like conduct money and payment for expenses and loss of time as upon attendance at a trial. 31 V., c. 76, s. 3. Conduct money and expenses.

5. Any person examined under any order made under this Act shall have the like right to refuse to answer questions tending to criminate himself, and other questions, which a party or witness, as the case may be, in any cause pending in the court by which, or by a judge whereof, such order is made, would be entitled to, and no person shall be compelled to produce, under any such order, any writing or other document that he could not be compelled to produce at a trial of such a cause. 31 V., c. 76, s. 4. Witness to have like right of refusal as at a trial.

6. Any person authorized to take the examination of parties or witnesses by any order made in pursuance of this Act, may take such examination upon the oath of the parties or witnesses, or upon affirmation, in cases in which by the law of the Province wherein such examination is taken, affirmation is allowed instead of oath; and such oath or affirmation shall be administered by the person so authorized, or, if more than one, then by one of such persons. 31 V., c. 76, s. 5, *part.* Examination to be upon oath or affirmation.

7. The court may frame rules and orders in relation to procedure, to the evidence to be produced in support of the application for an order for examination of parties and witnesses under this Act, and generally for carrying this Act into effect; and in the absence of any order in relation to such evidence, letters rogatory from any court of justice in any other of the dominions of Her Majesty, or from any foreign tribunal, in which such civil, commercial or criminal matter is pending, shall be deemed and taken to be sufficient evidence in support of such application. 31 V., c. 76, s. 6, *part*;—46 V., c. 35, s. 1, *part.* Rules and orders may be made by the court.

8. This Act shall not be so construed as to interfere with the right of legislation of the Legislature of any Province requisite or desirable for the carrying out the objects hereof. 31 V., c. 76, s. 7. Powers of local legislatures not affected.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
31 V., c. 76.....	The whole, except s. 5 (part).	s. 5 (part).		
46 V., c. 35.....	The whole.			

CHAPTER 135.

An Act respecting Extra-judicial Oaths.

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

Penalty for administering oath without lawful warrant.

1. Every justice of the peace or other person who administers, or causes or allows to be administered, or receives or causes, or allows to be received, any oath, affidavit or solemn affirmation, touching any matter or thing whereof such justice or other person has not jurisdiction or cognizance by some law in force at the time being, or authorized or required by any such law, is guilty of a misdemeanor and liable to a fine not exceeding fifty dollars, or to imprisonment for any term not exceeding three months. 37 V., c. 37, s. 1, *part*, and s. 2.

Act not to extend to certain oaths, affidavits and affirmations.

2. Nothing herein contained shall be construed to extend to any oath, affidavit or solemn affirmation before any justice in any matter or thing touching the preservation of the peace, or the prosecution, trial or punishment of any offence, or to any oath, affidavit or affirmation required or authorized by any law of Canada, or by any law of the Province wherein such oath, affidavit or affirmation is received or administered, or is to be used, or to any oath, affidavit or affirmation which is required by the laws of any foreign country to give validity to instruments in writing designed to be used in such foreign countries respectively. 37 V., c. 37, s. 1, *part*.

Solemn declaration may be received.

3. Any judge, justice of the peace, public notary or other functionary authorized by law to administer an oath, may receive the solemn declaration of any person voluntarily making the same before him, in the form in the schedule to this Act, in attestation of the execution of any written deed or instrument, or allegations of fact, or of any account rendered in writing. 37 V., c. 37, s. 1, *part*.

Before whom affidavits to be used in insurance cases may be made.

4. Any affidavit, affirmation or declaration required by any fire, life or marine insurance company, authorized by law to do business in Canada, in regard to any loss of property or life insured or assured therein, may be taken before any commissioner authorized to take affidavits, or before any justice of the peace, or before any notary public for any Province of Canada; and any such officer is hereby required

to take such affidavit, affirmation or declaration. 32-33 V., c. 23, s. 4.

SCHEDULE.

I, A. B., do solemnly declare that (*state the fact or facts declared to*), and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the "*Act respecting extra-judicial Oaths.*"

37 V., c. 37, schedule.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
32-33 V., c. 23. 37 V., c. 37.....	s. 4..... The whole, except part of s 1.	..... s. 1 (part).	Remainder..... -	Perjury.

CHAPTER 136.

An Act respecting the Extradition of Fugitive Criminals.

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

SHORT TITLE.

Short title. **1.** This Act may be cited as "*The Extradition Act.*" 40 V., c. 25, s. 24.

INTERPRETATION.

Interpreta- **2.** In this Act, unless the context otherwise requires :—
tion.

" Extradition (a) The expression " extradition arrangement," or " arrange-
arrange- ment," means a treaty, convention or arrangement made
ment."⁵ by Her Majesty with a foreign state for the surrender of
fugitive criminals, and which extends to Canada ;

" Extradition (b) The expression " extradition crime " may mean any
" crime."⁶ crime which, if committed in Canada, or within Canadian
jurisdiction, would be one of the crimes described in the
first schedule to this Act,—and, in the application of this Act
to the case of any extradition arrangement, means any crime
described in such arrangement, whether comprised in the
said schedule or not ;

" Convic- (c) The expressions " conviction " and " convicted " do not
tion"⁷ include the case of a condemnation under foreign law by
" Convicted."⁸ reason of contumacy ; but the expression " accused person "
" Accused includes a person so condemned ;
person."⁹

" Fugitive (d) The expressions " fugitive " and " fugitive criminal "
criminal."¹⁰ mean a person being or suspected of being in Canada, who
is accused or convicted of an extradition crime committed
within the jurisdiction of any foreign state ;

" Foreign (e) The expression " foreign state " includes every colony,
state."¹¹ dependency and constituent part of the foreign state ; and
every vessel of any such state shall be deemed to be within
the jurisdiction of and to be part of the state ;

" Warrant."¹² (f) The expression " warrant," in the case of a foreign
state, includes any judicial document authorizing the arrest
of a person accused or convicted of crime ;

(g) The expression "judge" includes any person authorized to act judicially in extradition matters. 40 V., c. 25, s. 1. "Judge."

APPLICATION OF ACT.

3. In the case of any foreign state with which there is, at or after the time when this Act comes into force, an extradition arrangement, this Act shall apply during the continuance of such arrangement; but no provision of this Act, which is inconsistent with any of the terms of the arrangement, shall have effect to contravene the arrangement; and this Act shall be so read and construed as to provide for the execution of the arrangement : As to existing arrangements.

2. In the case of any foreign state with respect to which the application to the United Kingdom of the Act of the Parliament of the United Kingdom, passed in the year one thousand eight hundred and seventy, and intituled "*An Act for amending the Law relating to the Extradition of Criminals*," is made subject to any limitation, condition, qualification or exception, the Governor in Council shall make the application of this Act, by virtue of this section, subject to any such limitation, condition, qualification or exception : As to limitations, qualifications and exceptions.

3. The Governor in Council may, at any time, revoke or alter, subject to the restrictions of this Act, any order made by him in council under this Act, and all the provisions of this Act with respect to the original order shall, so far as applicable, apply *mutat s mutandis* to the new order. 40 V., c. 25, s. 4. Orders under this Act may be revoked.

4. This Act, so far as its application in the case of any foreign state, depends on or is affected by any Order in Council made under this Act or referred to therein, shall apply, or its application shall be affected from and after the time specified in the order, or, if no time is specified, after the date of the publication of the order in the *Canada Gazette* : If the application of this Act depends on an Order in Council.

2. Any order of Her Majesty in Council, referred to in this Act, and any Order of the Governor in Council made under this Act, and any extradition arrangement not already published in the *Canada Gazette*, shall be, as soon as possible, published in the *Canada Gazette* and laid before both Houses of Parliament : Publication of Orders in Council.

3. The publication in the *Canada Gazette* of an extradition arrangement, or an Order in Council, shall be evidence of such arrangement or order, and of the terms thereof, and of the application of this Act, pursuant and subject thereto; *and the court or judge shall take judicial notice, without proof,* Effect of publication in the *Canada Gazette*.

of such arrangement or order, and the validity of the order and the application of this Act, pursuant and subject thereto, shall not be questioned. 40 V., c. 25, s. 5.

JUDGES AND COMMISSIONERS.

What judges may act in cases under this Act.

5. All judges of the superior courts and of the county courts of any Province, and all commissioners who are, from time to time, appointed for the purpose, in any Province by the Governor in Council, under the Great Seal of Canada, by virtue of this Act, are authorized to act judicially in extradition matters under this Act, within the Province; and every such person shall, for the purposes of this Act, have all the powers and jurisdiction of any judge or magistrate of the Province:

No *habeas corpus* power.

2. Nothing in this section shall be construed to confer on any judge any jurisdiction in *habeas corpus* matters. 40 V., c. 25, s. 8.

EXTRADITION FROM CANADA.

On what grounds a warrant may issue.

6. Whenever this Act applies, a judge may issue his warrant for the apprehension of a fugitive on a foreign warrant of arrest, or an information or complaint laid before him, and on such evidence or after such proceedings, as in his opinion would, subject to the provisions of this Act, justify the issue of his warrant if the crime of which the fugitive is accused or alleged to have been convicted had been committed in Canada:

Report of Minister of Justice.

2. The judge shall forthwith send a report of the fact of the issue of the warrant, together with certified copies of the evidence and foreign warrant, information or complaint, to the Minister of Justice. 40 V., c. 25, s. 11.

Execution of warrant.

7. A warrant issued under this Act may be executed in any part of Canada, in the same manner as if it had been originally issued, or subsequently indorsed, by a justice of the peace having jurisdiction in the place where it is executed. 40 V., c. 25, s. 10.

Surrender not to depend on time when the offence was committed, &c.

8. Every fugitive criminal of a foreign state, in the case of which state this Act applies, shall be liable to be apprehended, committed and surrendered in the manner provided in this Act, whether the crime or conviction, in respect of which the surrender is sought, was committed or took place before or after the date of the arrangement, or of the coming into force of this Act, or of the application of this Act in the case of such state, and whether there is or is not any criminal jurisdiction in any court of Her Majesty's dominions over the fugitive, in respect of the crime. 40 V., c. 25, s. 7.

9. The fugitive shall be brought before a judge, who shall, subject to the provisions of this Act, hear the case, in the same manner, as nearly as may be, as if the fugitive was brought before *a justice of the peace*, charged with an indictable offence committed in Canada :

Fugitive to be brought before the judge.

2. The judge shall receive upon oath, or affirmation if affirmation is allowed by law, the evidence of any witness tendered to show the truth of the charge or the fact of the conviction :

Evidence of the charge.

3. The judge shall receive, in like manner, any evidence tendered to show that the crime of which the fugitive is accused or alleged to have been convicted is an offence of a political character, or is, for any other reason, not an extradition crime ; or that the proceedings are, being taken with a view to prosecute or punish him for an offence of a political character. 40 V., c. 25, s. 12.

Evidence that the crime is not an extradition crime.

10. Depositions or statements taken in a foreign state on oath, or on affirmation, where affirmation is allowed by the law of the state, and copies of such depositions or statements, and foreign certificates of, or judicial documents stating the fact of conviction, may, if duly authenticated, be received in evidence in proceedings under this Act :

Depositions taken out of Canada.

2. Such papers shall be deemed duly authenticated if authenticated in manner provided, for the time being, by law, or if authenticated as follows :—

When to be deemed authenticated.

(a) If the warrant purports to be signed by, or the certificate purports to be certified by, or the depositions or statements, or the copies thereof, purport to be certified to be the originals or true copies, by a judge, magistrate or officer of the foreign state ;

(b) And if the papers are authenticated by the oath or affirmation of some witness, or by being sealed with the official seal of the Minister of Justice, or some other minister of the foreign state, or of a colony, dependency or constituent part of the foreign state ; of which seal the judge shall take judicial notice without proof. 40 V., c. 25, s. 9.

11. If, in the case of a fugitive alleged to have been convicted of an extradition crime, such evidence is produced as would, according to the law of Canada, subject to the provisions of this Act, prove that he was so convicted,—and if, in the case of a fugitive accused of an extradition crime, such evidence is produced as would, according to the law of Canada, subject to the provisions of this Act, justify his committal for trial, if the crime had been committed in Canada, the judge shall issue his warrant for the com-

What evidence shall be sufficient to justify committal.

mittal of the fugitive to the nearest convenient prison, there to remain until surrendered to the foreign state, or discharged according to law; but otherwise the judge shall order him to be discharged. 40 V., c. 25, s. 13.

Judge shall,— **12.** If the judge commits a fugitive to prison, he shall, on such committal,—

Give certain information to fugitives,— (a) Inform him that he will not be surrendered until after the expiration of fifteen days, and that he has a right to apply for a writ of *habeas corpus*; and—

Transmit evidence to Minister of Justice. (b) Transmit to the Minister of Justice a certificate of the committal, with a copy of all the evidence taken before him, not already so transmitted, and such report upon the case as he thinks fit. 40 V., c. 25, s. 14.

By whom requisition for surrender may be made. **13.** A requisition for the surrender of a fugitive criminal of a foreign state who is, or is suspected to be in Canada, may be made to the Minister of Justice by any person recognized by him as a consular officer of that state resident at Ottawa; or by any minister of that state communicating with the Minister of Justice through the diplomatic representative of Her Majesty in that state; or if neither of these modes is convenient, then in such other mode as is settled by arrangement. 40 V., c. 25, s. 15.

When the fugitive shall not be liable to surrender. **14.** No fugitive shall be liable to surrender under this Act if it appears,—

(a) That the offence in respect of which proceedings are taken under this Act is one of a political character; or—

(b) That such proceedings are being taken with a view to prosecute or punish him for an offence of a political character. 40 V., c. 25, s. 6.

In cases specified, Minister may refuse to make order or may cancel order already made. **15.** If the Minister of Justice at any time determines,—

(a) That the offence in respect of which proceedings are being taken under this Act is one of a political character;

(b) That the proceedings are, in fact, being taken with a view to try or punish the fugitive for an offence of a political character; or—

(c) That the foreign state does not intend to make a requisition for surrender—

He may refuse to make an order for surrender, and may, by order under his hand and seal, cancel any order made by

him, or any warrant issued by a judge under this Act, and order the fugitive to be discharged out of custody on any committal made under this Act; and the fugitive shall be discharged accordingly. 40 V., c. 25, s. 16 ;—45 V., c. 20, s. 1:

16. A fugitive shall not be surrendered until after the expiration of fifteen days from the date of his committal for surrender; or if a writ of *habeas corpus* is issued, until after the decision of the court remanding him : Delay before surrender.

2. A fugitive who has been accused of an offence within Canadian jurisdiction, not being the offence for which his surrender is asked, or who is undergoing sentence under a conviction in Canada, shall not be surrendered, until after he has been discharged, whether by acquittal or by expiration of his sentence, or otherwise. 40 V., c. 25, s. 17. If fugitive is an offender under Canadian law.

17. Subject to the provisions of this Act, the Minister of Justice, upon the requisition of the foreign state, may, under his hand and seal, order a fugitive who has been committed for surrender to be surrendered to the person or persons who are, in his opinion, duly authorized to receive him in the name and on behalf of the foreign state, and he shall be so surrendered accordingly : Minister may order surrender of fugitive to officer of a foreign state.

2. Any person to whom such order is directed may deliver, and the person so authorized may receive, hold in custody and convey the fugitive within the jurisdiction of the foreign state ; and if he escapes out of any custody to which he is delivered, on or in pursuance of such order, he may be retaken in the same manner as any person accused or convicted of any crime against the laws of Canada may be retaken on an escape. 40 V., c. 25, s. 18. Powers of such officer.

18. Everything found in the possession of the fugitive at the time of his arrest, which may be material as evidence in making proof of the crime, may be delivered up with the fugitive on his surrender, subject to all rights of third persons with regard thereto. 40 V., c. 25, s. 19. Property found on fugitive.

19. If a fugitive is not surrendered and conveyed out of Canada within two months after his committal for surrender, or if a writ of *habeas corpus* is issued within two months after the decision of the court on such writ, over and above, in either case, the time required to convey him from the prison to which he has been committed, by the readiest way out of Canada, any one or more of the judges of the superior courts of the Province in which such person is confined, having power to grant a writ of *habeas corpus*, may, upon application made to him or them by or on behalf of the fugitive, and on proof Fugitive to be conveyed out of Canada within a certain time. Or may be released by habeas corpus.

that reasonable notice of the intention to make such application has been given to the Minister of Justice, order the fugitive to be discharged out of custody, unless sufficient cause is shown against such discharge. 40 V., c. 25, s. 20.

Forms valid. **20.** The forms set forth in the second schedule to this Act, or forms as near thereto as circumstances admit of, may be used in the matters to which such forms refer, and, when used, shall be deemed valid. 40 V., c. 25, s. 21.

EXTRADITION FROM A FOREIGN STATE.

Requisition for a fugitive from Canada, how made. **21.** A requisition for the surrender of a fugitive criminal from Canada, who is or is suspected to be in any foreign state with which there is an extradition arrangement, may be made by the Minister of Justice to a consular officer of that state resident at Ottawa, or to the Minister of Justice or any other minister of that state, through the diplomatic representative of Her Majesty in that state; or, if neither of these modes is convenient, then in such other mode as is settled by arrangement. 40 V., c. 25, s. 22.

Conveyance of fugitive surrendered. **22.** Any person accused or convicted of an extradition crime, who is surrendered by a foreign state, may, under the warrant for his surrender issued in such foreign state, be brought into Canada and delivered to the proper authorities, to be dealt with according to law.

New.

Fugitive surrendered by a foreign state not punishable contrary to arrangement. **23.** Whenever any person accused or convicted of an extradition crime is surrendered by a foreign state, in pursuance of any extradition arrangement, such person shall not, until after he has been restored, or has had an opportunity of returning to the foreign state within the meaning of the arrangement be subject, in contravention of any of the terms of the arrangement, to any prosecution or punishment in Canada for any other offence committed prior to his surrender, for which he should not, under the arrangement, be prosecuted. 40 V., c. 25, s. 23.

LIST OF CRIMES.

How list of crimes in schedule shall be construed. **24.** The list of crimes in the first schedule to this Act shall be construed according to the law existing in Canada at the date of the alleged crime, whether by common law or by statute made before or after the passing of this Act, and as including only such crimes, of the descriptions comprised in the list, as are, under that law, indictable offences.—40 V., c. 25, second schedule, *part*.

FIRST SCHEDULE.

List of Crimes.

- (1) Murder, or attempt or conspiracy to murder ;
- (2) Manslaughter ;
- (3) Counterfeiting or altering money, and uttering counterfeit or altered money ;
- (4) Forgery, counterfeiting or altering, or uttering what is forged, counterfeited or altered ;
- (5) Larceny ;
- (6) Embezzlement ;
- (7) Obtaining money or goods, or valuable securities, by false pretences ;
- (8) Crimes against bankruptcy or insolvency law ;
- (9) Fraud by a bailee, banker, agent, factor, trustee, or by a director or member or officer of any company, which fraud is made criminal by any Act for the time being in force ;
- (10) Rape ;
- (11) Abduction ;
- (12) Child stealing ;
- (13) Kidnapping ;
- (14) False imprisonment ;
- (15) Burglary, house-breaking or shop-breaking ;
- (16) Arson ;
- (17) Robbery ;
- (18) Threats, by letter or otherwise, with intent to extort ;
- (19) Perjury or subornation of perjury ;
- (20) Piracy by municipal law or law of nations, committed on board of or against a vessel of a foreign state ;
- (21) Criminal scuttling or destroying such a vessel at sea, whether on the high seas or on the great lakes of North America, or attempting or conspiring to do so ;

(22) Assault on board such vessel at sea, whether on the high seas or on the great lakes of North America, with intent to destroy life or to do grievous bodily harm ;

(23) Revolt, or conspiracy to revolt, by two or more persons on board such a vessel at sea, whether on the high seas or on the great lakes of North America, against the authority of the master ;

(24) Any offence under either of the following Acts, and not included in any foregoing portion of this schedule ;—

(a) “ *An Act respecting Offences against the Person ;*”

(b) “ *The Larceny Act ;*”

(c) “ *An Act respecting Forgery ;*”

(d) “ *An Act respecting Offences relating to the Coin ;*”

(e) “ *An Act respecting Malicious Injuries to Property ;*”

(25) Any offence which is, in the case of the principal offender, included in any foregoing portion of this schedule, and for which the fugitive criminal, though not the principal, is liable to be tried or punished as if he were the principal. 40 V., c. 25, second schedule, *part*.

SECOND SCHEDULE.

FORM ONE.

Form of Warrant of Apprehension.

— ;
To wit :—

To all and each of the constables of

Whereas it has been shown to the undersigned, a judge under “ *The Extradition Act,*” that
late of _____ is accused (*or convicted*) of the
crime of _____ within the jurisdiction of _____

This is therefore to command you, in Her Majesty’s name, forthwith to apprehend the said _____ and to bring him before me, or some other judge under the said Act, to be further dealt with according to law ; for which this shall be your warrant.

Given under my hand and seal at _____ this
day of _____ A.D.

FORM TWO.

Form of Warrant of Committal.

—;
To wit:—

To _____ one of the constables of
and to the keeper of the _____
at _____

Be it remembered that on this _____ day of _____
in the year _____ at _____ is
brought before me _____ a judge under "*The*
Extradition Act," _____ who has been
apprehended under the said Act, to be dealt with according
to law ; and forasmuch as I have determined that he should
be surrendered in pursuance of the said Act, on the ground
of his being accused (*or convicted*) of the crime of _____
within the jurisdiction of _____

This is therefore to command you, the said constable, in
Her Majesty's name, forthwith to convey and deliver the
said _____ into the custody of
the keeper of the _____ at _____ and
you, the said keeper, to receive the said _____
into your custody, and him there safely to keep
until he is thence delivered pursuant to the provisions of
the said Act, for which this shall be your warrant.

Given under my hand and seal at _____ this
day of _____ A.D.

FORM THREE.

Form of Order of Minister of Justice for Surrender.

To the keeper of the _____ at _____
and to _____

Whereas _____ late of _____
accused (*or convicted*) of the crime of _____
within the jurisdiction of _____
was delivered into the custody of you, the keeper of the _____
at _____ by warrant
dated _____ pursuant to "*The Extradition*
Act."

Now I do hereby, in pursuance of the said Act, order you, the said keeper, to deliver the said _____ into the custody of the said _____; and I command you, the said _____ to receive the said _____ into your custody, and to convey him within the jurisdiction of the said _____ and there place him in the custody of any person or persons (or of _____) appointed by the said _____ to receive him: for which this shall be your warrant.

Given under the hand and seal of the undersigned Minister of Justice of Canada, this _____ day of _____ A.D.

40 V., c. 35, third schedule.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
40 V., c. 25.....	The whole, except ss. 2 and 3 and first sch.	ss. 2 and 3, and first sch.		
45 V., c. 20.....	The whole.			

CHAPTER 137.

An Act respecting fugitive offenders in Canada from other parts of Her Majesty's Dominions.

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 Fugitive Offenders Act.*" Short title. 45 V., c. 21, s. 1.

INTERPRETATION.

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

(a) The expression "magistrate" means any justice of the peace or any person having authority to issue a warrant for the apprehension of persons accused of offences, and to commit such persons for trial; "Magistrate."

(b) The expression "deposition" includes every affidavit, affirmation, or statement made upon oath; "Deposition."

(c) The expression "court" means,—in the Province of Ontario, the High Court of Justice for Ontario; in the Province of Quebec, the Superior Court; in the Province of Nova Scotia, the Supreme Court; in the Province of New Brunswick, the Supreme Court; in the Province of Prince Edward Island, the Supreme Court of Judicature; in the Province of British Columbia, the Supreme Court; in the Province of Manitoba, Her Majesty's Court of Queen's Bench for Manitoba; and in the North-West Territories and the District of Keewatin, a stipendiary magistrate and such court or magistrate or other judicial authority as is designated, from time to time, by proclamation of the Governor in Council, published in the *Canada Gazette*. 45 V., c. 21, s. 16, *part*.

APPLICATION OF ACT.

3. This Act shall apply to the following offences, that is to say:—to treason and to piracy, and to every offence, whether called felony, misdemeanor, crime or by any other name, which is for the time being punishable in the part of Her Majesty's dominions in which it was To what offences this Act applies.

committed, either on indictment or information, by imprisonment with hard labor for a term of twelve months or more, or by any greater punishment; and for the purposes of this section, rigorous imprisonment, and any confinement in a prison combined with labor, by whatever name it is called, shall be deemed to be imprisonment with hard labor :

Application to acts not offences by Canadian law.

2. This Act shall apply to an offence, notwithstanding that, by the law of Canada, it is not an offence or not an offence to which this Act applies; and all the provisions of this Act, including those relating to a provisional warrant and to a committal to prison, shall be construed as if the offence were in Canada an offence to which this Act applies :

Application to persons unlawfully at large.

3. This Act shall apply, so far as is consistent with the tenor thereof, to every person convicted by a court in any part of Her Majesty's dominions, of an offence committed either in Her Majesty's dominions or elsewhere, who is unlawfully at large before the expiration of his sentence, in like manner as it applies to a person accused of the like offence committed in the part of Her Majesty's dominions in which such person was convicted :

As to offences committed before commencement of Act.

4. This Act shall apply in respect to offences committed before the commencement of this Act, in like manner as if such offences were committed after such commencement. 45 V., c. 21, ss. 8, 14 and 15.

RETURN OF FUGITIVES.

Apprehension and return of fugitive offenders.

4. Whenever a person accused of having committed an offence to which this Act applies in any part of Her Majesty's dominions, except Canada, has left that part, such person, in this Act referred to as a fugitive from that part, if found in Canada, shall be liable to be apprehended and returned, in the manner provided by this Act, to the part from which he is a fugitive :

Warrant.

2. A fugitive may be so apprehended under an indorsed warrant or a provisional warrant. 45 V., c. 21, s. 2.

Proceedings in Canada on warrant issued elsewhere.

5. Whenever a warrant has been issued in a part of Her Majesty's dominions for the apprehension of a fugitive from that part who is or is suspected to be in or on the way to Canada, the Governor General or a judge of a court, if satisfied that the warrant was issued by some person having lawful authority to issue the same, may indorse such warrant in manner provided by this Act, and the warrant so indorsed shall be a sufficient authority to apprehend the fugitive in Canada and bring him before a magistrate. 45 V., c. 21, s. 3.

6. A magistrate in Canada may issue a provisional warrant for the apprehension of a fugitive who is or is suspected of being in or on his way to Canada, on such information and under such circumstances as would, in his opinion, justify the issue of a warrant, if the offence of which the fugitive is accused had been committed within his jurisdiction; and such warrant may be backed and executed accordingly:

Issue of provisional warrant.

2. A magistrate issuing a provisional warrant shall forthwith send a report of the issue, together with the information or a certified copy thereof, to the Governor General; and the Governor General may, if he thinks fit, discharge the person apprehended under such warrant. 45 V., c. 21, s. 4.

Report to Governor.

Governor may discharge.

7. A fugitive, when apprehended, shall be brought before a magistrate, who, subject to the provisions of this Act, shall hear the case in the same manner and have the same jurisdiction and powers, as nearly as may be, including the power to remand and admit to bail, as if the fugitive was charged with an offence committed within his jurisdiction:

Fugitive to be brought before a magistrate.

2. If the indorsed warrant for the apprehension of the fugitive is duly authenticated, and such evidence is produced as, subject to the provisions of this Act, according to the law ordinarily administered by the magistrate, raises a strong or probable presumption that the fugitive committed the offence mentioned in the warrant, and that the offence is one to which this Act applies, the magistrate shall commit the fugitive to prison to await his return, and shall forthwith send a certificate of the committal and such report of the case, as he thinks fit, to the Governor General:

Committal of fugitive.

Report to Governor General.

3. Whenever the magistrate commits the fugitive to prison, he shall inform the fugitive that he will not be surrendered until after the expiration of fifteen days, and that he has a right to apply for a writ of *habeas corpus* or other like process:

Magistrate to inform fugitive that he has certain rights.

4. A fugitive apprehended on a provisional warrant may, from time to time, be remanded for such reasonable time, not exceeding seven days at any one time, as under the circumstances seems requisite for the production of an indorsed warrant. 45 V., c. 21, s. 5.

Remand of fugitive.

8. Upon the expiration of fifteen days, after a fugitive has been committed to prison to await his return,—or if a writ of *habeas corpus* or other like process is issued by a court, with reference to such fugitive, after the final decision of the court in the case,—the Governor General, by warrant under his hand, if he thinks it just, may order the fugitive to be returned to the part of Her Majesty's dominions from which

Order for the return of the fugitive.

Warrant.

he is a fugitive, and for that purpose to be delivered into the custody of the persons to whom the warrant is addressed, or some one or more of them, and to be held in custody, and conveyed to the said part of Her Majesty's dominions, to be dealt with there, in due course of law, as if he had been there apprehended; and such warrant shall be forthwith executed according to the tenor thereof. 45 V., c. 21, s. 6.

Court may discharge fugitive if not returned within a certain time.

9. If a fugitive who, in pursuance of this Act, has been committed to prison in Canada to await his return, is not conveyed out of Canada within two months after such committal, the court, upon application, by or on behalf of the fugitive, and upon proof that reasonable notice of the intention to make such application has been given to the Governor General, may, unless sufficient cause is shown to the contrary, order the fugitive to be discharged out of custody. 45 V., c. 21, s. 7.

Court may discharge fugitive in trivial cases.

10. Whenever it is made to appear to the court that by reason of the trivial nature of the case, or by reason of the application for the return of a fugitive not being made in good faith, in the interests of justice or otherwise, it would, having regard to the distance, to the facilities for communication, and to all the circumstances of the case, be unjust or oppressive or too severe a punishment to return the fugitive either at all or until the expiration of a certain period, such court may discharge the fugitive, either absolutely or on bail, or order that he shall not be returned until after the expiration of the period named in the order, or may make such other order in the premises, as to the court seems just. 45 V., c. 21, s. 9.

Fugitive who is undergoing sentence &c.

11. A fugitive who has been accused of an offence within Canadian jurisdiction, not being the offence for which his surrender is asked, or who is undergoing sentence under a conviction in Canada, shall not be surrendered until after he has been discharged, whether by acquittal or by expiration of his sentence, or otherwise.

New. See "*The Extradition Act, 1877*," s. 17, sub-s 2.

Search warrant may be granted.

12. Whenever a warrant, for the apprehension of a person accused of an offence, has been indorsed in pursuance of this Act, in Canada, any magistrate in Canada shall have the same power of issuing a warrant to search for any property alleged to have been stolen or to be otherwise unlawfully taken or obtained by such person, or otherwise to be the subject of such offence, as that magistrate would have if the property had been stolen or otherwise unlawfully taken or obtained, or the offence had been committed wholly within the jurisdiction of such magistrate. 45 V., c. 21, s. 10.

13. Any judge of the court may, either in term time or vacation, exercise in chambers, all the powers conferred by this Act upon the court. 45 V., c. 21, s. 16, *part.* Exercise of judicial powers.

14. An indorsement of a warrant in pursuance of this Act shall be signed by the authority indorsing the same, and shall authorize all or any of the persons named in the indorsement, and of the persons to whom the warrant was originally directed, and also every constable, to execute the warrant within Canada by apprehending the person named in it, and bringing him before a magistrate in Canada, whether he is the magistrate named in the indorsement or some other : Effect of indorsement of a warrant.

2. Every warrant, summons, subpoena and process, and every indorsement made in pursuance of this Act thereon, shall, for the purposes of this Act, remain in force, notwithstanding that the person signing the warrant or such indorsement dies or ceases to hold office. 45 V., c. 21, s. 11. As to death of signer or indorser.

15. Whenever a fugitive or prisoner is authorized to be returned to any part of Her Majesty's dominions in pursuance of this Act, such fugitive or prisoner may be sent thither in any ship registered in Canada or belonging to the Government of Canada : How the fugitive may be returned.

2. *The Governor General*, for the purpose aforesaid, may, *by the warrant for the return of the fugitive*, order the master of any ship registered in Canada, bound to the said part of Her Majesty's dominions, to receive such fugitive or prisoner, and afford a passage and subsistence during the voyage to him, and to the person having him in custody, and to the witnesses ; but such master shall not be required to receive more than one fugitive or prisoner for every hundred tons of his ship's registered tonnage, or more than one witness for every fifty tons of such tonnage : Order to master of Canadian ships to convey fugitive. Proviso.

3. *The Governor General* shall cause to be indorsed upon the agreement of the ship such particulars with respect to any fugitive prisoner or witness sent in her, as the Minister of Marine and Fisheries, from time to time, requires : Indorsement upon agreement of the ship.

4. Every such master shall, on his ship's arrival in the said part of Her Majesty's dominions, cause such fugitive or prisoner, if he is not in the custody of any person, to be given into the custody of some constable there, to be dealt with according to law : Duty of master on arrival at destination.

5. Every master who fails, on payment or tender of a reasonable amount for expenses, to comply with an order made in pursuance of this section, or to cause a fugitive or prisoner committed to his charge to be given into custody Penalty or non-compliance.

as required by this section, shall be liable, on summary conviction, to a penalty not exceeding two hundred dollars. 45 V., c. 21, s. 12.

EVIDENCE.

Depositions. **16.** A magistrate may take depositions for the purposes of this Act, in the absence of a person accused of an offence, in like manner as he might take the same if such person was present and accused of the offence before him. 45 V., c. 21, s. 13, *part.*

Their use in evidence. **17.** Depositions whether taken in the absence of the fugitive or otherwise and copies thereof, and official certificates of, or judicial documents stating facts, may, if duly authenticated, be received in evidence in proceedings under this Act. 45 V., c. 21, s. 13, *part.*

Authentication of warrants and other documents. **18.** Warrants and depositions, and copies thereof, and official certificates of, or judicial documents stating facts, shall be deemed duly authenticated for the purposes of this Act if they are authenticated in manner provided for the time being by law, or if they purport to be signed by or authenticated by the signature of a judge, magistrate or officer of the part of Her Majesty's dominions in which the same are issued, taken or made, and are authenticated either by the oath of some witness, or by being sealed with the official seal of a Secretary of State, or with the public seal of a British possession, or with the official seal of a Governor of a British possession, or of a Colonial Secretary, or of some secretary or minister administering a department of the government of a British possession; and all courts and magistrates shall take judicial notice of every such seal as is in this section mentioned, and shall admit in evidence without further proof the documents authenticated by it. 45 V., c. 21, s. 13, *part.*

Judicial notice of authentication.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
45 V., c. 21.....	The whole, except ss.16 (part) and 17.	ss. 16 (part), and 17.		

CHAPTER 138.

An Act respecting the application of the Criminal Law of England to the Provinces of Ontario and British Columbia.

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

ONTARIO.

1. The criminal law of England, as it stood on the seven-
teenth day of September, in the year one thousand seven
hundred and ninety-two, and as the same has since been
repealed, altered, varied, modified or affected by any Act
of the Parliament of the United Kingdom having force of law
in the Province of Ontario, or by any Act of the Parlia-
ment of the late Province of Upper Canada, or of the Pro-
vince of Canada, still having force of law, or by any Act of
the Parliament of Canada, shall be the criminal law of the
Province of Ontario. C. S. U. C., c. 94.

Criminal law
of England
continued in
Ontario.

BRITISH COLUMBIA.

2. The criminal law of England, as it stood on the
nineteenth day of November, in the year one thousand
eight hundred and fifty-eight, and as the same has since
been repealed, altered, varied, modified or affected by any
ordinance or Act (still having the force of law) of the
colony of British Columbia, or of the colony of Vancouver
Island, before the union of such colonies or of the colony
of British Columbia, passed since such union, or by any Act
of the Parliament of Canada, shall be the criminal law of
the Province of British Columbia. R. S. B. C., c. 70, s. 2, *part*.

And in British
Columbia.

Re-drafted.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
C. S. U. C., c. 94 R. S. B. C., c. 70	The whole. s. 2, as respects criminal matters			

CHAPTER 139.

An Act respecting Accessories.

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

FELONIES.

Accessory before the fact to felony punishable as principals.

1. Every one who becomes an accessory before the fact to any felony, whether the same is a felony at common law, or by virtue of any Act, may be indicted, tried, convicted and punished in all respects as if he were a principal felon. 31 V., c. 69, s. 9, *part*, and c. 72, s. 1 ;—32-33 V., c. 20, s. 8, *part*, and c. 21, s. 107, *part*.

Punishment of person counselling &c., the committing of a felony.

2. Every one who counsels, procures or commands any other person to commit any felony, whether the same is a felony at common law, or by virtue of any Act, is guilty of felony, and may be indicted, and convicted either as an accessory before the fact to the principal felony, together with the principal felon, or after the conviction of the principal felon,—or may be indicted and convicted of a substantive felony, whether the principal felon has or has not been convicted, or is or is not amenable to justice,—and may thereupon be punished in the same manner as any accessory before the fact to the same felony, if convicted as an accessory, may be punished. 31 V., c. 72, s. 2.

Punishment of principal in second degree.

3. In every felony, every principal in the second degree shall be punishable in the same manner as the principal in the first degree is punishable. 31 V., c. 69, s. 9, *part*, and c. 72, s. 3 ;—32-33 V., c. 21, s. 107, *part*.

Accessories after the fact may be indicted as such or as substantive felons.

4. Every one who becomes an accessory after the fact to any felony, whether the same is a felony at common law or by virtue of any Act, may be indicted and convicted, either as an accessory after the fact to the principal felony, together with the principal felon, or after the conviction of the principal felon, or may be indicted and convicted of a substantive felony, whether the principal felon has or has not been convicted, or is or is not amenable to justice, and may thereupon be punished in like manner as any accessory after the fact to the same felony, if convicted as an accessory, may be punished. 31 V., c. 72, s. 4 ;—32-33 V., c. 20, s. 8, *part*.

Punishment of accessories after the fact.

5. Every accessory after the fact to any felony (except when it is otherwise specially enacted), whether the same

is a felony at common law, or by virtue of any Act, shall be liable to imprisonment for any term less than two years. 31 V., c. 69, s. 9, *part*, and c. 72, s. 5, *part*;—32-33 V., c. 19, s. 57, *part*.

6. If any principal offender is, in any wise, convicted of any felony, any accessory, either before or after the fact, may be proceeded against in the same manner as if such principal felon had been attainted thereof, notwithstanding such principal felon dies or is pardoned or otherwise delivered before such attainder; and every such accessory shall, upon conviction, suffer the same punishment as he would have suffered if the principal had been attainted. 31 V., c. 72, s. 6;—32-33 V., c. 20, s. 8, *part*. Prosecution of accessory after principal offender convicted &c.

MISDEMEANORS.

7. Every one who aids, abets, counsels or procures the commission of any misdemeanor, whether the same is a misdemeanor at common law, or by virtue of any Act, is guilty of a misdemeanor and liable to be tried, indicted and punished as a principal offender. 31 V., c. 72, s. 9;—32-33 V., c. 19, s. 57, *part*, and c. 21, s. 107, *part*;—35 V., c. 32, s. 13;—40 V., c. 32, s. 1, *part*. Abettors in misdemeanors punishable as principals.

OFFENCES PUNISHABLE ON SUMMARY CONVICTION.

8. Every one who aids, abets, counsels or procures the commission of any offence punishable on summary conviction, either for every time of its commission, or for the first and second time only, or for the first time only, shall, on conviction, be liable for every first, second or subsequent offence, of aiding, abetting, counselling or procuring, to the same forfeiture and punishment to which a person guilty of a first, second or subsequent offence as a principal offender, is liable. 32-33 V., c. 21, s. 108, and c. 22, s. 70, and c. 31, s 15, *part*;—33 V., c. 31, s. 5, *part*. Abettors in offences punishable summarily punishable as principals.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal	To be Consolidated elsewhere.	To be Consolidated with.
31 V., c. 69.	s. 9.			
31 V., c. 72.	The whole, except s. 5 (part); ss. 7, 8 and 10.....	s. 10.....	s. 5 (part)	Punishment.
32-33 V., c. 19... 32-33 V., c. 20... 32-33 V., c. 21... 32-33 V., c. 22 .. 32-33 V., c. 31 .. 33 V., c. 31. . . 35 V., c. 32 40 V., c. 32. ...	s. 57. s. 8 (part). ss. 107 and 108. s. 70. s. 15 (part). s. 5 (part). s. 13. s. 1 (part).		ss. 7 and 8	Procedure.

CHAPTER 140.

An Act respecting Treason and other Offences against the Queen's authority.

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

Compassing death of the Sovereign, treason.

1. Every one who compasses, imagines, invents, devises or intends death or destruction, or any bodily harm, tending to death or destruction, maiming or wounding, imprisonment or restraint of our Sovereign Lady the Queen, Her Heirs or Successors, and expresses, utters or declares such compassings, imaginations, inventions, devices or intentions, or any of them, by publishing any printing or writing, or by any overt act or deed, is guilty of treason and shall suffer death. 31 V., c. 69, s. 2;—32-33 V., c. 17, s. 1.

Corresponding with the enemy, treason.

2. Every officer or soldier in Her Majesty's army, who holds correspondence with any rebel, or enemy of Her Majesty, or gives him advice or intelligence, either by letters, messages, signs or tokens, or in any manner or way whatsoever, or treats with such rebel or enemy, or enters into any condition with him without Her Majesty's license, or the license of the general, lieutenant general or chief commander, is guilty of treason and shall suffer death. 31 V., c. 69, s. 3.

Certain offences declared felonies.

3. Every one who compasses, imagines, invents, devises or intends to deprive or depose Our Sovereign Lady the Queen, Her Heirs or Successors, from the style, honor or royal name of the imperial crown of the United Kingdom, or of any other of Her Majesty's dominions or countries,—or to levy war against Her Majesty, Her Heirs or Successors, within any part of the United Kingdom or of Canada, in order, by force or constraint, to compel her or them to change her or their measures or counsels, or in order to put any force or constraint upon, or in order to intimidate or overawe both Houses or either House of Parliament, of the United Kingdom or of Canada,—or to move or stir any foreigner or stranger with force to invade the United Kingdom or Canada, or any other of Her Majesty's dominions or countries under the obeisance of Her Majesty, Her Heirs or Successors, and expresses, utters or declares such compassings, imaginations, inventions, devices or intentions, or any of them, by publishing any printing or writing, or by open and advised speaking, or by any overt act or deed, is

guilty of felony, and liable to imprisonment for life. 31 V., Punishment. c. 69, s. 5;—32-33 V., c. 17, s. 1.

4. Every one who confederates, combines or conspires with any person to do any act of violence, in order to intimidate, or to put any force or constraint upon any Legislative Council, Legislative Assembly or House of Assembly in any Province of Canada, is guilty of felony, and liable to fourteen years' imprisonment. 31 V., c. 71, s. 5.

Conspiracy to intimidate legislative body a felony.

5. No person shall be prosecuted for any felony by virtue of this Act in respect of such compassings, imaginations, inventions, devices or intentions as aforesaid, in so far as the same are expressed, uttered or declared by open and advised speaking only, unless information of such compassings, imaginations, inventions, devices and intentions and of the words by which the same were expressed, uttered or declared, is given upon oath to one or more justices of the peace, within six days after such words are spoken, and unless a warrant for the apprehension of the person by whom such words were spoken is issued within ten days next after such information is given as aforesaid; and no person shall be convicted of any such compassings, imaginations, inventions, devices or intentions as aforesaid, in so far as the same are expressed, uttered or declared by open or advised speaking as aforesaid, except upon his own confession in open court, or unless the words so spoken are proved by two credible witnesses. 31 V., c. 69, s. 6.

Time within which prosecution shall be commenced, warrant issued, &c.

Evidence.

6. If any person, being a citizen or subject of any foreign state or country at peace with Her Majesty, is or continues in arms against Her Majesty, within Canada, or commits any act of hostility therein, or enters Canada with design or intent to levy war against Her Majesty, or to commit any felony therein, for which any person would, in Canada, be liable to suffer death, the Governor General may order the assembling of a militia general court martial for the trial of such person, under "*The Militia Act*"; and upon being found guilty by such court martial of offending against the provisions of this section, such person shall be sentenced by such court martial to suffer death, or such other punishment as the court awards. 31 V., c. 14, s. 2.

Trial of citizens of a foreign power taken in arms in Canada.

7. Every subject of Her Majesty, within Canada, who levies war against Her Majesty, in company with any of the subjects or citizens of any foreign state or country then at peace with Her Majesty, or enters Canada in company with any such subjects or citizens with intent to levy war on Her Majesty, or to commit any such act of felony as aforesaid, or who, with the design or intent to aid and assist, joins himself to any person or persons whomsoever, whether subjects or aliens, who have entered Canada with design or

Trial of subjects of H. M. levying war in Canada in company with foreigners.

intent to levy war on Her Majesty, or to commit any such felony within the same, may be tried and punished by a militia court martial, in the same manner as any citizen or subject of a foreign state or country at peace with Her Majesty, may be tried and punished under the next preceding section. 31 V., c. 14, s. 3.

Punishment of persons offending under preceding sections.

8. Every subject of Her Majesty, and every citizen or subject of any foreign state or country, who offends against the provisions of the two sections next preceding, is guilty of felony and may, notwithstanding the provisions hereinbefore contained, be prosecuted and tried in any county or district of the Province in which such offence was committed, before any court of competent jurisdiction, in the same manner as if the offence had been committed in such county or district, and, upon conviction, shall suffer death as a felon. 31 V., c. 14, s. 4.

Nothing herein to affect 25 Edw. 3, c. 2.

9. Nothing herein contained shall lessen the force of or in any manner affect anything enacted by the statute passed in the twenty-fifth year of the reign of His Majesty King Edward the Third, intituled "*A declaration which offences shall be adjudged treason.*" 31 V., c. 69, s. 1.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
31 V., c. 14.....	The whole, except ss. 1 and 5.	ss. 1 and 5.	s. 4.....	Punishments.
31 V., c. 69.....	The whole, except ss. 4, 7, 8, 9, 10.	s 10	ss. 7 and 8.....	Procedure.
31 V., c. 71, s. 5. 32-33 V., c. 17....	s. 1.....	s 2.	s 9.....	Accessories.

CHAPTER 141.

An Act respecting Riots, unlawful Assemblies and Breaches of the Peace.

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

1. Every sheriff, deputy sheriff, mayor or other head officer, and justice of the peace, of any county, city or town, who has notice that there are within his jurisdiction persons to the number of twelve or more unlawfully, riotously and tumultuously assembled together to the disturbance of the public peace, shall resort to the place where such unlawful, riotous and tumultuous assembly is, and among the rioters, or as near to them as he can safely come, with a loud voice, command, or cause to be commanded, silence, and, after that, openly and with loud voice, make or cause to be made a proclamation in these words, or to the like effect:—

Sheriff, &c., may enjoin persons riotously assembled to disperse.

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

Form of proclamation.

“GOD SAVE THE QUEEN.”

31 V., c. 70, s. 1, *part*, and ss. 2 and 3.

2. All persons who,—

(a) With force and arms wilfully oppose, hinder or hurt any person who begins or is about to make the said proclamation, whereby such proclamation is not made, or—

Persons making opposition or continuing assembled guilty of felony.

(b) Continue together to the number of twelve, for one hour after such proclamation has been made, or if they know that its making was hindered as aforesaid, continue together and do not disperse themselves within one hour after such hindrance,—

Are guilty of felony and liable to imprisonment for life : Punishment.

2. No person shall be prosecuted for any offence under this section unless such prosecution is commenced within *twelve months* after the offence is committed.

Time for prosecution limited.

31 V., c. 70, ss. 1, *part*, 6, 7 and 8.

Persons continuing assembled may be apprehended.

3. If the persons so unlawfully, riotously and tumultuously assembled together as aforesaid, or twelve or more or them, continue together, and do not disperse themselves for the space of one hour after the proclamation is made, or after such hindrance as aforesaid, every such sheriff, mayor, justice and other officer as aforesaid, and every constable or other peace officer, and all persons required by them to assist, shall cause such persons to be apprehended and carried before a justice of the peace; and if any of the persons so assembled is killed or hurt, in the apprehension of such persons or in the endeavor to apprehend or disperse them, by reason of their resistance, every person ordering them to be apprehended or dispersed, and every person executing such orders, shall be indemnified against all proceedings of every kind in respect thereof. 31 V., c. 70, ss. 4 and 5.

Persons suppressing riot justified.

Unlawful meetings for drill prohibited.

4. All meetings and assemblies of persons for the purpose of training or drilling themselves, or of being trained or drilled to the use of arms, or for the purpose of practising military exercises, movements or evolutions, without lawful authority for so doing, are unlawful and prohibited. 31 V., c. 15, s. 1, *part*.

Punishment of persons acting as instructors.

5. Every one who is present at or attends any such meeting or assembly for the purpose of training any other person or persons to the use of arms or to the practice of military exercises, movements or evolutions, or who, without lawful authority for so doing, trains or drills any other person or persons to the use of arms, or to the practice of military exercises, movements or evolutions, or who aids or assists therein, is guilty of a misdemeanor and liable to two years' imprisonment. 31 V., c. 15, s. 1, *part*.

And of persons receiving instruction.

6. Every one who attends or is present at any such meeting or assembly, for the purpose of being, or who, at any such meeting or assembly, is trained or drilled to the use of arms, or to the practice of military exercises, movements or evolutions, is guilty of a misdemeanor and liable to two years' imprisonment. 31 V., c. 15, s. 1, *part*.

Meeting may be dispersed and persons attending it arrested.

7. Any justice of the peace, constable or peace officer, or any person acting in his aid or assistance, may disperse any such unlawful meeting or assembly as in the three sections next preceding mentioned, and may arrest and detain any person present at or aiding, assisting or abetting any such assembly or meeting as aforesaid; and the justice of the peace who arrests any such person or before whom any person so arrested is brought, may commit such person for trial for such offence, unless such person gives bail for his appearance at the next court of competent jurisdiction, to answer to any indictment which is preferred against him for any such offence. 31 V., c. 15, s. 2.

8. No one shall be prosecuted for any offence under the four sections next preceding unless such prosecution is commenced within six months after the offence is committed. 31 V., c. 15, s. 9. Time for prosecution limited.

9. All persons who, being riotously and tumultuously assembled together to the disturbance of the public peace, unlawfully and with force demolish, pull down or destroy, or begin to demolish, pull down or destroy, any church, chapel, meeting-house or other place of divine worship, or any house, stable, coach-house, out-house, warehouse, office, shop, mill, malt-house, hop-oast, barn, granary, shed, hovel or fold, or any building or erection used in farming land, or in carrying on any trade or manufacture, or any branch thereof, or any building other than such as are in this section before mentioned, belonging to Her Majesty, or to any county, municipality, riding, city, town, village, parish or place, or to any university or college or hall of any university, or to any corporation, or to any unincorporated body or society or persons associated for any lawful purpose, or devoted or dedicated to public use or ornament, or erected or maintained by public subscription or contribution, or any machinery, whether fixed or movable, prepared for or employed in any manufacture or in any branch thereof, or any steam engine or other engine for sinking, working, ventilating or draining any mine, or any staith, building or erection used in conducting the business of any mine, or any bridge, wagon-way or track for conveying minerals from any mine, are guilty of felony, and liable to imprisonment for life. 32-33 V., c. 22, s. 15. Rioters demolishing church, building, &c.
Punishment.

10. All persons who, being riotously and tumultuously assembled together to the disturbance of the public peace, unlawfully and with force injure or damage any such church, chapel, meeting-house, place of divine worship, house, stable, coach-house, out-house, warehouse, office, shop, mill, malt-house, hop-oast, barn, granary, shed, hovel, fold, building, erection, machinery, engine, staith, bridge, wagon-way or track, as in the next preceding section mentioned, are guilty of a misdemeanor, and liable to seven years' imprisonment. 32-33 V., c. 22, s. 16, *part*;—R. S. N. S. (3rd S.), c. 162, s. 6. Rioters injuring buildings, machinery, &c.
Punishment.

11. Three or more persons who, having assembled, continue together with intent unlawfully to execute any common purpose with force and violence, or in a manner calculated to create terror and alarm, are guilty of an unlawful assembly, and liable to two years' imprisonment. R. S. N. S. (3rd S.), c. 162, s. 5;—1 R. S. N. B., c. 147, s. 6. Punishment for unlawful assembly.

12. Three or more persons who, having assembled, continue together with intent unlawfully to execute any com- Punishment for rout.

mon purpose with force and violence, or in any manner calculated to create terror and alarm, and who endeavor to execute such purpose, are, although such purpose, is not executed, guilty of a rout, and liable to three years' imprisonment. 1 R. S. N. B., c. 147, s.7.

Punishment for riot.

13. Three or more persons who, having assembled, continue together with intent unlawfully to execute any common purpose with force and violence, and who, wholly or in part, execute such purpose in a manner calculated to create terror and alarm, are guilty of a riot, and liable to four years' imprisonment. 1 R. S. N. B., c. 147, s. 8.

Punishment for affray.

14. Two or more persons who fight together in a public place, in a manner calculated to create terror and alarm, are guilty of an affray, and liable, on summary conviction, to three months' imprisonment. R.S.N. S. (3rd S.), c. 162, s. 7;—1 R. S. N. B., c. 147, s. 9.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
R. S. N. S., 3rd S., c. 162	ss 5, 6 and 7.			
1 R. S. N. B., c. 147.	ss. 6, 7, 8 and 9.			
31 V., c. 15.....	ss. 1, 2 and 9.			
31 V., c 70.....	The whole except s. 9.	s. 9.		
32-33 V., c. 22.	ss. 15 and 16, (part).			

CHAPTER 142.

An Act respecting the improper use of fire-arms and other weapons.

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

- 1.** Every one who has upon his person a pistol or air gun without reasonable cause to fear an assault or other injury to his person or his family or property, may, upon complaint made before any justice of the peace, be required to find sureties for keeping the peace for a term not exceeding six months; and in default of finding such sureties, may be imprisoned for any term not exceeding thirty days. 40 V., c. 30, s. 1. Person carrying pistol or air gun may be bound to keep the peace.
- 2.** Every one who, when arrested either on a warrant issued against him for an offence or whilst committing an offence, has upon his person a pistol or air-gun, shall, on summary conviction before two justices of the peace, be liable to a penalty not exceeding fifty dollars and not less than twenty dollars, or to imprisonment for any term not exceeding three months. 40 V., c. 30, s. 2. Having such weapon when arrested, &c.
- 3.** Every one who has upon his person a pistol or air gun, with intent therewith unlawfully and maliciously to do injury to any other person, shall, on summary conviction before two justices of the peace, be liable to a penalty not exceeding two hundred dollars and not less than fifty dollars, or to imprisonment for any term not exceeding six months; and the fact of the pistol or air-gun being on the person shall be *prima facie* evidence of such intent. 40 V., c. 30, s. 3. Or with intent to injure any person.
- 4.** Every one who, without lawful excuse, points at another person any firearm or air-gun, whether loaded or unloaded, shall, on summary conviction before two justices of the peace, be liable to a penalty not exceeding fifty dollars and not less than twenty dollars, or to imprisonment for any term not exceeding thirty days. 40 V., c. 30, s. 4. Pointing firearm at any person.
- 5.** Every one who carries about his person any bowie-knife, dagger or dirk, or any weapons called or known as iron knuckles, skull-crackers or slung shot, or other offensive weapons of a like character, or secretly carries about his person any instrument loaded at the end, or sells or Carrying daggers or other weapons.

exposes for sale, publicly or privately, any such weapon, shall, on summary conviction before two justices of the peace, be liable to a penalty not exceeding fifty dollars and not less than ten dollars, and in default of payment thereof, to imprisonment for any term not exceeding thirty days. 32-33 V., c. 20, s. 72.

Carrying sheath knives in seaport towns.

6. Every one who is found, in any of the seaport towns or cities of Canada, carrying about his person any sheath-knife, shall, on summary conviction before two justices of the peace, be liable to a penalty not exceeding forty dollars and not less than ten dollars, and in default of payment thereof, to imprisonment for any term not exceeding thirty days: but nothing in this section contained shall apply to seamen or riggers when occupied or engaged in their lawful trade or calling. 32-33 V., c. 20, s. 73.

Exception.

Weapon to be impounded.

7. The court or justice before whom any person is convicted of any offence against the provisions of the preceding sections, shall impound the weapon for carrying which such person is convicted, and if the weapon is not a pistol, shall cause it to be destroyed; and if the weapon is a pistol, the court or justice shall cause it to be handed over to the corporation of the municipality in which the conviction takes place, for the public uses of such corporation:

Disposal thereof.

If there is no municipality.

2. If the conviction takes place where there is no municipality, the pistol shall be handed over to the Lieutenant Governor of the Province in which the conviction takes place, for the public uses thereof in connection with the administration of justice therein. 32-33 V., c. 20, s. 75;—45 V., c. 39, ss. 1 and 2.

Openly carrying dangerous weapons.

8. If two or more persons openly carry dangerous or unusual weapons in any public place, in such a manner and under such circumstances as are calculated to create terror and alarm, each of such persons shall, on *summary conviction before two justices of the peace*, be liable to a penalty not exceeding forty dollars and not less than ten dollars, and in default of payment to imprisonment for any term not exceeding thirty days. R. S. N. S. (3rd S.), c. 162, s. 8;—1 R. S. N. B., c. 147, s. 10.

Extended to the whole of Canada, and punishment reduced.

Time for prosecution limited.

9. No prosecution under this Act shall be commenced unless within one month after the commission of the offence charged. 32-33 V., c. 20, s. 76.

Exception as to soldiers &c.

10. Nothing hereinbefore contained shall affect the right of any soldier, sailor or volunteer in Her Majesty's service, constable or other policeman, to carry loaded pistols in the discharge of his duty. 40 V., c. 30, s. 7.

Proposed to be Consolidated,	Part Consolidated.	Left for repeal.	To be Consolidated elsewhere.	To be Consolidated with.
32-33 V., c. 20 40 V., c. 30..... 45 V., c. 39..... R. S. N. S., 3rd S., c. 162. 1 R. S. N. B., c. 147.	ss. 72, 73, 75 and 76. The whole, except ss. 5 and 6. The whole. s. 8. s. 10.	s. 5	s. 6.....	Punishments.

CHAPTER 143.

An Act respecting the seizure of Arms kept for dangerous purposes.

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

Interpretation.

“Arms.”

1. In this Act, unless the context otherwise requires, the expression “arms” includes any pike, pike-head, spear, dirk, dagger, sword, pistol, gun, rifle or other weapon, gun-powder, lead, cartridges, bullets and other ammunition or munitions of war.

New.

Arms kept for any unlawful purpose may be seized.

2. Any justice of the peace, upon information on oath of one or more credible witnesses, that any arms are, for any purpose dangerous to the public peace, in the possession of any person, or in any house or place, may issue his warrant to any constable or any other peace officer, to search for and seize any such arms which are in the possession of any such person, or in any such house or place as aforesaid, and to arrest any person having such possession as aforesaid,—and if admission into such house or place is refused, or not obtained within a reasonable time after it has been first demanded, to enter by force, by day or by night, into every such house or place whatsoever,—and to detain or cause to be detained such person, and to keep in safe custody, in such place as the said justice appoints and directs, the arms so found or seized as aforesaid, unless the owner thereof proves, to the satisfaction of such justice, that such arms were not kept for any purpose dangerous to the public peace; and every such person who has the possession or custody of any such arms, and is so arrested, shall be brought before any justice of the peace, and may be dealt with, tried and punished in the manner hereinafter provided. 31 V., c. 15, s. 3.

Person in possession thereof may be arrested.

Decision of claims for restitution of such arms.

3. Any person from whom any such arms are so taken may, if the justice of the peace upon whose warrant the same are taken, upon application made for that purpose, refuses to restore the same, apply to a *judge of a superior or county court* for the restitution of such arms, upon giving ten days' previous notice of such application to such justice; and such *judge* shall make such order for the resti-

tution or safe custody of such arms as, upon such application, appears to him to be proper. 31 V., c. 15, s. 4.

4. Any justice of the peace, constable, peace officer or other person acting under the warrant of any justice of the peace, or any person acting with or in aid of any justice of the peace, or of any constable or peace officer, having such warrant as aforesaid, may arrest and detain any person found carrying any such arms, in such manner and at such times as, in the judgment of such justice of the peace, affords just grounds of suspicion that the same are for purposes dangerous to the public peace; and the justice of the peace who arrests any such person, or before whom any person arrested upon such warrant is brought, may commit such person for trial for a misdemeanor; and such person shall be liable to be tried for a misdemeanor for carrying such arms and, on conviction, shall be punished by fine or imprisonment, or both, in the discretion of the court; but any such person may, before conviction, give good and sufficient bail for his appearance at the next *court of competent jurisdiction*, to answer to any indictment which is preferred against him. 31 V., c. 15, s. 5.

Persons carrying such arms may be arrested.

May be admitted to bail.

5. All justices of the peace in and for any district, county, city, town or place, in Canada, shall have concurrent jurisdiction as justices of the peace, with the justices of any other district, county, city, town or place, in all cases with respect to the carrying into execution the provisions of this Act, and with respect to all matters and things relating to the preservation of the public peace under this Act, as fully and effectually as if each of such justices was in the commission of the peace, or was *ex officio* a justice of the peace for each of such districts, counties, cities, towns or places. 31 V., c. 15, s. 6.

Concurrent jurisdiction of justices of the peace.

6. No person shall be prosecuted for any offence done or committed against the provisions of this Act, unless such prosecution is commenced within six months after the offence is committed. 31 V., c. 15, s. 9.

Time for prosecution limited.

7. The Governor in Council may, from time to time, by proclamation, suspend the operation of this Act in any Province of Canada or in any particular district, county or locality specified in the proclamation; and from and after the period specified in any such proclamation, the powers given by this Act shall be suspended in such Province, district, county or locality; but nothing herein contained shall prevent the Governor in Council from again declaring, by proclamation, that any such Province, district, county or locality shall be again subject to this Act and the powers hereby given, and upon such proclamation this Act shall be revived and in force accordingly. 31 V., c. 15, s. 8.

This Act may be suspended and again brought into force.

Proposed to be Consolidated.	Part Consolidated.	Left for repeal.	To be Consolidated elsewhere.	To be Consolidated with.
31 V., c. 15.	The whole, ex- cept ss. 1, 2 and 7.	.....	ss. 1, 2..... s. 7.....	Unlawful As- semblies. Action against justices.

CHAPTER 144.

An Act respecting Explosive Substances.

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

1. Every one who, knowingly, has in his possession, or makes or manufactures any gunpowder or explosive substance, or any dangerous or noxious thing, or any machine, engine, instrument or thing, with intent thereby or by means thereof to commit, or for the purpose of enabling any other person to commit any felony, is guilty of a misdemeanor, and liable to imprisonment for any term less than two years. 32-33 V., c. 20, s. 66, *and* c. 22, s. 62.

Punishment for making or having explosives, &c., with intent to commit felony.

2. Any justice of the peace for any district, county or place in which any such gunpowder or other explosive, dangerous or noxious substance or thing, or any such machine, engine, instrument or thing is suspected to be made, kept or carried for the purpose of being used in committing any felony, upon reasonable cause assigned upon oath by any person, may issue a warrant under his hand and seal for searching, in the day time, any house, mill, magazine, storehouse, warehouse, shop, cellar, yard, wharf or other place, or any carriage, wagon, cart, ship, boat or vessel, in which the same is suspected to be made, kept or carried for such purpose, as hereinbefore mentioned; and every person acting in the execution of any such warrant may seize any gunpowder or explosive substance or any dangerous or noxious thing, or any machine, engine or instrument or thing which he has good cause to suspect is intended to be used in committing or enabling any other person to commit any indictable offence, and shall, with all convenient speed, after the seizure, remove the same to such proper place as he thinks fit, and detain the same until ordered by a judge of a superior court to restore it to the person who claims the same. 32-33 V., c. 20, s. 67, *and* c. 22, s. 63.

Search warrant may be issued.

Powers of persons acting under such warrant.

3. Any gunpowder, explosive substance or dangerous or noxious thing, or any machine, engine, instrument or thing intended to be used in committing or enabling any other person to commit any such offence, and seized and taken possession of under the provisions hereof, shall, in the event of the person in whose possession the same is found, or of the owner thereof, being convicted of any such offence, be forfeited; and the same shall be sold under the direction

Disposal of explosives, &c.

of the court before which any such person is convicted, and the proceeds thereof shall be paid to the Minister of Finance and Receiver General, to and for the use of Canada. 32-33 V., c. 20, s. 68, *and* c. 22, s. 65.

Searcher or
seizer not
liable to suit.

4. The person who so searches or seizes shall not be liable to any suit for such detainer, or for any loss or damage which happens to the property, other than by the wilful act or neglect of himself or of the persons whom he intrusts with the keeping thereof. 32-33 V., c. 22, s. 64.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
32-33 V., c. 20. 32-33 V., c. 22.	ss. 66, 67 and 68. ss. 62, 63, 64, and 65.			

CHAPTER 145.

An Act respecting the Preservation of Peace in the vicinity of Public Works.

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:— Interpreta-
tion.

(a) The expression “this Act” means such section or sections thereof as are in force, by virtue of any proclamation, in the place or places with reference to which the Act is to be construed and applied; “This Act.”

(b) The expression “commissioner” means a commissioner under this Act; “Commis-
sioner.”

(c) The expression “weapon” includes any gun or other firearm, or air-gun or any part thereof, or any sword, sword-blade, bayonet, pike, pike-head, spear, spear-head, dirk, dagger, or other instrument intended for cutting or stabbing, or any steel or metal knuckles, or other deadly or dangerous weapon, and any instrument or thing intended to be used as a weapon, and all ammunition which may be used with or for any weapon; “Weapon.”

(d) The expression “intoxicating liquor” means and includes any alcoholic, spirituous, vinous, fermented or other intoxicating liquor, or any mixed liquor, a part of which is spirituous or vinous, fermented or otherwise intoxicating; “Intoxicat-
ing liquor.”

(e) The expression “district, county or place,” includes any division of any Province for the purposes of the administration of justice in the matter to which the context relates; “District,
or place.”

(f) The expression “public work” means and includes any railway, canal, road, bridge or other work of any kind, and any mining operation constructed or carried on by the Government of Canada, or of any Province of Canada, or by any municipal corporation, or by any incorporated company, or by private enterprise. 32-33 V., c. 24, s. 2, *part*, s. 11, *part*, and s. 21;—33 V., c. 28, s. 2, *part*;—38 V., c. 38, s. 1. “Public
work.”

PROCLAMATION.

Act may be declared in force at any place designated.

2. The Governor in Council may, as often as occasion requires, declare, by proclamation, that upon and after a day therein named, this Act, or any section or sections thereof, shall be in force in any place or places in Canada in such proclamation designated, within the limits or in the vicinity whereof any public work is in course of construction, or in such places as are in the vicinity of any public work, within which he deems it necessary that this Act, or any section or sections thereof, should be in force, and this Act, or any such section or sections thereof, shall, upon and after the day named in such proclamation, take effect within the places designated therein :

Revocation and renewal of order.

2. The Governor in Council may, in like manner, from time to time, declare this Act, or any section or sections thereof, to be no longer in force in any such place or places,—and may again, from time to time, declare this Act, or any section or sections thereof, to be in force therein :

As to cities.

3. But no such proclamation shall have effect within the limits of any city. 32-33 V., c. 24, s. 1;—33 V., c. 28, s. 1.

WEAPONS.

Delivery of arms to commissioner.

3. On or before the day named in such proclamation, every person employed on or about any public work, to which the same relates, shall bring and deliver up, to some commissioner or officer appointed for the purposes of this Act, every weapon in his possession, and shall obtain from such commissioner or officer a receipt for the same. 32-33 V., c. 24, s. 3.

Seizure of arms not delivered.

4. Every weapon found in the possession of any person employed, as aforesaid, after the day named in any proclamation and within the limits designated in such proclamation, may be seized by any justice of the peace, commissioner, constable or other peace officer,—and shall be forfeited to the use of Her Majesty. 32-33 V., c. 24, s. 5.

Punishment for keeping arms when Act is in force.

5. Every one employed upon or about any public work, within the place or places in which this Act is then in force, who, upon or after the day named in such proclamation, keeps or has in his possession or under his care or control, within any such place, any weapon, shall incur a penalty not exceeding four dollars and not less than two dollars for every such weapon found in his possession. 32-33 V., c. 24, s. 2, *part.*

Punishment for unlawfully concealing arms.

6. Every one who, for the purpose of defeating this Act, receives or conceals, or aids in receiving or concealing,

or procures to be received or concealed, within any place in which this Act is at the time in force, any weapon belonging to or in the custody of any person employed on or about any public work, shall incur a penalty not exceeding one hundred dollars and not less than forty dollars, and a moiety of such penalty shall belong to the informer and the other moiety to Her Majesty, for the public uses of Canada. 32-33 V., c. 24, s. 6.

7. Any commissioner or justice of the peace, constable or peace officer, or any person acting under a warrant, in aid of any constable or peace officer, may arrest and detain any person employed on any public work, found carrying any weapon, within any place in which this Act is, at the time, in force, at such time and in such manner as, in the judgment of such commissioner, justice of the peace, constable or peace officer, or person acting under a warrant, affords just cause of suspicion that it is carried for purposes dangerous to the public peace; and every one so employed, who so carries any such weapon, is guilty of a misdemeanor, and the justice of the peace or commissioner arresting such person, or before whom he is brought under such a warrant, may commit him for trial for a misdemeanor, unless he gives sufficient bail for his appearance at the next term or sitting of the court before which the offence can be tried, to answer to any indictment to be then preferred against him. 32-33 V., c. 24, s. 8.

Persons unlawfully carrying arms may be arrested.

And committed.

8. Any commissioner appointed under this Act, or any justice of the peace having authority within the place in which this Act is at the time in force, upon the oath of a credible witness that he believes that any weapon is in the possession of any person or in any house or place contrary to the provisions of this Act, may issue his warrant to any constable or peace officer to search for and seize the same, and he, or any person in his aid, may search for and seize the same in the possession of any person, or in any such house or place. 32-33 V., c. 24, s. 7, *part*.

Search warrant may be issued.

9. If admission to any such house or place is refused, after demand, such constable or peace officer, and any person in his aid, may enter the same by force by day or by night, and seize any such weapon and deliver it to such commissioner; and unless the person in whose possession or in whose house or premises the same is found, within four days next after the seizure, proves to the satisfaction of such commissioner or justice of the peace that the weapon so seized was not in his possession or in his house or place contrary to the meaning of this Act, such weapon shall be forfeited to the use of Her Majesty. 32-33 V., c. 24, s. 7, *part*.

Right of entry for search.

Forfeiture of arms found.

10. All weapons declared forfeited under this Act shall be sold or destroyed under the direction of the commissioner

Disposal of forfeited arms.

by whom or by whose authority the same are seized, and the proceeds of such sale, after deducting necessary expenses, shall be received by such commissioner and paid over by him to the Minister of Finance and Receiver General, for the public uses of Canada. 32-33 V., c. 24, s. 10.

Restitution of arms when Act is no longer in force.

11. Whenever this Act ceases to be in force within the place where any weapon has been delivered and detained in pursuance thereof, or whenever the owner or person lawfully entitled to any such weapon satisfies the commissioner that he is about to remove immediately from the limits within which this Act is at the time in force, the commissioner may deliver up to the owner or person authorized to receive the same, any such weapon, on production of the receipt given for it. 32-33 V., c. 24, s. 4.

Monthly returns to be made.

12. Every commissioner under this Act shall make a monthly return to the *Secretary of State* of all weapons delivered to him, and by him detained under this Act. 32-33 V., c. 24, s. 9.

INTOXICATING LIQUOR.

Sale of liquor prohibited.

13. Upon and after the day named in such proclamation, and during such period as the proclamation remains in force, no person shall, at any place within the limits specified in such proclamation, barter, sell, exchange or dispose of, directly or indirectly, any intoxicating liquor, or expose, keep or have in his possession, for sale, barter or exchange, any intoxicating liquor :

Exception as to wholesale dealers.

2. But this section shall not extend to any person selling intoxicating liquor by wholesale and not retailing the same, if such person is a licensed distiller or brewer. 32-33 V., c. 24, s. 11, *part*.

Penalty for violation.

14. Every one who, in violation of the provisions of this Act, by himself, his clerk, servant or agent, exposes or keeps for sale, or barter, or sells, disposes of, gives or exchanges for any other matter or thing, any intoxicating liquor, shall be liable to a penalty of twenty dollars on the first conviction, forty dollars on the second conviction, and on the third and every subsequent conviction, to such last mentioned penalty and to imprisonment for a term not exceeding six months. 32-33 V., c. 24, s. 12.

Agent to incur the same penalty as the principal.

15. Every clerk, servant or agent, or other person who, being in the employment or on the premises of another, sells, disposes of or exchanges for any other matter or thing, or assists in selling, disposing of or exchanging for any other matter or thing, any intoxicating liquor, in violation of the provisions of this Act, for the person in whose service or on

whose premises he is, shall be equally guilty with the principal, and shall be liable to the same penalties. 32-33 V., c. 24, s. 13.

16. If any three credible persons make oath or affirmation before any commissioner or justice of the peace, that they have reason to believe and do believe that any intoxicating liquor, intended for sale or barter, in violation of the provisions of this Act, is kept or deposited in any steam-boat or other vessel, or in any carriage or vehicle, or in any store, shop, warehouse, or other building or premises, at any place within which such intoxicating liquor is, by proclamation under this Act, prohibited to be sold or bartered, or kept for sale or barter, or on any river, lake or water adjoining such place, the commissioner or justice of the peace shall issue his warrant of search to any sheriff, police officer, bailiff or constable, who shall forthwith proceed to search the steam-boat, vessel, premises or place described in such warrant; and if any intoxicating liquor is found therein, he shall seize the same and the barrels, casks or other packages in which it is contained, and convey them to some proper place of security, and there keep them until final action is had thereon; but no dwelling house in which or in part of which a shop or bar is not kept, shall be searched, unless one, at least, of the said complainants testifies, on oath or affirmation, to some act of sale of intoxicating liquor therein or therefrom, in violation of the provisions of this Act, within one month of the time of making the said complaint. 32-33 V., c. 24, s. 14, *part.*

Search for and seizure of liquor on information.

Warrant.

If there is no shop or bar.

17. The owner or keeper of the liquor so seized, if he is known to the officer seizing the same, shall be summoned forthwith before the commissioner or justice of the peace by whose warrant the liquor was seized; and if he fails to appear, and it appears to the satisfaction of such commissioner or justice that the said liquor was kept or intended for sale or barter, in violation of the provisions of this Act, it shall be declared forfeited, with any package in which it is contained, and shall be destroyed by authority of the written order to that effect, of such commissioner or justice, and in his presence, or in the presence of some person appointed by him to witness the destruction thereof,—and such person shall join with the officer by whom the said liquor has been destroyed, in attesting that fact upon the back of the order under authority of which it was done; and the owner or keeper of such liquor shall be liable to a penalty of forty dollars and costs and, in default of payment, to imprisonment for a term not exceeding three months. 32-33 V., c. 24, s. 14, *part.*

Forfeiture of liquor and proceedings for that purpose.

Penalty.

18. If the owner or keeper or possessor of liquor seized as aforesaid, is unknown to the officer seizing the same, it shall not be condemned and destroyed until the fact of such

Public notice, if the owner is unknown.

seizure has been advertised, with the number and description of the package, as near as may be, for two weeks, by posting up a written or printed notice and description thereof in at least three public places of the place where it was seized :

Delivery to owner in certain cases.

2. If it is proved, within such two weeks, to the satisfaction of the commissioner or justice of the peace by whose authority such liquor was seized, that it was not intended for sale or barter in violation of the provisions of this Act, it shall not be destroyed, but shall be delivered to the owner, who shall give his receipt therefor upon the back of the warrant, and such warrant shall be returned to the commissioner or justice of the peace who issued the same ; but if, after such advertisement, as aforesaid, it appears to such commissioner or justice that such liquor was intended for sale or barter in violation of the provisions of this Act, then such liquor, with any package in which it is contained, shall be condemned, forfeited and destroyed. 32-33 V., c. 24, s. 15.

Forfeiture in other cases.

Money paid for liquor may be recovered back.

19. Every payment or compensation for liquor sold or bartered in violation of the provisions of this Act, whether in money or securities for money, labor or property of any kind, shall be held to have been criminally received without consideration, and against law, equity and good conscience, and the amount or value thereof may be recovered from the receiver by the person making, paying or furnishing the same; and all sales, transfers, conveyances, liens and securities of every kind, which either in whole or in part have been given for or on account of intoxicating liquor, sold or bartered in violation of the provisions of this Act, shall be void against all persons,—and no right shall be acquired thereby and no action of any kind shall be maintained, either in whole or in part, for or on account of intoxicating liquors sold or bartered in violation of the provisions of this Act. 32-33 V., c. 24, s. 16.

Sales and securities void.

GENERAL PROVISIONS.

Procedure and powers of the commissioner or justice.

20. Any commissioner or justice of the peace may hear and determine, in a summary manner, any case arising within his jurisdiction under this Act; and every person making complaint against any other person for violating this Act, or any provision thereof, before such commissioner or justice, may be admitted as a witness; and the commissioner or justice of the peace before whom the examination or trial is had, may, if he thinks there was probable cause for the prosecution, order that the defendant shall not recover costs, although the prosecution fails. 32-33 V., c. 24, s. 17.

21. All the provisions of every law respecting the duties of justices of the peace in relation to summary convictions and orders, and to appeals from such convictions, and for the protection of justices of the peace when acting as such, or to facilitate proceedings by or before them in matters relating to summary convictions and orders, shall, in so far as they are not inconsistent with this Act, apply to every commissioner or justice of the peace mentioned in this Act or empowered to try offenders against this Act; and every such commissioner shall be deemed a justice of the peace within the meaning of any such law, whether he is or is not a justice of the peace for other purposes. 32-33 V., c. 24, s. 18.

Certain Acts to apply.

Commissioner to be deemed a justice.

22. Every action brought against any commissioner or justice of the peace, constable, peace officer or other person, for any thing done in pursuance of this Act, shall be commenced within six months next after *the alleged cause of action arises*; and the venue shall be laid or the action instituted in the district or county or place where the *cause of action arose*; and the defendant may plead the general issue and give this Act and the special matter in evidence; and if such action is brought after the time limited, or the venue is laid or the action brought in any other district, county or place than as above prescribed, the judgment or verdict shall be given for the defendant; and in such case, or if the judgment or verdict is given for the defendant on the merits, or if the plaintiff becomes non-suited or discontinues after appearance is entered, or has judgment rendered against him on demurrer, the defendant shall be entitled to recover double costs. 32-33 V., c. 24, s. 19.

Limitation of time for actions against persons acting under this Act, &c.

23. No action or other proceeding, warrant, judgment, order or other instrument or writing, authorized by this Act or necessary to carry out its provisions, shall be held void or be allowed to fail for defect of form. 32-33 V., c. 24, s. 20.

Defect of form not to invalidate proceedings.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
32-33 V., c. 24...	The whole, except s. 22.	s. 22.		
33 V., c. 28.....	The whole, except part of s. 2.	s. 2 (part).		
38 V., c. 38.....	The whole.			

CHAPTER 146.

An Act respecting the Preservation of Peace at Public Meetings.

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

Justices of the Peace may disarm persons attending a meeting.

Punishment of person refusing to surrender weapons.

Conviction not to prevent disarming.

Restitution of weapons.

No liability in case of accidental loss.

1. Any justice of the peace within whose jurisdiction any public meeting is appointed to be held, may demand, have and take of and from any person attending such meeting, or on his way to attend the same, any offensive weapon, such as fire-arms, swords, staves, bludgeons, or the like, with which any such person is so armed, or which any such person has in his possession; and every such person who, upon such demand, declines or refuses to deliver up, peaceably and quietly, to such justice of the peace, any such offensive weapon as aforesaid, is guilty of a misdemeanor, and such justice may thereupon record the refusal of such person to deliver up such weapon, and adjudge him to pay a penalty not exceeding eight dollars,—which penalty shall be levied in like manner as penalties are levied under the "*Act respecting summary proceedings before Justices of the Peace*," or such person may be proceeded against by indictment or information, as in other cases of misdemeanor; but such conviction shall not interfere with the power of such justice, or any other justice of the peace, to take such weapon, or cause the same to be taken from such person, without his consent and against his will, by such force as is necessary for that purpose. C. S. C., c. 82, s. 15.

2. Upon reasonable request to any justice of the peace, to whom any such weapon has been peaceably and quietly delivered as aforesaid, made on the day next after the meeting has finally dispersed, and not before, such weapon shall, if of the value of one dollar or upwards, be returned by such justice of the peace to the person from whom the same was received. C. S. C., c. 82, s. 16.

3. No such justice of the peace shall be held liable to return any such weapon, or make good the value thereof, if the same, by unavoidable accident, has been actually destroyed or lost out of the possession of such justice without his wilful default. C. S. C., c. 82, s. 17.

4. Every person who is convicted of a battery, committed within the distance of two miles of the place appointed for the holding of such public meeting and during any part of the day whereon any such meeting has been appointed to be held, shall be liable to a penalty not exceeding one hundred dollars, or to imprisonment for a term not exceeding three months, or to both. C. S. C., c. 82, s. 18. Punishment of persons convicted of battery near a meeting.

5. Every person, except the sheriff, deputy sheriff and justices of the peace for the district or county, or the mayor and justices of the peace for the city or town respectively, in which any such meeting is held, and the constables and special constables employed by them, or any of them, for the preservation of the public peace at such meeting, who, during any part of the day upon which such meeting is appointed to be held, comes within two miles of the place appointed for such meeting, armed with any offensive weapon of any kind, as fire-arms, swords, staves, bludgeons, or the like, 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. C. S. C., c. 82, s. 19. Punishment of persons approaching a meeting armed.

6. Every person who lies in wait for any person returning, or expected to return, from any such public meeting, with intent to commit an assault upon such person, or with intent, by abusive language, opprobrious epithets or other offensive demeanor, directed to, at or against such person, to provoke such person, or those who accompany him, to a breach of the peace, is guilty of a misdemeanor, and liable to a penalty not exceeding two hundred dollars, or to imprisonment for a term not exceeding six months, or to both. C. S. C., c. 82, s. 20. Punishment of persons lying in wait.

7. No action shall be brought against any person for anything done by him under authority of this Act, unless within twelve months next after the cause of such action accrued. C. S. C., c. 82, s. 21. Time for actions limited.

This Act is made general, and applied to the whole of Canada.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
C. S. C., c. 82.	ss. 15 to 21.			

CHAPTER 147.

An Act respecting Prize Fighting

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

Interpretation.
“ Prize fight.”

1. In this Act, unless the context otherwise requires, the expression “ prize fight ” means an encounter or fight with fists or hands, between two persons who have met for such purpose by previous arrangement made by or for them. 44 V., c. 30, s. 1.

Punishment of person challenging to or preparing for a prize fight.

2. Every one who sends or publishes, or causes to be sent or published, or otherwise made known, any challenge to fight a prize fight, or accepts any such challenge, or causes the same to be accepted, or goes into training preparatory to such fight, or acts as trainer or second to any person who intends to engage in a prize fight, is guilty of a *misdemeanor*, and liable, on summary conviction, to a penalty not exceeding one thousand dollars and not less than one hundred dollars, or to imprisonment for a term not exceeding six months, or to both. 44 V., c. 30, s. 2.

Punishment of principal in prize fight.

3. Every one who engages as a principal in a prize fight is guilty of a *misdemeanor*, and liable, on summary conviction, to imprisonment for a term not exceeding twelve months and not less than three months. 44 V., c. 30, s. 3.

And of aiders and abettors.

4. Every one who is present at a prize fight as an aid, second, surgeon, umpire, backer, assistant or reporter, or who advises, encourages or promotes such fight, is guilty of a *misdemeanor*, and liable, on summary conviction, to a penalty not exceeding five hundred dollars and not less than fifty dollars, or to imprisonment for a term not exceeding twelve months, or to both. 44 V., c. 30, s. 4.

Punishment for leaving Canada to engage in a prize fight.

5. Every one who, being an inhabitant or resident of Canada, leaves Canada with intent to engage in a prize fight without the limits thereof, is guilty of a *misdemeanor*, and liable, on summary conviction, to a penalty not exceeding four hundred dollars and not less than fifty dollars, or to imprisonment for a term not exceeding six months, or to both. 44 V., c. 30, s. 5.

Proceedings when prize

6. If, at any time, the sheriff of any county, place or district in Canada, any chief of police, any police officer, or

any constable, or other peace officer, has reason to believe that any person within his bailiwick or jurisdiction is about to engage as principal in any prize fight within Canada, he shall forthwith arrest such person and take him before some person having authority to try offences against this Act, and shall forthwith make complaint in that behalf, upon oath, before such person; and thereupon such person shall inquire into the charge, and if he is satisfied that the person so brought before him was, at the time of his arrest, about to engage as a principal in a prize fight, he shall require the accused to enter into a recognizance, with sufficient sureties, in a sum not exceeding five thousand dollars and not less than one thousand dollars, conditioned that the accused will not engage in any such fight within one year from and after the date of such arrest; and in default of such recognizance, the person before whom the accused has been brought shall commit the accused to the gaol of the county, district or city within which such inquiry takes place, or if there is no common gaol there, then to the common gaol which is nearest to the place where such inquiry is had, there to remain until he gives such recognizance with such sureties. 44 V., c. 30, s. 6.

fight is about to take place.

Arrest.

Recognizance.

Commitment in default.

7. If any sheriff has reason to believe that a prize fight is taking place or is about to take place within his jurisdiction as such sheriff, or that any persons are about to come into Canada at a point within his *jurisdiction*, from any place outside of Canada, with intent to engage in, or to be concerned in, or to attend any prize fight within Canada, he shall forthwith summon a force of the inhabitants of his district or county sufficient for the purpose of suppressing and preventing such fight,—and he shall, with their aid, suppress and prevent the same, and arrest all persons present thereat, or who come into Canada as aforesaid, and shall take them before some person having authority to try offences against this Act, to be dealt with according to law, and fined or imprisoned, or both, or compelled to enter into recognizances with sureties, as hereinbefore provided, according to the nature of the case. 44 V., c. 30, s. 7.

Sheriff may prevent prize fight by force.

8. Every person offending against any of the provisions of this Act, except the principals engaged or intending to engage in a prize fight, shall be competent and compellable to give evidence in any proceeding under this Act, in the same manner and to the same extent as other persons; and no person examined as a witness shall be excused from answering any question on the ground that his answer will tend to criminate him; but his evidence shall not be used against him in any proceeding or prosecution whatsoever, and he shall not be liable to punishment for the offence respecting which he is required to testify. 44 V., c. 30, s. 8.

Who shall be competent witnesses &c.

If the fight was not a prize fight but an actual quarrel.

9. If, after hearing evidence of the circumstances connected with the origin of the fight or intended fight, the person before whom a complaint is made under this Act is satisfied that such fight or intended fight was *bonâ fide* the consequence or result of a quarrel or dispute between the principals engaged or intended to engage therein, and that the same was not an encounter or fight for a prize, or on the result of which the handing over or transfer of money or property depends, such person may, in his discretion, discharge the accused or impose upon him a penalty not exceeding fifty dollars. 44 V., c. 30, s. 9.

Certain judges to have powers of justices of the peace.

10. Every judge of a superior court or of a county court, judge of the sessions of the peace, stipendiary magistrate, police magistrate, and commissioner of police of Canada shall, within the limits of his jurisdiction as such judge, magistrate or commissioner, have all the powers of a justice of the peace *with respect to offences against this Act*. 44 V., c. 30, s. 10, *part*.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
44 V., c. 30	The whole, except part of s. 10.	Part of s. 10		

CHAPTER 148.

An Act respecting Perjury.

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

1. Every one who commits perjury or subornation of perjury is guilty of a misdemeanor, and liable to a fine in the discretion of the court and to fourteen years' imprisonment Punishment of perjury.
32-33 V., c. 23, s. 1.

2. Every one who,—

(a) Having taken any oath, affirmation, declaration or affidavit in any case in which by any Act or law in force in Canada, or in any Province of Canada, it is required or authorized that facts, matters or things be verified, or otherwise assured or ascertained, by or upon the oath, affirmation, declaration or affidavit of any person, wilfully and corruptly, upon such oath, affirmation, declaration or affidavit, deposes, swears to or makes any false statement as to any such fact, matter or thing,— Who are guilty of perjury. Oath &c., required by any Act in force falsely taken.

(b) Knowingly, wilfully and corruptly, upon oath or affirmation, affirms, declares, or deposes to the truth of any statement for so verifying, assuring or ascertaining any such fact, matter or thing, or purporting so to do, or knowingly, wilfully and corruptly takes, makes, signs or subscribes any such affirmation, declaration or affidavit, as to any such fact, matter or thing,—such statement, affidavit, affirmation or declaration being untrue, in the whole or any part thereof, or— False statement of fact.

(c) Knowingly, wilfully and corruptly omits from any such affidavit, affirmation or declaration, sworn or made under the provisions of any law, any matter which, by the provisions of such law, is required to be stated in such affidavit, affirmation or declaration,— Wilful omission.

Is guilty of wilful and corrupt perjury, and liable to be punished accordingly :

2. Provided, that nothing herein contained shall affect any case amounting to perjury at common law, or the case of any offence in respect of which other or special provision is made by any Act. As to perjury at common law.
32-33 V., c. 23, s. 2.

Making false affidavit out of the Province in which it is to be used.

3. Every person who wilfully and corruptly makes any false affidavit, affirmation or declaration, out of the Province in which it is to be used, but within Canada, before any functionary authorized to take the same for the purpose of being used in any Province of Canada, shall be deemed guilty of perjury, in like manner as if such false affidavit, affirmation or declaration had been made in the Province in which it is used, or intended to be used, before a competent authority. 33 V., c. 26, s. 1, *part*.

Judge may direct prosecution of person guilty of perjury before him.

4. Any judge of any court of record, or any commissioner before whom any inquiry or trial is held, and which he is by law required or authorized to hold, may, if it appears to him that any person has been guilty of wilful and corrupt perjury in any evidence given, or in any affidavit, affirmation, declaration, deposition, examination, answer or other proceeding made or taken before him, direct such person to be prosecuted for such perjury, if there appears to such judge or commissioner a reasonable cause for such prosecution,—and may commit such person so directed to be prosecuted until the next term, sittings or session of any court having power to try for perjury, in the jurisdiction within which such perjury was committed, or permit such person to enter into a recognizance, with one or more sufficient sureties, conditioned for the appearance of such person at such next term, sittings or session, and that he will then surrender and take his trial and not depart the court without leave,—and may require any person such judge or commissioner thinks fit, to enter into a recognizance conditioned to prosecute or give evidence against such person so directed to be prosecuted as aforesaid. 32-33 V., c. 23, s. 6.

Commitment or admission to bail.

All evidence material with respect to perjury.

5. All evidence and proof whatsoever, whether given or made orally, or by or in any affidavit, affirmation, declaration, examination or deposition, shall be deemed and taken to be material with respect to the liability of any person to be proceeded against and punished for wilful and corrupt perjury, or for subornation of perjury. 32-33 V., c. 23, s. 7.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
32-33 V., c. 23.	ss. 1, 2, 6 and 7.	ss. 3, 5 and 12.	s. 4.	Extra judicial oaths Procedure. do
33 V., c. 26.	s. 1, <i>part</i> .		ss. 8 to 11. s. 1, <i>part</i> .	

CHAPTER 149.

An Act respecting Escapes and Rescues.

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

1. Every one who is convicted of a felonious rescue is liable to seven years' imprisonment, when no special punishment is otherwise provided by statute. 32-33 V., c. 29, s. 84, *part.* Felonious rescue.
2. Every one who escapes from or rescues, or aids in rescuing any other person from lawful custody, or makes or causes any breach of prison, if such offence does not amount to felony, is guilty of a misdemeanor, and liable to imprisonment for any term less than two years. 32-33 V., c. 29, s. 84, *part.* Escape or rescue from lawful custody.
3. Every one who, being a prisoner ordered to be detained in any penitentiary, escapes from the person or persons having the lawful custody of him, when being conveyed thereto, or when being conveyed from one penitentiary to another, is guilty of felony, and liable to two years' imprisonment. 46 V., c. 37, s. 54, *part.* Escape while being conveyed to a penitentiary.
4. Every one who, being a prisoner in a penitentiary, breaks prison or escapes, or attempts to escape from the custody of any officer, guard or other servant of the penitentiary while at work, or passing to or from work, either within or beyond the prison walls or penitentiary limits, is guilty of felony, and liable to three years' imprisonment. 46 V., c. 37, s. 54, *part.* Escape from a penitentiary while at work.
5. Every one who, being a prisoner in any penitentiary at any time attempts to break prison, or who forcibly breaks out of his cell, or makes any breach therein with intent to escape therefrom, whether successful or not, is guilty of felony, and liable to one year's imprisonment. 46 V., c. 37, s. 55, *part.* Breaking out of a penitentiary.
6. Every one who rescues or attempts to rescue any prisoner while being conveyed to any penitentiary, or while imprisoned therein, or while being conveyed from one penitentiary to another, or while passing to or from work at or near any penitentiary,—and every one who, by supplying arms, tools or instruments of disguise, or otherwise in Rescuing prisoner from a penitentiary.

any manner aids any such prisoner in any escape or attempt at escape, is guilty of felony, and liable to five years' imprisonment. 46 V., c. 37, s. 57.

Keepers allowing prisoner in a penitentiary to escape.

7. Every one who, having the custody of any such prisoner as aforesaid, or being employed by the person having such custody, as a keeper, turnkey, guard or assistant, carelessly allows any such prisoner to escape, is guilty of a misdemeanor, and liable to fine or imprisonment, or to both, in the discretion of the court; and every such person as aforesaid, who knowingly and wilfully allows any such convict to escape, is guilty of felony, and liable to five years' imprisonment. 46 V., c. 37, s. 58.

Unlawfully procuring discharge of prisoner.

8. Every one who, knowingly and unlawfully, under color of any pretended authority, directs or procures the discharge of any prisoner not entitled to be so discharged, is guilty of a misdemeanor, and liable to imprisonment for any term less than two years, and the person so discharged shall be held to have escaped. 32-33 V., c. 29, s. 85.

Escape from reformatory prison.

9. Every one who, being sentenced to be detained in any reformatory prison or school, escapes therefrom, may, at any time before the expiration of his term of detention, be apprehended without warrant, and brought before any justice of the peace or magistrate, who, on proof of his identity, shall remand him to such prison or school there to serve the remainder of his original sentence, with such additional term, not exceeding one year, as to such justice or magistrate seems proper. 32-33 V., c. 34, s. 7;—33 V., c. 32, s. 5;—43 V., c. 41, s. 4;—47 V., c. 45, s. 6.

Assisting escape from such prison.

10. Every one who,—

(a) Knowingly assists, directly or indirectly, any offender detained in a reformatory prison or school, to escape from such prison or school,—

Inducing to escape.

(b) Directly or indirectly induces such an offender to escape from such prison or school.—

Harboring escaped prisoner.

(c) Knowingly harbors, conceals or prevents from returning to the prison or school, or assists in harboring, concealing or preventing from returning to the prison or school, any offender who has escaped from such prison or school,—

Punishment.

Shall be liable, on summary conviction before two justices of the peace, to a penalty not exceeding eighty dollars, or to imprisonment with or without hard labor for any term not exceeding two months. 32-33 V., c. 34, s. 8.

11. Every one who escapes from imprisonment shall, on being retaken, undergo, in the prison he escaped from, the remainder of his term unexpired at the time of his escape, in addition to the punishment which is awarded for such escape; and any imprisonment awarded for such offence may be to the penitentiary or prison from which the escape was made. 32-33 V., c. 29, s. 87.

How escaped
prisoners
shall be
punished.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
32-33 V., c. 29	ss. 84, 85 and 87.			
32-33 V., c. 34	ss. 7 and 8			
33 V., c. 32	s. 5.			
43 V., c. 41	s. 4.			
46 V., c. 37	ss. 54 (part), 55 (part), 57 and 58			
47 V., c. 45	s. 6.			

CHAPTER 150.

An Act respecting Offences against Religion.

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

Obstructing or assaulting a clergyman in the discharge of his duties.

1. Every one who, by threats of force, unlawfully obstructs or prevents, or endeavors to obstruct or prevent, any clergyman or other minister in or from celebrating divine service, or otherwise officiating in any church, chapel, meeting-house, school-house or other place used for divine worship, or in or from the performance of his duty in the lawful burial of the dead, in any church-yard or other burial place, or strikes or offers any violence to, or upon any civil process, or under the pretence of executing any civil process, arrests any clergyman or other minister who is engaged in or, to the knowledge of the offender, is about to engage in any of the rites or duties in this section mentioned, or who, to the knowledge of the offender, is going to perform the same, or returning from the performance thereof, is guilty of a misdemeanor, and liable to imprisonment for any term less than two years. 32-33 V., c. 20, s. 36.

Punishment.

Disturbing congregation met for religious worship.

2. Every one who wilfully disturbs, interrupts or disquiets any assemblage of persons met for religious worship, or for any moral, social or benevolent purpose, by profane discourse, by rude or indecent behavior, or by making a noise, either within the place of such meeting or so near it as to disturb the order or solemnity of the meeting, is guilty of a misdemeanor and liable, on summary conviction, to a penalty not exceeding twenty dollars and costs, and in default of payment, to imprisonment for a term not exceeding one month,—and may be arrested on view by any peace officer present at such meeting, or by any other person present, verbally authorized thereto by any justice of the peace present thereat, and detained until he can be brought before a justice of the peace. 32-33 V., c. 20, s. 37.

Punishment.

Desecrating the Lord's day.

3. Every one who desecrates the Lord's Day by shooting, gaming, sporting, frequenting tippling houses, or by servile labor (works of necessity and mercy excepted) shall for every such offence, be liable, on summary conviction, to a penalty not exceeding eight dollars, and in default of payment, to imprisonment for a term not exceeding four days:

Punishment.

2. The conveyance of travellers and of Her Majesty's mails, by land or by water, and the selling of drugs and medicine shall be deemed to be works of necessity. Exception as to conveyance of travellers. &c.
 R. S. N. S. (3rd S.), c. 159, s. 2;—1 R. S. N. B., c. 144, s. 2;
 —C. S. U. C., c- 104, ss. 1 to 5, *parts*.

Proposed to be Consolidated.	Part Consolidated.	Left for repeal.	To be Consolidated elsewhere.	To be Consolidated with.
32-33 V., c. 20. C.S.U. C., c. 104 R. S. N. S., (3rd S.), c. 159. 1 R. S. N. B., c. 144, s. 2.	ss. 36 and 37. ss. 1 to 5 (parts). s. 2. s. 2.			

CHAPTER 151.

An Act respecting Offences against Public Morals and Convenience.

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

Sodomy.

1. Every one who commits the crime of buggery, either with a human being or with any other living creature, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 20, s. 63.

Attempts

2. Every one who attempts to commit buggery, or assaults any person with intent to commit buggery, or who, being a male, indecently assaults any other male, is guilty of a misdemeanor, and liable to ten years' imprisonment. 32-33 V., c. 20, s. 64.

Incest.

3. Every one who commits incest is guilty of a misdemeanor, and liable to *two years'* imprisonment. 1 R. S. N.B., c. 145, s. 2;—R. S. N. S. (3rd S.), c. 160, s. 2.

By the former enactment, imprisonment for *fourteen years* is authorized. Incest being an offence in two Provinces, this section is submitted for consideration, but it is recommended that it should not be passed without the offence being defined.

Procuring defilement of girl under age.

4. Every one who, by false pretences, false representations, or other fraudulent means, procures any woman or girl under the age of twenty-one years, to have illicit carnal connection with any man other than the procurer, is guilty of a misdemeanor, and liable to imprisonment for any term less than two years. 32-33 V., c. 20, s. 50.

What persons shall be deemed loose, idle or disorderly or vagrants.

5. All persons who,—

(a) Not having visible means of maintaining themselves, live without employment,—

(b) Being able to work and thereby or by other means to maintain themselves and families, wilfully refuse or neglect to do so,—

(c) Openly expose or exhibit in any street, road, public place or highway, any indecent exhibition, or openly or indecently expose their persons,—

(d) Without a certificate signed, within six months, by a priest, clergyman or minister of the gospel, or two justices of the peace, residing in the municipality where the alms are being asked, that he or she is a deserving object of charity, wander about and beg, or go about from door to door, or place themselves in any street, highway, passage or public place to beg or receive alms,—

(e) Loiter on any street or highway, and obstruct passengers by standing across the footpaths or by using insulting language, or in any other way,—

(f) Cause a disturbance in any street or highway by screaming, swearing or singing, or by being drunk, or by impeding or incommoding peaceable passengers,—

(g) *By discharging firearms, or by riotous or disorderly conduct in any street or highway, wantonly or maliciously disturb the peace and quiet of the inmates of any dwelling house near such street or highway,—*

(h) Tear down or deface signs, break windows, doors or door plates, or the walls of houses, roads or gardens, or destroy fences,—

(i) Are common prostitutes or night walkers, wandering in the fields, public streets or highways, lanes or places of public meeting or gathering of people, and not giving a satisfactory account of themselves,—

(j) Are keepers or inmates of disorderly houses, bawdy-houses or houses of ill-fame, or houses for the resort of prostitutes, or persons in the habit of frequenting such houses, not giving a satisfactory account of themselves,—

(k) Have no peaceable profession or calling to maintain themselves by, but who do, for the most part, support themselves by gaming or crime, or by the avails of prostitution,—

Are loose, idle or disorderly persons or vagrants, within the meaning of this section :

2. Every loose, idle or disorderly person or vagrant shall, upon summary conviction before two justices of the peace, be deemed guilty of a misdemeanor, and shall be liable to a fine not exceeding fifty dollars or to imprisonment, with or without hard labor, for any term not exceeding six months, or to both :

Punishment of such persons.

3. Any stipendiary or police magistrate, mayor or warden, or any two justices of the peace, upon information before them made, that any person hereinbefore described as a loose,

Justices may cause such persons to be brought before them.

idle or disorderly person, or vagrant, is or is reasonably suspected to be harbored or concealed in any disorderly house, bawdy-house, house of ill-fame, tavern or boarding-house, may, by warrant, authorize any constable or other person to enter at any time such house or tavern, and to apprehend and bring before them or any other justices of the peace, every person found therein so suspected as aforesaid :

To what places of detention they shall be committed.

4. If provision is made therefor by the laws of the Province in which the conviction takes place, any such loose, idle or disorderly person may, instead of being committed to the common gaol or other public prison, be committed to any house of industry or correction, alms house, work house or reformatory prison. 32-33 V., c. 28 ;—37 V., c. 43 ;—44 V., c. 31 ;—R. S. N. S. (3rd S.), c. 162, s. 9 ;—1 R. S. N. B., c. 145, s. 1.

New, in part.

The provision in italics is taken from R. S. N. S. (3rd S.), c. 162, s. 9.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal	To be Consolidated elsewhere.	To be Consolidated with.
32-33 V., c. 20.....	ss. 50, 63 and 64			
32-33 V., c. 28.....	The whole.			
37 V., c. 43.....	The whole.			
44 V., c. 31.....	The whole.			
R. S. N. S., c. 160..	s. 2.			
R. S. N. S., c. 162.	s. 9.			
1 R. S. N. B., c. 145	ss. 1 and 2.			

CHAPTER 152.

An Act respecting Gaming Houses.

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:— Interpretation.

(a) The expression “chief constable” includes chief of police, city marshal or other head of the police force of any city, town or place; “Chief constable.”

(b) The expression “deputy chief constable” includes deputy chief of police, deputy city marshal or other deputy head of the police force of any city, town or place. “Deputy chief constable.”

New.

2. If the chief constable or deputy chief constable of any city or town, or other officer authorized to act in his absence, reports in writing to any of the commissioners of police or mayor of such city or town, or to the police magistrate of any town, that there are good grounds for believing, and that he does believe, that any house, room or place within the said city or town is kept or used as a common gaming house, whether admission thereto is limited to those possessed of entrance keys or otherwise, the said commissioners or commissioner, or mayor, or the said police magistrate, may, by order in writing, authorize the chief constable, deputy chief constable, or other officer as aforesaid, to enter any such house, room or place, with such constables as are deemed requisite by the chief constable, deputy chief constable or other officer,—and, if necessary, to use force for the purpose of effecting such entry, whether by breaking open doors or otherwise,—and to take into custody all persons who are found therein, and to seize all tables and instruments of gaming found in such house or premises, and also to seize all moneys and securities for money found therein. Police magistrate, &c., may, on report authorize entry of common gaming house.

38 V., c. 41, s. 1;—40 V., c. 33, s. 1. Arrest of persons therein and seizure of instruments.

3. The chief constable, deputy chief constable or other officer making such entry, in obedience to any such order, may, with the assistance of one or more constables, search all parts of the house, room or place which he has so entered, where he suspects that tables or instruments of gaming are concealed, and all persons whom he finds Powers of search.

therein, and seize all tables and instruments of gaming which he so finds. 38 V., c. 41, s. 2.

What shall be deemed evidence of gaming.

4. When any cards, dice, balls, counters, tables or other instruments of gaming, used in playing any unlawful game, are found in any house, room or place suspected to be used as a common gaming house, and entered under a warrant or order issued under this Act, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, room or place is used as a common gaming house, and that the persons found in the room or place where such tables or instruments of gaming are found were playing therein, although no play was actually going on in the presence of the chief constable, deputy chief constable or other officer entering the same under a warrant or order issued under this Act, or in the presence of those persons by whom he is accompanied as aforesaid. 38 V., c. 41, s. 3;—40 V., c. 33, s. 2.

Instruments to be destroyed.

5. The police magistrate or other justice of the peace before whom any person is taken by virtue of any order or warrant under this Act, shall direct any cards, dice, balls, counters, tables or other instruments of gaming, used in playing any game, and seized under this Act in any place used as a common gaming house, to be forthwith destroyed. 40 V., c. 33, s. 3.

Punishment of persons playing or looking on.

6. Every one who plays or looks on while any other person is playing in a common gaming house is guilty of an offence, and liable, on summary conviction before two justices of the peace, to a penalty not exceeding one hundred dollars and not less than twenty dollars, and, in default of payment, to imprisonment for a term not exceeding two months. 40 V., c. 33, s. 4, *part*.

Punishment of persons obstructing constables.

7. Every one who wilfully prevents any constable or other officer, authorized under any of the preceding sections to enter any house, room or place, from entering the same, or any part thereof, or who obstructs or delays any such constable or officer in so entering, and every one who, by any bolt, chain or other contrivance, secures any external or internal door of, or means of access to, any house, room or place so authorized to be entered, or uses any means or contrivance whatsoever for the purpose of preventing, obstructing or delaying the entry of any constable or officer authorized as aforesaid, into any such house, room or place, or any part thereof, shall, for every such offence, be liable, on summary conviction before two justices of the peace, to a penalty not exceeding one hundred dollars, with costs, and to imprisonment with or without hard labor for any term not exceeding six months. 38 V., c. 41, s. 4.

8. If any constable or officer authorized, as aforesaid, to enter any house, room or place, is wilfully prevented from, or obstructed or delayed in entering the same or any part thereof,—or if any external or internal door of, or means of access to any such house, room or place so authorized to be entered, is found to be fitted or provided with any bolt, bar, chain or any means or contrivance for the purpose of preventing, delaying or obstructing the entry into the same, or any part thereof, of any constable or officer authorized, as aforesaid, or for giving an alarm in case of such entry,—or if any such house, room or place is found fitted or provided with any means or contrivance for unlawful gaming, or with any means or contrivance for concealing, removing or destroying any instruments of gaming, it shall be evidence, until the contrary is made to appear, that such house, room or place is used as a common gaming house, and that the persons found therein were unlawfully playing therein. 38 V., c. 41, s. 5.

What shall be evidence that a house is a common gaming house.

9. The police magistrate, mayor or justice of the peace, before whom any person is brought who has been found in any house, room or place, entered in pursuance of any warrant or order issued under this Act, may require any such person to be examined on oath and give evidence touching any unlawful gaming in such house, room or place, or touching any act done for the purpose of preventing, obstructing or delaying the entry into such house, room or place, or any part thereof, of any constable or officer authorized as aforesaid; and no person so required to be examined as a witness shall be excused from being so examined when brought before such police magistrate, mayor or justice of the peace, or from being so examined at any subsequent time by or before the police magistrate or mayor or any justice of the peace, or by or before any court, on any proceeding, or on the trial of any indictment, information, action or suit in anywise relating to such unlawful gaming, or any such acts as aforesaid, or from answering any question put to him touching the matters aforesaid, on the ground that his evidence will tend to criminate himself; and any such person so required to be examined as a witness who refuses to make oath accordingly, or to answer any such question, shall be subject to be dealt with in all respects as any person appearing as a witness before any justice or court in obedience to a summons or subpoena and refusing without lawful cause or excuse to be sworn or to give evidence, may, by law, be dealt with; but nothing in this section shall render any offender, under the *sixth* section of this Act, liable on his trial to examination hereunder. 38 V., c. 41, s. 6;—40 V., c. 33, s. 4, *part*.

Magistrate may require any of the persons apprehended to give evidence.

Punishment of persons refusing to give evidence.

10. Every person so required to be examined as a witness, who, upon such examination, makes true disclosure, to the

Such witnesses making a full dis-

covery to be free from all penalties, on certificate.

What the certificate must set forth.

best of his knowledge, of all things as to which he is examined shall receive from the judge, justice of the peace, magistrate, examiner or other judicial officer before whom such proceeding is had, a certificate in writing to that effect, and shall be freed from all criminal prosecutions and penal actions, and from all penalties, forfeitures and punishments to which he has become liable for anything done before that time in respect of the matters regarding which he has been examined; but such certificate shall not be effectual for the purpose aforesaid, unless it states that such witness made a true disclosure in respect to all things as to which he was examined; and any action, indictment or proceedings pending or brought in any court against such witness, in respect of any act of gaming regarding which he was so examined, shall be stayed, upon the production and proof of such certificate, and upon summary application to the court in which such action, indictment or proceeding is pending, or any judge thereof, or any judge of any of the superior courts of any Province. 38 V., c. 41, s. 7.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
38 V., c. 41. 40 V., c. 33.	The whole. ss. 1, 2, 3 and 4.	ss. 5 and 6.		

CHAPTER 153.

An Act respecting Lotteries, Betting and Pool-selling.

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:— Interpretation.

(a) The expression “personal property” includes every description of money, chattel and valuable security, and every kind of personal property; “Personal property.”

(b) The expression “real property” includes every description of land, and all estates and interests therein. “Real property.”
C. S. C., c. 95, s. 7.

LOTTERIES.

2. Every one who makes, prints, advertises or publishes, or causes or procures to be made, printed, advertised or published, any proposal, scheme or plan, for advancing, lending, giving, selling or in any way disposing of any property, either real or personal, by lots, cards, tickets, or any mode of chance whatsoever, or sells, barter, exchanges or otherwise disposes of, or causes or procures, or aids or assists in the sale, barter, exchange or other disposal of, or offers for sale, barter or exchange, any lot, card, ticket or other means or device, for advancing, lending, giving, selling or otherwise disposing of any property, real or personal, by lots, tickets, or any mode of chance whatsoever, shall be liable, on summary conviction, to a penalty of twenty dollars. Penalty for making or advertising a lottery.
C. S. C., c. 95, s. 1.

3. Every one who buys, barter, exchanges, takes or receives any such lot, card, ticket, or other device, shall be liable, on summary conviction, to a penalty of twenty dollars. Penalty for buying or receiving lottery tickets.
C. S. C., c. 95, s. 2.

4. Every sale, loan, gift, barter or exchange of any real or personal property, by any lottery, ticket, card or other mode of chance whatsoever, depending upon or to be determined by chance or lot, shall be void, and all such real or personal property so sold, lent, given, bartered or exchanged, shall be forfeited to any person who sues for the same by action or information in any court of competent jurisdiction. Sales, &c., founded on lotteries void.
C. S. C., c. 95, s. 3.

As to purchaser without notice.

5. No such forfeiture shall affect any right or title to such real or personal property acquired by any *bonâ fide* purchaser for valuable consideration, without notice. C. S. C., c. 95, s. 4.

Act to extend to publication of foreign lottery schemes.

6. The provisions of this Act shall extend to the printing or publishing, or causing to be printed or published, of any advertisement, scheme, proposal or plan of any foreign lottery, and to the sale, or offer for sale, of any ticket, chance or share, in any such lottery, or to the advertisement for sale of such ticket, chance or share. C. S. C., c. 95, s. 6.

As to *bonâ fide* division of property held in common.

7. Nothing in this Act contained, shall prevent joint tenants, or tenants in common, or persons having joint interests (*droits indivis*) in any real or personal property, from dividing such property by lot or chance in the same manner as if this Act had not been passed. C. S. C., c. 95, s. 9.

Act not to apply—

8. Nothing in this Act shall apply,—

To raffles at bazaars.

(a) To raffles for prizes of small value, at any bazaar held for any charitable object, if permission to hold the same has been obtained from the city or other municipal council, or from the mayor, reeve or other chief officer of the city, town or other municipality, wherein such bazaar is held, and the articles raffled for have thereat first been offered for sale, and none of them are of a value exceeding fifty dollars ;

Or to distribution by lot of works of art.

(b) To any distribution by lot, among the members or ticket holders of any incorporated society established for the encouragement of art, of any paintings, drawings or other work of art, produced by the labor of the members of, or published by or under the direction of such incorporated society. 23 V. (Can.), c. 36 ;—46 V., c. 36.

BETTING AND POOL-SELLING.

Persons who—

9. Every one who,—

Use premises for pool selling, &c.

(a) Uses or knowingly allows any part of any premises under his control to be used for the purpose of recording or registering any bet or wager, or selling any pool,—

Keep apparatus for such purpose.

(b) Keeps, exhibits, or employs, or knowingly allows to be kept, exhibited or employed, in any part of any premises under his control, any device or apparatus, for the purpose of recording or registering any bet or wager or selling any pool,—

Become custodians of wagers.

(c) Becomes the custodian or depository of any money, property, or valuable thing staked, wagered or pledged, or,—

(d) Records or registers any bet or wager, or sells any pool,— Sell pools on events specified.

Upon the result of any political or municipal election, or of any race, or of any contest or trial of skill or endurance of man or beast,—

Is guilty of a misdemeanor, and liable to a fine not exceeding one thousand dollars, and to imprisonment for any term not exceeding one year: Punishment.

2. Nothing in this section shall apply to any person by reason of his becoming the custodian or depository of any money, property or valuable thing staked, to be paid to the winner of any lawful race, sport, game or exercise, or to the owner of any horse engaged in any lawful race, or to bets between individuals. Act not to extend to holders of stakes in certain cases. 40 V., c. 31, ss. 1 and 2.

Proposed to be Consolidated.	Part Consolidated.	Left for repeal.	To be Consolidated elsewhere.	To be Consolidated with.
C. S. C., c. 95	The whole, except ss. 5 and 8.	ss. 5 and 8.		
23 V. (Can.) c. 36 40 V., c. 31.	The whole. ss. 1 and 2	.....	s. 3.....	Summary Trials.
46 V., c. 36.	The whole.			

CHAPTER 154.

An Act respecting Gambling in Public Conveyances.

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

Punishment of persons obtaining money by gambling in public conveyances.

1. Every one who in any railway car, or steam-boat, used as a public conveyance for passengers, by means of any game of cards, dice or other instrument of gambling, or by any device of like character, obtains from any other person any money, chattel, valuable security or property, is guilty of the misdemeanor of obtaining the same unlawfully by false pretences, and liable to imprisonment for any term less than one year :

And of attempts.

2. Any attempt to commit such offence by actually engaging any person in any such game with intent to obtain money or other valuable thing from him, is a misdemeanor, punishable in like manner as the offence itself. 40 V., c. 32, s. 1, *part.*

Where the offence may be tried and punished.

2. Every such offence may be dealt with, inquired of, tried, determined and punished as being committed either at the place where it actually took place, or in any district, county or place through or adjoining to or by the boundary of any part whereof the railway car or steam-boat passed in the course of the journey or voyage during which the offence was committed, in the same manner as if it had been actually committed in such district, county or place. 40 V., c. 32, s. 2.

Arrest of offenders.

3. Every conductor, master or superior officer in charge of, and every clerk or employee when authorized by the conductor or superior officer in charge of any railway train or steam-boat, station or landing place, in or at which any such offence, as aforesaid, is committed or attempted, shall, with or without warrant, arrest any person whom he has good reason to believe to have committed or attempted to commit the same, and shall take him before a justice of the peace, and make complaint of such offence on oath, in writing ; and the offender, whether arrested with or without a warrant, shall be dealt with, and other proceedings shall be had, as if he had been arrested upon a warrant of such justice :

How dealt with after arrest.

Penalty for neglecting to arrest offender.

2. Every conductor, master or superior officer in charge of any railway car or steam-boat to which this Act applies,

who makes default in the discharge of any duty imposed on him by this section, shall, on summary conviction, be liable to a penalty not exceeding one hundred dollars, and not less than twenty dollars. 40 V., c. 32, ss. 3 and 5, *part*.

4. Any money or valuable thing obtained by an offence against the first section of this Act, shall be dealt with as obtained by larceny from the person. 40 V., c. 32, s. 4, *part*. Money &c., to be deemed obtained by larceny.

5. Every person arresting any such offender, with or without a warrant, and taking him before a justice of the peace, and otherwise complying with this Act in respect of such offender, shall be entitled to the same fees, payable in the same manner, as if he had so done under a warrant of such justice. 40 V., c. 32, s. 4, *part*. Fees to persons arresting an offender.

6. Every company or person who owns or works any railway car or steam-boat to which this Act applies, shall keep a copy thereof posted up in some conspicuous part of such railway car or steam-boat; and every company or person who makes default in the discharge of such duty, shall be liable to a penalty not exceeding one hundred dollars and not less than twenty dollars. 40 V., c. 32, s. 5, *part*. Copies of Act to be posted up.
Penalty for default.

Proposed to be Consolidated.	Part Consolidated	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
40 V., c. 32.	The whole, except part of s. 1 and part of s. 4	Part of s. 4.	Part of s. 1.	Accessories.

CHAPTER 155.

An Act respecting Offences relating to the Law of Marriage.

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

Unlawfully solemnizing or procuring unlawful solemnization of marriage.

1. Every one who,—

(a) Without lawful authority, the proof of which shall lie on him, solemnizes or pretends to solemnize any marriage, or—

(b) Procures any person to solemnize any marriage, knowing that such person is not lawfully authorized to solemnize such marriage, or knowingly aids or abets such person in performing such ceremony,—

Punishment.

Is guilty of a misdemeanor, and liable to a fine or to two years' imprisonment, or to both. C. S. U. C., c. 102, ss. 1 and 2;—R. S. N. S. (3rd S.), c. 161, s. 3;—1 R. S. N. B., c. 146, s. 2.

Solemnizing marriage in violation of provincial law.

2. Every one who, being lawfully authorized, knowingly and wilfully solemnizes any marriage in violation of the laws of the Province in which the marriage is solemnized, is guilty of a misdemeanor, and liable to a fine or to one year's imprisonment:

Time for prosecution limited.

2. No prosecution for any offence against this section shall be commenced except within *two* years after the offence is committed. C. S. U. C., c. 102, ss. 3, *part*, and 4, *part*;—1 R. S. N. B., c. 146, s. 3, *part*;—R. S. B. C., c. 89, s. 14.

BIGAMY.

Bigamy.

3. Every one who, being married, marries any other person during the life of the former husband or wife, whether the second marriage takes place in Canada, or elsewhere, is guilty of felony, and liable to seven years' imprisonment:

Punishment.

Exceptions.

2. Nothing in this section contained shall extend to,—

Marriage by an alien out of Canada.

(a) Any second marriage contracted elsewhere than in Canada by any other than a subject of Her Majesty resident in Canada and leaving the same with intent to commit the offence;

(b) Any person marrying a second time whose husband or wife has been continually absent from such person for the space of seven years then last past, and who was not known by such person to be living within that time ; ^{Absence for seven years.}

(c) Any person who, at the time of such second marriage, was divorced from the bond of the first marriage ; or— ^{Divorce.}

(d) Any person whose former marriage has been declared void by the sentence of any court of competent jurisdiction. ^{Former marriage annulled.}
32-33 V., c. 20, s. 58, *part.*

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
C. S. U. C., c. 102. R. S. N. S., (3rd S.), c. 161 1 R. S. N. S., c. 146. R. S. E. C., c. 89, 32-33 V., c. 20...	ss. 1 and 2, and 3 and 4, parts. s. 3. ss. 2 and 3, part. s. 14. s. 58, part.	ss. 3 and 4, parts.		

CHAPTER 156.

An Act respecting Offences against the Person.

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

Interpretation.
“Loaded arms.”

1. In this Act, unless the context otherwise requires, the expression “loaded arms” includes any gun, pistol or other arm loaded in the barrel with gunpowder or other explosive substance, and ball, shot, slug or other destructive material, or charged with compressed air and having ball, shot, slug or other destructive material in the barrel, although the attempt to discharge the same fails. 32-33 V., c. 20, s. 18.

HOMICIDE.

Murder.

2. Every one who is convicted of murder shall suffer death as a felon. 32-33 V., c. 20, s. 1.

Conspiracy to murder.

3. Every one who,—

(a) Conspires, confederates or agrees with any person to murder any other person, whether the person intended to be murdered is a subject of Her Majesty or not, or is within the Queen’s dominions or not, or—

Proposal to murder.

(b) Solicits, encourages, persuades, endeavors to persuade or proposes to any person to murder any other person, whether the person whose murder is solicited, encouraged or attempted to be procured is a subject of Her Majesty or not, or within the Queen’s dominions or not,—

Is guilty of a misdemeanor, and liable to ten years’ imprisonment. 32-33 V., c. 20, s. 3.

Accessory after the fact.

4. Every accessory after the fact to murder is liable to imprisonment for life. 32-33 V., c. 20, s. 4.

Manslaughter.

5. Every one who is convicted of manslaughter is liable to imprisonment for life, or to pay such fine as the court awards, in addition to or without any such imprisonment. 32-33 V., c. 20, s. 5.

Excusable homicide.

6. No punishment or forfeiture shall be incurred by any person who kills another by misfortune, or in his own defence, or in any other manner without felony. 32-33 V., c. 20, s. 7.

7. Every offence which, before the abolition of the crime of petit treason, would have amounted to petit treason, shall be deemed to be murder only, and no greater offence. 32-33 V., c. 20, s. 8, *part.* Petit treason.

ATTEMPTS TO MURDER.

8. Every one who, with intent to commit murder, administers, or causes to be administered, or to be taken by any person, any poison or other destructive thing, or by any means whatsoever, wounds or causes any grievous bodily harm to any person, is guilty of felony, and liable to imprisonment for life. 40 V., c. 28, s. 1. Attempt to murder.

9. Every one who, by the explosion of gunpowder or other explosive substance, destroys or damages any building, with intent to commit murder, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 20, s. 11. Damaging building with intent to murder.

10. Every one who, with intent to commit murder, sets fire to any ship or vessel, or any part thereof, or any part of the tackle, apparel or furniture thereof, or any goods or any chattels being therein, or casts away or destroys any ship or vessel, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 20, s. 12. Setting fire to &c., a ship with intent to murder.

11. Every one who, with intent to commit murder, attempts to administer to, or attempts to cause to be administered to, or to be taken by any person, any poison or other destructive thing, or shoots at any person, or by drawing a trigger or in any other manner, attempts to discharge any kind of loaded arms at any person, or attempts to drown, suffocate or strangle any person, whether any bodily injury is effected or not, is guilty of felony, and is liable to imprisonment for life. 32-33 V., c. 20, s. 13. Attempts to poison, shoot, drown, &c., any person with intent to murder.

12. Every one who, by any means other than those specified in any of the preceding sections of this Act, attempts to commit murder, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 20, s. 14. Attempting murder by any other means.

ACTS CAUSING BODILY HARM OR DANGEROUS TO LIFE.

13. Every one who, with intent to maim, disfigure or disable any person, or to do some other grievous bodily harm to any person, or with intent to resist or prevent the lawful apprehension or detainer of any person, unlawfully and maliciously, by any means whatsoever, wounds or causes any grievous bodily harm to any person, or shoots at any person, or, by drawing a trigger, or in any other manner, attempts to discharge any kind of loaded arms at any person, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 20, s. 17. Attempts to maim, disfigure, &c.

Inflicting injuries with or without a weapon.

14. Every one who unlawfully and maliciously wounds or inflicts any grievous bodily harm upon any other person, either with or without any weapon or instrument, is guilty of a misdemeanor, and liable to three years' imprisonment. 32-33 V., c. 20, s. 19, *part*.

Attempt to choke, &c., with intent to commit an indictable offence.

15. Every one who, with intent thereby to enable himself or any other person to commit, or with intent thereby to assist any other person in committing any indictable offence, or by any means whatsoever, attempts to choke, suffocate or strangle any other person, or by any means calculated to choke, suffocate or strangle, attempts to render any other person insensible, unconscious or incapable of resistance, is guilty of felony, and liable to imprisonment for life, *and to be whipped*. 32-33 V., c. 20, s. 20.

Administering chloroform, &c., with like intent.

16. Every one who, with intent thereby to enable himself or any other person to commit, or with intent thereby to assist any other person in committing any indictable offence, unlawfully applies or administers to, or causes to be taken by, or attempts to apply or administer to, or attempts or causes to be administered to or taken by any person, any chloroform, laudanum or other stupefying or overpowering drug, matter or thing, is guilty of felony, and liable to imprisonment for life, *and to be whipped*. 32-33 V., c. 20, s. 21.

Administering poison so as to endanger life, &c.

17. Every one who unlawfully and maliciously administers to, or causes to be administered to or taken by any other person, any poison or other destructive or noxious thing, so as thereby to endanger the life of such person, or so as thereby to inflict upon such person any grievous bodily harm, is guilty of felony, and liable to ten years' imprisonment. 32-33 V., c. 20, s. 22.

Administering poison with intent to injure or annoy.

18. Every one who unlawfully and maliciously administers to, or causes to be administered to or taken by any other person, any poison or other destructive or noxious thing, with intent to injure, aggrieve or annoy such person, is guilty of a misdemeanor, and liable to three years' imprisonment. 32-33 V., c. 20, s. 23.

Failing, when liable, to provide food, &c., whereby life is endangered.

19. Every one who, being legally liable, either as a husband, parent, guardian, or committee, master or mistress, nurse or otherwise, to provide for any person as wife, child, ward, lunatic or idiot, apprentice or servant, infant or otherwise, necessary food, clothing or lodging, wilfully and without lawful excuse, refuses or neglects to provide the same, or unlawfully or maliciously does, or causes to be done, any bodily harm to any such apprentice or servant, so that the life of such apprentice or servant is endangered, or the health of such apprentice or servant has been, or is likely

to be, permanently injured, is guilty of a misdemeanor, and liable to three years' imprisonment. 32-33 V., c. 20, s. 25.

20. Every one who unlawfully abandons or exposes any child, being under the age of two years, whereby the life of such child is endangered, or the health of such child has been, or is likely to be, permanently injured, is guilty of a misdemeanor, and liable to three years' imprisonment. 32-33 V., c. 20, s. 26.

Exposing children.

21. Every one who, unlawfully and maliciously, by the explosion of gunpowder or other explosive substance, burns, maims, disfigures, disables or does any grievous bodily harm to any person, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 20, s. 27.

Causing bodily injury by explosives.

22. Every one who, with intent to burn, maim, disfigure or disable any person, or to do some grievous bodily harm to any person, unlawfully and maliciously causes any gunpowder or other explosive substance to explode, or sends or delivers to, or causes to be taken or received by any person any explosive substance, or any other dangerous or noxious thing, or puts or lays at any place, or casts or throws at or upon, or otherwise applies to any person, any corrosive fluid, or any destructive or explosive substance, and whether any bodily harm is effected or not, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 20, s. 28.

Causing explosion, sending explosives and throwing corrosive substances.

23. Every one who unlawfully and maliciously places or throws in, into, upon, against or near any building, ship or vessel, any gunpowder or other explosive substance, with intent to do any bodily injury to any person, whether or not any explosion takes place, and whether or not any bodily injury is effected, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 20, s. 29.

Placing explosive near a building or vessel.

24. Every one who sets or places, or causes to be set or placed, any spring-gun, man-trap, or other engine calculated to destroy human life or inflict grievous bodily harm, with the intent that the same or whereby the same may destroy or inflict grievous bodily harm, upon any trespasser or other person coming in contact therewith, is guilty of a misdemeanor, and liable to three years' imprisonment :

Setting spring guns, &c.

2. Every one who knowingly and wilfully permits any such spring-gun, man-trap or other engine which has been set or placed by some other person, in any place which is, or afterwards comes into his possession or occupation, to continue so set or placed, shall be deemed to have set or placed such gun, trap or engine, with such intent as aforesaid :

Allowing spring gun, &c., to remain so set.

As to traps for
vermin.

3. Nothing in this section contained shall extend to make it illegal to set or place any gin or trap such as is usually set or placed with the intent of destroying vermin. 32-33 V., c. 20, s. 30.

Placing ob-
stacles on a
railway or
removing
rails, &c.

25. Every one who, with intent to injure or to endanger the safety of any person travelling or being upon any railway, unlawfully and maliciously puts or throws upon or across such railway, any wood, stone, or other matter or thing, or unlawfully and maliciously takes up, removes or displaces any rail, railway switch, sleeper, or other matter or thing belonging to such railway, or injures or destroys any track, bridge or fence of such railway, or any portion thereof, or unlawfully and maliciously turns, moves or diverts any point or other machinery belonging to such railway, or unlawfully and maliciously makes or shows, hides or removes any signal or light upon or near to such railway, or unlawfully and maliciously does or causes to be done any other matter or thing, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 20, s. 31;—42 V., c. 9, s. 88, *part*, and s. 89;—44 V., c. 25, ss. 116, *part*, and 117.

Throwing
missiles at a
railway
carriage.

26. Every one who unlawfully and maliciously throws, or causes to fall or strike at, against, into or upon any engine, tender, carriage or truck used upon any railway, any wood, stone or other matter or thing, with intent to injure or endanger the safety of any person being in or upon such engine, tender, carriage or truck, or in or upon any other engine, tender, carriage or truck of any train, of which such first mentioned engine, tender, carriage or truck forms part, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 20, s. 32.

Doing any-
thing to
endanger per-
sons on a rail-
way.

27. Every one who, by any unlawful act, or by any wilful omission or neglect of duty, endangers or causes to be endangered the safety of any person conveyed or being in or upon a railway, or aids or assists therein, is guilty of a misdemeanor, and liable to imprisonment for any term less than two years. 32-33 V., c. 20, s. 33.

Injuring per-
sons by furious
driving.

28. Every one who, having the charge of any carriage or vehicle, by wanton or furious driving, or racing or other wilful misconduct, or by wilful neglect, does or causes to be done any bodily harm to any person whatsoever, is guilty of a misdemeanor, and liable to imprisonment for any term less than two years. 32-33 V., c. 20, s. 34.

Negligently
causing
bodily injury.

29. Every one who, by any unlawful act, or by doing negligently or omitting to do any act which it is his duty to do, causes grievous bodily injury to any other person, is guilty of a misdemeanor, and liable to imprisonment for any term less than two years. 32-33 V., c. 20, s. 35.

ASSAULTS.

30. Every one who assaults any person with intent to commit *any indictable offence*,—or assaults, resists or wilfully obstructs any revenue or peace officer, or any officer seizing trees, logs, timber or other products thereof, in the due execution of his duty, or any person acting in aid of such officer,—or assaults any person with intent to resist or prevent the lawful apprehension or detainer of himself, or of any other person for any offence,—or *assaults, resists or wilfully obstructs any person in the lawful execution of any process against any lands or goods, or in making any lawful distress or seizure, or with intent to rescue any goods taken under such process, distress or seizure*, is guilty of a misdemeanor, and liable to imprisonment for any term less than two years. 32-33 V., c. 20, s. 39 ;—43 V., c. 28, s. 65, *part* ;—46 V., c. 16, s. 6, *part*, and c. 17, s. 66, *part*.

Assault with intent to commit indictable offence and assaults on officers.

NOTE —This offence, so far as relates to certain revenue officers, is provided for by the Customs and Inland Revenue Acts, and a greater punishment imposed.

31. Every one who commits any assault which occasions actual bodily harm, is guilty of a misdemeanor, and liable to three years' imprisonment. 32-33 V., c. 20, s. 47, *part*.

Assault occasioning bodily harm.

32. Every one who commits a common assault is guilty of a misdemeanor, and liable, if convicted upon an indictment, to one year's imprisonment, and, on summary conviction, to a fine not exceeding twenty dollars and costs, or to two months' imprisonment, with or without hard labor. 32-33 V., c. 20, ss. 43, *part*, and 47, *part*.

Common assault.

RAPE.

33. Every one who commits the crime of rape is guilty of felony, and liable to suffer death as a felon, or to imprisonment for life, or for any term not less than seven years. 36 V., c. 50, s. 1, *part*.

Rape.

ABDUCTION AND DEFILEMENT OF WOMEN.

34. Every one who assaults any woman or girl with intent to commit rape is guilty of a misdemeanor, and liable to imprisonment for any term not exceeding seven years and not less than two years. 36 V., c. 50, s. 1, *part*.

Assault with intent to commit rape.

35. Every one who unlawfully and carnally knows and abuses any girl under the age of ten years, is guilty of felony, and liable to imprisonment for life or for any term not less than five years. 40 V., c. 28, s. 2.

Carnally knowing a girl under ten years of age.

36. Every one who unlawfully and carnally knows and abuses any girl above the age of ten years and under the

The same between the

ages of ten and twelve. age of twelve years is guilty of a misdemeanor, and liable to seven years' imprisonment. 32-33 V., c. 20, s. 52.

Attempts to commit such offence and indecent assault.

37. Every one who commits any indecent assault upon any female, or attempts to have carnal knowledge of any girl under twelve years of age, is guilty of a misdemeanor and liable to imprisonment for any term less than two years, and *to be whipped*. 32-33 V., c. 20, s. 53.

Abduction of a woman, against her will, from motives of lucre.

38. Every one who,—

(a) From motives of lucre, takes away or detains against her will, with intent to marry or carnally know her, or to cause her to be married or carnally known by any other person, any woman of any age who has any interest, whether legal or equitable, present or future, absolute, conditional or contingent in any real or personal estate, or who is a presumptive heiress or co-heiress or presumptive next of kin, or one of the presumptive next of kin to any one having such interest, or—

Abduction of a girl under age.

(b) Fraudulently allures, takes away or detains such woman, being under the age of twenty-one years, out of the possession and against the will of her father or mother, or of any other person having the lawful care or charge of her, with intent to marry or carnally know her, or to cause her to be married or carnally known by any other person,—

Punishment.

Is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 20, s. 54, *part*.

The remainder of the section is omitted, as the Commission is of opinion that the provisions are *ultra vires*.

Forcible abduction of any woman.

39. Every one who, by force, takes away or detains against her will any woman, of any age, with intent to marry or carnally know her, or to cause her to be married or carnally known by any other person, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 20, s. 55.

Abduction of a girl under sixteen years.

40. Every one who unlawfully takes or causes to be taken any unmarried girl, being under the age of sixteen years, out of the possession and against the will of her father or mother, or of any other person having the lawful care or charge of her, is guilty of a misdemeanor, and liable to imprisonment for any term less than two years. 32-33 V., c. 20, s. 56.

CHILD STEALING.

Taking away, enticing and detaining children.

41. Every one who,—

(a) Unlawfully, either by force or fraud, leads or takes away or decoys or entices away or detains any child under

the age of fourteen years, with intent to deprive any parent, guardian or other person having the lawful care or charge of such child, of the possession of such child, or with intent to steal any article upon or about the person of such child, to whomsoever such article belongs, or—

(b) With any such intent, receives or harbors any such child, knowing the same to have been, by force or fraud, led, taken, decoyed, enticed away or detained, as in this section before mentioned,— Receiving stolen child.

Is guilty of felony, and liable to seven years' imprisonment : Punishment.

2. No person who has, *in good faith*, claimed any right to the possession of such child, or is the mother, or has claimed to be the father of an illegitimate child, shall be liable to be prosecuted by virtue hereof on account of the getting possession of such child or taking such child out of the possession of any person having the lawful charge thereof. Persons preferring certain claims not liable to prosecution.
32-33 V., c. 20, s. 57.

KIDNAPPING.

42. Every one who, without lawful authority, forcibly seizes and confines or imprisons any other person within Canada, or kidnaps any other person with intent,— Seizing, confining, or imprisoning without lawful authority.

(a) To cause such other person to be secretly confined or imprisoned in Canada against his will,—

(b) To cause such other person to be unlawfully sent or transported out of Canada against his will, or—

(c) To cause such other person to be sold or captured as a slave, or in any way held to service against his will,—

Is guilty of felony, and liable to seven years' imprisonment : Punishment.

2. Upon the trial of any offence under this section, the non-resistance of the person so kidnapped or unlawfully confined thereto, shall not be a defence, unless it appears that it was not caused by threats, duress or force or exhibition of force. 32-33 V., c. 20, ss. 69 and 70. Non-resistance not a defence.

ABORTION.

43. Every woman, being with child, who, with the intent to procure her own miscarriage, unlawfully administers to herself any poison or other noxious thing, or unlawfully uses any instrument or other means whatsoever with the like intent, and— Administering drugs or using instruments to procure abortion.

Every one who, with intent to procure the miscarriage of any woman, whether she is or is not with child, unlawfully administers to her or causes to be taken by her any

CHAPTER 157.

An Act respecting Libel.

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

1. Every one who publishes or threatens to publish any libel upon any other person, or directly or indirectly threatens to print or publish, or proposes to abstain from printing or publishing of, or offers to prevent the printing or publishing of any matter or thing touching any other person, with intent to extort any money or security for money or any valuable thing, from such person or from any other person, or with intent to induce any person to confer upon or procure for any person any appointment or office of profit or trust, is guilty of a misdemeanor, and liable to a fine not exceeding six hundred dollars, or to imprisonment for any term less than two years, or to both. 37 V., c. 38, s. 1, *part.*

Publishing or threatening to publish any matter with intent to extort money.

2. Every one who maliciously publishes any defamatory libel, knowing the same to be false, is guilty of a misdemeanor, and liable to a fine not exceeding four hundred dollars, or to imprisonment for any term less than two years, or to both. 37 V., c. 38, s. 2.

Publishing defamatory libel knowing it to be false.

3. Every one who maliciously publishes any defamatory libel is guilty of a misdemeanor, and liable to a fine not exceeding two hundred dollars, or to imprisonment for any term not exceeding one year, or to both. 37 V., c. 38, s. 3.

Publishing any defamatory libel.

4. It shall, if pleaded, be a defence to an indictment or information for a defamatory libel, that the defamatory matter was true, and that it was for the public benefit that such matter should be published. 37 V., c. 38, ss. 5 and 6, *parts.*

Truth of defamatory matter a defence.

5. Whenever, upon the trial of any indictment or information for the publication of a defamatory libel, to which a plea of not guilty has been pleaded, evidence is given which establishes against the defendant a presumptive case of publication by his authority, by the act of any other person, the defendant may prove, and, if proved, it shall be a good defence, that such publication was made without his authority, consent or knowledge, and that such publication did not arise from want of due care or caution on his part. 37 V., c. 38, s. 10.

Evidence by defendant of the publication having been without his authority.

6. Every person against whom any criminal proceedings are commenced or prosecuted in any manner for or on account of or in respect of the publication of any report,

Publication by order of a Legislative body may be pleaded.

paper, votes or proceedings, by such person or by his servant, by or under the authority of any Legislative Council, Legislative Assembly or House of Assembly, 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 in such proceedings, or to his attorney or solicitor, a certificate under the hand of the speaker or clerk of any Legislative Council, Legislative Assembly or House of Assembly, as the case may be, stating that the report, paper, votes or proceedings, as the case may be, in respect whereof such 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 any Legislative Council, Legislative Assembly or House of Assembly, as the case may be, together with an affidavit verifying such certificate; and such court or judge shall thereupon immediately stay such criminal proceedings, and the same shall be and shall be deemed and taken to be finally put an end to, determined and superseded by virtue hereof. 24 V. (P. E.I.), c. 31, s. 1.

Certificate to be produced.

Its effect.

Copy of report &c., with affidavit of correctness may be laid before the court.

7. In case of any criminal proceedings hereafter 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 criminal proceedings, and the same shall be and shall be deemed to be finally put an end to, determined and superseded by virtue hereof. 24 V. (P.E.I.), c. 31, s. 2.

In prosecution for publishing extract, report, &c., may be given in evidence.

8. In any 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 fide* and without malice, and if such is the opinion of the jury, a verdict of not guilty shall be entered for the defendant. 24 V. (P.E.I.), c. 31, s. 3.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
37 V., c. 38	ss. 1 (part), 2, 3, 5 (part), 6 (part) and 10.	s. 1 (part) and s. 14.	Remainder.....	Procedure.
24 V. (P.E.I.), c. 31.	ss. 1, 2 and 3. so far as relates to Criminal Proceedings.			

CHAPTER 158.

An Act respecting Larceny and similar Offences.

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 Larceny Act.*"
New.

Short title.

INTERPRETATION.

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

(a) The expression "document of title to goods" includes any bill of lading, India warrant, dock warrant, warehouse-keeper's certificate, warrant or order for the delivery or transfer of any goods or valuable thing, bought and sold note, or any other document used in the ordinary course of business as proof of the possession or control of goods, authorizing or purporting to authorize, either by indorsement or by delivery, the possessor of such document to transfer or receive any goods thereby represented or therein mentioned or referred to ;

"Document of title to goods."

(b) The expression "document of title to lands" includes any deed, map, paper or parchment, written or printed, or partly written and partly printed, being or containing evidence of the title, or any part of the title, to any real property, or to any interest in any real property, or any notarial or registrar's copy thereof, or any duplicate instrument, memorial, certificate or document authorized or required by any law in force in any part of Canada, respecting registration of titles, and relating to such title ;

"Document of title to lands."

(c) The expression "trustee" means a trustee on some express trust created by some deed, will or instrument in writing, or a trustee of personal property created by parol, and includes the heir or personal representative of any such trustee, and every other person upon or to whom the duty of such trust has devolved or come, and also an executor and administrator, and an official manager, assignee, liquidator or other like officer acting under any Act relating to joint stock companies, bankruptcy or insolvency, and any person who is, by the law of the Pro-

vince of Quebec, an "*administrateur*;" and the expression "trust," includes whatever is by that law an "*administration*;"

"Valuable security."

(d) The expression "valuable security" includes any order, exchequer acquittance or other security whatsoever, entitling or evidencing the title of any person or body corporate to any share or interest in any public stock or fund, whether of Canada or of any Province thereof, or of the United Kingdom, or of Great Britain or Ireland, or of any British colony or possession, or of any foreign state, or in any fund of any body corporate, company or society, whether within Canada or the United Kingdom, or any British colony or possession, or in any foreign state or country, or to any deposit in any savings bank or other bank, and also includes any debenture, deed, bond, bill, note, warrant, order or other security whatsoever, for money or for payment of money, whether of Canada or of any Province thereof, or of the United Kingdom, or of any British colony or possession, or of any foreign state, and any document of title to lands or goods as hereinbefore defined, and any stamp or writing which secures or evidences title to or interest in any chattel personal, or any release, receipt, discharge or other instrument evidencing payment of money, or the delivery of any chattel personal; and every such valuable security shall, where value is material, be deemed to be of value equal to that of such unsatisfied money, chattel personal, share, interest or deposit, for the securing or payment of which, or delivery or transfer or sale of which, or for the entitling or evidencing title to which, such valuable security is applicable, or to that of such money or chattel personal, the payment or delivery of which is evidenced by such valuable security;

"Property."

(e) The expression "property" includes every description of real and personal property, money, debts and legacies, and all deeds and instruments relating to or evidencing the title or right to any property, or giving a right to recover or receive any money or goods,—and also not only such property as was originally in the possession or under the control of any person, but also any property into or for which the same has been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise,—and also any postal card, postage stamp or other stamp issued or prepared for issue by the authority of the Parliament of Canada, or of the Legislature of any Province of Canada, for the payment of any fee, rate or duty whatsoever, and whether still in the possession of the Crown, or of any person or corporation, or of any officer or agent of the Government of Canada, or of the Province by the authority of the Legislature whereof it

was issued or prepared for issue; and such postal card or stamp shall be held to be a chattel, and to be equal in value to the amount of the postage, rate or duty which can be paid by it, and is expressed on its face in words or figures, or both;

(f) The expression "cattle" includes any horse, mule, ass, swine, sheep or goat, as well as any neat cattle or animal of the bovine species, and whatever is the age or sex of the animal, and whether castrated or not, and by whatever technical or trivial name it is known and shall apply to one animal as well as to many; "Cattle."

(g) The expression "banker" includes any director of any incorporated bank or banking company; "Banker."

(h) The expression "writing" includes any mode in which and any material on which words or figures at length or abridged are written, printed or otherwise expressed, or any map or plan is inscribed; "Writing."

(i) The expression "testamentary instrument" includes any will, codicil or any other testamentary writing or appointment, as well during the life of the testator whose testamentary disposition it purports to be, as after his death, whether the same relates to real or personal property, or both; "Testamentary instrument."

(j) The expression "municipality" includes the corporation of any city, town, village, township, parish or other territorial or local division of any Province of Canada, the inhabitants whereof are incorporated or have the right of holding property for any purpose; "Municipality."

(k) The night shall, for the purpose of this Act, be deemed to commence at nine of the clock in the evening of each day, and to conclude at six of the clock in the morning of the next succeeding day, and the day shall include the remainder of the twenty-four hours; "Night."

(l) Whenever the having anything in the possession of any person is in this Act expressed to be an offence, then if any person has any such thing in his personal custody or possession, or knowingly or wilfully has any such thing in any dwelling-house or other building, lodging, apartment, field or other place, open or enclosed, whether belonging to or occupied by himself or not, and whether such matter or thing is, so had for his own use or benefit or for that of another, such person shall be deemed to have such matter or thing in his custody or possession within the meaning of this Act, and if there are two or more persons, any one or more of whom, with the knowledge Having in custody or possession.

and consent of the rest, has any such thing in his or their custody or possession, it shall be deemed and taken to be in the custody and possession of all of them. 32-33 V., c. 21, s. 1;—35 V., c. 33, s. 1, *part*;—40 V., c. 29, s. 1.

SIMPLE LARCENY.

All larcenies to be of the same nature.

3. Every larceny, whatever is the value of the property stolen, shall be deemed to be of the same nature, and shall be subject to the same incidents in all respects as grand larceny was before the distinction between grand and petit larceny was abolished. 32-33 V., c. 21, s. 2.

Bailee fraudulently converting property, guilty of larceny.

4. Every one who, being a bailee of any chattel, money or valuable security, fraudulently takes or converts the same to his own use or to the use of any person other than the owner thereof, although he does not break bulk or otherwise determine the bailment, is guilty of larceny, and may be convicted thereof upon an indictment for larceny; but this section shall not extend to any offence punishable on summary conviction. 32-33 V., c. 21, s. 3.

Punishment for simple larceny.

5. Every one who commits simple larceny or any felony hereby made punishable in the same manner as simple larceny, is guilty of a felony, and, except in the cases hereinafter otherwise provided for, is liable to seven years' imprisonment. 32-33 V., c. 21, s. 4;—40 V., c. 29, s. 3.

Larceny after a conviction for felony.

6. Every one who, having been convicted either summarily or upon indictment of a felony, commits the offence of simple larceny, is guilty of felony, and liable to ten years' imprisonment. 32-33 V., c. 21, s. 7.

NOTE.—In view of 40 V., c. 29, ss. 8 and 9 are omitted as unnecessary.

STEALING CATTLE, ETC.

Stealing cattle.

7. Every one who steals any cattle is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 21, s. 10.

Killing animals with intent to steal the carcass, &c.

8. Every one who wilfully kills any animal, with intent to steal the carcass, skin or any part of the animal so killed, is guilty of felony, and liable to the same punishment as if he had been convicted of feloniously stealing the same, provided the offence of stealing the animal so killed would have amounted to felony. 32-33 V., c. 21, s. 11.

Stealing dogs, beasts or birds ordinarily kept in confinement and not subjects of

9. Every one who steals any dog, or any bird, beast or other animal ordinarily kept in a state of confinement or for any domestic purpose, or for any lawful purpose of profit or advantage, not being the subject of larceny at common law, or wilfully kills any such dog, bird, beast or

animal, with intent to steal the same, or any part thereof, shall, on summary conviction, be liable to a penalty not exceeding twenty dollars over and above the value of the dog, bird, beast or other animal, or to one month's imprisonment with hard labor : larceny at common law.

2. Every one who, having been convicted of any such offence either against this or any other Act or law, afterwards commits any offence in this section mentioned, is liable to three months' imprisonment with hard labor. 32-33 V., c. 21, s. 12. Second offence.

10. Every one who unlawfully and wilfully kills wounds, or takes any house-dove or pigeon under such circumstances as do not amount to larceny at common law, shall, on summary conviction, be liable to a penalty not exceeding ten dollars over and above the value of the bird. 32-33 V., c. 21, s. 13. Killing or taking pigeons.

11. Every one who steals any oysters or oyster brood from any oyster bed, laying or fishery, being the property of any other person, and sufficiently marked out or known as such, is guilty of felony, and liable to be punished as in the case of simple larceny : Stealing oysters or oyster brood.

2. Every one who unlawfully and wilfully uses any dredge or net, instrument or engine whatsoever, within the limits of any oyster bed, laying or fishery, being the property of any other person, and sufficiently marked out or known as such, for the purpose of taking oysters or oyster brood, although none are actually taken, or unlawfully and wilfully with any net, instrument or engine, drags upon the ground of any such fishery, is guilty of a misdemeanor, and liable to three months' imprisonment : Unlawfully dredging in an oyster fishery.

3. Nothing in this section contained shall prevent any person from fishing for or catching any floating fish within the limits of any oyster fishery with any net, instrument or engine adapted for taking floating fish only. 32-33 V., c. 21, s. 14, *part.* As to floating fish.

STEALING WRITTEN INSTRUMENTS.

12. Every one who steals or, for any fraudulent purpose, destroys, cancels, obliterates or conceals the whole or any part of any valuable security, other than a document of title to lands, is guilty of felony, of the same nature, and in the same degree, and punishable in the same manner as if he had stolen any chattel, of like value as the share interest or deposit to which the security so stolen relates, or as the money due on the security so stolen or secured thereby and remaining unsatisfied, or as the value of Stealing, destroying &c., valuable security.

the goods or other valuable thing represented, mentioned or referred to in or by the security. 32-33 V., c. 21, s. 15.

Deeds, &c.,
relating to
real property.

13. Every one who steals or, for any fraudulent purpose, destroys, cancels, obliterates or conceals the whole or any part of any document of title to lands, is guilty of felony, and liable to three years' imprisonment. 32-33 V., c. 21, s. 16, *part.*

Wills or codi-
cils.

14. Every one who, either during the life of the testator or after his death, steals or, for any fraudulent purpose, destroys, cancels, obliterates or conceals the whole or any part of any will, codicil or other testamentary instrument, whether the same relates to real or personal property, or to both, is guilty of felony, and liable to imprisonment for life :

Other reme-
dies not
affected.

2. Nothing in this or the next preceding section mentioned, and no proceeding, conviction or judgment had or taken thereupon, shall prevent, lessen or impeach any remedy at law or in equity, which any person aggrieved by any such offence might or would have had if this Act had not been passed :

As to the
effect of con-
viction in any
civil action :
and as to dis-
closures un-
der compul-
sory process.

3. No conviction of any such offender shall be received in evidence in any action or suit against him ; and no person shall be liable to be convicted of any of the felonies in this and the next preceding section mentioned by any evidence whatever, in respect of any act done by him, if he has, at any time previously to his being charged with such offence, first disclosed such act, on oath, in consequence of any compulsory process of any court, in any action, suit or proceeding *bonâ fide* instituted by any person aggrieved, or if he has first disclosed the same in any compulsory examination or deposition before any court upon the hearing of any matter in bankruptcy or insolvency. 32-33 V., c. 21, s. 17, *part.*

Stealing, des-
troying, &c.,
records or
other legal
documents.

15. Every one who steals or, for any fraudulent purpose, takes from its place of deposit, for the time being, or from any person having the custody thereof, or unlawfully and maliciously cancels, obliterates, injures or destroys the whole or any part of any record, writ, return, affirmation, recognizance, *cognovit actionem*, bill, petition, answer, decree, panel, process, interrogatory, deposition, affidavit, rule, order or warrant of attorney, or of any original document whatsoever, of or belonging to any court of justice, or relating to any cause or matter, begun, depending or terminated in any such court, or of any original document in anywise relating to the business of any office or employment under Her Majesty, and being or remaining in any office appertaining to any court of justice, or in any government or public office, is

guilty of felony, and liable to three years' imprisonment. 32-33 V., c. 21, s. 18, *part*.

16. Every one who steals any railway or steam-boat ticket, or any order or receipt for a passage on any railway or in any steamer or other vessel, is guilty of felony, and liable to imprisonment for any term less than two years. 32-33 V., c. 21, s. 19. Stealing railway tickets, &c.

STEALING THINGS ATTACHED TO OR GROWING ON LAND.

17. Every one who steals, or rips, cuts, severs or breaks, with intent to steal, any glass or woodwork belonging to any building whatsoever, or any lead, iron, copper, brass or other metal, or any utensil or fixture, whether made of metal or other material, or of both, respectively fixed in or to any building whatsoever, or anything made of metal fixed in any land, being private property, or for a fence to any dwelling-house, garden or area, or in any square or street, or in any place dedicated to public use or ornament, or in any burial ground, is guilty of felony, and liable to be punished as in the case of simple larceny. 32-33 V., c. 21, s. 20, *part*. Metal, glass, wood, &c., fixed to house or land.

18. Every one who steals, or cuts, breaks, roots up or otherwise destroys or damages, with intent to steal, the whole or any part of any tree, sapling or shrub, or any underwood, respectively growing in any park, pleasure ground, garden, orchard or avenue, or in any ground adjoining or belonging to any dwelling-house (in case the value of the article or articles stolen or the amount of the injury done exceeds the sum of five dollars), is guilty of felony, and liable to be punished as in the case of simple larceny : Trees in pleasure grounds of the value of five dollars.

2. Every one who steals, or cuts, breaks, roots up or otherwise destroys or damages, with intent to steal, the whole or any part of any tree, sapling or shrub, or any underwood, respectively growing elsewhere than in any of the situations in this section before mentioned (if the value of the article or articles stolen, or the amount of the injury done, exceeds the sum of twenty-five dollars), is guilty of felony, and liable to be punished as in the case of simple larceny. 32-33 V., c. 21, s. 21. Trees elsewhere of the value of twenty-five dollars.

19. Every one who steals, or cuts, breaks, roots up or otherwise destroys or damages, with intent to steal, the whole or any part of any tree, sapling or shrub, or any underwood, wheresoever the same is respectively growing (the stealing of such article, or the injury done, being to the amount of twenty-five cents at the least), shall, on summary conviction, be liable to a penalty not exceeding Trees worth twenty-five cents.

twenty-five dollars over and above the value of the article stolen or the amount of the injury done :

Second offence.

2. Every one who, having been convicted of any such offence, either against this or any other Act or law, afterwards commits any of the said offences in this section before mentioned, shall, on summary conviction, be liable to three months' imprisonment with hard labor :

Third offence.

3. Every one who, having been twice convicted of any such offence (whether both or either of such convictions have taken place before or after the passing of this Act), afterwards commits any of the offences in this section before mentioned is guilty of felony, and liable to be punished as in the case of simple larceny. 32-33 V., c. 21, s. 22.

Purchasing or receiving stolen trees.

20. Every one who receives or purchases any tree or sapling, or any timber made therefrom, exceeding in value the sum of ten dollars, knowing the same to have been stolen or unlawfully cut or carried away, is guilty of a misdemeanor, and liable to the same punishment as the principal offender,—and may be indicted and convicted thereof, whether the principal offender has or has not been convicted, or is or is not amenable to justice :

Other remedies saved.

2. Nothing in this or in either of the two sections next preceding contained, and no proceeding, conviction or judgment had or taken thereupon, shall prevent, lessen or impeach any remedy which any person aggrieved by any of the said offences would have had if this Act had not been passed ; nevertheless, the conviction of the offender shall not be received in evidence in any action or suit against him ; and no person shall be convicted of either of the offences aforesaid, by any evidence disclosed by him on oath, in consequence of the compulsory process of a court, in any action, suit or proceeding instituted by any person aggrieved. 32-33 V., c. 21, s. 23.

Effect of conviction in civil suits and of disclosures under process.

Stealing, &c., any live or dead fences, wooden fence, stile or gate.

21. Every one who steals, cuts or breaks or throws down, with intent to steal, any part of any live or dead fence, or any wooden post, pale, wire or rail set up or used as a fence, or any stile or gate, or any part thereof respectively, shall, on summary conviction, be liable to a penalty not exceeding twenty dollars, over and above the value of the article or articles so stolen or the amount of the injury done :

Second offence.

2. Every one who, having been convicted of any such offence, either against this or any other Act or law, afterwards commits any of the said offences in this section mentioned, shall, on summary conviction, be liable to three

months' imprisonment with hard labor. 32-33 V., c. 21, s. 24.

22. Every one who, having in his possession, or on his premises with his knowledge, the whole or any part of any tree, sapling or shrub, or any underwood, or any part of any live or dead fence, or any post, pale, wire, rail, stile or gate, or any part thereof, of the value of twenty-five cents at the least, is taken or summoned before a justice of the peace, and does not satisfy such justice that he came lawfully by the same, shall, on summary conviction, be liable to a penalty not exceeding ten dollars, over and above the value of the article so in his possession or on his premises. 32-33 V., c. 21, s. 25.

Suspected persons in possession of any wood, &c. not satisfactorily accounting for it.

23. Every one who steals or destroys, or damages with intent to steal, any plant, root, fruit or vegetable production growing in any garden, orchard, pleasure ground, nursery ground, hot-house, green-house or conservatory, shall, on summary conviction, be liable to a penalty not exceeding twenty dollars, over and above the value of the article so stolen or the amount of the injury done, or to one month's imprisonment, with or without hard labor:

Stealing, destroying or damaging with intent to steal any fruit, &c.

2. Every one who, having been convicted of any such offence, either against this or any other Act or law, afterwards commits any of the offences in this section mentioned, is guilty of felony, and liable to be punished as in the case of simple larceny. 32-33 V., c. 21, s. 26.

Second offence.

24. Every one who steals or destroys, or damages, with intent to steal, any cultivated root or plant used for the food of man or beast, or for medicine, or for distilling, or for dyeing, or for or in the course of any manufacture, and growing in any land, open or enclosed, not being a garden, orchard, pleasure ground, or nursery ground, shall, on summary conviction, be liable to a penalty not exceeding five dollars, over and above the value of the article so stolen or the amount of the injury done, or to one month's imprisonment with hard labor:

Stealing, &c., vegetable productions not growing in gardens, &c.

2. Every one who, having been convicted of any such offence, either against this or any other Act or law, afterwards commits any of the offences in this section mentioned, is liable to three months' imprisonment with hard labor. 32-33 V., c. 21, s. 27.

Second offence.

STEALING ORES OR MINERALS.

25. Every one who steals, or severs with intent to steal, ore of any metal, or any quartz, lapis calaminaris, manganese, or mundic, or any piece of gold, silver or other metal,

Stealing ores of metal, coal, &c.

or any wad, black cawlk, or black lead, or any coal, or cannel coal, or any marble, stone or other mineral, from any mine, bed or vein thereof respectively, is guilty of felony, and liable to imprisonment for any term less than two years :

Exceptions as to scientific investigations.

2. No person shall be deemed guilty of any offence for having, for the purposes of exploration or scientific investigation, taken any specimen or specimens of any ore or mineral from any piece of ground unenclosed and not occupied or worked as a mine, quarry or digging. 32-33 V., c. 21, s. 28.

Miners removing ore, &c., with intent to defraud.

26. Every one who, being employed in or about any mine, quarry or digging, takes, removes or conceals any ore of any metal, or any quartz, lapis calaminaris, manganese, mundic, or any piece of gold, silver or other metal, or any mineral found or being in such mine, quarry or digging, with intent to defraud any proprietor of, or any adventurer in the same, or any workman or miner employed therein, is guilty of felony, and liable to imprisonment for any term less than two years. 32-33 V., c. 21, s. 29.

Concealing royalty, with intent to defraud.

27. Every one who, being the holder of any lease or license issued under the provisions of any Act relating to gold or silver mining, or by any persons owning land supposed to contain any gold or silver, by any fraudulent device or contrivance, defrauds or attempts to defraud Her Majesty, or any person, of any gold, silver or money payable or reserved by such lease, or with such intent as aforesaid, conceals or makes a false statement as to the amount of gold or silver procured by him, is guilty of a misdemeanor, and liable to imprisonment for any term less than two years. 32-33 V., c. 21, s. 30.

Selling or purchasing without permission quartz, &c., containing gold or silver.

28. Every one who, not being the owner or agent of mining claims then being worked, and not being thereunto authorized in writing by the proper officer in that behalf, named in any Act relating to mines in force in any Province of Canada, sells or purchases (except to or from such owner or authorized person) any quartz containing gold, or any smelted gold or silver, at or within three miles of any gold district or mining district, or gold mining division, is guilty of a misdemeanor, and liable to imprisonment for any term less than two years. 32-33 V., c. 21, s. 31.

Purchasing gold in quartz, or smelted, &c., without giving a proper receipt for it.

29. Every one who purchases any gold in quartz, or any unsmelted or smelted gold or silver, or otherwise unmanufactured gold or silver, of the value of one dollar or upwards (except from such owner or authorized person as in the next preceding section mentioned) and does not, at the same time, execute in triplicate an instrument in writing, stating the

place and time of purchase, and the quantity, quality and value of gold or silver so purchased, and the name or names of the person or persons from whom the same was purchased, and file the same *with the officer in the next preceding section mentioned*, within twenty days next after the date of such purchase, is guilty of a misdemeanor, and liable to a penalty not exceeding in amount double the value of the gold or silver purchased, and to imprisonment for any term less than two years. 32-33 V., c. 21, s. 32.

30. The possession, contrary to the provisions of any law in that behalf of any smelted gold or silver, or any gold-bearing quartz, or any unsmelted or otherwise unmanufactured gold or silver, by any operative, workman or laborer actively engaged in or on any mine, is *primâ facie* evidence that the same has been stolen by him. 32-33 V., c. 21, s. 35.

Possession to be *primâ facie* evidence in certain cases.

31. Every one who, with intent to defraud his co-partner, co-adventurer, joint tenant or tenant in common, in any claim, or in any share or interest in any claim, secretly keeps back or conceals any gold or silver found in or upon or taken from such claim, is guilty of felony, and liable to be punished as in the case of simple larceny. 32-33 V., c. 21, s. 37.

Defrauding partners.

STEALING FROM THE PERSON, AND OTHER LIKE OFFENCES.

32. Every one who robs any person, or steals any chattel, money or valuable security from the person of another, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 21, s. 39.

Robbery, or stealing from the person.

33. Every one who assaults any person with intent to rob, is guilty of felony, and, except in cases where a greater punishment is provided by this Act, liable to three years' imprisonment. 32-33 V., c. 21, s. 41.

Assault with intent to rob.

34. Every one who, being armed with an offensive weapon or instrument, robs, or assaults with intent to rob, any person, or together with one or more other person or persons, robs, or assaults with intent to rob any person, or robs any person, and at the time of, or immediately before, or immediately after such robbery, wounds, beats, strikes or uses any other personal violence to any person, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 21, s. 42.

Robbery or assault by a person armed, or by two or more, or robbery and wounding.

BURGLARY AND HOUSE-BREAKING.

35. Every one who breaks and enters any church, chapel, meeting-house or other place of divine worship, and com-

Breaking and entering a church, &c.,

and committing a felony. mits any felony therein, or being in any church, chapel, meeting-house or other place of divine worship, commits any felony therein and breaks out of the same, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 21, s. 49.

What building within curtilage to be deemed part of dwelling-house. **36.** No building, although within the same curtilage with any dwelling-house, and occupied therewith, shall be deemed to be part of such dwelling-house for any of the purposes of this Act, unless there is a communication between such building and dwelling-house, either immediate or by means of a covered and inclosed passage leading from the one to the other. 32-33 V., c. 21, s. 52.

Burglary. **37.** Every one who enters the dwelling-house of another with intent to commit any felony therein, or being in such dwelling-house, commits any felony therein, and, in either case, breaks out of such dwelling-house in the night, is guilty of burglary. 32-33 V., c. 21, s. 50.

Punishment for burglary. **38.** Every one who commits the crime of burglary is liable to imprisonment for life. 32-33 V., c. 21, s. 51.

Entering in the night with intent to commit felony. **39.** Every one who enters any dwelling-house in the night, with intent to commit any felony therein, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 21, s. 53.

Breaking into any building within the curtilage, and committing any felony. **40.** Every one who breaks and enters any building and commits any felony therein, such building being within the curtilage of a dwelling-house and occupied therewith, but not being part thereof, according to the provision herebefore mentioned, or being in any such building commits any felony therein and breaks out of the same, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 21, s. 54.

Breaking into any house, shop, &c., and committing any felony. **41.** Every one who breaks and enters any dwelling-house, school-house, shop, warehouse or counting-house, and commits any felony therein, or being in any dwelling-house, school-house, shop, warehouse or counting-house, commits any felony therein, and breaks out of the same, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 21, s. 55.

House breaking with intent to commit a felony. **42.** Every one who breaks and enters any dwelling-house, church, chapel, meeting-house or other place of divine worship, or any building within the curtilage, or school-house, shop, warehouse or counting-house, with intent to commit any felony therein, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 21, s. 56.

43. Every one who is found by night armed with any dangerous or offensive weapon or instrument whatsoever, with intent to break or enter into any dwelling-house or other building whatsoever, and to commit any felony therein, or is found by night having in his possession, without lawful excuse, the proof of which excuse shall lie on him, any picklock key, crow, jack, bit or other implement of house-breaking, or any match or combustible or explosive substance, or is found by night having his face blackened or otherwise disguised, with intent to commit any felony, or is found by night in any dwelling-house or other building whatsoever, with intent to commit any felony therein, is guilty of a misdemeanor, and liable to three years' imprisonment. 32-33 V., c. 21, s. 59.

Being armed or disguised, &c., with intent to break and enter any house in the night.

44. Every one who, having been convicted of any such misdemeanor as in the next preceding section mentioned, or of any felony, commits any such misdemeanor, is liable to ten years' imprisonment. 32-33 V., c. 21, s. 60.

The like after a previous conviction.

STEALING IN THE HOUSE.

45. Every one who steals in any dwelling-house any chattel, money or valuable security, to the value in the whole of twenty-five dollars or more, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 21, s. 61.

Stealing in a dwelling house to the value of twenty-five dollars.

46. Every one who steals any chattel, money or valuable security in any dwelling-house, and by any menace or threat puts any one therein in bodily fear, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 21, s. 62.

Stealing in a dwelling house with menaces.

STEALING IN MANUFACTORIES.

47. Every one who steals, to the value of two dollars, any woollen, linen, hempen or cotton yarn, or any goods or articles of silk, woollen, linen, cotton, alpaca or mohair, or of any one or more of such materials mixed with each other or mixed with any other material, whilst laid, placed or exposed, during any stage, process or progress of manufacture, in any building, field or other place, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 21, s. 63.

Stealing goods in process of manufacture.

48. Every one who, having been intrusted for the purpose of manufacture or for a special purpose connected with manufacture, or employed to make any felt or hat, or to prepare or work up any woollen, linen, fustian, cotton, iron, leather, fur, hemp, flax, silk or any such materials mixed with one another, or having been so intrusted, as

Stealing goods intrusted for manufacture.

aforesaid, with any other article, materials, fabric or thing, or with any tools or apparatus for manufacturing the same, sells, pawns, purloins, secretes, embezzles, exchanges or otherwise fraudulently disposes of the same, or any part thereof, when the offence is not within the next preceding section, is guilty of a misdemeanor, and liable to imprisonment for any term less than two years. 32-33 V., c. 21, s. 64.

STEALING FROM SHIPS, WHARVES, &C.

Stealing from ships, wharfs, &c.

49. Every one who steals any goods or merchandise in any vessel, barge or boat of any description whatsoever, in any haven or in any port of entry or discharge, or upon any navigable river or canal, or in any creek or basin belonging to or communicating with any such haven, port, river or canal, or steals any goods or merchandise from any dock, wharf or quay, adjacent to any such haven, port, river, canal, creek or basin, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 21, s. 65.

STEALING THINGS UNDER SEIZURE.

Stealing property under seizure.

50. Every one who, whether pretending to be the owner or not, secretly or openly, and whether with or without force or violence, takes or carries away, or causes to be taken or carried away, without lawful authority, any property under lawful seizure and detention, steals such property, and is guilty of felony and liable to be punished accordingly. 43 V., c. 28, s. 66, *part*;—46 V., c. 17, s. 67;—C. S. C., c. 23, s. 10.

STEALING OR EMBEZZLEMENT BY CLERKS, SERVANTS OR PERSONS IN THE PUBLIC SERVICE.

Larceny by clerks or servants.

51. Every one who, being a clerk or servant, or being employed for the purpose or in the capacity of a clerk or servant, steals any chattel, money or valuable security belonging to or in the possession or power of his master or employer, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 21, s. 69.

Embezzlement by clerks or servants.

52. Every one who, being a clerk or servant, or being employed for the purpose or in the capacity of a clerk or servant, fraudulently embezzles any chattel, money or valuable security, or any part thereof, delivered to or received or taken into possession by him, for or in the name or on the account of his master or employer, feloniously steals the same from his master or employer, although such chattel, money or security was not received into the possession of such master or employer, otherwise than by the actual possession of his clerk, servant or other person so employed, and is

liable to fourteen years' imprisonment. 32-33 V., c. 21, s. 70.

53. Every one who, being employed in the public service of Her Majesty, or of the Lieutenant Governor or government of any Province of Canada, or of any municipality, steals any chattel, money or valuable security belonging to or in the possession or power of Her Majesty, or of such Lieutenant Governor, government or municipality, or intrusted to or received or taken into possession by him by virtue of his employment, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 21, s. 71.

Larceny by persons in the Queen's service, or that of any Provincial Government, &c.

54. Every one who, being employed in the public service of Her Majesty, or of the Lieutenant Governor or government of any Province of Canada, or of any municipality, and intrusted, by virtue of such employment, with the receipt, custody, management or control of any chattel, money or valuable security, embezzles any chattel, money or valuable security intrusted to or taken into possession by him by virtue of his employment, or any part thereof, or in any manner fraudulently applies or disposes of the same, or any part thereof, to his own use or benefit, or for any purpose whatsoever except for the public service, or for the service of such Lieutenant Governor, government or municipality, feloniously steals the same from Her Majesty, or from such municipality, and is liable to fourteen years' imprisonment. 32-33 V., c. 21, s. 72, *part.*

Embezzlement by persons employed in the Queen's service, or that of any Provincial Government, &c.

55. Every one who, being employed in the public service of Her Majesty, or of the Lieutenant Governor or government of any Province of Canada, or of any municipality, and intrusted by virtue of such employment with the keeping, receipt, custody, management or control of any chattel, money, valuable security, book, paper, account or document, refuses or fails to deliver up the same to any one authorized to demand it, is guilty of a fraudulent embezzlement thereof, and liable to fourteen years' imprisonment :

Refusal by person so employed to deliver up moneys, &c.

2. Nothing herein shall affect any remedy of Her Majesty, of the municipality, or of any person against the offender or his sureties, or any other person, nor shall the conviction of such offender be receivable in evidence in any suit or action against him. 41 V., c. 7, s. 70, *part*;—C. S. C., c. 16, s. 40, *part*;—29-30 V. (Can.), c. 51, s. 187, *part.*

Other remedies not affected.

56. Every one who steals, or unlawfully or maliciously, either by violence or stealth, takes from any person having the lawful custody thereof, or from its lawful place of deposit for the time being, or aids, counsels or assists in so stealing or taking any writ of election, or any return to a

Stealing election documents.

writ of election, or any indenture, poll-book, voters' list, certificate, affidavit or report, or any document or paper made, prepared or drawn out according to or for the requirements of any law in regard to provincial, municipal or civic elections, is guilty of a felony, and liable to a fine, in the discretion of the court, or to seven years' imprisonment, or to both fine and imprisonment. 29-30 V. (Can.), c. 51, s. 188, *part*;—R. S. B. C., c. 157, ss. 99 and 100, *parts*.

STEALING BY TENANTS OR LODGERS.

Tenant or lodger stealing chattel or fixture let to hire.

57. Every one who steals any chattel or fixture let to be used by him, or her, in or with any house or lodging, whether the contract has been entered into by him or her, or by her husband, or by any person on behalf of him or her or her husband, is guilty of felony, and liable to imprisonment for any term less than two years, and if the value of such chattel or fixture exceeds the sum of twenty-five dollars, is liable to seven years' imprisonment. 32-33 V., c. 21, s. 75, *part*.

STEALING BY PARTNERS.

Stealing property of partnership.

58. Every one who, being a member of any co-partnership owning any money or other property, or being one of two or more beneficial owners of any money or other property, steals, embezzles or unlawfully converts the same or any part thereof to his own use, or that of any person other than the owner, is liable to be dealt with, tried, convicted and punished as if he had not been or were not a member of such co-partnership, or one of such beneficial owners. 32-33 V., c. 21, s. 38.

FRAUDS BY AGENTS, BANKERS OR FACTORS.

Stealing or embezzling by bank officer.

59. Every one who, being a cashier, assistant cashier, manager, officer, clerk or servant of any bank, or savings bank, secretes, embezzles or absconds with any bond, obligation, bill obligatory or of credit, or other bill or note, or any security for money, or any money or effects intrusted to him as such cashier, assistant cashier, manager, officer, clerk or servant, whether the same belongs to the bank or belongs to any person, body corporate, society or institution, and is lodged with such bank, is guilty of felony, and liable to imprisonment for life or for any term not less than two years. 34 V., c. 5, s. 60, and c. 7, s. 32.

Agent, &c., intrusted, converting money, &c., to his own use.

60. Every one who,—

(a) Having been intrusted, either solely or jointly with any other person, as a banker, merchant, broker, attorney or other agent, with any money or security for the payment

of money, with any direction in writing to apply, pay or deliver such money or security, or any part thereof respectively, or the proceeds or any part of the proceeds of such security, for any purpose, or to any person specified in such direction,—in violation of good faith and contrary to the terms of such direction, in anywise converts to his own use or benefit, or the use or benefit of any person other than the person by whom he has been so intrusted, such money, security or proceeds, or any part thereof respectively, or—

(b) Having been intrusted, either solely or jointly with any other person, as a banker, merchant, broker, attorney or other agent, with any chattel or valuable security, or any power of attorney for the sale or transfer of any share or interest in any public stock or fund, whether of the United Kingdom or any part thereof, or of Canada, or of any Province thereof, or of any British colony or possession, or of any foreign state, or in any stock or fund of any body corporate, company or society, for safe custody or for any special purpose, without any authority to sell, negotiate, transfer or pledge,—in violation of good faith, and contrary to the object or purpose for which such chattel, security or power of attorney has been intrusted to him, sells, negotiates, transfers, pledges, or in any manner converts to his own use or benefit, or the use or benefit of any person other than the person by whom he has been so intrusted, such chattel or security, or the proceeds of the same, or any part thereof, or the share or interest in the stock or fund to which such power of attorney relates, or any part thereof,—

Or any chattel, valuable security or power of attorney.

Is guilty of a misdemeanor, and liable to seven years' imprisonment : Punishment.

2. Nothing in this section contained relating to agents shall affect any trustee in or under any instrument whatsoever, or any mortgagee of any property, real or personal, in respect to any act done by such trustee or mortgagee in relation to the property comprised in or affected by any such trust or mortgage; nor shall restrain any banker, merchant, broker, attorney or other agent from receiving any money due or to become actually due and payable upon or by virtue of any valuable security, according to the tenor and effect thereof, in such manner as he might have done if this Act had not been passed; nor from selling, transferring, or otherwise disposing of any securities or effects in his possession, upon which he has any lien, claim or demand, entitling him by law so to do, unless such sale, transfer or other disposal extends to a greater number or part of such securities or effects than are requisite for satisfying such lien, claim or demand. 32-33 V., c. 21, s. 76.

Not to apply to trustees or mortgagees.

Nor to bankers, &c., receiving money due on securities.

Or disposing of securities on which they have a lien.

Bankers, &c.,
fraudulently
selling, &c.,
property in-
trusted to
their care.

61. Every one who, being a banker, merchant, broker, attorney or agent, and being intrusted, either solely or jointly with any other person, with the property of any other person for safe custody,—with intent to defraud, sells, negotiates, transfers, pledges or in any other manner converts or appropriates the same, or part thereof, to or for his own use or benefit, or the use or benefit of any person other than the person by whom he was so intrusted, is guilty of a misdemeanor, and liable to seven years' imprisonment 32-33 V., c. 21, s. 77.

Persons under
powers of
attorney
fraudulently
selling pro-
perty.

62. Every one who, being intrusted, either solely or jointly with any other person, with any power of attorney, for the sale or transfer of any property,—fraudulently sells or transfers, or otherwise converts the same or any part thereof to his own use or benefit, or the use or benefit of any person other than the person by whom he was so intrusted, is guilty of a misdemeanor, and liable to seven years' imprisonment. 32-33 V., c. 21, s. 78.

Factors ob-
taining
advances on
the property
of their prin-
cipals.

63. Every one who, being a factor, or agent intrusted, either solely or jointly with any other person, for the purpose of sale or otherwise, with the possession of any goods, or of any document of title to goods,—contrary to or without the authority of his principal in that behalf, for his own use or benefit, or the use or benefit of any person other than the person by whom he was so intrusted, and in violation of good faith, makes any consignment, deposit, transfer or delivery of any goods or document of title so intrusted to him as in this section before mentioned, as and by way of a pledge, lien or security for any money or valuable security borrowed or received by such factor or agent at or before the time of making such consignment, deposit, transfer or delivery, or intended to be thereafter borrowed or received,—or contrary to or without such authority, for his own use or benefit, or the use or benefit of any person other than the person by whom he was so intrusted, and in violation of good faith, accepts any advance of any money or valuable security on the faith of any contract or agreement to consign, deposit, transfer or deliver any such goods or document of title, is guilty of a misdemeanor, and liable to seven years' imprisonment:

Persons wil-
fully assist-
ing.

2. Every one who knowingly and wilfully acts and assists in making any such consignment, deposit, transfer or delivery, or in accepting or procuring such advance as aforesaid, is guilty of a misdemeanor, and liable to the same punishment:

Exception
when the
pledge does
not exceed

3. No such factor or agent shall be liable to any prosecution for consigning, depositing, transferring or delivering any such goods or documents of title, if the same

are not made a security for or subject to the payment of any greater sum of money than the amount which, at the time of such consignment, deposit, transfer or delivery, was justly due and owing to such agent from his principal, together with the amount of any bill of exchange drawn by or on account of such principal and accepted by such factor or agent. 32-33 V., c. 21, s. 79. the amount of their lien.

64. Any factor or agent intrusted, as aforesaid, and possessed of any such document of title, whether derived immediately from the owner of such goods or obtained by reason of such factor or agent having been intrusted with the possession of the goods, or of any other document of title thereto, shall be deemed to have been intrusted with the possession of the goods represented by such document of title; and every contract pledging or giving a lien upon such document of title as aforesaid, shall be deemed to be a pledge of and lien upon the goods to which the same relates; and such factor or agent shall be deemed to be possessed of such goods or document, whether the same are in his actual custody or held by any other person subject to his control, or for him, or on his behalf; and whenever any loan or advance is *bonâ fide* made to any factor or agent intrusted with and in possession of any such goods or document of title, on the faith of any contract or agreement in writing to consign, deposit, transfer or deliver such goods or document of title, and such goods or document of title is or are actually received by the person making such loan or advance, without notice that such factor or agent was not authorized to make such pledge or security, every such loan or advance shall be deemed to be a loan or advance on the security of such goods or document of title, within the meaning of the next preceding section, though such goods or document of title are not actually received by the person making such loan or advance till a period subsequent thereto; and any contract or agreement, whether made direct with such factor or agent or with any clerk or other person on his behalf, shall be deemed a contract or agreement with such factor or agent; and any payment made, whether by money or bill of exchange, or other negotiable security, shall be deemed to be an advance within the meaning of the next preceding section; and a factor or agent in possession, as aforesaid, of such goods or document, shall be taken, for the purpose of the next preceding section, to have been intrusted therewith by the owner thereof, unless the contrary is shown in evidence. 32-33 V., c. 21, s. 80.

When agent shall be deemed to be intrusted with the goods.

What shall be deemed a pledge.

What shall be deemed possession.

What shall be deemed a loan or advance on such goods.

What shall be deemed a contract.

What shall be deemed an advance.

Possession to be evidence of intrusting.

65. Every one who, being a trustee of any property for the use or benefit, either in whole or in part, of some other person, or for any public or charitable purpose, with intent to defraud, converts or appropriates the same, or any Trustees fraudulently disposing of property.

part thereof, to or for his own use or benefit or the use or benefit of any person other than such person as aforesaid, or for any purpose other than such public or charitable purpose as aforesaid, or otherwise disposes of or destroys such property or any part thereof, is guilty of a misdemeanor, and liable to seven years' imprisonment:

No prosecution without sanction of the Attorney General.

2. No proceeding or prosecution for any offence mentioned in this section shall be commenced without the sanction of the Attorney General or Solicitor General for the Province in which the same is to be instituted:

When civil proceedings have been taken.

3. When any civil proceeding has been taken against any person to whom the provisions of this section apply, no person who has taken such civil proceeding shall commence any prosecution under this section without the sanction of the court or judge before whom such civil proceeding has been had or is pending. 32-33 V., c. 21, s. 81.

Directors, &c., of any body corporate or public company fraudulently appropriating property.

66. Every one who, being a director, member, manager or officer of any body corporate or company, fraudulently takes or applies, for his own use or benefit, or for any use or purpose other than the use or purpose of such body corporate or company, any of the property of such body corporate or company, is guilty of a misdemeanor, and liable to seven years' imprisonment. 32-33 V., c. 21, s. 82.

Or fraudulently keeping false accounts or books.

67. Every one who, being a director, member, manager or officer of any body corporate or company, as such receives or possesses himself of any of the property of such body corporate or company, otherwise than in payment of a just debt or demand, and, with intent to defraud, omits to make or to cause or direct to be made a full and true entry thereof in the books and accounts of such body corporate or company, is guilty of a misdemeanor, and liable to seven years' imprisonment. 32-33 V., c. 21, s. 83.

Or wilfully destroying or falsifying books or papers, &c.

68. Every one who, being a director, manager, officer or member of any body corporate or company, with intent to defraud, destroys, alters, mutilates or falsifies any book, paper, writing or valuable security belonging to the body corporate or company, or makes or concurs in the making of any false entry, or omits or concurs in omitting any material particular in any book of account or document, is guilty of a misdemeanor, and liable to seven years' imprisonment. 32-33 V., c. 21, s. 84.

Or fraudulently publishing false statements or accounts.

69. Every one who, being a director, manager, officer or member of any body corporate or company, makes, circulates or publishes, or concurs in making, circulating or publishing any written statement or account which he

knows to be false in any material particular, with intent to deceive or defraud any member, shareholder or creditor of such body corporate or company, or with intent to induce any person to become a shareholder or partner therein, or to intrust or advance any property to such body corporate or company, or to enter into any security for the benefit thereof, is guilty of a misdemeanor, and liable to seven years' imprisonment. 32-33 V., c. 21, s. 85.

70. Every one who, being an officer or member of any unincorporated body or society, associated together for any lawful purpose, fraudulently takes or applies to his own use or benefit, or for any use or purpose other than the use or purpose of such body or society, the whole or any portion of the funds, moneys or other property of the society, and continues to withhold such property after due demand has been made for the restoration and payment of the same by some one or more of the members or officers duly appointed by and on behalf of the body or society, is guilty of a misdemeanor, and liable to three years' imprisonment. C. S. C., c. 71, s. 8 ;—R. S. B. C., c. 162, s. 9.

Embezzlement by officers, &c., of unincorporated societies.

71. Nothing in any of the *twelve* sections next preceding shall enable or entitle any person to refuse to make a full and complete discovery by answer to any bill in equity, or to answer any question or interrogatory in any civil proceeding in any court, or upon the hearing of any matter in bankruptcy or insolvency ; and no person shall be liable to be convicted of any of the misdemeanors in the said sections mentioned by any evidence whatsoever, in respect of any act done by him, if, at any time previously to his being charged with such offence, he has first disclosed such act on oath, in consequence of any compulsory process of any court of law or equity, in any action, suit or proceeding *bonâ fide* instituted by any party aggrieved, or if he has first disclosed the same in any compulsory examination or deposition before any court, upon the hearing of any matter in bankruptcy or insolvency. 32-33 V., c. 21, s. 86.

No person to be exempt from answering questions in any court ; but no person making a disclosure in any compulsory proceeding to be liable to prosecution.

72. Nothing in the *thirteen* sections next preceding, nor any proceeding, conviction or judgment had or taken thereon against any person under any of the said sections shall prevent, lessen or impeach any remedy at law or in equity, which any person aggrieved by any offence against any of the said sections would have had if this Act had not been passed ; but no conviction of any such offender shall be received in evidence in any action or suit against him ; and nothing in the said sections contained shall affect or prejudice any agreement entered into, or security given by any trustee, having for its object the restoration or payment of any trust property misappropriated. 32-33 V., c. 21, s. 87.

No remedy at law or in equity to be affected.

Keepers of
warehouses,
&c., giving
false receipts.

73. Every one who,—

(a) Being the keeper of any warehouse, or a forwarder, miller, master of a vessel, wharfinger, keeper of a cove, yard, harbor or other place for storing timber, deals, staves, boards or lumber, curer or packer of pork, or dealer in wool, carrier, factor, agent or other person, or a clerk or other person in his employ, knowingly and wilfully gives to any person a writing purporting to be a receipt for or an acknowledgment of any goods or other property as having been received into his warehouse, vessel, cove, wharf or other place, or in any such place about which he is employed, or in any other manner received by him, or by the person in or about whose business he is employed, before the goods or other property named in such receipt, acknowledgment or writing have been actually delivered to or received by him as aforesaid, with intent to mislead, deceive, injure or defraud any person whomsoever, although such person is then unknown to him, or—

Persons
knowingly
using false
receipts.
Punishment.

(b) Knowingly and wilfully accepts, transmits or uses any such false receipt or acknowledgment or writing,—

Is guilty of a misdemeanor, and liable to three years' imprisonment. 32-33 V., c. 21, s. 88 ;—34 V., c. 5, s. 64.

Owners sell-
ing after
advance by
consignees.

74. Every one who,—

(a) Having, in his name, shipped or delivered to the keeper of any warehouse, or to any other factor, agent or carrier, to be shipped or carried, any merchandise, upon which the consignee has advanced any money or given any valuable security, afterwards with intent to deceive, defraud or injure such consignee, in violation of good faith, and without the consent of such consignee, makes any disposition of such merchandise different from and inconsistent with the agreement made in that behalf between him and such consignee at the time of or before such money was so advanced, or such negotiable security so given, or—

Persons wil-
fully assist-
ing.

(b) Knowingly and wilfully acts and assists in making such disposition for the purpose of deceiving, defrauding or injuring such consignee,—

Punishment.

Is guilty of a misdemeanor, and liable to three years' imprisonment :

No prosecu-
tion if ad-
vances are
paid.

2. No person shall be subject to prosecution under this section who, before making such disposition of the merchandise aforesaid, pays or tenders to the consignee the full amount of any advance made thereon. 32-33 V., c. 21, s. 89.

75. Every one who,—

(a) Wilfully makes any false statement in any receipt, certificate or acknowledgment for grain, timber or other goods or property, which can be used for any of the purposes mentioned in "*The Bank Act*," or—

Making false statements in receipts for grain, &c.

(b) Having given, or after any clerk or person in his employ has, to his knowledge, given, as having been received by him in any mill, warehouse, vessel, cove or other place, any such receipt, certificate or acknowledgment for any such grain, timber or other goods or property; or having obtained any such receipt, certificate or acknowledgment, and after having indorsed or assigned it to any bank or person, afterwards, and without the consent of the holder or indorsee, in writing, or the production and delivery of the receipt, certificate or acknowledgment, wilfully alienates or parts with, or does not deliver to such holder or indorsee of such receipt, certificate or acknowledgment, the grain, timber, goods or other property therein mentioned,—

Fraudulently alienating or retaining property to which receipt refers.

Is guilty of a misdemeanor, and liable to three years' imprisonment. 32-33 V., c. 21, s. 90, *part*;—34 V., c. 5, s. 65.

Punishment.

76. If any misdemeanor mentioned in any of the three sections next preceding is committed by the doing of anything in the name of any firm, company or co-partnership of persons, the person by whom such thing is actually done, or who connives at the doing thereof, is guilty of the misdemeanor and not any other person. 32-33 V., c. 21, s. 91;—34 V., c. 5, s. 66.

As to partners.

OBTAINING MONEY BY FALSE PRETENCES.

77. Every one who, by any false pretence, obtains from any other person any chattel, money or valuable security, with intent to defraud, is guilty of a misdemeanor, and liable to three years' imprisonment:

False pretences.

2. Every one who, by any false pretence, causes or procures any money to be paid, or any chattel or valuable security to be delivered to any other person, for the use or benefit or on account of the person making such false pretence or of any other person, with intent to defraud, shall be deemed to have obtained such money, chattel or valuable security within the meaning of the next preceding subsection. 32-33 V., c. 21, s. 93, *part*, and s. 94.

Where any money, &c., is paid to any person other than the person making a false pretence.

78. Every one who, with intent to defraud or injure any other person, by any false pretence fraudulently causes or

Inducing persons by fraudulent

means to execute deeds and other instruments. induces any other person to execute, make, accept, indorse or destroy the whole or any part of any valuable security, or to write, impress or affix his name, or the name of any other person, or of any company, firm or co-partnership, or the seal of any body corporate, company or society, upon any paper or parchment, so that the same may be afterwards made or converted into or used or dealt with as a valuable security, is guilty of a misdemeanor, and liable to three years' imprisonment. 32-33 V., c. 21, s. 95.

Pretending to have inclosed money or other property in a post letter. **79.** Every one who, for any purpose or with any intent, wrongfully and with wilful falsehood, pretends or alleges that he inclosed and sent or caused to be inclosed and sent in any post letter, any money, valuable security or chattel, which, in fact, he did not so inclose and send, or cause to be inclosed and sent therein, is guilty of a misdemeanor, and liable to be punished as if he had obtained the money, valuable security or chattel so pretended to be inclosed or sent by false pretences. 32-33 V., c. 21, s. 96, *part.*

Winning money by cheating at games. **80.** Every one who, by any fraud or unlawful device or ill practice in playing any game of cards or dice, or of any other kind, or at any race, or in betting on any event, wins or obtains any money or property from any other person, shall be held to have unlawfully obtained the same by false pretences, and shall be punishable accordingly. 32-33 V., c. 21, s. 97.

Obtaining passage in steamers, &c., by false tickets. **81.** Every one who, by means of any false ticket or order, or of any other ticket or order, fraudulently and unlawfully obtains or attempts to obtain any passage on any railway, or in any steam or other vessel, is guilty of a misdemeanor, and liable to six months' imprisonment. 32-33 V., c. 21, s. 98.

RECEIVING STOLEN GOODS.

Receiving where the principal is guilty of felony. **82.** Every one who receives any chattel, money, valuable security or other property whatsoever, the stealing, taking, extorting, obtaining, embezzling and otherwise disposing whereof amounts to felony, either at common law or by virtue of this Act, knowing the same to have been feloniously stolen, taken, extorted, obtained, embezzled or disposed of, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 21, s. 100, *part.*

Receiving where the principal is guilty of a misdemeanor. **83.** Every one who receives any chattel, money, valuable security or other property whatsoever, the stealing, taking, obtaining, converting or disposing whereof is made a misdemeanor by this Act, knowing the same to have been unlawfully stolen, taken, obtained, converted or disposed of, is guilty of a misdemeanor, and liable to seven years' imprisonment. 32-33 V., c. 21, s. 104, *part.*

84. Every one who receives any property whatsoever, knowing the same to be unlawfully come by, the stealing or taking of which property is by this Act punishable on summary conviction, either for every offence, or for the first and second offence only, shall, on summary conviction, be liable, for every first, second or subsequent offence of receiving, to the same forfeiture and punishment to which a person guilty of a first, second or subsequent offence of stealing or taking such property is by this Act liable. 32-33 V., c. 21, s. 106.

Receiving where the original offence is punishable on summary conviction.

OFFENCES NOT OTHERWISE PROVIDED FOR.

85. Every one who, unlawfully and with intent to defraud, by taking, by embezzling, by obtaining by false pretences, or in any other manner whatsoever, appropriates to his own use or to the use of any other person, any property whatsoever, so as to deprive any other person temporarily or absolutely of the advantage, use or enjoyment of any beneficial interest in such property in law or in equity, which such other person has therein, is guilty of a misdemeanor, and liable to be punished as in the case of simple larceny; and if the value of such property exceeds two hundred dollars, the offender shall be liable to fourteen years' imprisonment. 32-33 V., c. 21, s. 110, *part.*

Act by which a person is defrauded of the advantage, possession, or use of his property.

86. Every one who is convicted of an offence against this Act by stealing, embezzling or obtaining by false pretences any property whatsoever, the value of which is over two hundred dollars, is liable to seven years' imprisonment, in addition to any punishment to which he would otherwise be liable for such offence. 32-33 V., c. 21, s. 110, *part.*

Additional punishment if property stolen is worth more than \$200.

87. Every one who, without the consent of the owner thereof, takes, holds, keeps in his possession, collects, conceals, receives, appropriates, purchases, sells or causes or procures or assists to be taken possession of, collected, concealed, received, appropriated, purchased or sold, any timber, mast, spar, saw-logs or other description of lumber which is found adrift in any river, stream or lake, or cast ashore on the bank or beach of any river, stream or lake,—or, without the consent of the owner thereof, wholly or partially defaces or adds, or causes or procures to be defaced or added, any mark or number on any such timber, mast, spar, saw-log or other description of lumber, or makes or causes, or procures to be made any false or counterfeit mark on any such timber, mast, spar, saw-log or other description of lumber, or refuses to deliver up to the proper owner thereof, or to the person in charge thereof, on behalf of such owner, or authorized by such owner to receive the same, any such timber, mast, spar, saw-log or other description of lumber,

Appropriating timber, &c., found adrift, defacing marks or refusing delivery to owner.

is guilty of a misdemeanor, and liable to be punished as in the case of simple larceny. 38 V., c. 40, s. 1, *part.*

Bringing into Canada property stolen, embezzled, or unlawfully obtained elsewhere.

88. Every one who brings into Canada, or has in his possession therein, any property stolen, embezzled, converted or obtained by fraud or false pretences in any other country, in such manner that the stealing, embezzling, converting or obtaining it in like manner in Canada would, by the laws of Canada, be a felony or misdemeanor, knowing it to have been so stolen, embezzled or converted, or unlawfully obtained, is guilty of an offence of the same nature and punishable in like manner as if the stealing, embezzling, converting or unlawfully obtaining such property had taken place in Canada. 32-33 V., c. 21, s. 112, *part.*

Taking a reward for helping to the recovery of stolen property, without bringing the offender to trial.

89. Every one who corruptly takes any money or reward, directly or indirectly, under pretence or upon account of helping any person to any chattel, money, valuable security or other property whatsoever, which, by any felony or misdemeanor, has been stolen, taken, obtained, extorted, embezzled, converted or disposed of, as in this Act before mentioned (unless he has used all due diligence to cause the offender to be brought to trial for the same), is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 21, s. 115.

Advertising a reward for the return of stolen property, &c.

90. Every one who publicly advertises a reward for the return of any property whatsoever, which has been stolen or lost, and in such advertisement uses any words purporting that no questions will be asked, or makes use of any words in any public advertisement purporting that a reward will be given or paid for any property which has been stolen or lost, without seizing or making any inquiry after the person producing such property, or promises or offers in any such public advertisement to return to any pawnbroker or other person who advanced money by way of loan on, or has bought any property stolen or lost, the money so advanced or paid, or any other sum of money for the return of such property, or prints or publishes any such advertisement, shall incur a penalty of two hundred and fifty dollars for every such offence, recoverable with costs by any person who sues for the same in any court of competent jurisdiction:

Time for prosecution in certain cases limited.

2. No action to recover any forfeiture under this section shall be brought against the printer or publisher of a newspaper, defined as a newspaper for the purposes of the Acts, for the time being in force, relating to the carriage of newspapers by post, except within six months after the forfeiture is incurred. 32-33 V., c. 21, s. 116;—35 V., c. 35, ss. 2 and 3.

91. Every one who, being a seller or mortgagor of land, or of any chattel, real or personal or chose in action, or the solicitor or agent of any such seller or mortgagor, and having been served with a written demand of an abstract of title by or on behalf of the purchaser or mortgagee before the completion of the purchase or mortgage, conceals any settlement, deed, will or other instrument, material to the title, or any incumbrance, from such purchaser or mortgagee, or falsifies any pedigree upon which the title depends, with intent to defraud and in order to induce him to accept the title offered or produced to him is guilty of a misdemeanor and liable to a fine or to two years' imprisonment or to both :

Concealment of deeds, &c., or falsification of pedigree by vendor or mortgagor.

2. No prosecution for any such offence shall be commenced without the consent of the Attorney General of the Province within which the offence is committed, given after previous notice to the person intended to be prosecuted of the application to the Attorney General for leave to prosecute :

Consent of Attorney General to prosecution required.

3. Nothing in this section, and no proceeding, conviction or judgment had or taken thereon, shall prevent, lessen or impeach any remedy which any person aggrieved by any such offence would otherwise have had. 29 V. (Can.), c. 28, s. 20, *part.*

Other remedies not affected.

92. The three sections next following apply only to the Province of Quebec.

Provisions applicable to Quebec.

93. Every one who, knowing the existence of any unregistered prior sale, grant, mortgage, hypothec, privilege or incumbrance, of or upon any real property, fraudulently makes any subsequent sale of the same, or of any part thereof, is guilty of a misdemeanor, and liable to a fine not exceeding two thousand dollars, and to one year's imprisonment. C. S. L. C., c. 37, s. 113.

Fraudulent sale of property.

94. Every one who pretends to hypothecate any real property to which he has no legal title, is guilty of a misdemeanor, and liable to a fine not exceeding one hundred dollars and to one year's imprisonment, and the proof of the ownership of the real estate shall rest with the person so pretending to hypothecate the same. C. S. L. C., c. 37, s. 114.

Fraudulent hypothecation of property.

95. Every person who, knowingly, wilfully and maliciously, causes or procures to be seized and taken in execution, any lands and tenements, or other real property, situate within any township in the Province of Quebec, not being, at the time of such seizure, the *bonâ fide* property of the person or persons against whom, or whose estate, the execution is issued, knowing the same not to be the property of the person or persons against whom the execution is

Knowingly seizing township lands not belonging to defendant.

issued, is guilty of a misdemeanor, and liable to one year's imprisonment:

Other remedies not affected.

2. Nothing in this section, and no proceeding, conviction or judgment had or taken thereunder, shall prevent, lessen or impeach any remedy which any person aggrieved by any such offence would otherwise have had. C. S. L. C., c. 46, ss. 1 and 2.

Provisions applicable to B. C.

96. The following sections apply only to the Province of British Columbia.

False statements, &c., in relation to transactions in land.

97. Every one who, in any proceeding to obtain the registration of any title to land or otherwise, or in any transaction relating to land, which is or is proposed to be put on the register, acting either as principal or agent, knowingly and with intent to deceive, makes or assists or joins in, or is privy to the making of any material false statement or representation, or suppresses, conceals, assists or joins in, or is privy to the suppression, withholding or concealing from any judge or registrar, or any person employed by or assisting the registrar, any material document, fact or matter of information, is guilty of a misdemeanor, and liable to three years' imprisonment:

Other remedies not affected.

2. Nothing in this section, and no proceeding, conviction or judgment had or taken thereon, shall prevent, lessen or impeach any remedy which any person aggrieved by any such offence would otherwise have had:

Criminal liability not to protect against giving evidence.

3. Nothing in this section shall entitle any person to refuse to make a complete discovery by answer to any bill in equity, or to answer any question or interrogatory in any civil proceeding in any court; but no answer to any such bill, question or interrogatory shall be admissible against any such person in evidence in any criminal proceeding. R. S. B. C., c. 143, ss. 81, 82, 83 and 85.

Injuring or removing anything from an Indian grave or purchasing such thing.

98. Every one who steals, or without the sanction of the Lieutenant Governor of the Province, cuts, breaks, destroys, damages or removes any image, bones, article or thing deposited in or near any Indian grave, or induces or incites any other person so to do, or purchases any such article or thing after the same has been so stolen, or cut or broken, destroyed or damaged, knowing the same to have been so acquired or dealt with, shall, on summary conviction, be liable, for a first offence, to a penalty not exceeding one hundred dollars, or to three months' imprisonment, and for a subsequent offence, to the same penalty and to six months' imprisonment with hard labor:

Property may be stated to be in the Crown.

2. In any proceeding under this section it shall be sufficient to state that such grave, image, bones, article or thing, is the property of the Crown. R. S. B. C., c. 69, ss. 2, 3 and 4.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
32-33 V., c. 21.....	The whole, except ss. 5, 6, 14 (part), 16 (part), 17 (part), 18 (part), 20 (part), 33, 34, 36, 40, 57, 58, 72 (part), 73, 74, 75 (part), 92, 93 (part), 96 (part), 99, 100 (part), 101, 102, 103, 104 (part), 105, 110 (part), 112 (part), 113, 114, 117 and 121;		ss. 5, 6, 14 (part), 16 (part), 17 (part), 18 (part), 20 (part), 33, 34, 36, 40, 57, 58, 72 (part), 73, 74, 75 (part), 92, 93 (part), 96 (part), 99, 100 (part), 101, 102, 103, 104 (part), 105, 110 (part), 112 (part), 113, 114, 117, and 121.	Procedure.
	ss. 8, 9 and 124.....	ss. 8, 9 and 124.		
	ss. 43 to 48.....		ss. 43 to 48.....	Threats.
	ss. 66, 67, 68 and 109.		ss. 66, 67, 68 and 109.	Wrecks and Salvage.
	ss. 90 (part), and 122.		ss. 90 (part), and 122.	Punishments.
	ss. 107 and 108.....		ss. 107 and 108.	Accessories.
	ss. 118-120 and 123		ss. 118-120 and 123.	Summary Convictions.
	s. 124.....	s. 124.		
34 V., c. 5.....	ss. 60, 64, 65 and 66.		Residue	Bank Act.
34 V., c. 7.....	s. 32 (part).....		Residue	Savings Banks in Ontario and Quebec.
35 V., c. 33.....	s. 1 (part).....	s. 2.....	s. 1 (part) ...	Procedure.
35 V., c. 35.....	ss. 2 and 3	ss. 1 and 4.		
38 V., c. 40.....	s. 1 (part).....		s. 1 (part) ...	Procedure.
40 V., c. 29.	ss. 1 and 3.....		s. 2	Injuries to Property.
41 V., c. 7.	s. 70 (part).			
43 V., c. 28.	s. 66 (part).			
46 V., c. 17.	s. 67.			
C. S. O., c. 16	s. 40 (part).			
C. S. O., c. 23.....	s. 10.			
C. S. O., c. 71.....	s. 8.			
29 V., c. 28.	s. 20 (part).			
29 and 30 V. (Can), c. 51.	ss. 187 (part), and 188 (part).			
C. S. L. O., c. 37.	ss. 113 and 114.			
C. S. L. O., c. 46....	The whole.			
R. S. B. O., c. 69....	ss. 2, 3 and 4	ss. 1 and 5		
R. S. B. O., c. 143.	ss. 81, 82, 83 and 85..			
R. S. B. O., c. 157.	ss. 99 (part), and 100 (part).			
R. S. B. O., c. 162.	s. 9.			

CHAPTER 159.

An Act respecting Forgery.

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 expression “ Province of Canada ” includes the late Province of Canada and the late Provinces of Upper Canada and Lower Canada, also the Provinces of Nova Scotia, New Brunswick, Prince Edward Island and British Columbia, as they respectively existed before they became part of Canada, and also the several Provinces, Territories and Districts now or hereafter forming part of Canada.

New.

2. When the having any matter or thing in the custody or possession of any person is, in this Act, expressed to be an offence, if any person has any such matter or thing in his personal custody and possession, or knowingly and wilfully has any such matter or thing in the actual custody and possession of any other person, or knowingly and wilfully has any such matter or thing in any dwelling-house or other building, lodging, apartment, field or other place, open or inclosed, whether belonging to or occupied by himself or not, and whether such matter or thing is so had for his own use, or for the use or benefit of another, every such person shall be deemed and taken to have such matter or thing in his custody or possession within the meaning of this Act. 32-33 V., c. 19, s. 52.

3. The wilful alteration, for any purpose of fraud or deceit, of any document or thing written, printed or otherwise made capable of being read, or of any document or thing the forging of which is made punishable by this Act, shall be held to be a forging thereof. 32-33 V., c. 19, s. 45, *part.*

THE GREAT SEAL, ETC.

4. Every one who forges or counterfeits, or utters, knowing the same to be forged or counterfeited, the Great Seal of the United Kingdom, or the Great Seal of Canada, or of any Province of Canada, or of any one of Her Majesty's

Interpreta-
tion :
“ Province of
Canada.”

Having in
custody or
possession.

What shall be
deemed for-
gery.

Forging the
great seal,
privy seal, &c.

colonies or possessions, Her Majesty's Privy Seal, any Privy Signet of Her Majesty, Her Majesty's Royal Sign Manual, or any of Her Majesty's seals, appointed by the twenty-fourth article of the union between England and Scotland to be kept, used and continued in Scotland, the Great Seal of Ireland, or the Privy Seal of Ireland, or the Privy Seal or Seal at Arms of the Governor General of Canada, or of the Lieutenant Governor of any Province of Canada, or of any person who administers or, at any time, administered the Government of any Province of Canada, or of the Governor or Lieutenant Governor of any one of Her Majesty's colonies or possessions,—or forges or counterfeits the stamp or impression of any of the seals aforesaid,—or utters any document or instrument whatsoever, having thereon or affixed thereto the stamp or impression of any such forged or counterfeited seal, knowing the same to be the stamp or impression of such forged or counterfeited seal, or any forged or counterfeited stamp or impression made or apparently intended to resemble the stamp or impression of any of the seals aforesaid, knowing the same to be forged or counterfeited,—or forges, or alters, or utters, knowing the same to be forged or altered, any document or instrument having any of the said stamps or impressions thereon, or affixed thereto, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 19, s. 1.

Or uttering document with forged seal.

5. Every one who forges or fraudulently alters any document bearing or purporting to bear the signature of the Governor General of Canada, or of any deputy of the Governor General, or of the Lieutenant Governor of any Province of Canada, or of any person who administers or, at any time, administered the Government of any Province of Canada, or offers, utters, disposes of or puts off any such forged or fraudulently altered document as aforesaid, knowing the same to be so forged or altered, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 19, s. 2.

Forging or uttering any document bearing the forged signature of the Governor, Lieutenant Governor, &c.

LETTERS PATENT AND PUBLIC REGISTERS.

6. Every one who forges or alters, or in any way publishes, puts off, or utters as true, knowing the same to be forged or altered, any copy of letters patent, or of the enrolment or enregistration of letters patent, or of any certificate thereof, made or given or purporting to be made or given by virtue of any Act of Canada or of any Province of Canada, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 19, s. 3.

Forging or altering copies of letters patent, &c.

7. Every one who forges or counterfeits or alters any public register or book appointed by law to be made or kept or any entry therein, or wilfully certifies or utters any writing as and for a true copy of such public register or book or of any entry therein, knowing such writing to be

Forging or altering any public register, &c.

counterfeit or false, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 19, s. 4.

TRANSFERS OF STOCK, ETC.

Forging
transfer of
stock, &c.

8. Every one who, with intent to defraud, forges or alters, or offers, utters, disposes of or puts off, knowing the same to be forged or altered, any transfer of any share or interest of or in any stock, annuity or other public fund which now is or hereafter may be transferable in any of the books of the Dominion of Canada, or of any Province of Canada, or of any bank at which the same is transferable, or of or in the capital stock of any body corporate, company or society, which now is or hereafter may be established by charter, or by, under or by virtue of any Act of Parliament of the United Kingdom or of Canada, or by any Act of the Legislature of any Province of Canada,—or forges or alters, or offers, utters, disposes of or puts off, knowing the same to be forged or altered, any power of attorney or other authority to transfer any share or interest of or in any such stock, annuity, public fund or capital stock, or any claim for a grant of land from the Crown in Canada, or for any scrip or other payment or allowance in lieu of any such grant of land, or to receive any dividend or money payable in respect of any such share or interest,—or demands or endeavors to have any such share or interest transferred, or to receive any dividend or money payable in respect thereof, or any such grant of land, or scrip or payment or allowance in lieu thereof as aforesaid, by virtue of any such forged or altered power of attorney or other authority, knowing the same to be forged or altered, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 19, s. 5.

Forging
power of
attorney.

Personating
the owner of
certain stock,
&c., and
transferring
or receiving,
or endeavor-
ing to transfer
or receive the
dividends.

9. Every one who falsely and deceitfully personates any owner of any share, or interest of or in any stock, annuity or other public fund, which now is or hereafter may be transferable in any of the books of the Dominion of Canada, or of any Province of Canada, or of any bank at which the same is transferable, or any owner of any share or interest of or in the capital stock of any body corporate, company or society which now is or hereafter may be established by charter, or by, under or by virtue of any Act of Parliament of the United Kingdom or of Canada, or by any Act of the Legislature of any Province of Canada, or of any claim for a grant of land from the Crown in Canada, or for any scrip or other payment or allowance in lieu of such grant of land, or any owner of any dividend or money payable in respect of any such share or interest as aforesaid,—and thereby transfers or endeavors to transfer any share or interest belonging to any such owner, or thereby receives or endeavors to receive any money due to any such owner, or to obtain any such grant of land, or such scrip or allowance

in lieu thereof as aforesaid, as if such offender were the true and lawful owner, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 19, s. 6.

10. Every one who forges any name, handwriting or signature purporting to be the name, handwriting or signature of a witness attesting the execution of any power of attorney or other authority to transfer any share or interest of or in any such stock, annuity, public fund, or capital stock, or grant of land or scrip or allowance in lieu thereof, as in either of the two sections next preceding mentioned, or to receive any dividend or money payable in respect of any such share or interest,—or offers, utters, disposes of or puts off any such power of attorney or other authority, with any such forged name, handwriting or signature thereon, knowing the same to be forged, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 19, s. 7.

Forging attestation to power of attorney for transfer of stock, &c.

11. Every one who, with intent to defraud, wilfully makes any false entry in, or wilfully alters any word or figure in any of the books of account kept by the Government of Canada, or of any Province of Canada, or of any bank at which any of the books of account of the Government of Canada or of any Province of Canada are kept,—in which books the accounts of the owners of any stock, annuities or other public funds, which now are or hereafter may be transferable in such books, are entered and kept;—or in any manner wilfully falsifies any of the accounts of any of such owners in any of the said books, or wilfully makes any transfer of any share or interest of or in any stock, annuity or other public fund which now is or hereafter may be transferable as aforesaid, in the name of any person not being the true and lawful owner of such share or interest, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 19, s. 8.

Making false entries in the books of public funds.

Or any fraudulent transfer.

12. Every one who, being a clerk, officer or servant of, or other person employed or intrusted by the Government of Canada or of any Province of Canada, or being a clerk or officer or servant of, or other person employed or intrusted by any bank in which any of such books and accounts as are mentioned in the next preceding section, are kept, knowingly and with intent to defraud, makes out, or delivers any dividend warrant, or warrant for payment of any annuity, interest or money payable as aforesaid, for a greater or less amount than the person on whose behalf such warrant is made out is entitled to, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 19, s. 9.

Clerks making out false dividend warrants, &c.

DEBENTURES, STOCK, EXCHEQUER BILLS, ETC.

13. Every one who, with intent to defraud, forges or alters, or offers, utters, disposes of or puts off, knowing the

Forging debentures, Dominion notes,

exchequer bills, bonds, &c., or indorsements thereon, or any coupon certificate, &c.

same to be forged or altered, any debenture or other security, issued under the authority of any Act of the Parliament of Canada, or of the Legislature of any Province of Canada, or any exchequer bill or exchequer bond, or any Dominion or Provincial note, or any indorsement on or assignment of any such debenture, exchequer bill or exchequer bond or other security, issued under the authority of any Act of the Parliament of Canada, or of the Legislature of any Province of Canada, or any coupon, receipt or certificate for interest accruing thereon, or any scrip in lieu of land as aforesaid, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 19, s. 10.

Making plates &c., in imitation of those used for debentures, exchequer bills, &c.

14. Every one who, without lawful authority or excuse, (the proof whereof shall lie on him), makes or causes or procures to be made, or aids or assists in making, or knowingly has in his custody or possession, any frame, mould or instrument, having therein any words, letters, figures, marks, lines or devices, peculiar to or appearing in the substance of any paper provided or to be provided and used for any such debentures, exchequer bills or exchequer bonds, Dominion notes or Provincial notes or other securities as aforesaid, or any machinery for working any threads into the substance of any such paper, or any such thread, and intended to imitate such words, letters, figures, marks, lines, threads or devices,—or any plate peculiarly employed for printing such debentures, exchequer bills or exchequer bonds, or such notes or other securities, or any die or seal peculiarly used for preparing any such plate, or for sealing such debentures, exchequer bills or exchequer bonds, notes or other securities, or any plate, die or seal, intended to imitate any such plate, die or seal as aforesaid, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 19, s. 11.

Making paper in imitation of that used for debentures, exchequer bills, &c.

15. Every one who, without lawful authority or excuse, the proof whereof shall lie on him, makes, or causes, or procures to be made, or aids or assists in making any paper in the substance of which appear any words, letters, figures, marks, lines, threads or other devices peculiar to and appearing in the substance of any paper provided or to be provided or used for such debentures, exchequer bills or exchequer bonds, notes or other securities aforesaid, or any part of such words, letters, figures, marks, lines, threads or other devices, and intended to imitate the same,—or knowingly has in his custody or possession any paper whatsoever, in the substance whereof appear any such words, letters, figures, marks, lines, threads or devices as aforesaid, or any parts of such words, letters, figures, marks, lines, threads or other devices, and intended to imitate the same,—or causes or assists in causing any such words, letters, figures, marks, lines, threads or devices as aforesaid, or any part of such words, letters, figures, marks, lines, threads

and other devices, and intended to imitate the same, to appear in the substance of any paper whatsoever,—or takes, or assists in taking an impression of any such plate, die or seal, as in the next preceding section mentioned, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 19, s. 12.

Taking impression from plate, die or seal.

16. Every one who, without lawful authority or excuse, the proof whereof shall lie on him, purchases or receives, or knowingly has in his custody or possession, any paper manufactured and provided by or under the direction of the Government of Canada or of any Province of Canada, for the purpose of being used as such debentures, exchequer bills or exchequer bonds, notes or other securities as aforesaid, before such paper has been duly stamped, signed and issued for public use, or any such plate, die or seal, as in the two sections next preceding mentioned, is guilty of a misdemeanor, and liable to imprisonment for any term less than two years. 32-33 V., c. 19, s. 13.

Having in possession paper, &c., for debentures, exchequer bills, &c.

STAMPS.

17. Every one who forges, counterfeits or imitates, or procures to be forged, counterfeited or imitated any stamp or stamped paper, issued or authorized to be used by any Act of the Parliament of Canada, or of the Legislature of any Province of Canada, by means whereof any duty thereby imposed may be paid, or any part or portion of any such stamp,—or knowingly uses, offers, sells or exposes for sale any such forged, counterfeited or imitated stamp,—or engraves, cuts, sinks or makes any plate, die or other thing whereby to make or imitate such stamp or any part or portion thereof, except by permission of an officer or person who, being duly authorized in that behalf by the Government of Canada or of any Province of Canada, may lawfully grant such permission,—or has possession of any such plate, die or thing, without such permission, or, without such permission, uses or has possession of any such plate, die or thing lawfully engraved, cut or made,—or tears off or removes from any instrument, on which a duty is payable, any stamp by which such duty has been wholly or in part paid, or removes from any such stamp any writing or mark indicating that it has been used for or towards the payment of any such duty, is guilty of felony, and liable to twenty-one years' imprisonment. 32-33 V., c. 19, s. 14.

Forging stamps or stamped paper.

Or tools for making the same.

Removing stamps from instruments.

BANK NOTES.

18. Every one who, with intent to defraud, forges or alters, or offers, utters, disposes of or puts off, knowing the same to be forged or altered, any note or bill of exchange of any body corporate, company or person carrying on the

Forging bank notes and bills.

business of bankers, commonly called a bank note, a bank bill of exchange or bank post bill, or any indorsement on or assignment of any bank note, bank bill of exchange or bank post bill, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 19, s. 15.

Purchasing
or receiving
or having
forged bank
notes or bills.

19. Every one who, without lawful authority or excuse, the proof whereof shall lie on him, purchases or receives from any other person, or has in his custody or possession any forged bank note, bank bill of exchange or bank post bill, or blank bank note, blank bank bill of exchange or blank bank post bill, knowing the same to be forged, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 19, s. 16.

MAKING PAPER AND ENGRAVING PLATES FOR BANK NOTES, ETC.

Making or
having
moulds for
making paper
with words
used for Dom-
inion notes,
bank notes,
&c.

20. Every one who, without lawful authority or excuse, the proof whereof shall lie on him, makes or uses, or knowingly has in his custody or possession, any frame, mould or instrument for the making of paper used for Dominion or Provincial notes, or for bank notes, with any words used in such notes, or any part of such words, intended to resemble or pass for the same, visible in the substance of the paper, or for the making of paper with curved or waving bar lines, or with laying wire lines thereof, in a waving or curved shape, or with any number, sum or amount, expressed in a word or words in letters, visible in the substance of the paper, or with any device or distinction peculiar to and appearing in the substance of the paper used for such notes, respectively,—or makes, uses, sells, exposes for sale, utters or disposes of, or knowingly has in his custody or possession any paper whatsoever with any words used in such notes, or any part of such words, intended to resemble and pass for the same, visible in the substance of the paper, or any paper with curved or waving bar lines, or with the laying wire lines thereof in a waving or curved shape, or with any number, sum or amount expressed in a word or words in letters appearing visible in the substance of the paper, or with any device or distinction peculiar to and appearing in the substance of the paper used for any such notes, respectively,—or, by any art or contrivance, causes any such words or any part of such words, intended to resemble and pass for the same, or any device or distinction peculiar to and appearing in the substance of the paper used for any such notes, respectively, to appear visible in the substance of any paper, or causes the numerical sum or amount of any such note, in a word or words in letters to appear visible in the substance of the paper, whereon the same is written or printed, is guilty of felony, and liable to fourteen years' imprisonment 32-33 V., c. 19, s. 17.

Or selling
such paper
having it in
possession.

Or causing
distinctive
marks to
appear
thereon.

21. Nothing in the next preceding section contained shall prevent any person from issuing any bill of exchange or promissory note, having the amount thereof expressed in a numerical figure or figures denoting the amount thereof in pounds or dollars, appearing visible in the substance of the paper upon which the same is written or printed, or shall prevent any person from making, using or selling any paper having waving or curved lines, or any other devices in the nature of water marks visible in the substance of the paper, not being bar lines or laying wire lines, provided the same are not so contrived as to form the groundwork or texture of the paper, or to resemble the waving or curved, laying wire lines or bar lines, or the water-marks of the paper used for Dominion notes or Provincial notes or bank notes, as aforesaid. 32-33 V., c. 19, s. 18.

Exception as to paper used for bills of exchange, &c.

22. Every one who, without lawful authority or excuse, the proof whereof shall lie on him, engraves or in anywise makes upon any plate whatsoever, or upon any wood, stone or other material, any promissory note or part of a promissory note, purporting to be a Dominion or Provincial note, or bank note, or to be a blank Dominion or Provincial note, or bank note, or to be a part of any Dominion or Provincial note, or bank note, as aforesaid, or any name, word or character resembling, or apparently intended to resemble, any subscription to any such Dominion or Provincial note, or bank note, as aforesaid,—or uses any such plate, wood, stone or other material, or any other instrument or device for the making or printing of any such note, or part of such note,—or knowingly has in his custody or possession any such plate, wood, stone or other material, or any such instrument or device,—or knowingly offers, utters, disposes of or puts off, or has in his custody or possession any paper upon which any blank Dominion or Provincial note, or bank note, or part of any such note, or any name, word or character resembling, or apparently intended to resemble, any such subscription, is made or printed, is guilty of felony and liable to fourteen years' imprisonment. 31 V., c. 46, s. 14 ;—32-33 V., c. 19, s. 19.

Engraving or having plate for making Dominion or bank notes.

Unlawfully uttering such note or part thereof.

23. Every one who, without lawful authority or excuse, the proof whereof shall lie on him, engraves or in anywise makes upon any plate whatsoever, or upon any wood, stone or other material, any word, number, figure, device, character or ornament, the impression taken from which resembles, or is apparently intended to resemble any part of a Dominion or Provincial note, or bank note, or uses or knowingly has in his custody or possession any such plate, wood, stone or other material, or any other instrument or device for the impressing or making upon any paper or any other material, any word, number, figure, character or ornament, which resembles, or is apparently

Engraving on a plate, &c., any word, number, or device, resembling part of a note.

Uttering or having any paper on which any such word, &c., is impressed.

intended to resemble any part of any such note as aforesaid, or *knowingly* offers, utters, disposes of or puts off, or has in his custody or possession any paper or other material upon which there is an impression of any such matter as aforesaid, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 19, s. 20. •

Making or having mould for making paper with the name of any bank, or making or having such paper.

24. Every one who, without lawful authority or excuse, the proof whereof shall lie on him, makes or uses any frame, mould or instrument for the manufacture of paper, with the name or firm of any bank or body corporate, company or person carrying on the business of bankers, appearing visible in the substance of the paper, or knowingly has in his custody or possession any such frame, mould or instrument, or makes, uses, sells, or exposes for sale, utters or disposes of,—or knowingly has in his custody or possession any paper, in the substance of which the name or firm of any such bank, body corporate, company or person appears visible, or, by any art or contrivance causes the name or firm of any such bank, body corporate, company or person to appear visible in the substance of the paper upon which the same is written or printed, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 19, s. 21.

Forging foreign bills and uttering the same.

25. Every one who forges or alters, or offers, utters, disposes of or puts off, knowing the same to be forged or altered, any bill of exchange, promissory note, undertaking or order for payment of money, in whatsoever language or languages the same is expressed, and whether the same is or is not under seal, purporting to be the bill, note, undertaking or order of any foreign prince or state, or of any minister or officer in the service of any foreign prince or state, or of any body corporate or body of the like nature, constituted or recognized by any foreign prince or state, or of any person or company, or persons resident in any country not under the dominion of Her Majesty,—and every one who, without lawful authority or excuse, the proof whereof shall lie on him, engraves, or in anywise makes upon any plate whatsoever, or upon any wood, stone or other material, any bill of exchange, promissory note, undertaking or order for payment of money, or any part of any bill of exchange, promissory note, undertaking or order for payment of money, in whatsoever language the same is expressed, and whether the same is or is not, or is or is not intended to be under seal, purporting to be the bill, note, undertaking or order, or part of the bill, note, undertaking or order of any foreign prince or state, or of any minister or officer in the service of any foreign prince or state, or of any body corporate or body of the like nature, constituted or recognized by any foreign prince or state, or of any person or company of persons resident in any country not under the dominion of Her Majesty,—or uses or knowingly has in his custody or

Engraving plates for foreign bills or notes, or using or having such plates.

possession any plate, stone, wood or other material, upon which any such foreign bill, note, undertaking or order, or any part thereof, is engraved or made,—or knowingly offers, utters, disposes of or puts off, or has in his custody or possession any paper upon which any part of any such foreign bill, note, undertaking or order is made or printed, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 19, s. 22.

Uttering paper on which any part of such bill or note is printed.

DEEDS, WILLS, BILLS OF EXCHANGE, ETC.

26. Every one who, with intent to defraud, forges or alters, or offers, utters, disposes of or puts off, knowing the same to be forged or altered, any deed or any bond or writing obligatory, or any assignment at law or in equity of any such bond or writing obligatory, or forges any name, handwriting or signature purporting to be the name, handwriting or signature of a witness attesting the execution of any deed, bond or writing obligatory, or offers, utters, disposes of or puts off any deed, bond or writing obligatory, having thereon any such forged name, handwriting or signature, knowing the same to be forged, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 19, s. 23.

Forging deeds, bonds, &c., or uttering the same.

27. Every one who, with intent to defraud, forges or alters, or offers, utters, disposes of or puts off, knowing the same to be forged or altered, any will, testament, codicil, or testamentary instrument, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 19, s. 24.

Forging wills

28. Every one who, with intent to defraud, forges or alters, or offers, utters, disposes of or puts off, knowing the same to be forged or altered, any bill of exchange, or any acceptance, indorsement or assignment of any bill of exchange, or any promissory note for the payment of money, or any indorsement on or assignment of any such promissory note, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 19, s. 25.

Forging bills of exchange or promissory notes.

29. Every one who, with intent to defraud, forges or alters, or offers, utters, disposes of or puts off, knowing the same to be forged or altered, any undertaking, warrant, order, authority or request for the payment of money or for the delivery or transfer of any goods or chattels, or of any note, bill or other security for the payment of money, or for procuring or giving credit, or any indorsement on or assignment of any such undertaking, warrant, order, authority or request, or any accountable receipt, acquittance or receipt for money or for goods, or for any note, bill or other security for the payment of money, or any indorsement on or assignment of any such accountable receipt, or

Forging orders, receipts, &c., for money, goods, &c.

any account, book or thing, written or printed or otherwise made capable of being read, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 19, s. 26.

Making or accepting any bill, &c., by procuration, without lawful authority, or uttering such bill.

30. Every one who, with intent to defraud, draws, makes, signs, accepts or indorses any bill of exchange or promissory note, or any undertaking, warrant, order, authority or request for the payment of money, or for the delivery or transfer of goods or chattels, or of any bill, note or other security for money, by procuration or otherwise, for, in the name, or on the account of any other person, without lawful authority or excuse, or offers, utters, disposes of or puts off any such bill, note, undertaking, warrant, order, authority or request, so drawn, made, signed, accepted or indorsed, by procuration or otherwise, without lawful authority or excuse, knowing the same to have been so drawn, made, signed, accepted or indorsed, as aforesaid, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 19, s. 27.

Obliterating crossing on cheques.

31. Whenever any cheque or draft on any banker is crossed with the name of a banker, or with two transverse lines with the words "and company," or any abbreviation thereof, every one who, with intent to defraud, obliterates, adds to or alters any such crossing, or offers, utters, disposes of or puts off any cheque or draft whereon any such obliteration, addition or alteration has been made, knowing the same to have been made, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 19, s. 28.

Forging debentures.

32. Every one who forges or fraudulently alters, or offers, utters, disposes of or puts off, knowing the same to be forged or fraudulently altered, any debenture issued under any lawful authority whatsoever, either within Her Majesty's dominions or elsewhere, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 19, s. 29.

PASSENGER TICKETS.

Forging railway tickets, &c.

33. Every one who, with intent to defraud, forges, offers or utters, *disposes of or puts off*, knowing the same to be forged, any ticket or order for a free or paid passage on any railway or any steam or other vessel, is guilty of felony, and liable to three years' imprisonment. 32-33 V., c. 19, s. 32.

RECORDS, PROCESS, INSTRUMENTS OF EVIDENCE, ETC.

Forging proceedings of courts.

34. Every one who forges or fraudulently alters or offers, utters, disposes of or puts off, knowing the same to be forged or fraudulently altered, any record, writ, return, panel, process, rule, order, warrant, interrogatory, deposition, affidavit,

affirmation, recognizance, *cognovit actionem*, warrant of attorney, bill, petition, process, notice, rule, answer, pleading, interrogatory, report, order or decree, or any original document whatsoever of or belonging to any court of justice, or any document or writing, or any copy of any document or writing, used or intended to be used as evidence in any such court, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 19, s. 33.

35. Every one who, being the clerk of any court or other officer having the custody of the records of any court, or being the deputy of any such clerk or officer, utters any false copy or certificate of any record, knowing the same to be false; and every one, other than such clerk, officer or deputy, who signs or certifies any copy or certificate of any record as such clerk, officer or deputy,—and every one who forges or fraudulently alters or offers, utters, disposes of or puts off, knowing the same to be forged or fraudulently altered, any copy or certificate of any record, or offers, utters, disposes of or puts off any copy or certificate of any record having thereon any false or forged name, handwriting or signature, knowing the same to be false or forged,—and every one who forges the seal of any court of record, or forges or fraudulently alters any process of any court whatsoever, or serves or enforces any forged process of any court whatsoever, knowing the same to be forged, or delivers or causes to be delivered to any person any paper, falsely purporting to be any such process or a copy thereof, or to be any judgment, decree or order of any court whatsoever, or a copy thereof, knowing the same to be false, or acts or professes to act under any such false process, knowing the same to be false, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 19, s. 34;—C. S. U. C., c. 16, s. 16, *part*.

Uttering false copies or certificates of records, or process of courts, or using forged process.

36. Every one who forges or fraudulently alters, or offers, utters, disposes of, puts off, or tenders in evidence, knowing the same to be forged or fraudulently altered, any instrument, whether written or printed, or partly written and partly printed, which is made evidence by any Act of the Parliament of Canada or of the Legislature of any Province of Canada, and for which offence no other punishment is in this Act provided, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 19, s. 35;—39 V., c. 26, s. 14;—C. S. C., c. 80, s. 7, *part*.

Forging instruments made evidence by any Act of Parliament, &c.

37. Every one who,—

(a) Prints any proclamation, order, regulation or appointment, or notice thereof, and causes the same falsely to purport to have been printed by the Queen's Printer for Canada, or the Government Printer for any Province of Canada, as the case may be, or tenders in evidence any copy of any

Causing proclamation, &c., falsely to purport to be printed by Queen's Printer, &c.

proclamation, order, regulation or appointment, which falsely purports to have been printed as aforesaid, knowing that the same was not so printed; or—

Forging or tendering forged certificate.

(b) Forges, or tenders in evidence, knowing the same to be forged, any certificate authorized to be made or given by any Act of the Parliament of Canada, or of the Legislature of any Province of Canada, for the purpose of certifying or verifying any copy or extract of any proclamation, order, regulation, appointment, paper, document or writing, of which a certified copy may lawfully be offered as *prima facie* evidence,—

Punishment.

Is guilty of felony, and liable to *seven* years' imprisonment. 44 V., c. 28, s. 4.

NOTARIAL ACTS, REGISTERS OF DEEDS, ETC.

Forging notarial instruments, or other authentic documents, or as to the registry of deeds.

38. Every one who forges or fraudulently alters, or offers, utters, disposes of or puts off, knowing the same to be forged or fraudulently altered, any notarial act or instrument or copy, purporting to be an authenticated copy thereof or any *procès verbal* of a surveyor, or like copy thereof,—or forges or fraudulently alters, or offers or utters, disposes of or puts off, knowing the same to be forged or fraudulently altered, any duplicate of any instrument, or any memorial, affidavit, affirmation, entry, certificate, indorsement, document or writing, made or issued under the provisions of any Act of the Parliament of Canada, or of the Legislature of any Province of Canada, for or relating to the registry of deeds or other instruments or documents respecting or concerning the title to or claims upon any real or personal property whatsoever, or forges, or counterfeits the seal of or belonging to any office for the registry of deeds or other instruments as aforesaid, or any stamp or impression of any such seal,—or forges any name, handwriting or signature, purporting to be the name, handwriting or signature of any person to any such memorial, affidavit, affirmation, entry, certificate, indorsement, document or writing required or directed to be signed by or by virtue of any such Act, or offers, utters, disposes of or puts off any such memorial or other writing as in this section mentioned, having thereon any such forged stamp or impression of any such seal, or any such forged name, handwriting or signature, knowing the same to be forged, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 19, s. 37.

Uttering such documents.

ORDERS OF JUSTICES OF THE PEACE.

Forging orders of justices, recog-

39. Every one who, with intent to defraud, forges or alters, or offers, utters, disposes of or puts off, knowing the

same to be forged or altered, any summons, conviction, order or warrant, of any justice of the peace, or any recognizance purporting to have been entered into before any justice of the peace or other officer authorized to take the same, or any examination, deposition, affidavit, affirmation or solemn declaration, taken or made before any justice of the peace, is guilty of felony, and liable to three years' imprisonment. 32-33 V., c. 19, s. 38.

recognizances,
affidavits, &c.

NAMES OF JUDGES, ETC.

40. Every one who, with intent to defraud, forges or alters any certificate, report, entry, indorsement, declaration of trust, note, direction, authority, instrument or writing made or purporting or appearing to be made by any judge, *commissioner*, clerk or other officer of any court in Canada, or the name, handwriting or signature of any such judge, *commissioner*, clerk, or other officer, as aforesaid, or offers, utters, disposes of or puts off any such certificate, report, entry, indorsement, declaration of trust, note, direction, authority, instrument or writing, knowing the same to be forged or altered, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 19, s. 39;— C. S. U. C., c. 16, s. 16, *part*.

Forging name
of judge, &c.

RECOGNIZANCES, ETC.

41. Every one who, without lawful authority or excuse, the proof whereof shall lie on him, in the name of any other person, acknowledges any recognizance of bail, or any *cognovit actionem*, or judgment, or any deed or other instrument, before any court, judge, notary or other person lawfully authorized in that behalf, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 19, s. 40.

Acknowledg-
ing recogniz-
ance, bail,
cognovit, &c.,
in the name
of another.

MARRIAGE LICENSES.

42. Every one who forges or fraudulently alters any license or certificate for marriage, or offers, utters, disposes of or puts off any such license or certificate, knowing the same to be forged or fraudulently altered, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 19, s. 41.

Forging or
uttering
forged mar-
riage license
or certificate.

REGISTERS OF BIRTHS, MARRIAGES AND DEATHS.

43. Every one who unlawfully destroys, defaces or injures, or causes or permits to be destroyed, defaced or injured, any register of births, baptisms, marriages, deaths or burials, authorized or required to be kept in Canada, or in any Province of Canada, or any part of any such register, or any certified copy of any such register, or of any part thereof,—or forges or fraudulently alters in any such register any entry

Forging or
defacing, &c.,
registers of
births, bap-
tisms, mar-
riages, deaths
or burials.

relating to any birth, baptism, marriage, death or burial, or any part of any such register, or any certified copy of such register, or of any part thereof,—or knowingly and unlawfully inserts, or causes or permits to be inserted in any such register, or in any certified copy thereof, any false entry of any matter relating to any birth, baptism, marriage, death or burial,—or knowingly and unlawfully gives any false certificate relating to any birth, baptism, marriage, death or burial, or certifies any writing to be a copy or extract from any such register, knowing such writing, or the part of such register whereof such copy or extract is so given, to be false in any material particular,—or forges or counterfeits the seal of or belonging to any registry office or burial board,—or offers, utters, disposes of or puts off any such register, entry, certified copy, certificate or seal, knowing the same to be false, forged or altered, or offers, utters, disposes of, or puts off any copy or any entry in any such register, knowing such entry to be false, forged or altered, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 19, s. 42.

Or uttering
the same.

Making false
entries in
copies of
register sent
to registrar.

44. Every one who, knowingly and wilfully, inserts or causes or permits to be inserted, in any copy of any register directed or required by law to be transmitted to any registrar or other officer, any false entry of any matter relating to any baptism, marriage or burial,—or forges or alters, or offers, utters, disposes of or puts off, knowing the same to be forged or altered, any copy of any register so directed or required to be transmitted as aforesaid,—or knowingly or wilfully signs or verifies any copy of any register so directed or required to be transmitted as aforesaid, which copy is false in any part thereof, knowing the same to be false,—or unlawfully destroys, defaces or injures, or for any fraudulent purpose, takes from its place of deposit, or conceals any such copy of any register, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 19, s. 43.

Destroying or
concealing
such copies.

DEMANDING PROPERTY UPON FORGED INSTRUMENTS.

Demanding or
obtaining pro-
perty upon
forged instru-
ments.

45. Every one who, with intent to defraud, demands, receives or obtains, or causes or procures to be delivered or paid to any person, or endeavors to receive or obtain, or to cause or procure to be delivered or paid to any person, any chattel, money, security for money or other property whatsoever, under, upon or by virtue of any forged or altered instrument whatsoever, knowing the same to be forged or altered, or under, upon or by virtue of any probate or letters of administration, knowing the will, testament, codicil, or testamentary writing on which such probate or letters of administration were obtained, to have been forged or altered, or knowing such probate or letters of administration to have been obtained by any false oath,

affirmation or affidavit, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 19, s. 44.

CASES NOT OTHERWISE PROVIDED FOR.

46. Every one who, for any purpose of fraud or deceit, forges or fraudulently alters any document or thing written, printed or otherwise made capable of being read, or offers, utters, disposes of or puts off any such forged or altered document or thing, knowing the same to be forged or altered, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 19, s. 45, *part*.

Forging any document or writing whatsoever.

47. If by this or any other Act any person is liable to punishment for forging or altering, or for offering, uttering, disposing of or putting off, knowing the same to be forged or altered, any instrument or writing designated in such Act by any special name or description, and such instrument or writing, however designated, is in law a will, testament, codicil or testamentary writing, or a deed, bond or writing obligatory, or a bill of exchange, or a promissory note for the payment of money, or an indorsement on or assignment of a bill of exchange or promissory note for the payment of money, or an acceptance of a bill of exchange, or an undertaking, warrant, order, authority or request for the payment of money, or an indorsement on or assignment of an undertaking, warrant, order, authority or request for the payment of money, within the true intent and meaning of this Act, every one who forges or alters such instrument or writing, or offers, utters, disposes of or puts off such instrument or writing, knowing the same to be forged or altered, may be indicted as an offender against this Act, and punished accordingly. 32-33 V., c. 19, s. 46.

Forging any instrument, however designated, which is in law a will, bill of exchange, &c.

48. Every one who, in Canada, forges or alters, or offers, utters, disposes of or puts off, knowing the same to be forged or altered, any writing or matter of which the forging or altering, or the offering, uttering, disposing of or putting off, knowing the same to be forged or altered, is, in this Act, expressed to be an offence, in whatsoever country or place out of Canada, whether under the dominion of Her Majesty or not, such writing or matter purports to be made or has been made, and in whatsoever language the same or any part thereof is expressed, and every one who aids, abets or counsels the commission of any such offence, shall be deemed to be an offender within the meaning of this Act, and shall be punishable in the same manner as if the writing or matter purported to be made or was made in Canada. 32-33 V., c. 19, s. 47, *part*.

Forging, &c., in Canada, documents purporting to be made, or actually made out of Canada.

49. Every one who, in Canada, forges or alters or offers, utters, disposes of or puts off, knowing the same to be forged

Forging, &c., in Canada, bills, &c.,

purporting to
be payable out
of Canada.

or altered, any bill of exchange, or any promissory note for the payment of money, or any indorsement on or assignment of any bill of exchange or promissory note for the payment of money, or any acceptance of any bill of exchange, or any undertaking, warrant, order, authority or request for the payment of money, or for the delivery or transfer of any goods or security, or any deed, bond or writing obligatory for the payment of money, whether such deed, bond or writing obligatory is made only for the payment of money, or for the payment of money together with some other purpose, or any indorsement on or assignment of any such undertaking, warrant, order, authority, request, deed, bond or writing obligatory, in whatsoever place or country out of Canada, whether under the dominion of Her Majesty or not, the money payable or secured by such bill, note, undertaking, warrant, order, authority, request, deed, bond or writing obligatory is or purports to be payable, and in whatsoever language the same respectively or any part thereof is expressed, and whether such bill, note, undertaking, warrant, order, authority or request is or is not under seal, and every one who aids, abets or counsels the commission of any such offence, shall be deemed to be an offender within the meaning of this Act, and shall be punishable in the same manner as if the money purported to be payable or was payable in Canada. 32-33 V., c. 19, s. 47, *part*.

Forgeries
which were
punishable
more severely
than under
this Act, and
are not other-
wise punish-
able here-
under.

50. Whenever, by any Act, any person falsely making, forging, counterfeiting, erasing or altering any matter whatsoever, or uttering, publishing, offering, disposing of, putting off or making use of any matter whatsoever, knowing the same to have been falsely made, forged, counterfeited, erased or altered, or any person demanding or endeavoring to receive or have anything, or to do or to cause to be done any act, upon or by virtue of any matter whatsoever, knowing such matter to have been falsely made, forged, counterfeited, erased or altered,—or whenever, by any such Act, any person falsely personating another, or falsely acknowledging anything in the name of another, or falsely representing any other person than the real person to be such real person, or wilfully making a false entry in any book, account or document, or in any manner wilfully falsifying any part of any book, account or document, or wilfully making a transfer of any stock, annuity or fund in the name of any person not being the owner thereof, or knowingly taking any false oath, or knowingly making any false affidavit or false affirmation, or demanding or receiving any money or other thing by virtue of any probate or letters of administration, knowing the will on which such probate was obtained to have been false or forged, or knowing such probate or letters of administration to have been obtained by means of any false oath or false affirmation; or whenever, by any such Act, any

person making or using, or knowingly having in his custody or possession any frame, mould or instrument for the making of paper, with certain words visible in the substance thereof, or any person making such paper, or causing certain words to appear visible in the substance of any paper, would, according to the provisions contained in any such Act, be guilty of felony, and be liable to any greater punishment than is provided by this Act, if any person is convicted of any such felony as is in this section mentioned, or of aiding, abetting, counselling or procuring the commission thereof, and the same is not punishable under any of the other provisions of this Act, every such person shall be liable to imprisonment for life. 32-33 V., c. 19, s. 56.

Punishment
in such cases

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with
31 V., c. 46	s. 14.			
32-33 V., c. 19...	The whole, except ss. 36, 48, 49, 50, 51, 53, 54, 55, 57, 58 and 59	ss. 55 and 59	ss. 36, 48, 49, 50, 51, 53 and 54.	Procedure Act.
39 V., c. 26	s. 14		s. 57	Accessories.
			s. 58	Punishment.
			Remainder.....	Supreme and Exchequer Courts Act.
44 V., c. 28	s. 4.		Remainder of Act.	Evidence.
C. S. C., c. 80....	s. 7 (part).			
C. S. U. C., c. 16	s. 16.			

CHAPTER 160.

An Act respecting the fraudulent marking of Merchandise.

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 Marks Offences Act.*" 35 V., c. 32, s. 26.

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

"Person." (a) The expression "person" includes any person, whether a subject of Her Majesty or not, and any body corporate or body of the like nature, whether constituted according to the law of Canada or any of Her Majesty's dominions or colonies, or according to the law of any foreign country, and also any company, association or society of persons, whether the members thereof are subjects of Her Majesty or not, or some of such persons are subjects of Her Majesty and some of them not, and whether such body corporate, body of the like nature, company, association or society is established or carries on business within Her Majesty's dominions or elsewhere, or partly within Her Majesty's dominions and partly elsewhere;

"Mark." (b) The expression "mark" includes any name, signature, word, letter, device, emblem, figure, sign, seal, stamp, diagram, label, ticket or other mark of any other description; and—

"Trade Mark." (c) The expression "trade mark" includes any such name, signature, word, letter, device, emblem, figure, sign, seal, stamp, diagram, label, ticket or other mark as aforesaid, registered or unregistered, lawfully used by any person to denote any chattel or article to be an article or thing of the manufacture, workmanship, production or merchandise of such person, or to be an article or thing of any peculiar or particular description, made or sold by such person,—and also includes any name, signature, word, letter, number, figure, mark or sign which, in pursuance of any statute relating to trade marks or registered designs, is to be put or placed upon or attached to any chattel or article during the existence or continuance of any patent, copyright or other sole right acquired under the provisions of any such statute. 35 V., c. 32, s. 1.

3. Every addition to, alteration of, and imitation of any trade mark, which is made, applied or used with intent to defraud, or to enable any other person to defraud, or which causes a trade mark with such alteration or addition, or causes such imitation of a trade mark, to resemble any genuine trade mark so or in such manner as to be calculated or likely to deceive, shall be and be deemed to be a false, forged and counterfeited trade mark within the meaning of this Act; and every act of making, applying or otherwise using, procuring, vending or delivering to another, any such addition to or alteration of a trade mark or any such imitation of a trade mark as aforesaid, done by any person with intent to defraud, or to enable any other person to defraud, shall be and be deemed to be forging and counterfeiting a trade mark within the meaning of this Act; and every act of making, applying, using, procuring, vending or delivering to another, or having in possession any forged or counterfeited trade mark, or any trade mark without the authority of the owner of such trade mark, or of some person by him authorized to use or apply the same, or other lawful and sufficient excuse, shall be *prima facie* evidence of an intent to defraud, or to enable another person to defraud, and shall be deemed to be forging and counterfeiting such trade mark, within the meaning of this Act. 35 V., c. 32, s. 5.

What shall be deemed a forged and counterfeited trade mark.

And what an act of forging such mark.

4. Every one who, with intent to defraud, or to enable another to defraud any person,—

Forging or counterfeiting any trade mark.

(a) Forges or counterfeits, or causes or procures to be forged or counterfeited, any trade mark, or applies, or causes or procures to be applied, any trade mark, or any forged or counterfeit trade mark, to any chattel or article, not being the manufacture, workmanship, production or merchandise of any person denoted or intended to be denoted by such trade mark, or denoted or intended to be denoted by such forged or counterfeited trade mark, or not being the manufacture, workmanship, production or merchandise of any person whose trade mark is so forged or counterfeited; or

(b) Applies, or causes or procures to be applied, any trade mark, or any forged or counterfeited trade mark, to any chattel or article, not being the particular or peculiar description of manufacture, workmanship, production or merchandise denoted, or intended to be denoted, by such trade mark, or by such forged or counterfeited trade mark,—

Unlawfully applying a trade mark.

Is guilty of a misdemeanor, and shall forfeit to Her Majesty every chattel and article belonging to him to which he has so unlawfully applied, or caused or procured to be applied, any such trade mark or forged or counterfeited trade mark as aforesaid; and also every

Articles marked to be forfeited, and also instruments used in marking.

instrument in his possession or power, and by means of which any such trade mark, or forged or counterfeited trade mark as aforesaid, has been so applied, and every instrument or mark in his possession or power, for applying any such trade mark or counterfeited trade mark as aforesaid; and the court before which any such misdemeanor is tried may order such forfeited chattels or articles as aforesaid, to be destroyed or otherwise disposed of as such court thinks fit. 35 V., c. 32, s. 2.

How disposed of.

5. Every one who, with intent to defraud, or to enable another to defraud any person,—

Fraudulently attaching trade mark.

(a) Applies or causes or procures to be applied, any trade mark, or any forged or counterfeited trade mark, to any cask, bottle, stopper, cork, capsule, vessel, case, cover, wrapper, band, reel, ticket, label or other thing in, on or with which any chattel or article is intended to be sold, or is sold or uttered or exposed for sale, or intended for any purpose of trade or manufacture,—

Inclosing, &c., anything in vessel, &c., so falsely marked.

(b) Incloses or places any chattel or article, or causes or procures any chattel or article to be inclosed or placed in, upon, under or with any cask, bottle, stopper, cork, capsule, vessel, case, cover, wrapper, band, reel, ticket, label or other thing to which any trade mark has been falsely applied, or to which any forged or counterfeited trade mark has been applied,—

Attaching case, &c., falsely marked to anything.

(c) Applies or attaches or causes or procures to be applied or attached to any chattel or article, any case, cover, reel, ticket or label or other thing to which any trade mark has been falsely applied, or to which any forged or counterfeited trade mark has been applied, or—

Inclosing, &c., anything in vessel, &c., bearing trade mark of another person.

(d) Incloses, places or attaches any chattel or article, or causes or procures any chattel or article to be inclosed, placed, or attached in, upon, under, with, or to any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label or other thing having thereon any trade mark of any other person,—

Articles to be forfeited, and also instruments used.

Is guilty of a misdemeanor, and shall forfeit to Her Majesty every such chattel and article, and also every such cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label or other thing as aforesaid in his possession or power, and also every other similar cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label or other thing made to be used in like manner as aforesaid, and every instrument in his possession or power, and by means of which any such trade mark, or forged or counterfeited trade mark as aforesaid, has been applied, and also every

instrument or mark in his possession or power for applying any such trade mark or forged or counterfeited trade mark as aforesaid; and the court before which any such misdemeanor is tried may order such forfeited articles as aforesaid, to be destroyed or otherwise disposed of as such court thinks fit. 35 V., c. 32, s. 3.

How disposed of.

6. Every one who sells, utters or exposes, either for sale or for any purpose of trade or manufacture, or causes or procures to be sold, uttered or exposed for sale or other purpose as aforesaid, any chattel or article, together with any forged or counterfeited trade mark, which he knows to be forged or counterfeited, or together with the trade mark of any other person applied or used falsely or wrongfully, or without lawful authority or excuse, knowing such trade mark of another person to have been so applied or used as aforesaid, whether any such trade mark or forged or counterfeited trade mark as aforesaid, together with which any such chattel or article is sold, uttered or exposed for sale or other purpose as aforesaid, is in, upon, about or with such chattel or article, or in, upon, about or with any cask, bottle, stopper, cork, capsule, vessel, case, cover, wrapper, band, reel, ticket, label or other thing in, upon, about or with which such chattel or article is so sold or uttered, or exposed for sale or other purpose as aforesaid—shall, for every such offence, incur a penalty not exceeding twenty dollars and not less than two dollars, over and above the value of the chattel or article so sold, uttered, offered or exposed for sale or other purpose as aforesaid. 35 V., c. 32, s. 4.

Selling and uttering articles bearing forged trade mark, or mark wrongfully applied.

Penalty.

7. Whenever any person has sold, uttered or exposed for sale or other purpose as aforesaid, or has caused or procured to be sold, uttered or exposed for sale or other purpose as aforesaid, any chattel or article together with any forged or counterfeited trade mark, or together with the trade mark of any other person used without lawful authority or excuse as aforesaid, whether such trade mark, or such forged or counterfeited trade mark as aforesaid, is in, upon, about or with such chattel or article, or in, upon, about or with any cask, bottle, stopper, cork, capsule, vessel, case, cover, wrapper, band, reel, ticket, label or other thing in, upon, about or with which such chattel or article has been sold or exposed for sale,—such person shall be bound, upon demand in writing delivered to him, or left for him at his last known dwelling-house or at the place of sale or exposure for sale, by or on the behalf of any person whose trade mark has been so forged or counterfeited, or used without lawful authority or excuse as aforesaid, to give to the person requiring the same, or his attorney or agent, within forty-eight hours after such demand, full information in writing of the name and address of the person from whom he pur-

Person selling any article bearing forged trade mark bound to give information when required.

In case of refusal may be summoned by a justice of the peace.

Penalty for refusing to comply.

chased or obtained such chattel or article, and of the time when he obtained the same; and any justice of the peace may, on information on oath of such demand and refusal, summon before him the person refusing, and on being satisfied that such demand ought to be complied with, may order such information to be given within a certain time to be appointed by him; and any such person who refuses or neglects to comply with such order shall incur a penalty of twenty dollars, and such refusal or neglect shall be *primâ facie* evidence that the person so refusing or neglecting had full knowledge that the trade mark together with which such chattel or article was sold, uttered or exposed for sale or other purpose as aforesaid, at the time of such selling, uttering or exposing, was a forged, counterfeited and false trade mark, or was the trade mark of a person which had been used without lawful authority or excuse, as the case may be. 35 V., c. 32, s. 6.

Falsely designating any article with intent to defraud.

8. Every one who, with intent to defraud, or to enable another to defraud,—

(a) Puts or causes or procures to be put upon any chattel or article, or upon any cask, bottle, stopper, cork, capsule, vessel, case, cover, wrapper, band, reel, ticket, label or other thing, together with which any chattel or article is intended to be, or is sold or uttered, or exposed for sale or for any purpose of trade or manufacture, or upon any case, frame or other thing, in or by means of which any chattel or article is intended to be or is exposed for sale, any false description, statement or other indication of or respecting the quality, number, quantity, measure or weight of such chattel or article or any part thereof, or of the place or country in which such chattel or article has been made, manufactured, bottled, put up or produced, or—

Attaching a letter, figure, &c., falsely indicating article to be patented, &c.

(b) Puts or causes or procures to be put upon any such chattel or article, cask, bottle, stopper, cork, capsule, vessel case, cover, wrapper, band, reel, ticket, label or thing as aforesaid, any word, letter, figure, signature or mark, for the purpose of falsely indicating such chattel or article, or the mode of manufacturing, bottling or putting up, or producing the same, or the ornamentation, shape or configuration thereof, to be the subject of any existing patent, privilege or copyright,—

Penalty.

Shall, for every such offence, incur a penalty not exceeding twenty dollars and not less than two dollars, over and above the value of the chattel or article so sold or uttered, or exposed for sale. 35 V., c. 32, s. 7.

Knowingly selling any

9. Every one who sells, utters or exposes for sale or for any purpose of trade or manufacture, or causes or procures

to be sold, uttered or exposed for sale or other purpose as aforesaid, any chattel or article, upon which has been, to his knowledge, put, or upon any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label or other thing, together with which such chattel or article is sold or uttered or exposed for sale or other purpose as aforesaid, has been so put, or upon any case, frame or other thing used or employed to expose or exhibit such chattel or article for sale, has been so put, any false description, statement or other indication of or respecting the number, quantity, measure or weight of such chattel or article, or any part thereof, or the place or country in which such chattel or article has been made, manufactured or produced, shall, for every such offence, incur a penalty not exceeding twenty dollars and not less than two dollars. 35 V., c. 32, s. 8.

article falsely marked or designated.

Penalty.

10. The provisions of this Act shall not be construed so as to make it any offence for any person to apply to any chattel or article, or to any cask, bottle, stopper, cork, capsule, vessel, case, cover, wrapper, band, reel, ticket, label or other thing, with which such chattel or article is sold, or intended to be sold, any name, word or expression generally used for indicating that such chattel or article is of some particular class or description of manufacture only; or so as to make it any offence for any person to sell, utter or offer or expose for sale any chattel or article to which, or to any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label or other thing sold therewith, any such generally used name, word or expression as aforesaid, has been applied. 35 V., c. 32, s. 9.

Except that terms in general use may be employed.

11. In every indictment, pleading, proceeding and document whatsoever, in which any trade mark is intended to be mentioned, it shall be sufficient to mention or state the same to be a trade mark, without further or otherwise describing such trade mark, or setting forth any copy or *fac simile* thereof; and in every indictment, pleading, proceeding and document whatsoever, in which it is intended to mention any forged or counterfeited trade mark, it shall be sufficient to mention or state the same to be a forged or counterfeited trade mark, without further or otherwise describing such forged or counterfeited trade mark, or setting forth any copy or *fac simile* thereof. 35 V., c. 32, s. 10.

Specific description of trade mark unnecessary in indictment, &c.

12. The provisions in this Act contained, concerning any act or any proceeding, judgment or conviction for any act hereby declared to be a misdemeanor or offence, shall not take away, diminish or prejudicially affect any suit, process, proceeding, right or remedy which any person, aggrieved by such act, may be entitled to at law, in equity or otherwise, and shall not exempt or excuse any person from answering or making discovery upon examination as

Remedy at law not to be affected.

Compulsory evidence not to be used in prosecution of the person giving it.

a witness, or upon interrogatories, or otherwise, in any suit or other civil proceeding: but no evidence, statement or discovery, which any person is so compelled to give or make, shall be admissible in evidence against such person in support of any indictment for a misdemeanor at common law or otherwise, or of any proceeding under the provisions of this Act. 35 V., c. 32, s. 11.

Indictment stating intent to defraud generally shall be sufficient.

Intent to defraud a particular person need not be proved.

13. In every indictment, information, conviction, pleading and proceeding against any person for any misdemeanor or other offence against the provisions of this Act, in which it is necessary to allege or mention an intent to defraud, or to enable another to defraud, it shall be sufficient to allege or mention that the person accused of having done any act which is hereby made a misdemeanor or other offence, did such act with intent to defraud, or with intent to enable some other person to defraud, without alleging or mentioning any intent to defraud any particular person; and on the trial of any such indictment or information for any such misdemeanor, and on the hearing of any information or charge of or for any such other offence as aforesaid, and on the trial of any action against any person to recover a penalty for any such other offence as aforesaid, it shall not be necessary to prove an intent to defraud any particular person, or an intent to enable any particular person to defraud any particular person, but it shall be sufficient to prove with respect to every such misdemeanor or offence that the person accused did the act charged with intent to defraud, or with intent to enable some other person to defraud, or with the intent that any other person might be enabled to defraud. 35 V., c. 32, s. 12.

Punishment for misdemeanor under this Act.

14. Every one who is convicted or found guilty of any offence which is, by this Act, made a misdemeanor, is liable to a fine, in the discretion of the court, or to two years' imprisonment, or to both, and also to imprisonment until the fine is paid. 35 V., c. 32, s. 14.

Recovery of penalties.

Recovery in a summary manner.

15. Every pecuniary penalty imposed by this Act may be recovered in an action of debt, which any person may, as plaintiff for and on behalf of Her Majesty, commence and prosecute to judgment in any court of record, and the amount of every such penalty recovered in any such action, shall or may be determined by the jury (if any) sworn to try the issue in such action, and if there is no such jury, then by the court or some other jury, as the court thinks fit; or such penalty may be recovered by a summary proceeding, before two justices of the peace having jurisdiction in the county or place where the offender resides or has any place of business, or in the county or place in which the offence has been committed, and under the provisions of the "*Act respecting summary proceedings before Justices of the Peace.*" 35 V., c. 32, ss. 15 and 16.

16. Whenever judgment is obtained in any such action as aforesaid, for the amount of any such penalty, the amount thereof shall be paid by the defendant to the sheriff or the officer of the court, who shall account for the same in like manner as other moneys payable to Her Majesty,—and if it is not paid, may be recovered, or the amount thereof levied, or the payment thereof enforced by execution or other proper proceeding, as money due to Her Majesty; and the plaintiff suing on behalf of Her Majesty, upon obtaining judgment, shall be entitled to recover and have execution for all his costs of suit, which shall include a full indemnity for all costs and charges which he has expended or incurred in, about or for the purposes of the action, unless the court or a judge thereof, directs that costs of the ordinary amount only shall be allowed. 35 V., c. 32, s. 17.

Penalties,
how paid and
accounted for.

Costs.

17. In every action under the provisions of this Act, which any person commences as plaintiff, for or on behalf of Her Majesty, for recovering any penalty, if the defendant obtains judgment, he shall be entitled to recover his costs of suit, which shall include a full indemnity for all the costs, charges and expenses by him expended or incurred in, about or for the purposes of the action, unless the court, or a judge thereof, directs that costs of the ordinary amount only shall be allowed. 35 V., c. 32, s. 23.

As to defend-
ant's costs if
he obtains
judgment.

18. In any action under the provisions of this Act, which any person commences as plaintiff, for or on behalf of Her Majesty for recovering any penalty, if it is shown to the satisfaction of the court, or a judge thereof, that the person suing as plaintiff for or on behalf of Her Majesty, has no ground for alleging that he has been aggrieved by the committing of the alleged offence, in respect of which the penalty is alleged to have become payable, and also that the person so suing as plaintiff is not resident within the jurisdiction of the court, or is not a person of sufficient property to be able to pay any costs which the defendant may recover in the action, the court or judge may order that the plaintiff shall give security, by the bond or recognizance of himself and a surety or by the deposit of a sum of money or otherwise, as the court or judge thinks fit, for the payment to the defendant of any costs which he is entitled to recover in the action. 35 V., c. 32, s. 24.

In certain
cases plaintiff
may be re-
quired to give
security for
costs.

19. No person shall commence any action or proceeding for the recovery of any penalty, or for procuring the conviction of any offender in manner hereinbefore provided, after the expiration of three years next after the committing of the offence, or one year next after the first discovery thereof by the person proceeding. 35 V., c. 32, s. 18.

Time for com-
mencing
action
limited.

20. Whenever any person sells or contracts to sell, whether by writing or not, to any other person, any

Contract to
sell article
bearing trade

mark to imply that the same is genuine.

chattel or article, with any trade mark thereon, or upon any cask, bottle, stopper, cork, capsule, vessel, case, cover, wrapper, band, reel, ticket, label or other thing, together with which such chattel or article is sold or contracted to be sold, the sale or contract to sell shall in every such case be deemed to have been made with a warranty or contract by the vender to or with the vendee, that every trade mark upon such chattel or article, or upon any such cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label or other thing as aforesaid, was genuine and true, and not forged or counterfeit, and not wrongfully used, unless the contrary is expressed in some writing signed by or on behalf of the vender and delivered to and accepted by the vendee. 35 V., c. 32, s. 19.

Contract to sell article bearing special designation or description to imply that the same is genuine.

21. Whenever any person sells or contracts to sell, whether by writing or not, to any other person, any chattel or article upon which, or upon any cask, bottle, stopper, cork, capsule, vessel, case, cover, wrapper, band, reel, ticket, label or other thing, together with which such chattel is sold, or contracted to be sold, there is any description, statement or other indication of or respecting the number, quality, quantity, measure or weight of such chattel or article, or the place or country in which such chattel or article has been made, manufactured, bottled or put up, or produced, the sale or contract to sell shall, in every such case, be deemed to have been made with a warranty or contract by the vender to or with the vendee, that no such description, statement or other indication was in any material respect false or untrue, unless the contrary is expressed in some writing signed by or on behalf of the vender and delivered to and accepted by the vendee. 35 V., c. 32, s. 20.

Court may order article wrongfully marked to be destroyed or otherwise disposed of.

22. In every case, in any suit or action against any person for forging or counterfeiting any trade mark, or for fraudulently applying any trade mark to any chattel or article, or for selling, exposing for sale or uttering any chattel or article with any trade mark falsely or wrongfully applied thereto, or with any forged or counterfeit trade mark applied thereto, or for preventing the repetition or continuance of any such wrongful act, or the commission of any similar act, in which the plaintiff obtains a judgment or decree against the defendant, the court shall have power to direct every such chattel and article to be destroyed or otherwise disposed of; and in every such suit in a court of law, the court may, upon giving judgment for the plaintiff, award a writ or writs of injunction to the defendant, commanding him to forbear from committing, and not, by himself or otherwise, to repeat or commit any offence or wrongful act of the like nature as that of which he has been convicted by such judgment, and any disobedience of any such writ or writs of injunction shall be punished as a contempt of court; and in

And may issue injunction to defendant.

every such suit or action the court, or a judge thereof, may make such order as such court or judge thinks fit, for the inspection of every or any manufacture or process carried on by the defendant, in which any such forged or counterfeit trade mark, or any such trade mark as aforesaid, is alleged to be used or applied as aforesaid, and of every or any chattel, article and thing, in the possession or power of the defendant, alleged to have thereon or in any way attached thereto, any forged or counterfeit trade mark, or any trade mark falsely or wrongfully applied, and every or any instrument or mark in the possession or power of the defendant, used, or intended to be, or capable of being used for producing or making any forged or counterfeit trade mark, or trade mark alleged to be forged or counterfeit, or for falsely or wrongfully applying any trade mark; and any person who refuses or neglects to obey any such order shall be held guilty of a contempt of court. 35 V., c. 32, s. 21.

And may order inspection of manufacture or process to be made.

Penalty for refusing to allow inspection.

23. If any person does, or causes to be done, any of the wrongful acts following, that is to say:—

Certain acts specified.

(a) Forges or counterfeits any trade mark,—

Forging trade mark.

(b) For the purpose of sale or for the purpose of any manufacture or trade, applies any forged or counterfeit trade mark to any chattel or article, or to any cask, bottle, stopper, cork, capsule, vessel, case, cover, wrapper, band, reel, ticket, label or thing in or with which any chattel or article is intended to be sold, or is sold or uttered or exposed for sale or for any purpose of trade or manufacture,—

Applying forged trade mark.

(c) Incloses or places any chattel or article in, upon under or with any cask, bottle, stopper, cork, capsule, vessel, case, cover, wrapper, band, reel, ticket, label or other thing, to which any trade mark has been falsely applied, or to which any forged or counterfeit trade mark has been applied,—

Inclosing, &c., article in vessel, &c., so which mark is falsely applied.

(d) Applies or attaches to any chattel or article, any case, cover, reel, wrapper, band, ticket, label or other thing to which any trade mark has been falsely applied, or to which any forged or counterfeit trade mark has been applied, or—

Attaching case, &c., so falsely marked to anything.

(e) Incloses, places or attaches any chattel or article in, upon, under, with or to any cask, bottle, stopper, cork, capsule, vessel, case, cover, reel, wrapper, band, ticket, label or other thing having thereon any trade mark of any other person,—

Inclosing, &c., anything in vessel, &c., bearing trade of another person.

In such cases
action for
damages may
be maintain-
ed.

Every person aggrieved by any such wrongful act shall be entitled to maintain an action or suit for damages in respect thereto, against the person guilty of having done such act, or causing or procuring the same to be done, and for preventing the repetition or continuance of the wrongful act and the commission of any similar act. 35 V., c. 32, s. 22.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
35 V., c. 32..	The whole, ex- cept ss. 13 and 25	s. 25.	s. 13.	Accessories.

CHAPTER 161.

An Act respecting Offences relating to the Coin.

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 :— Interpreta-
tion.

(a) The expression “current gold or silver coin” includes any gold or silver coined in any of Her Majesty’s mints, or gold or silver coin of any foreign prince or state, or country, or other coin lawfully current, by virtue of any proclamation or otherwise, in Canada, or in any other part of Her Majesty’s dominions ; “Current
gold or silver
coin.”

(b) The expression “current copper coin” includes any copper coin and any coin of bronze or mixed metal coined in any of Her Majesty’s mints, or lawfully current, by virtue of any proclamation or otherwise, in Canada, or any other part of Her Majesty’s dominions ; “Current
copper coin.”

(c) The expression “copper or brass coin” includes coins and tokens of bronze, or of any other mixed metal, or other than gold or silver ; “Copper or
brass coin.”

(d) The expression “false or counterfeit coin, resembling or apparently intended to resemble or pass for current gold or silver coin,” or other similar expression, includes any of the current coin which has been gilt, silvered, washed, colored or cased over, or in any manner altered so as to resemble or be apparently intended to resemble or pass for any of the current coin of a higher denomination ; “False or
counterfeit
coin.”

(e) The expression “current coin” includes any coin coined in any of Her Majesty’s mints, or lawfully current, by virtue of any proclamation or otherwise, in Canada, or any other part of Her Majesty’s dominions ; and whether made of gold, silver, copper, bronze or mixed metal. 31 V., c. 47, s. 10 ;—32-33 V., c. 18, s. 1, *part.* “Current
coin.”

2. Whenever the having any matter in the custody or possession of any person is mentioned in this Act, it shall include not only the having of it by himself in his personal custody or possession, but also the knowingly and wilfully having it in the actual custody or possession of any other person, and also the knowingly and wilfully Having in
custody or
possession.

having it in any dwelling-house or other building, lodging, apartment, field or other place, open or inclosed, whether belonging to or occupied by himself or not, and whether such matter is so had for his own use or benefit, or for that of any other person. 32-33 V., c. 18, s. 1, *part.*

Counterfeit-
ing current
gold or silver
coin.

3. Every one who falsely makes or counterfeits any coin resembling or apparently intended to resemble or pass for any current gold or silver coin, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 18, s. 2.

Coloring any
coin or any
pieces of
metal with in-
tent to make
them pass for
gold or silver
coin.

4. Every one who gilds or silvers, or with any wash or materials capable of producing the color or appearance of gold or of silver, or by any means whatsoever, washes, cases over or colors any coin whatsoever, resembling or apparently intended to resemble or pass for any current gold or silver coin,—or gilds or silvers, or with any wash or materials capable of producing the color or appearance of gold or silver, or by any means whatsoever, washes, cases over or colors any piece of silver or copper, or of coarse gold or coarse silver, or of any metal or mixture of metals respectively, being of a fit size and figure to be coined, and with intent that the same shall be coined into false and counterfeit coin resembling or apparently intended to resemble or pass for any current gold or silver coin,—or gilds or, with any wash or materials capable of producing the color and appearance of gold, or by any means whatsoever, washes, cases over or colors any current silver coin, or files or in any manner alters such coin, with intent to make the same resemble or pass for any current gold coin,—or gilds or silvers or with any wash or materials capable of producing the color or appearance of gold or silver, or by any means whatsoever, washes, cases over or colors any current copper coin, or files or in any manner alters such coin with intent to make the same resemble or pass for any current gold or silver coin, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 18, s. 3.

Coloring or
altering genu-
ine coin, with
intent to
make it pass
for coin of a
higher value.

Impairing the
gold or silver
coin.

5. Every one who impairs, diminishes or lightens any current gold or silver coin, with intent that the coin so impaired, diminished, or lightened may pass for current gold or silver coin is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 18, s. 4.

Unlawful pos-
session of
filings or clip-
pings of gold
or silver coin.

6. Every one who unlawfully has in his custody or possession any filings or clippings, or any gold or silver bullion, or any gold or silver in dust, solution or otherwise, which have been produced or obtained by impairing, diminishing or lightening any current gold or silver coin, knowing the same to have been so produced or obtained, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 18, s. 5.

7. Every one who, without lawful authority or excuse, the proof whereof shall lie on him, buys, sells, receives, pays or puts off, or offers to buy, sell, receive, pay or put off, any false or counterfeit coin, resembling or apparently intended to resemble or pass for any current gold or silver coin, at or for a lower rate or value than the same imports, or was apparently intended to import, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 18, s. 6, *part.*

Buying or selling, &c., counterfeit gold or silver coin for lower value than its denomination imports.

8. Every one who, without lawful authority or excuse, the proof whereof shall lie on him, imports or receives into Canada any false or counterfeit coin, resembling or apparently intended to resemble or pass for any current gold or silver coin, knowing the same to be false or counterfeit, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 18, s. 7.

Importing counterfeit coin.

9. Every one who, without lawful authority or excuse, the proof whereof shall lie on him, exports or puts on board any ship, vessel or boat, or on any railway or carriage or vehicle of any description whatsoever, for the purpose of being exported from Canada, any false or counterfeit coin, resembling or apparently intended to resemble or pass for any current coin, or for any foreign coin of any prince, country or state, knowing the same to be false or counterfeit, is guilty of a misdemeanor, and liable to imprisonment for any term less than two years. 32-33 V., c. 18, s. 8.

Exporting counterfeit coin.

10. Every one who tenders, utters or puts off, any false or counterfeit coin, resembling or apparently intended to resemble or pass for any current gold or silver coin, knowing the same to be false or counterfeit, is guilty of a misdemeanor, and liable to fourteen years' imprisonment. 32-33 V., c. 18, s. 9.

Uttering counterfeit gold or silver coin.

11. Every one who tenders, utters or puts off as being current, any gold or silver coin of less than its lawful weight, knowing such coin to have been impaired, diminished or lightened, otherwise than by lawful wear, is guilty of a misdemeanor, and liable to one year's imprisonment. 32-33 V., c. 18, s. 10.

Passing light gold or silver coin.

12. Every one who has in his custody or possession any false or counterfeit coin, resembling or apparently intended to resemble or pass for any current gold or silver coin, knowing the same to be false or counterfeit coin, and with intent to utter or put off any such false or counterfeit coin, is guilty of a misdemeanor, and liable to three years' imprisonment. 32-33 V., c. 18, s. 11.

Having counterfeit gold or silver coin in possession, &c.

Subsequent offence of uttering, &c., after a previous conviction.

13. Every one who, having been convicted of any such misdemeanor as in any of the *three* sections next preceding mentioned, or of any misdemeanor or felony against this or any other Act relating to the coin, afterwards commits any of the misdemeanors in any of the said sections mentioned, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 18, s. 12.

Uttering foreign coin, medals, &c., as current coin, with intent to defraud.

14. Every one who, with intent to defraud, tenders, utters or puts off, as or for any current gold or silver coin, any coin not being such current gold or silver coin, or any medal, or piece of metal or mixed metals, resembling, in size, figure and color, the current coin as or for which the same is so tendered, uttered or put off, such coin, medal or piece of metal or mixed metals so tendered, uttered or put off, being of less value than the current coin as or for which the same is so tendered, uttered or put off, is guilty of a misdemeanor, and liable to one year's imprisonment. 32-33 V., c. 18, s. 13.

Counterfeiting, &c., copper coin; or buying or selling it for less than its denomination imports, &c.

15. Every one who falsely makes or counterfeits any coin resembling or apparently intended to resemble or pass for any current copper coin, or without lawful authority or excuse, the proof of which shall lie on him, knowingly makes or mends, or begins or proceeds to make or mend, or buys or sells, or has in his custody or possession, any instrument, tool or engine adapted and intended for the counterfeiting any current copper coin, or buys, sells, receives, pays or puts off, or offers to buy, sell, receive, pay or put off, any false or counterfeit coin, resembling or apparently intended to resemble or pass for any current copper coin, at or for a lower rate of value than the same imports or was apparently intended to import, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 18, s. 14.

Uttering base copper coin.

16. Every one who tenders, utters or puts off any false or counterfeit coin, resembling or apparently intended to resemble or pass for any current copper coin, knowing the same to be false or counterfeit, or has in his custody or possession three or more pieces of false or counterfeit coin, resembling or apparently intended to resemble or pass for any current copper coin, knowing the same to be false or counterfeit, with an intent to utter or put off the same, or any of them, is guilty of a misdemeanor, and liable to one year's imprisonment. 32-33 V., c. 18, s. 15.

Defacing the coin by stamping words thereon.

17. Every one who defaces any current gold, silver or copper coin, by stamping thereon any names or words, whether such coin is or is not thereby diminished or lightened, and afterwards tenders the same, is guilty of a misdemeanor, and liable to one year's imprisonment. 32-33 V., c. 18, s. 16.

18. Every one who tenders, utters or puts off any coin so defaced, shall, on summary conviction before two justices of the peace, be liable to a penalty not exceeding ten dollars; but no person shall proceed for any such last mentioned penalty without the consent of the Attorney General for the Province in which such offence is alleged to have been committed. 32-33 V., c. 18, s. 17, *part*.

Uttering coin so defaced.

19. Every one who makes or counterfeits any kind of coin not being current gold or silver coin, but resembling or apparently intended to resemble or pass for any gold or silver coin of any foreign prince, state or country, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 18, s. 18.

Counterfeiting foreign gold and silver coin, not current in Canada.

20. Every one who, without lawful authority or excuse, the proof whereof shall lie on him, brings or receives into Canada any such false or counterfeit coin, resembling or apparently intended to resemble or pass for any gold or silver coin of any foreign prince, state or country, not being current coin, knowing the same to be false or counterfeit, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 18, s. 19.

Bringing such counterfeit coin into Canada.

21. Every one who tenders, utters or puts off any such false or counterfeit coin, resembling or apparently intended to resemble or pass for any gold or silver coin of any foreign prince, state or country, not being current coin, knowing the same to be false or counterfeit, is guilty of a misdemeanor, and liable to six months' imprisonment:

Penalty for uttering such counterfeit foreign coin.

2. Every one who, having been convicted of any such offence, afterwards commits the like offence of tendering, uttering or putting off any such false or counterfeit coin, as aforesaid, knowing the same to be false or counterfeit, is guilty of a misdemeanor, and liable to imprisonment for any term less than two years:

Second offence.

3. Every one who, having been twice convicted of any such offence, afterwards commits the like offence of tendering, uttering or putting off any such false or counterfeit coin, as aforesaid, knowing the same to be false or counterfeit, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 18, ss. 20 and 21.

Subsequent offence.

22. Every one who, without lawful authority or excuse, the proof whereof shall lie on him, has in his possession or custody any forged, false or counterfeit piece or coin, counterfeited to resemble any foreign gold or silver coin described in the *three* sections next preceding, knowing the same to be false or counterfeit, with intent to put off any such false or counterfeit coin, is guilty of a mis-

Having such coin in possession.

demeanor, and liable to three years' imprisonment. 32-33 V., c. 18, s. 22.

Counterfeit-
ing foreign
coin, other
than gold and
silver coin.

23. Every one who falsely makes or counterfeits any kind of coin, not being current coin, but resembling or apparently intended to resemble or pass for any copper coin, or any other coin made of any metal or mixed metals, of less value than the silver coin of any foreign prince, state or country, is guilty of a misdemeanor, and liable, for the first offence, to one year's imprisonment; and for any subsequent offence, to seven years' imprisonment. 32-33 V., c. 18, s. 23.

Making,
mending, or
having unlaw-
fully posses-
sion of any
coining tools.

24. Every one who, without lawful authority or excuse, the proof whereof shall lie on him,—

(a) Knowingly makes or mends, or begins or proceeds to make or mend, or buys or sells, or has in his custody or possession any puncheon, counter puncheon, matrix, stamp, die, pattern or mould, in or upon which there is made or impressed, or which will make or impress, or which is adapted and intended to make or impress the figure, stamp or apparent resemblance of both or either of the sides of any current gold or silver coin, or of any coin of any foreign prince, state or country, or any part or parts of both or either of such sides,—

Or any edging
instrument.

(b) Makes or mends, or begins or proceeds to make or mend or buys or sells, or has in his custody or possession any edger, edging or other tool, collar, instrument or engine adapted and intended for the marking of coin round the edges with letters, grainings, or other marks or figures, apparently resembling those on the edges of any such coin as in this section aforesaid, knowing the same to be so adapted and intended as aforesaid, or—

Or any coin-
age press or
cutting
engine.

(c) Makes or mends or begins or proceeds to make or mend, or buys or sells, or has in his custody or possession, any press for coinage, or any cutting engine for cutting by force of a screw or of any other contrivance, round blanks out of gold, silver or other metal or mixture of metals, or any other machine, knowing such press to be a press for coinage, or knowing such engine or machine to have been used or to be intended to be used for or in order to the false making or counterfeiting of any such coin as in this section aforesaid,—

Punishment.

Is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 18, s. 24.

Conveying
tools or
moneys, or

25. Every one who, without lawful authority or excuse, the proof whereof shall lie on him, knowingly conveys out

of any of Her Majesty's mints into Canada, any puncheon, counter puncheon, matrix, stamp, die, pattern, mould, edger, edging or other tool, collar, instrument, press or engine, used or employed in or about the coining of coin, or any useful part of any of the several articles aforesaid, or any coin, bullion, metal or mixture of metals, is guilty of felony and liable to imprisonment for life. 32-33 V., c. 18, s. 25. metal out of the mint without authority.

26. If any coin is tendered as current gold or silver coin to any person who suspects the same to be diminished otherwise than by reasonable wearing, or to be counterfeit, such person may cut, break, bend or deface such coin, and if any coin so cut, broken, bent or defaced appears to be diminished otherwise than by reasonable wearing, or to be counterfeit, the person tendering the same shall bear the loss thereof; but if the same is of due weight, and appears to be lawful coin, the person cutting, breaking, bending or defacing the same, shall be bound to receive the same at the rate for which it was coined: Coin suspected to be diminished or counterfeit may be cut. Who shall bear the loss.

2. If any dispute arises whether the coin so cut, broken, bent or defaced, is diminished in manner aforesaid, or counterfeit, it shall be heard and finally determined in a summary manner by any justice of the peace, who may examine, upon oath, the parties as well as any other person, for the purpose of deciding such dispute, and if he entertains any doubt in that behalf, he may summon three persons, the decision of a majority of whom shall be final: Disputes, how decided.

3. Every officer employed in the collection of the revenue in Canada shall cut, break or deface, or cause to be cut broken or defaced, every piece of counterfeit or unlawfully diminished gold or silver coin which is tendered to him in payment of any part of such revenue in Canada. 32-33 V., c. 18, s. 26. Revenue officers to destroy such coin.

27. Every offence of falsely making or counterfeiting any coin, or of buying, selling, receiving, paying, tendering, uttering or putting off, or of offering to buy, sell, receive, pay, utter or put off, any false or counterfeit coin, against the provisions of this Act, shall be deemed to be complete, although the coin so made or counterfeited, or bought, sold, received, paid, tendered, uttered or put off, or offered to be bought, sold, received, paid, tendered, uttered or put off, was not in a fit state to be uttered, or the counterfeiting thereof was not finished or perfected. 32-33 V., c. 18, s. 32. When the offence of counterfeiting shall be deemed to be complete.

MANUFACTURE AND IMPORTATION OF UNCURRENT COPPER COIN.

28. Every one who manufactures in Canada any copper or brass coin, or imports into Canada any copper or brass Unlawful manufacture or importa-

tion of copper coin. coin, other than current copper coin, with the intention of putting the same into circulation as current copper coin, shall, on summary conviction, be liable to a penalty not exceeding twenty dollars for every pound Troy of the weight thereof; and all such copper or brass coin so manufactured or imported shall be forfeited to Her Majesty, for the public uses of Canada. 31 V., c. 47, ss. 1 and 2.

Seizure of such coin.

29. Any two or more justices of the peace, on the oath of a credible person, that any copper or brass coin has been unlawfully manufactured or imported, shall cause the same to be seized and detained, and shall summon the person in whose possession the same is found, to appear before them; and if it appears to their satisfaction, on the oath of a credible witness, other than the informer, that such copper or brass coin has been manufactured or imported in violation of this Act, such justice shall declare the same forfeited, and shall place the same in safe keeping to await the disposal of the Governor General, for the public uses of Canada. 31 V., c. 47, s. 3.

Forfeiture on proof.

When the penalty shall be enforced.

30. If it appears, to the satisfaction of such justices, that the person in whose possession such copper or brass coin was found, knew the same to have been so unlawfully manufactured or imported, they may condemn him to pay the penalty aforesaid with costs, and may cause him to be imprisoned for a term not exceeding two months, if such penalty and costs are not forthwith paid. 31 V., c. 47, s. 4.

Recovery from the owner in certain cases.

31. If it appears, to the satisfaction of such justices, that the person in whose possession such copper or brass coin was found was not aware of it having been so unlawfully manufactured or imported, the penalty may, on the oath of any one credible witness, other than the plaintiff, be recovered, from the owner thereof, by any person who sues for the same in any court of competent jurisdiction. 31 V., c. 47, s. 5.

Officer of customs may seize such coin.

32. Any officer of Her Majesty's customs may seize any copper or brass coin imported or attempted to be imported into Canada in violation of this Act, and may detain the same as forfeited, to await the disposal of the Governor General, for the public uses of Canada. 31 V., c. 47, s. 6.

Uttering unlawful copper coin.

33. Every one who utters, tenders or offers in payment any copper or brass coin, other than current copper coin, shall forfeit double the nominal value thereof:

Recovery of penalty.

2. Such penalty may be recovered, with costs, in a summary manner, on the oath of one credible witness, other than the informer, before any justice of the peace, who, if such penalty and costs are not forthwith paid, may cause

the offender to be imprisoned for a term not exceeding eight days. 31 V., c. 47, ss. 7 and 8.

34. A moiety of any of the penalties imposed by any of the *five* sections next preceding, but not the copper or brass coins forfeited under the provisions thereof, shall belong to the informer or person who sues for the same, and the other moiety shall belong to Her Majesty, for the public uses of Canada. 31 V., c. 47, s. 9. Application of penalties.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere	To be Consolidated with.
31 V., c. 47..... 32-33 V., c. 18.....	The whole. The whole except ss. 6 (part), 17 (part), 27, 28, 29, 30, 31, 33, 34, 35, 36 and 37.	36 and 37.....	ss. 6 (part), 27, 28, 29, 30, 31, and 33. s. 17 (part)..... s. 34..... s. 35.....	Procc. lre. Currency. Punishments. Summary convictions.

CHAPTER 162.

An Act respecting Malicious Injuries to Property.

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

Interpretation.

“Cattle.”

1. In this Act, unless the context otherwise requires, the expression “cattle” includes any horse, mule, ass, swine, sheep, or goat, as well as any neat cattle or animal of the bovine species, and whatever is the age or sex of the animal, and whether castrated or not, and by whatever technical or trivial name it is known, and shall apply to one animal as well as to many. 32-33 V., c. 22, s. 44 ;—40 V., c. 29, s. 2.

INJURIES BY FIRE TO BUILDINGS AND GOODS THEREIN.

Setting fire to a church, chapel, &c.

2. Every one who unlawfully and maliciously sets fire to any church, chapel, meeting-house or other place of divine worship, is guilty of felony and liable to imprisonment for life. 32-33 V., c. 22, s. 1.

Setting fire to a dwelling-house, any person being therein.

3. Every one who unlawfully and maliciously sets fire to any dwelling-house, any person being therein, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 22, s. 2.

Setting fire to a house, out-house, manufactory, farm building, &c.

4. Every one who unlawfully and maliciously sets fire to any house, stable, coach-house, out-house, warehouse, office, shop, mill, malt-house, hop-oast, barn, storehouse, granary, hovel, shed or fold, or to any farm building, or to any building or erection used in farming land, or in carrying on any trade or manufacture or any branch thereof, whether the same is then in the possession of the offender, or in the possession of any other person, with the intent thereby to injure or defraud any person, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 22, s. 3 ;—35 V., c. 34.

Setting fire to any railway station, &c.

5. Every one who unlawfully and maliciously sets fire to any station, engine-house, warehouse or other building, belonging or appertaining to any railway, port, dock or harbor, or to any canal or other navigable water, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 22, s. 4.

Setting fire to any of Her Majesty's

6. Every one who unlawfully and maliciously sets on fire or burns, or otherwise destroys or causes to be set on

fire or burnt, or otherwise destroyed, any of Her Majesty's ships or vessels of war, whether afloat or building, or begun to be built in any of Her Majesty's dock-yards, or building or repairing by contract in any private yard, for the use of Her Majesty,—or any of Her Majesty's arsenals, magazines, dock-yards, rope-yards, victualling offices, or any of the buildings erected therein or belonging thereto, or any timber or material there placed for building, repairing or fitting out of ships or vessels, or any of Her Majesty's military, naval or victualling stores or other ammunition of war,—or any place or places where any such military, naval, or victualling stores, or other ammunition of war, are kept, placed or deposited, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 22, s. 5.

7. Every one who unlawfully and maliciously sets fire to any building, other than such as are in this Act before mentioned, belonging to Her Majesty or to any county, riding, division, city, town, village, parish or place, or belonging to any university or college, or hall of any university, or to any corporation, or to any unincorporated body or society of persons, associated together for any lawful purpose, or devoted or dedicated to public use or ornament, or erected or maintained by public subscription or contribution, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 22, s. 6.

Setting fire to any public building.

8. Every one who unlawfully and maliciously sets fire to any building other than such as are in this Act before mentioned, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 22, s. 7.

Setting fire to other buildings.

9. Every one who unlawfully and maliciously sets fire to any matter or thing, being in, against or under any building, under such circumstances that, if the building were thereby set fire to, the offence would amount to felony, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 22, s. 8.

Setting fire to anything in any building, the setting fire to which is felony.

10. Every one who, unlawfully and maliciously, by any overt act, attempts to set fire to any building, or any matter or thing in the next preceding section mentioned, under such circumstances that if the same were thereby set fire to the offender would be guilty of felony, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 22, s. 12.

Attempting to set on fire.

11. Every one who, by such negligence as shows him to be reckless or wantonly regardless of consequences, or in violation of a municipal law of the locality, sets fire to any forest, tree, manufactured lumber, square timber, logs or floats, boom, dam or slide on the Crown domain, or land leased or lawfully held for the purpose of cutting timber,

Setting fire by negligence to any forest, tree, lumber, &c.

or on private property, on any creek or river, or rollway, beach or wharf, so that the same is injured or destroyed, is guilty of a misdemeanor, and liable to two years' imprisonment:

In certain cases magistrate may impose a fine, without committal for trial.

2. If, in the opinion of the magistrate investigating any charge under this section, the consequences have not been serious, he may, in his discretion, dispose of the matter summarily, without sending the offender for trial, by imposing a fine not exceeding fifty dollars, or in default of payment, by the committal of the offender to prison for any term not exceeding six months, with or without hard labor. 32-33 V., c. 22, ss. 9 and 10.

Setting fire maliciously to any forest, tree, lumber, &c.

12. Every one who unlawfully and maliciously sets fire to any forest, tree, manufactured lumber, square timber, logs or floats, boom, dam or slide on the Crown domain, or on land leased or lawfully held for the purpose of cutting timber, or on private property, or on any creek, river, rollway, beach or wharf, so that the same is injured or destroyed, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 22, s. 11.

INJURIES BY EXPLOSIVE SUBSTANCES.

Destroying, &c., a house with gunpowder, &c., any person being therein.

13. Every one who, unlawfully and maliciously, by the explosion of gunpowder or other explosive substance, destroys, throws down or damages the whole or any part of any dwelling-house, any person being therein, or of any building, whereby the life of any person is endangered, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 22, s. 13.

Attempting to destroy buildings with gunpowder, &c.

14. Every one who unlawfully and maliciously places or throws in, into, upon, under, against or near any building, any gunpowder or other explosive substance, with intent to destroy or damage any building, or any engine, machinery, working tools, fixtures, goods or chattels, whether or not any explosion takes place, and whether or not any damage is caused, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 22, s. 14.

INJURIES TO BUILDINGS BY TENANTS.

Tenants of houses, &c., maliciously injuring them.

15. Every one who, being possessed of any dwelling-house or other building, or part of any dwelling-house or other building, held for any term of years or other less term, or at will, or held over after the termination of any tenancy, unlawfully and maliciously pulls down or demolishes, or unlawfully and maliciously begins to pull down or demolish the same or any part thereof, or unlawfully and maliciously pulls down or severs from the free-

hold any fixture fixed in or to such dwelling-house or building, or part of such dwelling house or building, is guilty of a misdemeanour. 32-33 V., c. 22, s. 17.

INJURIES TO MANUFACTURES, MACHINERY, &C.

16. Every one who unlawfully and maliciously cuts, breaks or destroys, or damages, with intent to destroy or to render useless, any goods or article of silk, woollen, linen, cotton, hair, mohair or alpaca, or of any one or more of those materials mixed with each other, or mixed with any other material, or any framework-knitted piece, stocking, hose or lace, being in the loom or frame, or on any machine or engine, or on the rack or tenters, or in any stage, process or progress of manufacture,—or unlawfully and maliciously cuts, breaks, or destroys or damages with intent to destroy or render useless, any warp or shute of silk, woollen, linen, cotton, hair, mohair or alpaca, or of any one or more of those materials mixed with each other, or mixed with any other material,—or unlawfully and maliciously cuts, breaks or destroys, or damages with intent to destroy or render useless, any loom, frame, machine, engine, rack, tackle, tool or implement, whether fixed or movable, prepared for or employed in carding, spinning, throwing, weaving, fulling, shearing or otherwise manufacturing or preparing any such goods or articles, or by force enters into any house, shop, building or place, with intent to commit any of the offences in this section mentioned, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 22, s. 18.

Destroying goods in process of manufacture.

Or certain machinery used in such manufactures.

17. Every one who unlawfully and maliciously cuts, breaks or destroys, or damages with intent to destroy or render useless, any machine or engine, whether fixed or movable, used or intended to be used for sowing, reaping, mowing, thrashing, ploughing or draining, or for performing any other agricultural operation, or any machine or engine, or any tool or implement whether fixed or movable, prepared for or employed in any manufacture whatsoever except the manufacture of silk, woollen, linen, cotton, hair, mohair or alpaca goods, or goods of any one or more of those materials mixed with each other, or mixed with any other material, or any framework-knitted piece, stocking, hose or lace, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 22, s. 19.

Destroying machines in other manufactures, thrashing machines, &c.

INJURY TO CORN, TREES AND VEGETABLE PRODUCTIONS.

18. Every one who, unlawfully and maliciously sets fire to any crop of hay, grass, corn, grain or pulse, or of any cultivated vegetable produce, whether standing or cut down, or to any part of any wood, coppice or plantation of trees, or to any heath, gorse, furze or fern, wheresoever the same is

Setting fire to crops of hay, corn, &c.

growing, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 22, s. 20.

Setting fire to stacks of corn, &c.

19. Every one who, unlawfully and maliciously sets fire to any stack of corn, grain, pulse, tares, hay, straw, haulm or stubble, or of any cultivated vegetable produce, or of furze, gorse, heath, fern, turf, peat, coals, charcoal, wood or bark, or to any stere or pile of wood or bark, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 22, s. 21.

Attempting to set fire to any crops or stacks of corn, hay, &c.

20. Every one who unlawfully and maliciously, by any overt act, attempts to set fire to any matter or thing mentioned in either of the two sections next preceding, under such circumstances that if the same were thereby set fire to, the offender would be, under either of such sections, guilty of felony, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 22, s. 22.

Destroying hop-binds, grape-vines, &c.

21. Every one who unlawfully and maliciously cuts or otherwise destroys any hop-binds growing on poles in any plantation of hops, or any grape vines growing in any vineyard, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 22, s. 23.

Destroying, &c., trees, &c., worth more than \$5, growing in a pleasure ground, &c.

22. Every one who unlawfully and maliciously cuts, breaks, barks, roots up or otherwise destroys or damages the whole or any part of any tree, sapling or shrub, or any underwood growing in any park, pleasure ground, garden, orchard or avenue, or in any ground adjoining or belonging to any dwelling-house, if the amount of the injury done exceeds the sum of five dollars, is guilty of felony, and liable to three years' imprisonment. 32-33 V., c. 22, s. 24.

Destroying, &c., trees, shrubs, &c., worth more than \$20, growing elsewhere.

23. Every one who unlawfully and maliciously cuts, breaks, barks, roots up or otherwise destroys or damages the whole or any part of any tree, sapling or shrub, or any underwood growing in any public street or place or elsewhere than in any park, pleasure ground, garden, orchard or avenue, or in any ground adjoining or belonging to any dwelling-house, if the amount of injury done exceeds the sum of twenty dollars, is guilty of felony, and liable to three years' imprisonment. 32-33 V., c. 22, s. 25.

Damaging trees, &c., wheresoever growing to the amount of 25 cents.

24. Every one who unlawfully and maliciously cuts, breaks, barks, roots up or otherwise destroys or damages the whole or any part of any tree, sapling or shrub, or any underwood, wheresoever the same is growing, the injury done being to the amount of twenty-five cents at the least, shall, on summary conviction, be liable to a penalty not exceeding five dollars over and above the amount of the injury done, or to one month's imprisonment, with or without hard labor :

2. Every one who, having been convicted of any such offence, either against this or any other Act or law, afterwards commits any of the offences in this section mentioned, shall, on summary conviction, be liable to a penalty not exceeding twenty dollars over and above the amount of the injury done, or to three months' imprisonment with hard labor : Second offence.

3. Every one who, having been twice convicted of any such offence, afterwards commits any of the offences in this section mentioned, is guilty of a misdemeanor, and liable to imprisonment for any term less than two years. 32-33 V., c., 22, s. 26. Subsequent offence.

25. Every one who unlawfully and maliciously destroys, or damages with intent to destroy, any plant, root, fruit or vegetable production, growing in any garden, orchard, nursery ground, house, hot-house, green-house or conservatory, shall, on summary conviction, be liable to a penalty not exceeding twenty dollars over and above the amount of the injury done, or to three months' imprisonment, with or without hard labor : Destroying any fruit or vegetable production in a garden, &c.

2. Every one who, having been convicted of any such offence, either against this or any other Act or law, afterwards commits any of the offences in this section mentioned, is guilty of felony, and liable to two years' imprisonment. 32-33 V., c. 22, s. 27. Subsequent offence.

26. Every one who unlawfully and maliciously destroys, or damages with intent to destroy, any cultivated root or plant used for the food of man or beast, or for medicine, or for distilling, or for dyeing, or for or in the course of any manufacture, and growing in any land, open or inclosed, not being a garden, orchard or nursery ground, shall, on summary conviction, be liable to a penalty not exceeding five dollars over and above the amount of the injury done, or to one month's imprisonment, with or without hard labor, and in default of payment of such penalty and costs, if any, to imprisonment for any term not exceeding one month : Destroying, &c., vegetable productions not growing in a garden, &c.

2. Every one who, having been convicted of any such offence, either against this or any other Act or law, afterwards commits any of the offences in this section mentioned, shall, on summary conviction, be liable to three months' imprisonment with hard labor. 32-33 V., c. 22, s. 28. Subsequent offence.

INJURIES TO FENCES.

27. Every one who unlawfully and maliciously cuts, breaks, throws down, or in anywise destroys any fence of any description whatsoever, or any wall, stile or gate, or Destroying, &c., any fence, gate, &c.

any part thereof, respectively, shall on summary conviction be liable to a penalty not exceeding five dollars, over and above the amount of the injury done :

Subsequent
offence.

2. Every one who, having been convicted of any such offence, either against this or any other Act or law, afterwards commits any of the offences in this section mentioned, shall, on summary conviction, be liable to three months' imprisonment with hard labor. 32-33 V., c. 22, s. 29.

INJURIES TO MINES.

Setting fire to
a coal-mine,
oil-well, &c.

28. Every one who unlawfully and maliciously sets fire to any mine of coal, cannel coal, anthracite or other mineral fuel, or to any mine or well of oil or other combustible substance, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 22, s. 30.

Attempting to
set fire to a
mine, oil-
well, &c.

29. Every one who, unlawfully and maliciously, by any overt act, attempts to set fire to any mine, or to any such oil well, under such circumstances that if the same were thereby set fire to, the offender would be guilty of felony, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 22, s. 31.

Conveying
water, earth,
rubbish, &c.,
into a mine or
oil-well, ob-
structing the
shaft, &c.

30. Every one who unlawfully and maliciously causes any water, earth, rubbish or other substance to be conveyed or to run or fall into any mine, or into any oil well, or into any subterraneous passage communicating therewith, with intent thereby to destroy or damage such mine or well, or to hinder or delay the working thereof,—or who, with the like intent, unlawfully and maliciously pulls down, fills up or obstructs or damages with intent to destroy, obstruct or render useless, any airway, waterway, drain, pit, level, or shaft of or belonging to any mine or well, is guilty of felony, and liable to seven years' imprisonment :

Exception.

2. This section shall not extend to any damage committed underground by any owner of any adjoining mine or well in working the same, or by any person duly employed in such working. 32-33 V., c. 22, s. 32.

Damaging
steam en-
gines, staiths,
wagon-ways,
&c., for
working
mines.

31. Every one who, unlawfully and maliciously, pulls down or destroys or damages with intent to destroy or render useless any steam engine or other engine for sinking, draining, ventilating or working, or for in anywise assisting in sinking, draining, ventilating or working any mine or oil well or any appliance or apparatus in connection with any such steam or other engine, or any staith, building or erection used in conducting the business of any mine or oil well, or any bridge, wagon-way or track for conveying minerals or oil from any mine or well, whether such engine, staith, build-

ing, erection, bridge, wagon-way or track is completed or in an unfinished state, or unlawfully and maliciously stops, obstructs or hinders the working of any such steam or other engine, or of any such appliances or apparatus as aforesaid, with intent thereby to destroy or damage any mine or oil well, or to hinder, obstruct or delay the working thereof, or unlawfully and maliciously, wholly or partially, cuts through, severs, breaks or unfastens, or damages with intent to destroy or render useless, any rope, chain or tackle, of whatsoever material the same is made, used in any mine or oil well, or in or upon any inclined plane, railway or other way or other work whatsoever, in anywise belonging or appertaining to or connected with or employed in any mine or oil well, or the working or business thereof, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 22, s. 33.

Unlawfully obstructing machinery.

Damaging ropes, chains or tackle.

INJURIES TO SEA AND RIVER BANKS, AND TO WORKS ON RIVERS, CANALS, ETC.

32. Every one who unlawfully and maliciously breaks down or cuts down, or otherwise damages or destroys any sea bank, sea wall, dyke or aboiteau, or the bank, dam or wall of or belonging to any river, canal, drain, reservoir, pool or marsh, whereby any land or building is, or is in danger of being overflowed or damaged, or unlawfully and maliciously throws, breaks or cuts down, levels, undermines or otherwise destroys any quay, wharf, jetty, lock, sluice, floodgate, weir, tunnel, towing-path, drain, water-course or other work belonging to any port, harbor, dock or reservoir, or on or belonging to any navigable water or canal, or any dam or structure erected to create or utilize any hydraulic power, or any embankment for the support thereof, is guilty of felony, and liable to imprisonment for life. 32-23 V., c. 22, s. 34.

Destroying any sea bank or wall on any canal, dam, &c., used for hydraulic purposes. &c.

33. Every one who unlawfully and maliciously cuts off, draws up or removes any piles, stone or other materials fixed in the ground and used for securing any sea bank or sea wall, or the bank, dam or wall of any river, canal, drain, aqueduct, marsh, reservoir, pool, port, harbor, dock, quay, wharf, jetty or lock, or unlawfully and maliciously opens or draws up any floodgate or sluice, or does any other injury or mischief to any navigable river or canal, with intent and so as thereby to obstruct or prevent the carrying on, completing or maintaining the navigation thereof, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 22, s. 35.

Removing piles of any sea bank, &c., or obstructing navigation of a river or canal.

INJURIES TO FISH-PONDS.

34. Every one who unlawfully and maliciously cuts through, breaks down, or otherwise destroys the dam, flood-

Breaking down the dam of a fishery,

&c., or mill-dam, or poisoning fish.

gate or sluice of any fish-pond, or of any water which is private property, or in which there is any private right of fishery, with intent thereby to take or destroy any of the fish in such pond or water, or so as thereby to cause the loss or destruction of any of the fish, or unlawfully and maliciously puts any lime or other noxious material in any such pond or water, with intent thereby to destroy any of the fish that are then or that may thereafter be put therein, or unlawfully and maliciously cuts through, breaks down or otherwise destroys the dam or floodgate of any mill-pond, reservoir or pool, is guilty of a misdemeanor, and liable to seven years' imprisonment. 32-33 V., c. 22, s. 36.

INJURIES TO BRIDGES, VIADUCTS AND TOLL-BARS.

Injuring a public bridge, or viaduct.

35. Every one who, unlawfully and maliciously, pulls or throws down, or in anywise destroys any bridge, whether over any stream of water or not, or any viaduct or aqueduct, over or under which bridge, viaduct or aqueduct any highway, railway or canal passes, or does any injury with intent and so as thereby to render such bridge, viaduct or aqueduct, or the highway, railway or canal passing over or under the same, or any part thereof, dangerous or impassable, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 22, s. 37.

Destroying a turnpike gate, toll house, &c.

36. Every one who, unlawfully and maliciously, throws down, levels or otherwise destroys, in whole or in part, any turnpike gate or toll-bar, or any wall, chain, rail, post, bar or other fence belonging to any turnpike gate or toll-bar, or set up or erected to prevent passengers passing by without paying any toll directed to be paid by any Act or law relating thereto, or any house, building or weighing engine erected for the better collection, ascertainment or security of any such toll, is guilty of a misdemeanor, and liable to fine or imprisonment, or both, in the discretion of the court. 32-33 V., c. 22, s. 38.

Certain injuries to railways.

37. Every one who, unlawfully and maliciously, and with intent to obstruct, endanger, upset, overthrow, injure or destroy any engine, tender, carriage, truck or vehicle, on any railway, or any property passing over or along any railway,—

Obstructions.

(a) Puts, places, casts or throws any wood, stone or other matter or thing upon or across any railway,—

Injuring or removing rail, &c.

(b) Breaks, takes up, removes, displaces, injures or destroys any rail, railway switch, sleeper, bridge, fence or other matter or thing, or any portion thereof, belonging to any railway,—

(c) Turns, moves or diverts any point or other machinery belonging to any railway,— Moving points.

(d) Makes or shows, hides or removes any signal or light upon or near any railway, or— Lights.

(e) Does or causes to be done, any other matter or thing,— Other acts.

Is guilty of a felony, and liable to imprisonment for life. Punishment.
32-33 V., c. 22, s. 39 ;—42 V., c. 9, s. 88, *part* ;—44 V., c. 25, s. 116, *part*.

38. Every one who, unlawfully and maliciously,—

(a) Breaks, throws down, injures or destroys, or does any other hurt or mischief to,— Maliciously injuring, obstructing use of, or hindering the completing, &c., of any railway or railway works.

(b) Obstructs or interrupts the free use of, or—

(c) Obstructs, hinders or prevents the carrying on, completing, supporting or maintaining of,—

Any railway or any part thereof, or any building, structure, station, depot, wharf, vessel, fixture, bridge, fence, engine, tender, carriage, truck, vehicle, machinery or other work, device, matter or thing of such railway, or appertaining thereto or connected therewith,—

Is guilty of a misdemeanor, and liable to five years' imprisonment. Punishment.
42 V., c. 9, ss. 87 and 90 ;—44 V., c. 25, ss. 115 and 118.

39. Every one who, by any means, or in any manner or way whatsoever, or by any wilful omission or neglect, obstructs or interrupts, or causes to be obstructed or interrupted, or aids or assists in obstructing or interrupting, the free use of any railway or any part thereof, or any building, structure, station, depot, wharf, vessel, fixture, bridge, fence, engine, tender, carriage, truck, vehicle, machinery or other work, device, matter or thing of such railway, or appertaining thereto, or connected therewith, is guilty of a misdemeanor, and liable to two years' imprisonment. Obstructing use of railway and railway works.
32-33 V., c. 22., s. 40 ;—42 V., c. 9, s. 86 ;—44 V., c. 25, s. 114.

NOTE.—In redrafting 42 V., c. 9, ss 86, 87 and 90, and 44 V., c. 25, ss. 114, 115 and 118, the punishment for maliciously injuring or obstructing a railway is limited to five years, and that for injuring or obstructing is reduced to two years.

40. Every one who unlawfully and maliciously cuts, breaks, throws down, destroys, injures or removes any battery, machinery, wire, cable, post or other matter or thing whatsoever, being part of or being used or employed in or about any electric or magnetic telegraph, *telephone or fire alarm*, or in the working thereof, or for the transmission of electricity for other lawful purposes, or unlaw- Injuring electric or magnetic telegraphs, &c.

fully and maliciously prevents or obstructs, in any manner whatsoever, the sending, conveyance or delivery of any communication by any such telegraph, *telephone or fire alarm*, or the transmission of electricity for any such purpose as aforesaid, is guilty of a misdemeanor, and liable to imprisonment for any term less than two years. 32-33 V., c. 22, s. 41.

Attempts to injure such telegraphs, &c.

41. Every one who, unlawfully and maliciously, by any overt act, attempts to commit any of the offences in the next preceding section mentioned, shall, on summary conviction, be liable to a penalty not exceeding fifty dollars, or to three months' imprisonment, with or without hard labor. 32-33 V., c. 22, s. 42.

INJURIES TO WORKS OF ART.

Destroying or damaging works of art in museums, churches, &c., or in public places.

42. Every one who unlawfully and maliciously destroys or damages any book, manuscript, picture, print, statue, bust or vase, or any other article or thing kept for the purposes of art, science or literature, or as an object of curiosity, in any museum, gallery, cabinet, library or other depository, which museum, gallery, cabinet, library or other depository is, either at all times or from time to time, open for the admission of the public or of any considerable number of persons to view the same, either by the permission of the proprietor thereof, or by the payment of money before entering the same, or any picture, statue, monument or other memorial of the dead, painted glass or other monument or work of art in any church, chapel, meeting-house or other place of divine worship, or in any building belonging to Her Majesty, or to any county, riding, city, town, village, parish or place, or to any university, or college or hall of any university, or in any street, square, church-yard, burial ground, public garden or ground, or any statue or monument exposed to public view, or any ornament, railing or fence surrounding such statue or monument, or any fountain, lamp, post, or other thing of metal, glass, wood or other material, in any street, square or other public place, is guilty of a misdemeanor, and liable to one year's imprisonment :

Civil remedy saved.

2. Nothing herein contained shall affect the right of any person to recover damages for the injury so committed. 32-33 V., c. 22, s. 43.

INJURIES TO CATTLE AND OTHER ANIMALS.

Killing or maiming cattle.

43. Every one who unlawfully and maliciously kills, maims, wounds, poisons or injures any cattle, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 22, s. 45.

44. Every one who unlawfully and maliciously attempts to kill, maim, wound, poison or injure any cattle, or unlawfully and maliciously places poison in such a position as to be easily partaken of by any cattle, is guilty of a misdemeanor, and liable to fine or imprisonment, or both, in the discretion of the court. 32-33 V., c. 22, s. 46.

Wantonly attempting to poison cattle.

45. Every one who unlawfully and maliciously kills, maims, wounds, poisons or injures any dog, bird, beast, or other animal, not being cattle, but being either the subject of larceny at common law, or being ordinarily kept in a state of confinement, or kept for any domestic purpose, or purpose of lawful profit or advantage or science, shall, on summary conviction, be liable to a penalty not exceeding one hundred dollars, over and above the amount of injury done, or to three months' imprisonment with or without hard labor :

Killing or maiming other animals.

2. Every one who, having been convicted of any such offence, afterwards commits any of the offences in this section mentioned, is guilty of a misdemeanor, and liable to fine or imprisonment, or both, in the discretion of the court. 32-33 V., c. 22, s. 47.

Subsequent offence.

INJURIES TO SHIPS.

46. Every one who unlawfully and maliciously sets fire to, casts away or in anywise destroys any ship or vessel, whether the same is complete or in an unfinished state, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 22, s. 48.

Setting fire to, casting away or destroying a ship.

47. Every one who unlawfully and maliciously sets fire to or casts away or in anywise destroys any ship or vessel, with intent thereby to prejudice any owner or part owner of such ship or vessel, or of any goods on board the same, or any person who has underwritten or who underwrites any policy of insurance upon such ship or vessel, or on the freight thereof, or upon any goods on board the same, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 22, s. 49.

Setting fire to, casting away, &c., ships to prejudice the owner or underwriters.

48. Every one who, unlawfully and maliciously, by any overt act, attempts to set fire to, cast away, or destroy any ship or vessel, under such circumstances that, if the ship or vessel were thereby set fire to, cast away or destroyed, the offender would be guilty of felony, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 22, s. 50.

Attempting to commit such offences.

49. Every one who unlawfully and maliciously places or throws in, into, upon, against or near any ship or vessel,

Placing gun-powder near a ship with in-

tent to damage it.

any gunpowder or other explosive substance, with intent to destroy or damage any ship or vessel, or any machinery, working-tools, goods or chattels, whether or not any explosion takes place, and whether or not any injury is effected, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 22, s. 51.

Damaging ships otherwise.

50. Every one who unlawfully and maliciously damages, otherwise than by fire, gunpowder or other explosive substance, any ship or vessel, whether complete or in an unfinished state, with intent to destroy the same or render the same useless, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 22, s. 52.

Exhibiting false signals, &c., or doing acts of like nature.

51. Every one who unlawfully masks, alters, removes or extinguishes any light or signal, or unlawfully exhibits any false light or signal, with intent to bring any ship, vessel or boat into danger, or unlawfully and maliciously does any thing tending to the immediate loss or destruction of any ship, vessel or boat, and for which no punishment is hereinbefore provided, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 22, s. 53 ;—33 V., c. 18, s. 4, *part*.

Injuring, removing, defacing or concealing lighthouses, buoys, &c.

52. Every one who, unlawfully and maliciously, cuts away, casts adrift, removes, alters, defaces, sinks or destroys, or unlawfully and maliciously does any act with intent to cut away, cast adrift, remove, alter, deface, sink or destroy, or in any other manner unlawfully and maliciously injures or conceals any lighthouse, light-ship, floating or other light, lantern or signal, or any boat, buoy, buoy-rope, beacon, anchor, perch or mark used or intended for the guidance of seamen, or for the purpose of navigation, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 22, s. 54 ;—33 V., c. 18, s. 4, *part*.

Making vessels fast to buoys, beacons, or sea marks.

53. Every one who makes fast any vessel or boat to any such buoy, beacon or sea mark, shall, on summary conviction, be liable to a penalty not exceeding ten dollars, and in default of payment, to one month's imprisonment. 32-33 V., c. 22, s. 55.

Cutting booms or rafts adrift.

54. Every one who unlawfully and maliciously breaks, injures, cuts, loosens, removes or destroys, in whole or in part, any dam, pier, slide, boom or other such work, or any chain or other fastening attached thereto, or any raft, crib of timber or saw-logs, or unlawfully and maliciously impedes or blocks up any channel or passage intended for the transmission of timber, is guilty of a misdemeanor, and liable to a fine or to two years' imprisonment or to both. 32-33 V., c. 22, s. 56 ;—C. S. C., c. 68, s. 67.

Impeding channel.

INJURIES TO POLL BOOKS, &C.

55. Every one who 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 or upon, or aids, consents or assists in so destroying, injuring or obliterating, or in making any erasure, addition of names or interlineation of names in or upon any writ of election, or any return to a writ of election, or any indenture, poll book, voters' list, certificate, affidavit or report, or any document or paper made, prepared or drawn out according to any law in regard to provincial, municipal or civic elections, is guilty of felony, and liable to a fine in the discretion of the court, or to seven years' imprisonment, or to both. 29-30 V. (Can.), c. 51, s. 188, *part*;—R. S. B. C., c. 157. ss. 99 *and* 100, *part*.

Destroying,
injuring or
altering
election
documents.

INJURIES TO LAND MARKS.

56. Every one who knowingly and wilfully pulls down, defaces, alters or removes any mound, land mark, post or monument lawfully erected, planted or placed to mark or determine the boundaries of any Province, county, city, town, township, parish or other municipal division, is guilty of felony, and liable to *seven* years' imprisonment. C. S. C., c. 77, s. 107, *part*;—C. S. U. C., c. 93, s. 4, *part*.

Defacing or
removing
land marks of
Province, &c.

57. Every one who knowingly and wilfully defaces, alters or removes any mound, land mark, post or monument lawfully placed by any land surveyor to mark any limit, boundary or angle of any concession, range, lot or parcel of land, is guilty of a misdemeanor, and liable to a fine not exceeding one hundred dollars, or to three months' imprisonment, or to both :

And of concession,
range, &c.

2. Nothing herein shall prevent any land surveyor in his operation from taking up posts or other boundary marks when necessary, if he carefully replaces them as they were before. C. S. C., c. 77, s. 107, *part*;—C. S. U. C., c. 93, s. 4, *part*.

Exception as
to land sur-
veyors.

INJURIES NOT BEFORE PROVIDED FOR.

58. Every one who unlawfully and maliciously commits any damage, injury or spoil to or upon any real or personal property whatsoever, either of a public or a private nature, for which no punishment is hereinbefore provided, the damage, injury or spoil being to an amount exceeding twenty dollars, is guilty of a misdemeanor, and liable to five years' imprisonment. 32-33 V., c. 22, s. 59.

Committing
damage, not
before pro-
vided for, ex-
ceeding \$20.

Committing damage, not before provided for, and not exceeding \$20.

59. Every one who unlawfully and maliciously commits any damage, injury or spoil to or upon any real or personal property whatsoever, either of a public or private nature, for which no punishment is hereinbefore provided, shall, on summary conviction, be liable to a penalty not exceeding twenty dollars, and such further sum, not exceeding twenty dollars, as appears to the justice to be a reasonable compensation for the damage, injury or spoil so committed, —which last mentioned sum of money shall, in the case of private property, be paid to the person aggrieved; and if such sums of money, together with the costs, if ordered, are not paid, either immediately after the conviction, or within such period as the justice shall, at the time of the conviction, appoint, the justice may cause the offender to be imprisoned for any term not exceeding two months, with or without hard labor :

Compensation to person aggrieved.

Not to extend to certain cases.

2. Nothing herein contained shall extend to any case where the person acted under a fair and reasonable supposition that he had a right to do the act complained of, or to any trespass, not being wilful and malicious, committed in hunting or fishing, or in the pursuit of game; but every such trespass shall be punishable in the same manner as if this Act had not been passed :

This section to apply to trees, &c.

3. The provisions of this section shall extend to any person who unlawfully and maliciously commits any injury to any tree, sapling, shrub or underwood, for which no punishment is hereinbefore provided. 32-33 V., c. 22, ss. 60 and 61.

OTHER MATTERS.

Malice against owner not necessary.

60. Every punishment and penalty by this Act imposed on any person maliciously committing any offence, whether the same is punishable upon indictment or upon summary conviction, shall equally apply and be enforced, whether the offence is committed from malice conceived against the owner of the property in respect of which it is committed, or otherwise. 32-33 V., c. 22, s. 66.

Application to persons in possession of property injured.

61. Every provision of this Act, not hereinbefore so applied, shall apply to every person who, with intent to injure or defraud any person, does any of the acts hereinbefore made punishable, although the offender is in possession of the property against or in respect of which such act is done. 32-33 V., c. 22, s. 67.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
32-33 V., c. 22.	The whole except ss. 15, 16, 57, 58, 62 to 65, 68, 69, 70, 71, 72, 73, 74, 75 and 76.	s. 76.....	ss. 15 and 16 (part). ss. 16 (part) 68 and 69. s. 57..... s. 58..... s. 62 to 65.....	Riots, &c. Procedure. Wrecks, &c. Threats, &c. Dangerous explosives.
33 V., c. 18.....	s. 4.		s. 70..... ss. 71, 72 and 75. ss. 73 and 74.	Accessories. Summary convictions. Punishments.
35 V., c. 34.....	The whole.			
40 V., c. 29.....	s. 2.			
42 V., c. 9.....	ss. 86, 87, 88 (part) and 90.			
44 V., c. 25.....	ss. 114, 115, 116 (part) and 118.			
C. S. C., c. 68....	s. 67.			
C. S. C., c. 77....	s. 107.			
C. S. U. C., c. 93	s. 4.			
29-30 V., (Can.), c. 51,	s. 188 (part).			
R. S. B. C., c. 157	ss. 99 and 100 (parts).			

CHAPTER 163.

An Act respecting offences relating to the Army and Navy.

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

Enticing soldiers or sailors to desert.

1. Every one who, not being an enlisted soldier in Her Majesty's service, or a seaman in Her Majesty's naval service, by words or with money or by any other means whatsoever, directly or indirectly persuades or procures, or goes about or endeavors to persuade, prevail on or procure any such soldier or seaman to desert from or leave Her Majesty's military or naval service, or conceals, receives or assists any deserter from Her Majesty's military or naval service, knowing him to be such deserter, is guilty of a misdemeanor, and liable, on summary conviction, to a penalty not exceeding two hundred dollars, and not less than eighty dollars and costs, and in default of payment, to imprisonment for any term not exceeding six months. 32-33 V., c. 25, s. 1, *part.*

Concealing or assisting deserter.

Receiving regimental necessaries, &c.

2. Every one who buys, exchanges or detains, or otherwise receives from any soldier or deserter any arms, clothing or furniture belonging to Her Majesty, or any such articles, belonging to any soldier or deserter, as are generally deemed regimental necessaries, according to the custom of the army, or causes the color of such clothing or articles to be changed, or exchanges, buys or receives from any soldier any provisions, without leave in writing from the officer commanding the regiment or detachment to which such soldier belongs, is guilty of a misdemeanor, and liable, on summary conviction, to a penalty not exceeding forty dollars, and not less than twenty dollars and costs, and in default of payment, to imprisonment for any term not exceeding *six* months. 32-33 V., c. 25, s. 2.

Receiving necessaries from a seaman or marine.

3. Every one who buys, exchanges or detains, or otherwise receives from any seaman or marine, upon any account whatsoever, or has in his possession any arms or clothing, or any such articles, belonging to any seaman, marine or deserter, as are generally deemed necessaries, according to the custom of the navy, is guilty of a misdemeanor, and liable, on summary conviction, to a penalty not exceeding one hundred and twenty dollars, and not less than sixty dollars and costs, and in default of payment, to imprison-

ment for a term not exceeding *six* months. 32-33 V., c. 25, s. 3.

4. Every offender against the provisions of the preceding sections may be tried and convicted in a summary manner before any two justices of the peace, or before the mayor of any city and any one justice of the peace, or before any recorder, judge of the sessions of the peace or police magistrate, on the evidence of one credible witness, or he may be prosecuted by indictment for the misdemeanor, and shall then be liable to punishment by fine and imprisonment in the discretion of the court; and nothing in this Act shall be construed to prevent any person being prosecuted, convicted and punished under any Act of the Parliament of the United Kingdom in force in Canada; but no person shall be twice punished for the same offence. 32-33 V., c. 25, s. 1, *part*, and s. 5.

Prosecution of offender.

Prosecution may be under Imperial Act.

5. The examination of any soldier, seaman or marine liable to be ordered from 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 like manner as depositions in civil cases are taken. 32-33 V., c. 25, s. 6.

Examination of witnesses about to leave the Province, &c.

6. Every one who is reasonably suspected of being a deserter from Her Majesty's service may be apprehended and brought for examination before any justice of the peace, and if it appears that he is a deserter, he shall be confined in gaol until claimed by the military or naval authorities, or proceeded against according to law. 32-33 V., c. 25, s. 7.

Apprehension of suspected deserters.

7. No one shall break open any building to search for a deserter unless he has obtained a warrant for that purpose from a justice of the peace,—such warrant to be founded on affidavit that there is reason to believe that the deserter is concealed in such building, and that admittance has been demanded and refused; and every one who resists the execution of any such warrant shall incur a penalty of eighty dollars, recoverable on summary conviction in like manner as other penalties under this Act. 32-33 V., c. 25, s. 8.

Warrant required to enter a building in search of deserters.

8. Any justice of the peace, upon information on oath or affirmation, may issue a warrant for the apprehension of any person charged with an offence against this Act, as in the case of other offences against the law. 32-33 V., c. 25, s. 9.

Warrant to apprehend offenders.

Application
of penalties.

9. One moiety of the amount of any penalty recovered under any of the preceding sections shall be paid over to the prosecutor or person by whose means the offender has been convicted, and the other moiety shall belong to the Crown. 32-33 V., c. 25, s. 4.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal	To be Consolidated elsewhere	To be Consolidated with.
32-33 V., c. 25.	The whole.			

CHAPTER 164.

An Act respecting Military and Naval Stores.

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 "stores" includes any single store or article. 32-33 V., c. 26, s. 14.

Interpretation.
"Stores."
- 2.** The marks described in the schedule to this Act, may be applied in or on Her Majesty's naval, military, ordnance, barrack, hospital and victualling stores, to denote Her Majesty's property in stores so marked. 32-33 V., c. 26, s. 1.

Marks to be used on H. M. stores.
- 3.** The Admiralty and War Department, their contractors, officers and workmen, may apply the said marks, or any of them, in or on any such stores as are described in the said schedule. 32-33 V., c. 26, s. 2.

Who may apply such marks.
- 4.** Every one who, without any lawful authority, the proof of which shall lie on him, applies any of the said marks in or on any such or any like stores, is guilty of a misdemeanor, and liable to imprisonment for any term less than two years. 32-33 V., c. 26, s. 3.

Unlawfully using such marks.
- 5.** Every one who, with intent to conceal Her Majesty's property, in any naval, military, ordnance, barrack, hospital or victualling stores, takes out, destroys or obliterates, wholly or in part, any such mark as aforesaid, is guilty of felony, and liable to imprisonment for any term less than two years. 32-33 V., c. 26, s. 4.

Unlawfully obliterating or concealing such marks.
- 6.** Every one who, without lawful authority, the proof of which shall lie on him, receives, possesses, keeps, sells or delivers, any naval, military, ordnance, barrack, hospital or victualling stores, bearing any such mark as aforesaid, knowing them to bear such mark, is guilty of a misdemeanor, and liable to imprisonment for any term not exceeding one year. 32-33 V., c. 26, s. 5.

Unlawfully keeping or selling stores so marked.
- 7.** If the person charged with such a misdemeanor as last aforesaid was, at the time at which the offence is charged to have been committed, a dealer in marine stores, or a dealer in old metals, or in Her Majesty's service or employment, knowledge on his part that the stores to which the

Knowledge that goods bear mark, presumed until contrary shewn.

charge relates bore such mark as aforesaid, shall be presumed, until the contrary is shewn. 32-33 V., c. 26, s. 6.

When value of stores does not exceed \$25, case to be tried summarily.

8. Every person charged with such misdemeanor as last aforesaid in relation to stores, the value of which does not exceed twenty-five dollars, is liable, on summary conviction before two justices of the peace, or any recorder, stipendiary magistrate or police magistrate, or the city court of Halifax, to a penalty not exceeding one hundred dollars, or to imprisonment for any term not exceeding six months, with or without hard labor. 32-33 V., c. 26, s. 7.

Persons in whose possession stores with mark are found, must prove that they obtained them lawfully.

9. If any naval, military, ordnance, barrack, hospital or victualling stores, bearing any such mark, are found in the possession of any person who is not a dealer in marine stores or a dealer in old metals, and who is not in Her Majesty's service, and such person, when taken or summoned before two justices of the peace, recorder, stipendiary magistrate, or police magistrate, or the city court of Halifax, does not satisfy the justice, recorder, magistrate, or the court, that he came lawfully by the stores, so found, he shall, on summary conviction, be liable to a penalty not exceeding twenty-five dollars; and if any such person satisfies the justices, recorder, stipendiary or police magistrate or court, that he came lawfully by the stores so found, the justices, recorder, magistrate or court, in their discretion, as the evidence given or the circumstances of the case require, may summon before them every person through whose hands such stores appear to have passed; and if any such person, who has had possession thereof, does not satisfy the justices, recorder, stipendiary or police magistrate or court, that he came lawfully by the same, he shall, on summary conviction of having had possession thereof, be liable to a penalty not exceeding twenty-five dollars, and in default of payment, to imprisonment for any term not exceeding three months, with or without hard labor. 32-33 V., c. 26, s. 8.

Former possessor may be summoned.

What shall be deemed possession.

10. For the purposes of this Act, stores shall be deemed to be in the possession or keeping of any person, if he knowingly has them in the actual possession or keeping of any other person, or in any house, building, lodging, apartment, field or place, open or inclosed, whether occupied by himself or not, and whether the same are so had for his own use or benefit or for the use or benefit of another. 32-33 V., c. 26, s. 9.

Searching for stores near H. M. vessels, wharves, &c., without permission.

11. No person shall, without permission in writing from the Admiralty or from some person authorized by the Admiralty in that behalf, creep, sweep, dredge or otherwise search for stores in the sea or any tidal or inland water, within one hundred yards from any vessel belonging to Her Majesty or in Her Majesty's service, or from any mooring place or

anchoring place, appropriated to such vessels, or from any mooring belonging to Her Majesty, or from any of Her Majesty's wharves or docks, victualling or steam factory yards. 32-33 V., c. 26, s. 10.

12. Every one who violates the next preceding section shall, on summary conviction before two justices of the peace, or any recorder, stipendiary or police magistrate, or the city court of Halifax, be liable to a penalty not exceeding twenty-five dollars, or to imprisonment for any term not exceeding three months, with or without hard labor. 32-33 V., c. 26, s. 11. Penalty in such case.

13. No person other than the officer commanding the naval or military forces in Canada or some person acting under his authority, shall institute or carry on under this Act, any prosecution or proceeding for any offence against it. 32-33 V., c. 26, s. 12. Who only may prosecute.

14. Nothing in this Act shall prevent any person from being indicted, under this Act or otherwise, for any indictable offence, made punishable on summary conviction by this Act, or prevent any person from being liable, under any other Act or otherwise, to any other or higher penalty or punishment than is provided for any offence by this Act, so that no person is twice punished for the same offence. 32-33 V., c. 26, s. 13. Nothing in this Act shall prevent indictment under this or any other Act.

15. In all prosecutions under this Act, proof that any soldier, seaman or marine was actually doing duty in Her Majesty's service shall be *prima facie* evidence that his enlistment, entry or enrolment has been regular. 32-33 V., c. 26, s. 15. Proof under this Act.

16. Any person convicted or sentenced to imprisonment under this Act, before the city court of Halifax, may, in the discretion of the court, be imprisoned in the city prison with hard labor, instead of the county gaol. 32-33 V., c. 26, s. 16. Imprisonment under this Act.

SCHEDULE.

Marks appropriated for Her Majesty's use in or on Naval, Military, Ordnance, Barrack, Hospital and Victualling stores.

STORES.	MARKS.
Hempen cordage and wire rope.	White, black or colored worsted threads laid up with the yarns and the wire, respectively.
Canvas, fearnought hammocks and seamen's bags.	A blue line in a serpentine form.
Bunting.	A double tape in the warp.
Candles.	Blue or red cotton threads in each wick, or wicks of red cotton.
Timber, metal and other stores not before enumerated.	The broad arrow, with or without the letters W.D

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
32-33 V., c. 26.	The whole except s 17.....	s. 17.		

CHAPTER 165.

An Act respecting the protection of the Property of
Seamen in the Navy.

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:—

Interpreta-
tion.

(a) The expression “Admiralty” means the Lord High Admiral of the United Kingdom, or the Commissioners for executing the office of Lord High Admiral;

“Admiralty.”

(b) The expression “seaman” means every person, not being a commissioned, warrant or subordinate officer, who is in or belongs to Her Majesty’s Navy, and is borne on the books of any one of Her Majesty’s ships in commission, and every person, not being an officer as aforesaid, who, being borne on the books of any hired vessel in Her Majesty’s service, is, by virtue of any Act of the Parliament of the United Kingdom for the time being in force for the discipline of the Navy, subject to the provisions of such Act;

“Seaman.”

(c) The expression “seaman’s property” means any clothes, slops, medals, necessaries or articles usually deemed to be necessaries, for sailors on board ship, which belong to any seaman. 33 V., c. 31, s. 2.

“Seaman’s
property.”

2. Every one who detains, buys, exchanges, takes on pawn or receives, from any seaman or any person acting for a seaman, any seaman’s property, or solicits or entices any seaman, or is employed by any seaman to sell, exchange or pawn any seaman’s property, shall, unless he proves that he acted in ignorance of the same being seaman’s property, or of the person with whom he dealt being or acting for a seaman, or that the same was sold by order of the Admiralty or Commander-in-Chief, be liable, on summary conviction, to a penalty not exceeding one hundred dollars; and if convicted of a second offence, to the same penalty, or, in the discretion of the justice or justices, to imprisonment for a term not exceeding six months, with or without hard labor. 33 V., c. 31, s. 3.

Purchasing,
selling, &c.,
seaman’s pro-
perty.

Penalty.

3. If any seaman’s property is found in the possession or keeping of any person, and he is taken or summoned before

Having pos-
session of
seaman’s pro-

perty and not accounting for it.

a justice of the peace (which taking and summoning are hereby authorized), and the justice sees reasonable grounds for believing the property so found to have been stolen, or to have been detained, bought, exchanged, pawned or otherwise received, contrary to the provisions of this Act, then if such person does not satisfy the justice that he came by the seaman's property, so found, lawfully and without any violation of this Act, he shall be liable, on summary conviction before a justice or justices, to a penalty not exceeding twenty-five dollars; and for the purposes of this section, seaman's property shall be deemed to be in the possession or keeping of any person, if he knowingly has any such property in the actual possession or keeping of any other person, or in any house, building, lodging, apartment, field or place, open or inclosed, whether occupied by himself or not, and whether the same are so had for his own use or benefit or for the use or benefit of another. 33 V., c. 31, s. 4.

Penalty.

What shall be deemed having in possession.

Nothing in this Act shall prevent indictment under this or any other Act.

4. Nothing in this Act shall prevent any person from being indicted under this Act, or otherwise, for any indictable offence made punishable on summary conviction by this Act, or prevent any person from being liable under any other Act, or otherwise, to any other or higher penalty or punishment than is provided for any offence by this Act, so that no person is punished twice for the same offence. 33 V., c. 31, s. 7.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
33 V., c. 31.....	ss. 2, 3, 4 and 7.	s. 1.....	s. 5..... s. 6.....	Procedure and accessories. Summary Convictions.

CHAPTER 166.

An Act respecting Cruelty to Animals.

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 "cattle" includes any horse, mule, ass, swine, sheep or goat, as well as any neat cattle or animal of the bovine species, and whatever is the age or sex of the animal, and whether castrated or not, and by whatever technical or trivial name it is known, and shall apply to one animal as well as to many. 32-33 V., c. 27, s. 10 ;—38 V., c. 42, s. 1.

Interpretation.
"Cattle."

CRUELTY TO ANIMALS.

2. Every one who wantonly, cruelly or unnecessarily beats, binds, ill-treats, abuses, overdrives or tortures any cattle, poultry, dog, domestic animal or bird,—or who, while driving any cattle or other animal is, by negligence or ill-usage in the driving thereof, the means whereby any mischief, damage or injury is done by any such cattle or other animal,—or who, in any manner, encourages, aids or assists at the fighting or baiting of any bull, bear, badger, dog, cock or other kind of animal, whether of domestic or wild nature, shall, on summary conviction before two justices of the peace, be liable to a penalty not exceeding fifty dollars or to imprisonment for any term not exceeding three months, with or without hard labor, or to both. 43 V., c. 38, s. 2.

Cruelty to animals, how punishable.

3. Every one who builds, makes, maintains or keeps a cockpit on premises belonging to or occupied by him, or allows a cockpit to be built, made, maintained or kept on premises belonging to or occupied by him, shall, on summary conviction before two justices of the peace, be liable to a penalty not exceeding fifty dollars, or to imprisonment for any term not exceeding three months, with or without hard labor, or to both :

Making or maintaining a cock-pit.

2. All cocks found in any such cockpit, or on the premises wherein such cockpit is, shall be confiscated and sold for the benefit of the municipality in which such cockpit is situated. 43 V., c. 38, s. 3.

Forfeiture in such case.

Apprehension
of offenders.

4. If any such offence is committed, any constable or other peace officer, or the owner of any such cattle, animal or poultry, upon view thereof, or upon the information of any other person (who shall declare his name and place of abode to such constable or other peace officer), may seize and secure, and forthwith, and without any warrant, may convey any such offender before a justice of the peace within whose jurisdiction the offence was committed, to be dealt with according to law. 32-33 V., c. 27, s. 4.

If offender
refuses to dis-
close his
name, &c.

5. If any person apprehended for having committed any such offence refuses to disclose his name and place of abode to the justice of the peace before whom he is brought, such person shall be immediately delivered over to a constable or other peace officer, and shall, by him, be conveyed to the common gaol or place of confinement for the district, county or place within which the offence was committed, or in which the offender was apprehended, there to remain for any term not exceeding one month, or until he makes known his name and place of abode to the said justice. 32-33 V., c. 27, s. 5.

Time for
prosecution
limited.

6. No prosecution for any such offence shall be brought, except within three months next after the commission of the offence. 32-33 V., c. 27, s. 6.

Application of
penalties.

7. Every pecuniary penalty recovered with respect to any such offence shall be applied in the following manner, that is to say: one moiety thereof to the corporation of the city, town, village, township, parish or place in which the offence was committed, and the other moiety, with full costs, to the person who informed and prosecuted for the same, or to such other person as to the justices of the peace seems proper. 32-33 V., c. 27, s. 8.

THE CONVEYANCE OF CATTLE.

Cattle to be
unladen for
food, rest, &c.,
at certain
intervals.

8. No railway company within Canada, whose railway forms any part of a line of road over which cattle are conveyed from one Province to another Province, or from the United States to or through any Province, or from any part of a Province to another part of the same, or owner or master of any vessel carrying or transporting cattle, from one Province to another Province, or within any Province, or from the United States through or to any Province, shall confine the same in any car, or vessel of any description, for a longer period than twenty-eight consecutive hours, without unloading the same for rest, water and feeding for a period of at least five consecutive hours, unless prevented from so unloading and furnishing water and food by storm or other unavoidable cause, or by necessary delay or detention in the crossing of trains;

Exception.

2. In reckoning the period of confinement, the time during which the cattle have been confined without such rest and without the furnishing of food and water, on any connecting railways or vessels from which they are received, whether in the United States or in Canada, shall be included :

Time, how reckoned.

3. The foregoing provisions as to cattle being unladen shall not apply when cattle are carried in any car or vessel in which they have proper space and opportunity for rest and proper food and water. 38 V., c. 42, ss. 2 and 5, *part*.

Exception, if proper food and space are furnished.

9. Cattle so unloaded shall be properly fed and watered during such rest by the owner or person having the custody thereof, or in case of his default in so doing, then by the railway company or owner or master of the vessel transporting the same, at the expense of the owner or person in custody thereof; and such company, owner or master shall, in such case, have a lien upon such cattle for food, care and custody furnished, and shall not be liable for any detention of such cattle. 38 V., c. 42, s. 3.

Cattle unladen to be fed and watered.

10. Where cattle are unladen from cars for the purpose of receiving food, water and rest, the railway company then having charge of the cars in which they have been transported shall, except during a period of frost, clear the floors of such cars, and litter the same properly with clean sawdust or sand before reloading them with live stock. 38 V., c. 42, s. 4.

Cars to be cleaned out.

11. Every railway company, owner or master of a vessel, having cattle in transit, as aforesaid, who knowingly and wilfully fails to comply with the provisions contained in the *eighth* section of this Act, shall, for every such failure to comply with its provisions, incur a penalty not exceeding one hundred dollars. 38 V., c. 42, s. 5, *part*.

Penalty for violation of section 8.

12. Every peace officer and constable may, at all times, enter any premises where he has reasonable grounds for supposing that any car, truck or vehicle, in respect whereof any company or person has failed to comply with the provisions of the four sections next preceding is to be found, or enter on board any vessel in respect whereof he has reasonable grounds for supposing that any company or person has, on any occasion, so failed :

Constable may enter premises or vessel.

2. Every one who refuses admission to such peace officer or constable, shall be liable, on summary conviction, to a penalty not exceeding twenty dollars and not less than five dollars, and costs, and in default of payment, to imprisonment for any term not exceeding thirty days. 38 V., c. 42, ss. 6, 7 and 8.

Penalty for refusing constable admission.

Application of penalties and limitation of suits.

13. Every penalty recoverable under the two sections next preceding, shall belong to the Crown for the public uses of Canada ; and no proceeding for the recovery of such penalty shall be commenced except within one month next after the commission of the offence. 38 V., c. 42, s. 10.

GENERAL.

Right of suit for damages not affected.

14. Nothing in this Act shall prevent or abridge any remedy by action which any person has against the offender or his employer. 32-33 V., c. 27, s. 3, *part* ;— 38 V., c. 42, s. 9, *part*.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
32-33 V., c. 27...	ss. 3 (part), 4, 5, 6, 8, 10	ss. 3 (part), 9 and 11.	s. 7	Summary convictions.
38 V., c. 42....	The whole except ss. 9 (part), and 11.	s. 9, part	s. 11.....	Summary convictions.
43 V., c. 38.....	ss. 2 and 3.....	s. 1	s. 4.....	Summary convictions.

CHAPTER 167.

An Act respecting Threats, Intimidation and other Offences.

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

THREATS.

1. Every one who sends, delivers or utters, or directly or indirectly causes to be received, knowing the contents thereof, any letter or writing, demanding of any person with menaces, and without any reasonable or probable cause, any property, chattel, money, valuable security or other valuable thing, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 21, s. 43.

Letters demanding money, &c., with menaces.

2. Every one who, with menaces or by force, demands any property, chattel, money, valuable security or other valuable thing of any person, with intent to steal the same, is guilty of felony, and liable to two years' imprisonment. 32-33 V., c. 21, s. 44.

Demanding money, &c., with menaces or by force.

3. Every one who sends, delivers or utters, or directly or indirectly causes to be received, knowing the contents thereof, any letter or writing, accusing or threatening to accuse or cause to be accused any other person of any crime punishable by law with death, or imprisonment for not less than seven years, or of any assault with intent to commit any rape, or of any attempt to endeavor to commit any rape, or of any infamous crime as hereinafter defined, with a view or intent, in any of such cases, to extort or gain, by means of such letter or writing, any property, chattel, money, valuable security or other valuable thing from any person, is guilty of felony, and liable to imprisonment for life :

Letters threatening to accuse of crime.

2. The crime of buggery, committed either with mankind or with beast, and every assault with intent to commit the said crime, and every attempt or endeavor to commit the said crime, and every solicitation, persuasion, promise or threat offered or made to any person whereby to move or induce such person to commit or permit the said crime, shall be deemed to be an infamous crime within the meaning of this Act:

"Infamous crime" defined.

What shall be
sending such
letter.

3. Every species of parting with any such letter to the end that it may come, or whereby it comes into the hands of the person for whom it is intended, shall be deemed a sending of such letter. 32-33 V., c. 21, s. 45.

Accusing or
threatening
to accuse of
crime.

4. Every one who accuses, or threatens to accuse, either the person to whom such accusation or threat is made or any other person, of any of the infamous or other crimes lastly hereinbefore mentioned, with the view or intent, in any of the cases last aforesaid, to extort or gain from such person so accused or threatened to be accused, or from any other person, any property, chattel, money, valuable security or other valuable thing, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 21, s. 46.

Inducing a
person by
threats or
violence to
execute
deeds, &c.

5. Every one who, with intent to defraud or injure any other person, by any unlawful violence to or restraint of, or threat of violence to or restraint of the person of another, or by accusing or threatening to accuse any person of any treason, felony or infamous crime, as hereinbefore defined, compels or induces any person to execute, make, accept, indorse, alter or destroy the whole or any part of any valuable security, or to write, impress or affix his name, or the name of any other person or of any company, firm or co-partnership, or the seal of any body corporate, company or society, upon or to any paper or parchment, in order that the same may be afterwards made or converted into or used or dealt with as a valuable security, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 21, s. 47.

Immaterial
by whom
menaces are
to be execu-
ted.

6. It shall be immaterial whether the menaces or threats hereinbefore mentioned are of violence, injury or accusation, to be caused or made by the offender or by any other person. 32-33 V., c. 21, s. 48.

Letters
threatening
to murder.

7. Every one who maliciously sends, delivers or utters, or directly or indirectly causes to be received, knowing the contents thereof, any letter or writing threatening to kill or murder any person, is guilty of felony, and liable to ten years' imprisonment. 32-33 V., c. 20, s. 15.

Letters
threatening
to burn or
destroy
houses, &c.

8. Every one who sends, delivers or utters, or directly or indirectly causes to be received, knowing the contents thereof, any letter or writing threatening to burn or destroy any house, barn or other building, or any rick or stack of grain, hay or straw or other agricultural produce, or any grain, hay or straw or other agricultural produce, in or under any building or any ship or vessel, or to kill, maim, wound, poison or injure any cattle, is guilty of felony, and liable to ten years' imprisonment. 32-33 V., c. 22, s. 58.

INTIMIDATION.

9. Every one who, in pursuance of any unlawful combination or conspiracy to raise the rate of wages, or of any unlawful combination or conspiracy respecting any trade, business or manufacture, or respecting any person concerned or employed therein, unlawfully assaults any person, or, in pursuance of any such combination or conspiracy, uses any violence or threat of violence to any person, with a view to hinder him from working or being employed at such trade, business or manufacture, is guilty of a misdemeanor, and liable to imprisonment for any term less than two years. 32-33 V., c. 20, s. 42.

Assaults arising from combination.

10. Every one who beats or uses any violence or threat of violence to any person, with intent to deter or hinder him from buying, selling, or otherwise disposing of any wheat or other grain, flour, meal, malt or potatoes or other produce or goods, in any market or other place, or beats or uses any such violence or threat to any person having the charge or care of any wheat or other grain, flour, meal, malt or potatoes, whilst on the way to or from any city, market, town or other place, with intent to stop the conveyance of the same, shall, on summary conviction before two justices of the peace, be liable to imprisonment, with hard labor, for any term not exceeding three months. 32-33 V., c. 20, s. 40.

Assaults with intent to obstruct the sale of grain, &c., or its free passage.

11. Every one who, unlawfully and with force, hinders or prevents any seaman, stevedore, ship-carpenter or other person usually working at or on board any ship or vessel, from working at or exercising his lawful trade, business or occupation, or beats or uses any violence to any such person with intent to hinder or prevent him from working at or exercising the same, shall, on summary conviction before two justices of the peace, be liable to imprisonment, with hard labor, for any term not exceeding three months. 32-33 V., c. 20, s. 41.

Assaults on seamen, stevedores, &c.

12. Every one who, wrongfully and without lawful authority, with a view to compel any other person to abstain from doing anything which he has a lawful right to do, or to do anything from which he has a lawful right to abstain,—

Certain acts contrary to free action.

(a) Uses violence to such other person, or his wife or children, or injures his property,—

Violence.

(b) Intimidates such other person, or his wife or children, by threats of using violence to him, her or any of them, or of injuring his property,—

Intimidation.

(c) Persistently follows such other person about from place to place,—

Following.

Hiding property. (d) Hides any tools, clothes or other property owned or used by such other person, or deprives him or hinders him in the use thereof,—

Disorderly following. (e) Follows such other person, with one or more other persons, in a disorderly manner, in or through any street or road, or—

Besetting house, &c. (f) Besets or watches the house or other place where such other person resides or works, or carries on business or happens to be,—

Penalty. Shall, on summary conviction before two justices of the peace, or on indictment, be liable to a fine not exceeding one hundred dollars, or to imprisonment for a term not exceeding three months :

“Besetting house” defined. 2. Attending at or near or approaching to such house or other place as aforesaid, in order merely to obtain or communicate information, shall not be deemed a watching or besetting within the meaning of this section :

Proceedings if person accused objects to being tried by justices. 3. Any person accused of any such offence may, on appearing before the justices, declare that he objects to being tried for such offence by such justices ; and thereupon such justices shall not proceed with such trial, but may deal with the case in all respects as if the accused was charged with an indictable offence and not with an offence punishable on summary conviction, and the accused may be prosecuted on indictment accordingly :

Description of offence, and proof of exceptions, &c. 4. It shall be sufficient to describe any such offence in the words of this section ; and any exception, proviso, excuse or qualification, whether it does or does not accompany the description of the offence, may be proved by the defendant, but need not be specified in the information or complaint, and if so specified and negatived, no proof in relation to the matter so specified and negatived shall be required on the part of the informant or prosecutor :

Certain persons not to act as magistrates. 5. No person who is a master, or the father, son or brother of a master in the particular manufacture, trade or business, in or in connection with which any offence under this section is charged to have been committed, shall act as a magistrate or justice, in any case of complaint or information under this section, or as a member of any court for hearing any appeal in any such case. 35 V., c. 31, s. 2, *part*, and s. 4;—39 V., c. 37, ss. 2 and 3.

“Trade combination” defined. **13.** In this section the expression “trade combination” means any combination between masters or workmen or other persons, for regulating or altering the relations be-

tween any persons being masters or workmen, or the conduct of any master or workman, in or in respect of his business or employment, or contract of employment or service; and the expression "act" includes a default, breach or omission :

"Act" defined.

2. No prosecution shall be maintainable against any person for conspiracy to do any act, or to cause any act to be done for the purposes of a trade combination, unless such act is an offence *punishable by statute*. 39 V., c. 37, s. 4.

Prosecution for conspiracy.

14. Every person who, before or at the time of the public sale of any Indian lands, or public lands of Canada, or of any Province of Canada, by intimidation, combination or unfair management, hinders or prevents, or attempts to hinder or prevent, any person from bidding upon or purchasing any lands so offered for sale, is guilty of a misdemeanor, and liable to a fine not exceeding four hundred dollars or to two years' imprisonment, or to both. 23 V. (Can.), c. 2, s. 33, *part*;—43 V., c. 28, s. 55, *part*.

Preventing bidding for public lands.

CRIMINAL BREACHES OF CONTRACT.

15. Every one who,—

Breach of contract endangering life, person or property.

(a) Wilfully and maliciously breaks any contract made by him, knowing or having reasonable cause to believe that the probable consequences of his so doing, either alone or in combination with others, will be to endanger human life, or to cause serious bodily injury, or to expose valuable property, whether real or personal, to destruction or serious injury,—

(b) Being under any contract made by him with any municipal corporation or authority, or with any company bound, agreeing or assuming to supply any city or any other place, or any part thereof, with gas or water, wilfully and maliciously breaks such contract, knowing or having reasonable cause to believe that the probable consequences of his so doing, either alone or in combination with others, will be to deprive the inhabitants of that city or place, or part thereof, wholly or to a great extent, of their supply of gas or water, or—

Or cutting off supply of gas or water.

(c) Being under any contract made by him with a railway company, bound, agreeing or assuming to carry Her Majesty's mails, or to carry passengers or freight; or with Her Majesty, or any one on behalf of Her Majesty, in connection with a Government railway on which Her Majesty's mails, or passengers or freight are carried, wilfully and maliciously breaks such contract, knowing or having reason to believe that the probable consequences of his so doing, either alone

Or delaying or hindering running of railway cars, engines, &c.

or in combination with others, will be to delay or prevent the running of any locomotive engine, or tender, or freight or passenger train or car, on the railway,—

Punishment. Shall, on summary conviction before two justices of the peace, or on indictment, be liable to a penalty not exceeding one hundred dollars, or to imprisonment for a term not exceeding three months, with or without hard labor. 40 V., c. 35, s. 2.

Breach of contract by a corporation. **16.** Every municipal corporation or authority or company which, being bound, agreeing or assuming to supply any city, or any other place, or any part thereof, with gas or water, wilfully and maliciously breaks any contract made by such municipal corporation, authority, or company, knowing or having reason to believe that the probable consequences of its so doing will be to deprive the inhabitants of that city or place or part thereof, wholly, or to a great extent, of their supply of gas or water, is liable to a penalty not exceeding one hundred dollars. 40 V., c. 35, s. 3, *part.*

Breach of contract by a railway company. **17.** Every railway company which, being bound, agreeing or assuming to carry Her Majesty's mails, or to carry passengers or freight, wilfully and maliciously breaks any contract made by such railway company, knowing or having reason to believe that the probable consequences of its so doing will be to delay or prevent the running of any locomotive engine or tender, or freight or passenger train or car, on the railway, is liable to a penalty not exceeding one hundred dollars. 40 V., c. 35, s. 3, *part.*

Malice need not be against a particular individual. **18.** Every punishment under the three sections next preceding imposed on any person maliciously committing any offence, shall equally apply and be enforced, whether the offence is committed from malice conceived against the *person, corporation, authority or company with which the contract is made* or otherwise. 40 V., c. 35, s. 4.

Certain corporations to keep copies of these provisions posted up. **19.** Every such municipal corporation, authority or company, shall cause to be posted up at the gas works, or waterworks, or railway stations, as the case may be, belonging to such corporation, authority or company, a printed copy of this section and the four sections next preceding, in some conspicuous place, where the same may be conveniently read by the public; and as often as such copy becomes defaced, obliterated or destroyed, shall cause it to be renewed with all reasonable despatch :

Penalty for default. **2.** Every such municipal corporation, authority or company which makes default in complying with the provisions of this section in relation to such copy as aforesaid,

shall be liable to a penalty not exceeding twenty dollars for every day during which such default continues; and every person unlawfully injuring, defacing or covering up any such copy so posted up, shall be liable, on summary conviction, to a penalty not exceeding ten dollars. 40 V., c. 35, s. 7. And for injuring copies.

FRAUDS WITH RESPECT TO CONTRACTS AND BUSINESS WITH THE GOVERNMENT.

20. Every one who makes any offer, proposal, gift, loan, promise, agreement, compensation or consideration, directly or indirectly, to any officer or person in the employment of the Government of Canada, or of any Province of Canada, with intent to secure the influence of such officer or person to promote either the obtaining or the execution of any contract with such government, or the payment of the consideration moneys therefor, and— Making gift or offer for influence respecting a government contract.

Every officer or person in the employment of such government, who accepts, or agrees to accept, any such offer, proposal, gift, loan, promise, agreement, compensation or consideration,— Accepting such gift or offer.

Is guilty of a misdemeanor and liable to a fine not exceeding one thousand dollars and not less than one hundred dollars, and to imprisonment for a term not exceeding one year and not less than one month, and in default of payment of such fine, to imprisonment for a further term not exceeding six months. 46 V., c. 32, s. 1. Punishment.

21. Every one who, in the case of tenders being called for by or on behalf of the Government of Canada, or of any Province of Canada, for any contract, directly or indirectly, by himself or by the agency of any other person on his behalf, with intent to obtain such contract, either for himself or for any other person, proposes or makes any gift, loan, offer, promise or agreement, or offers or gives any consideration or compensation whatsoever, to any person tendering for such contract, or to any officer or person in the employment of such government, and— Making gift or offer to tenderer, &c., to obtain such contract.

Every person so tendering and every officer or person in the employment of the said government who accepts or agrees to accept any such gift, loan, offer, promise, agreement, consideration or compensation whatsoever,— Accepting such gift or offer.

Is guilty of a misdemeanor, and liable to a fine not exceeding one thousand dollars and not less than one hundred dollars, and to imprisonment for a term not exceeding one year and not less than one month, and, in default of payment of such fine, to imprisonment for a further term not exceeding six months. 46 V., c. 32, s. 2. Punishment.

Public officers receiving gift, &c., for assistance in transaction of business with Government.

22. Every one who, being a public officer or paid employe of the Government of Canada, or of any Province of Canada, receives, directly or indirectly, any promise, offer, gift, loan, compensation or consideration whatsoever, either in money or otherwise, from any person whomsoever, for fraudulently assisting or favoring any individual in the transaction of any business whatsoever connected with such government, or for doing so contrary to the duties of his special position as an officer or employe of the government, is guilty of a misdemeanor, and liable to a fine not exceeding two thousand dollars, and shall be incapable, for the term of five years, of holding any public office; and every one who makes such offer shall be liable to the same penalty. 46 V., c. 32, s. 3.

Offenders disqualified.

23. Every person convicted of any offence under the provisions of the three sections next preceding shall be incapable of contracting with or holding any contract under any of the said governments. 46 V., c. 32, s. 4.

Time for prosecution limited.

24. No prosecution under the provisions of the four sections next preceding shall be commenced except within two years from the commission of the offence. 46 V., c. 32, s. 5.

WILFUL VIOLATION OF STATUTES.

Violation of statutes.

25. Every wilful violation of any Act of the Parliament of Canada, or of the Legislature of any Province of Canada, which is not made an offence of some other kind, shall be a misdemeanor, and punishable accordingly:

Punishment of violation of statutes.

2. Whenever any wilful violation of any Act is made an offence of any particular kind or name, the person guilty of such violation shall, on conviction thereof, be punishable in the manner in which such offence is, by law, punishable. 31 V., c. 1, s. 7, paragraphs 20 and 21 ;—31 V., c. 71, s. 3.

CONSPIRACIES—FRAUDS.

Fraud or cheating.

26. Every one who is convicted of fraud, or of cheating, or of conspiracy, shall, in any case in which no special punishment is provided by any statute, be liable to seven years' imprisonment. 32-33 V., c. 29, s. 86.

Destroying or altering books, &c., to defraud creditors.

27. Every one who destroys, alters, mutilates or falsifies any of his books, papers, writings or securities, or makes, or is privy to the making of any false or fraudulent entry in any book of account or other document, with intent to

defraud his creditors, or any one or more of them, is guilty of a misdemeanor, and liable to six months' imprisonment. C. S. U. C., c. 26, s. 19.

28. Every one who makes, or causes to be made, any gift, conveyance, assignment, sale, transfer or delivery of his lands, hereditaments, goods or chattels, or who removes, conceals or disposes of any of his goods, chattels, property or effects of any description, with intent to defraud his creditors or any of them, and every one who receives any such property, real or personal, with such intent, is guilty of a misdemeanor, and liable to a fine not exceeding eight hundred dollars, and to one year's imprisonment. C. S. U. C., c. 26, s. 20. Making away with property to defraud creditors.

MISCONDUCT OF OFFICERS INTRUSTED WITH EXECUTION OF WRITS.

29. Every one who, being a sheriff, deputy sheriff, coroner, elisor, bailiff, constable or other officer intrusted with the execution of any writ, warrant or process, wilfully misconducts himself in the execution of the same, or wilfully and without the consent of the person in whose favor the writ, warrant or process was issued, makes any false return thereto, is guilty of a misdemeanor, and liable to a fine and imprisonment, in the discretion of the court. 27-28 V. (Can.), c. 28, s. 31, *part*. Misconduct of sheriffs and other officers.

EMBRACERY

30. Every one who is guilty of the offence of embracery, and every juror who wilfully and corruptly consents thereto, is liable, on indictment, to fine and imprisonment. C. S. U. C., c. 31, s. 166. Embracery.

QUI TAM ACTIONS—QUEBEC.

31. Every private prosecutor in the Province of Quebec who, being a plaintiff in a *qui tam* action, discontinues or suspends such action without the permission or direction of the Crown, is guilty of a misdemeanor. 27-28 V. (Can.), c. 43, s. 2, *part*. Discontinuing *qui tam* actions.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
31 V., c. 1.....	s. 7, pp. 20 and 21	.....	Residue	Interpretation.
31 V., c. 71.....	s. 3.	.....	Residue	Offences against the person.
32-33 V., c. 20.....	ss. 15, 40, 41(part), and 42.	.....	Residue	Larceny.
32-33 V., c. 21.....	ss. 43-48.....	.....	Residue	Injuries to property.
32-33 V., c. 22.....	s. 58.....	.....	Residue	Procedure.
32-33 V., c. 29.....	s. 86. ....	.....	Residue	Summary convictions.
35 V., c. 31.....	ss. 2(part), and 4.	s. 5.	ss 2 (part), & 3.	
39 V., c. 37.....	The whole, except s. 1.	s. 1.		
40 V., c. 35.....	ss. 2, 3, 4 and 7...	ss. 1, 5 and 8.	s. 6.	Punishments.
43 V., c. 28.....	s. 55 (part).....	s. 55 (part).....	Residue.....	Indian Act.
46 V., c. 32.....	The whole.			
C. S. U. C., c. 26.	ss. 19 and 20.			
C. S. U. C., c. 31.	s. 166.			
23 V. (Can.), c. 2	s. 33 (part).			
27-28 V. (Can.), c. 8.	s. 31 (part).			
27-28 V. (Can.), c. 43.	s. 2 (part).			

CHAPTER 168.

An Act respecting procedure in Criminal Cases.

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 Criminal Procedure Act.*" Short title.
New.

INTERPRETATION.

2. In this and in any other Act of Parliament *containing any provision relating to criminal law, unless the context otherwise requires :—* Interpretation.

(a) The expression "any Act," or, "any other Act," includes any Act passed or to be passed by the Parliament of Canada, or any Act passed by the Legislature of the late Province of Canada, or passed or to be passed by the Legislature of any Province of Canada, or passed by the Legislature of any Province included in Canada, before it was included therein ; "Any Act." "Any other Act."

(b) The expression "justice" means a justice of the peace, and includes two or more justices, if two or more justices act or have jurisdiction, and also any person having the power or authority of two or more justices of the peace,—and one justice may act, unless otherwise specially provided ; "Justice."

(c) The expression "indictment" includes information, inquisition and presentment as well as indictment, and also any plea, replication or other pleading, and any record ; "Indictment."

(d) The expression "finding of the indictment" includes also the taking of an inquisition, the exhibiting an information and the making of a presentment ; "Finding of the indictment."

(e) The expression "property" includes goods, chattels, money, valuable securities, and every other matter or thing, whether real or personal, upon or with respect to which any offence may be committed ; "Property."

“District, county or place.”

(f) The expression “district, county or place” includes any division of any Province of Canada, for purposes relative to the administration of justice in criminal cases ;

“Territorial division.”

(g) The expression “territorial division” means county, union of counties, township, city, town, parish or other judicial division or place to which the context applies ;

“Court for Crown cases reserved.”

(h) The expression “the court for crown cases reserved” means and includes,—

(1) In the Province of Ontario, any division of the High Court of Justice for Ontario ;

(2) In the Province of Quebec, the Court of Queen’s Bench, on the appeal side thereof ;

(3) In the Provinces of Nova Scotia, New Brunswick and British Columbia, the Supreme Court in and for each of the said Provinces, respectively ;

(4) In the Province of Prince Edward Island, the Supreme Court of Judicature for that Province ; and—

(5) In the Province of Manitoba, Her Majesty’s Court of Queen’s Bench for Manitoba. 32-33 V., c. 29, s. 1, *part*, and c. 30, s. 65 ;—46 V., c. 10, s. 5, *part* ;—C. S. L. C., c. 77, s. 57, *part* ;—R. S. N. S. (3rd S.), c. 171, s. 99, *part* ;—1 R. S. N. B., c. 159, s. 22, *part*.

JURISDICTION.

Powers of superior courts.

3. Every superior court of criminal jurisdiction shall have power to try any treason, felony or other indictable offence. 34 V., c. 14, s. 2 ;—37 V., c. 42, s. 5 ;—40 V., c. 4, s. 4, *part*.

Certain courts not to try certain offences.

4. No Court of General or Quarter Sessions or Recorder’s Court, nor any court but a superior court having criminal jurisdiction, shall have power to try any treason, or any felony punishable with death, or any libel. 32-33 V., c. 29, s. 12.

Justices, &c., not to try offences by explosives.

5. Neither the justices of the peace acting in and for any district, county, division, city or place, nor any judge of the Sessions of the Peace, nor the recorder of any city, shall, at any Session of the Peace, or at any adjournment thereof, try any person for any offence under sections *twenty-one*, *twenty-two* and *twenty-three* of the “*Act respecting offences against the Person*.” 32-33 V., c. 20, s. 48.

Court of Sessions not to try certain

6. No Court of General or Quarter Sessions of the Peace shall have power to try any offence under any of the provi-

sions of sections *sixty* to *seventy-six*, both inclusive, offences under
of "*The Larceny Act.*" 32-33 V., c. 21, s. 92. Larceny Act.

7. The judge of the Sessions of the Peace for the city of Quebec, the judge of the Sessions of the Peace for the city of Montreal, and every police magistrate, district magistrate or stipendiary magistrate appointed for any territorial division, and every magistrate authorized by the law of the Province in which he acts, to perform acts usually required to be done by two or more justices of the peace, may do alone whatever is authorized by this Act to be done by any two or more justices of the peace, and the several forms in this Act contained may be varied so far as necessary to render them applicable to such case. 32-33 V., c. 30, s. 59, and c. 36, s. 8. Certain magistrates may act alone.

PLACE OF COMMISSION AND TRIAL OF OFFENCES.

8. When any *offence* punishable under the laws of Canada has been committed within the jurisdiction of the Admiralty of England, the same may be dealt with, inquired of and tried and determined in the same manner as any *offence* committed within the jurisdiction of *any court before which the offender is brought for trial.* 32-33 V., c. 29, s. 136. Offences committed within the jurisdiction of the Admiralty.

Re-drafted. See 12-13 V. (Imp.), c. 96, s. 1.

9. When any person, being feloniously stricken, poisoned, or otherwise hurt, upon the sea, or at any place out of Canada, dies of such stroke, poisoning or hurt, in Canada, or, being feloniously stricken, poisoned or otherwise hurt at any place in Canada, dies of such stroke, poisoning, or hurt, upon the sea, or at any place out of Canada, every offence committed in respect of any such case, whether the same amounts to murder or manslaughter, or of being accessory to murder or manslaughter, may be dealt with, inquired of, tried, determined and punished in the district, county or place in Canada in which such death, stroke, poisoning or hurt happens, in the same manner, in all respects, as if such offence had been wholly committed in that district, county or place. 32-33 V., c. 20, s. 9. If death only or cause of death only happens in Canada.

10. When any felony or misdemeanor is committed on the boundary of two or more districts, counties or places, or within the distance of one mile of any such boundary, or in any place with respect to which it is uncertain within which of two or more districts, counties or places it is situate, or when any felony or misdemeanor is begun in one district, county or place, and completed in another, every such felony or misdemeanor may be dealt with, inquired of, tried, determined and punished, in any one of the said districts, counties or places, in the same manner as if it had been actually and wholly committed therein. 32-33 V., c. 29, s. 8. Offences committed on the confines of districts, &c.

Offences committed on persons or property in transit.

11. When any felony or misdemeanor is committed on any person, or on or in respect of any property, in or upon any coach, wagon, cart or other carriage whatsoever, employed in any journey, or is committed on any person, or on or in respect of any property on board any vessel, boat or raft whatsoever, employed in any voyage or journey upon any navigable river, canal or inland navigation, such felony or misdemeanor may be dealt with, inquired of, tried, determined and punished, in any district, county or place, through any part whereof such coach, wagon, cart, carriage or vessel, boat or raft, passed in the course of the journey or voyage during which such felony or misdemeanor was committed, in the same manner as if it had been actually committed in such district, county or place. 32-33 V., c. 29, s. 9.

Offences committed on highways, rivers, &c., dividing two districts.

12. Whenever the side, centre, bank or other part of any highway or of any river, canal or navigation, constitutes the boundary of any two districts, counties or places, any felony or misdemeanor mentioned in the two sections next preceding may be dealt with, inquired of, tried, determined and punished in either of such districts, counties or places, through or adjoining to, or by the boundary of any part whereof such coach, wagon, cart, carriage or vessel, boat or raft, passed in the course of the journey or voyage during which such felony or misdemeanor was committed, in the same manner as if it had been actually committed in such district, county or place. 32-33 V., c. 29, s. 10.

Place of trial after dissolution of union of counties to be as ordered by the court.

13. If, upon the dissolution of a union of counties, any information, indictment or other criminal proceeding, in which the venue is laid in a county of the union is pending, the court in which such information, indictment or proceeding is pending, or any judge who has authority to make orders therein, may, by consent of parties, or on hearing the parties upon affidavit, order the venue to be changed to the new county, and all records and papers to be transmitted to the proper officers of such county,—and in the case of any such indictment found at any court of criminal jurisdiction, any judge of a superior court may make the order :

If no order is made.

2. If no such change is directed, all such informations, indictments and other proceedings shall be carried on and tried in the senior county :

Place of trial of indictable offence in such case.

3. Any person charged with an indictable offence who, at the time of the disuniting of a junior from a senior county, is imprisoned on the charge in the gaol of the senior county, or is under bail or recognizance to appear for trial at any court in the senior county, and against whom no indictment has been found before the disunion

takes place, shall be indicted, tried and sentenced in the senior county, unless a judge of a superior court orders the proceedings to be conducted in the junior county,—in which event the prisoner or recognizance, as the case may be, shall be removed to the latter county and the proceedings shall be had therein ; and when, in any such case, the offence is charged to have been committed in a county other than that in which such proceedings are had, the venue may be laid in the proper county describing it as “ formerly one of the united counties of ” 29-30 V. (Can.), c. 51, ss. 52, 53 and 55.

14. All crimes and offences committed in any of the unorganized tracts of country in the Province of Ontario, including lakes, rivers and other waters therein, not embraced within the limits of any organized county, or within any provisional judicial district, may be laid and charged to have been committed and may be inquired of, tried and punished within any county of such Province ; and such crime or offence shall be within the jurisdiction of any court having jurisdiction over crimes or offences of the like nature committed within the limits of such county,—before which court such crime or offence may be prosecuted ; and such court shall proceed therein to trial, judgment and execution or other punishment for such crime or offence, in the same manner as if such crime or offence had been committed within the county where such trial is had :

Where offences in unorganized tracts may be charged to have been committed, and be tried.

2. When any provisional judicial district or new county is formed and established in any of such unorganized tracts, all crimes and offences committed within the limits of such provisional judicial district or new county, shall be inquired of, tried and punished within the same, in like manner as such crimes or offences would have been inquired of, tried and punished if this section had not been passed :

Where to be tried when judicial districts or new counties are formed.

3. Any person accused or convicted of any offence in any such provisional district may be committed to any common gaol in the Province of Ontario ; and the constable or other officer having charge of such person and intrusted with his conveyance to any such common gaol, may pass through any county in such Province with such person in his custody ; and the keeper of the common gaol of any county in such Province in which it is found necessary to lodge for safe keeping any such person, so being conveyed through such county in custody, shall receive such person and safely keep and detain him in such common gaol for such period as is reasonable or necessary ; and the keeper of any common gaol in such Province, to which any such person is committed as aforesaid, shall receive such person and safely keep and detain him in such common gaol under his

Persons accused or convicted of crimes in any such provisional districts may be committed to any gaol in Ontario.

custody until discharged in due course of law, or bailed in cases in which bail may by law be taken. C. S. U. C., c. 128, ss. 100, 101 and 105.

Commitment and trial in the district of Gaspé.

15. Whenever any offence is committed in the district of Gaspé, the offender, if committed to gaol before trial, may be committed to the common gaol of the county in which the offence was committed, or may, in law, be deemed to have been committed, and if tried before the Court of Queen's Bench, he shall be so tried at the sitting of such court held in the county to the gaol of which he has been committed, and if imprisoned in the common gaol after trial he shall be so imprisoned in the common gaol of the county in which he has been tried. C. S. L. C., c. 80, s. 6.

Venue in the case of certain offences.

16. Every person accused of perjury, bigamy or any offence under the provisions of sections *fifty-three, fifty-four and fifty-five* of "*The Larceny Act*," may be dealt with, indicted, tried and punished in the district, county or place in which the offence is committed, or in which he is apprehended or is in custody. 32-33 V., c. 20, s. 58, *part*, and c. 21, s. 72, *part*, and c. 23, s. 8 ;—33 V., c. 26, s. 1, *part*.

Place of trial of accessories.

17. The offence of any person who is an accessory, either before or after the fact, to any felony, may be dealt with, inquired of, tried, determined and punished by any court which has jurisdiction to try the principal felony, or any felonies committed in any district, county or place in which the act, by reason whereof such person became such accessory, has been committed: Provided, that no person once duly tried, either as an accessory before or after the fact, or for a substantive felony, shall be liable to be afterwards prosecuted for the same offence. 31 V., c. 72, s. 8 ;—32-33 V., c. 17, s. 2.

No second prosecution.

Place of trial of forgery offences.

18. Every one who commits any offence against the "*Act respecting Forgery*," or commits any offence of forging or altering any matter whatsoever, or of offering, uttering, disposing of or putting off any matter whatsoever, knowing the same to be forged or altered, whether the offence in any such case is indictable at common law, or by virtue of any Act, may be dealt with, indicted, tried and punished in any district, county or place in which he is apprehended or is in custody, in the same manner in all respects as if the offence had been actually committed in that district, county or place; and every accessory before or after the fact to any such offence, if the same is a felony, and every person aiding, abetting or counselling the commission of any such offence, if the same is a misdemeanor, may be dealt with, indicted, tried and punished, in any district, county or place in which he is apprehended or is in custody, in the same manner in all respects as if his offence, and the offence of his principal,

And of accessories in such cases.

had been actually committed in such district, county or place. 32-33 V., c. 19, s. 48.

19. Every one accused of any offence against the provisions of section *forty-two* of the "*Act respecting Offences against the Person*" may be tried either in the district, county or place in which the same was committed, or in any district, county or place into or through which the person kidnapped or confined was carried or taken while under such confinement; but no person who has been once duly tried for any such offence shall be liable to be again indicted or tried for the same offence. 32-33 V., c. 20, s. 71.

Place of trial of offences by kidnapping.

No second prosecution.

20. Every one who receives any chattel, money, valuable security or other property whatsoever, knowing the same to have been feloniously or unlawfully stolen, taken, obtained, converted or disposed of, whether charged as an accessory after the fact to the felony, or with a substantive felony, or with a misdemeanor only, may be dealt with, indicted, tried and punished in any county, district or place in which he has or has had any such property in his possession, or in any county, district or place in which the person guilty of the principal felony or misdemeanor may, by law, be tried, in the same manner as such receiver may be dealt with, indicted, tried and punished in the county, district or place where he actually received such property. 32-33 V., c. 21, s. 105.

Place of trial for receiving stolen goods.

21. Every one who brings into Canada, or has in his possession therein, any property stolen, embezzled, converted or obtained by fraud or false pretences in any other country, in such manner that the stealing, embezzling, converting or obtaining it in like manner in Canada, would, by the laws of Canada, be a felony or misdemeanor, may be tried and convicted in any district, county or place in Canada into or in which he brings such property, or has it in possession. 32-33 V., c. 21, s. 112, *part*.

Place of trial for bringing into Canada property stolen, &c.

22. If any person has in his possession in any one part of Canada, any chattel, money, valuable security or other property whatsoever, which he has stolen or otherwise feloniously or unlawfully taken or obtained, by any offence against "*The Larceny Act*," in any other part of Canada, he may be dealt with, indicted, tried and punished for larceny or theft in that part of Canada where he so has such property, in the same manner as if he had actually stolen, or taken or obtained it in that part; and if any person in any one part of Canada receives or has any chattel, money, valuable security or other property whatsoever, which has been stolen or otherwise feloniously or unlawfully taken or obtained in any other part of Canada, such person knowing such property to have been stolen or otherwise feloniously or unlaw-

Place of trial of persons who have stolen in one part of Canada and have the property in another part.

fully taken or obtained, may be dealt with, indicted, tried and punished for such offence in that part of Canada where he so receives or has such property, in the same manner as if it had been originally stolen or taken or obtained in that part. 32-33 V., c. 21, s. 121.

Place of trial of persons uttering counterfeit coin, &c., in more places than one.

23. If any person tenders, utters, or puts off any false or counterfeit coin in any one Province of Canada, or in any one district, county or jurisdiction therein, and also tenders, utters or puts off any other false or counterfeit coin, in any other Province, district, county or jurisdiction, either on the day of such first mentioned tendering, uttering or putting off, or within the space of ten days next ensuing, or if two or more persons, acting in concert in different Provinces, or in different districts, counties or jurisdictions therein, commit any offence against the "*Act respecting Offences relating to the Coin*," every such offender may be dealt with, indicted, tried and punished, and the offence laid and charged to have been committed, in any one of the said Provinces, or districts, counties or jurisdictions, in the same manner in all respects, as if the offence had been actually and wholly committed within one Province, district, county or jurisdiction. 32-33 V., c. 18, s. 29.

APPREHENSION OF OFFENDERS.

Apprehension without warrant by an officer in certain cases.

24. Any person found committing an offence punishable either upon indictment or upon summary conviction, may be immediately apprehended without a warrant by any constable or peace officer, or by the owner of the property on or with respect to which the offence is being committed, or by his servant or any other person authorized by such owner, and shall be forthwith taken before some neighboring justice of the peace, to be dealt with according to law. 32-33 V., c. 22, s. 69, and c. 29, s. 2.

And by any person in certain other cases.

25. Any person found committing any offence punishable either upon indictment or upon summary conviction, by virtue of "*The Larceny Act*" or the "*Act respecting the Protection of the Property of Seamen in the Navy*," may be immediately apprehended without a warrant by any person, and forthwith taken, together with the property, if any, on or with respect to which the offence is committed, before some neighboring justice of the peace to be dealt with according to law. 32-33 V., c. 21, s. 117, *part*;—33 V., c. 31, s. 5, *part*.

And by person to whom property is offered for sale, &c.

26. If any person, to whom any property is offered to be sold, pawned or delivered, has reasonable cause to suspect that any such offence has been committed on or with respect to such property, he may, and, if in his power, he shall apprehend and forthwith carry before a justice of the peace,

the person offering the same, together with such property, to be dealt with according to law. 32-33 V., c. 21, s. 117, *part, and c. 29, s. 3;—33 V., c. 31, s. 5, part.*

27. Any person may apprehend any other person found committing any indictable offence in the night, and shall convey or deliver him to some constable or other person, so that he may be taken, as soon as conveniently may be, before a justice of the peace, to be dealt with according to law. 32-33 V., c. 29, s. 4.

Apprehension of offenders caught in the act in the night time.

28. Any constable or peace officer may, without a warrant, take into custody any person whom he finds lying or loitering in any highway, yard or other place, during the night, and whom he has good cause to suspect of having committed, or being about to commit, any felony, and may detain such person until he can be brought before a justice of the peace, to be dealt with according to law:

Apprehension in other cases without warrant.

2. No person who has been so apprehended shall be detained after noon of the following day without being brought before a justice of the peace. 32-33 V., c. 29, ss. 5 and 6.

Detention of person arrested, limited.

29. Any person may apprehend any other person who is found committing any indictable offence, against the "*Act respecting Offences relating to the Coin,*" and convey and deliver him to a peace officer, constable or officer of police, so that he may be conveyed, as soon as reasonably may be, before a justice of the peace, to be dealt with according to law. 32-33 V., c. 18, s. 33.

Apprehension of person committing coinage offence.

ENFORCING APPEARANCE OF ACCUSED.

30. Whenever a charge or complaint (A) is made before any justice of the peace for any territorial division in Canada, that any person has committed, or is suspected to have committed, any treason or felony, or any indictable misdemeanor or offence within the limits of the jurisdiction of such justice, or that any person guilty or suspected to be guilty of having committed any such crime or offence elsewhere out of the jurisdiction of such justice, is or resides or is suspected to be or reside within the limits of the jurisdiction of such justice, then, and in every such case, if the person so charged or complained against is not in custody, such justice may issue his warrant (B), to apprehend such person, and to cause him to be brought before him or any other justice for the same territorial division. 32-33 V., c. 30, s. 1.

Justice may grant a warrant to cause persons charged with certain offences to be brought before him.

31. The justice to whom the charge or complaint is preferred, instead of issuing, in the first instance his warrant to

Justice may issue a summons instead

of a warrant
in the first
instance.

Warrant if
summons is
disobeyed

Proviso.

As to indict-
able offences
committed on
the high seas,
&c.

Warrant to
apprehend
person
against
whom an in-
dictment is
found.

Commitment,
or bail.

apprehend the person charged or complained against, may, if he thinks fit, issue his summons (C) directed to such person, requiring him to appear before him at the time and place therein mentioned, or before such other justice of the same territorial division as shall then be there, and if, after being served with the summons in manner hereinafter mentioned, he fails to appear at such time and place, in obedience to such summons, the justice or any other justice for the same territorial division may issue his warrant (D), to apprehend the person so charged or complained against, and cause such person to be brought before him, or before some other justice for the same territorial division, to answer to the charge or complaint, and to be further dealt with according to law; but any justice may, if he sees fit, issue the warrant hereinbefore first mentioned, at any time before or after the time mentioned in the summons for the appearance of the accused person. 32-33 V., c. 30, s. 2.

32. Whenever any indictable offence is committed on the high seas, or in any creek, harbor, haven or other place, in which the Admiralty of England have or claim to have jurisdiction, and whenever any offence is committed on land beyond the seas for which an indictment may be preferred or the offender may be arrested in Canada, any justice for any territorial division in which any person charged with having committed, or suspected of having committed any such offence, is or is suspected to be, may issue his warrant (D 2), to apprehend such person, to be dealt with as therein and hereby directed. 32-33 V., c. 30, s. 3.

33. If an indictment is found by the grand jury in any court of criminal jurisdiction, against any person then at large, and whether such person has been bound by any recognizance to appear to answer to any such charge or not, and if such person has not appeared and pleaded to the indictment, the person who acts as clerk of the Crown or chief clerk of such court shall, at any time, at the end of the term or sittings of the court at which the indictment has been found, upon application of the prosecutor, or of any person on his behalf, and on payment of a fee of twenty cents, grant to such prosecutor or person a certificate (E) of such indictment having been found; and upon production of such certificate to any justice for the territorial division in which the offence is alleged in the indictment to have been committed, or in which the person indicted resides, or is supposed or suspected to reside or to be, such justice shall issue his warrant (F), to apprehend the person so indicted, and to cause him to be brought before him or any other justice for the same territorial division, to be dealt with according to law. 32-33 V., c. 30, s. 4.

34. If the person is thereupon apprehended and brought before any such justice, such justice, upon its being proved

upon oath or affirmation before him that the person so apprehended is the person charged and named in the indictment, shall, without further inquiry or examination, commit (G) him for trial or admit him to bail as hereinafter mentioned. 32-33 V., c. 30, s. 5.

35. If the person so indicted is confined in any gaol or prison for any other offence than that charged in the indictment at the time of such application and production of such certificate to the justice, such justice, upon its being proved before him, upon oath or affirmation, that the person so indicted and the person so confined in prison are one and the same person, shall issue his warrant (H) directed to the gaoler or keeper of the gaol or prison in which the person so indicted is then confined, commanding him to detain such person in his custody until he is removed therefrom by writ of *habeas corpus*, or by order of the proper court, for the purpose of being tried upon the said indictment, or until he is otherwise removed or discharged out of his custody by due course of law. 32-33 V., c. 30, s. 6.

If person indicted is already in prison for some other offence, justice may order him to be detained.

36. Nothing hereinbefore contained shall prevent the issuing or execution of bench warrants, whenever any court of competent jurisdiction thinks proper to order the issuing of any such warrant. 32-33 V., c. 30, s. 7.

Bench warrants not prevented.

37. Any justice may grant or issue any warrant as aforesaid, or any search warrant, on a Sunday or other statutory holiday, as well as on any other day. 32-33 V., c. 30, s. 8.

Warrant may be issued on Sunday, &c.

38. Whenever a charge or complaint for any indictable offence is made before any justice, if it is intended to issue a warrant in the first instance against the person charged, an information and complaint thereof (A) in writing, on the oath or affirmation of the informant, or of some witness or witnesses in that behalf, shall be laid before such justice. 32-33 V., c. 30, s. 9.

If a warrant is to be issued, information to be upon oath, &c.

39. When it is intended to issue a summons instead of a warrant in the first instance, the information and complaint shall also be in writing, and be sworn to or affirmed in manner aforesaid, except whenever, by some Act or law, it is specially provided that the information and complaint may be by parol merely, and without any oath or affirmation to support or substantiate the same. 32-33 V., c. 30, s. 10.

And so in case of summons, unless otherwise provided.

40. The justice receiving any information and complaint as aforesaid, if he thinks fit, may issue his summons or warrant as hereinbefore directed, to cause the person charged to be and appear as thereby directed; and every summons (C) shall be directed to the person so charged by the information, and shall state shortly the matter of such information,

Upon complaint, justice may issue summons or warrant for appearance of person charged.

and shall require the person to whom it is directed to be and appear at a certain time and place therein mentioned, before the justice who issues the summons, or before such other justice for the same territorial division as shall then be there, to answer to the charge and to be further dealt with according to law. 32-33 V., c. 30, s. 13.

Service of
summons.

41. Every such summons shall be served by a constable or other peace officer, upon the person to whom it is directed, by delivering the same to such person, or if he cannot conveniently be so served, then by leaving the same for him with some person at his last or usual place of abode. 32-33 V., c. 30, s. 14.

Constables,
&c., to attend
and prove
service.

42. The constable or other peace officer who serves the same, shall attend at the time and place, and before the justice in the summons mentioned, to depose, if necessary, to the service of the summons. 32-33 V., c. 30, s. 15.

If person sum-
moned does
not attend,
justice may
issue a war-
rant.

43. If the person served does not appear before the justice at the time and place mentioned in the summons, in obedience to the same, the justice may issue his warrant (D) for apprehending the person so summoned, and bringing him before such justice, or before some other justice for the same territorial division, to answer the charge in the information and complaint mentioned, and to be further dealt with according to law. 32-33 V., c. 30, s. 16.

Warrant to
apprehend to
be under the
hand and seal
of justice: to
whom to be
addressed, &c.

44. Every warrant (B) issued by any justice to apprehend any person charged with any indictable offence shall be under the hand and seal of the justice issuing the same, and may be directed to all or any of the constables or other peace officers of the territorial division within which the same is to be executed, or to any such constable and all other constables or peace officers in the territorial division within which the justice issuing the same has jurisdiction, or generally to all the constables or peace officers within such last mentioned territorial division; and it shall state shortly the offence on which it is founded, and shall name or otherwise describe the offender; and it shall order the person or persons to whom it is directed to apprehend the offender, and bring him before the justice issuing the warrant, or before some other justice for the same territorial division, to answer the charge contained in the information, and to be further dealt with according to law. 32-33 V., c. 30, s. 17.

What it shall
set forth.

Affixing seal
and effect
thereof.

45. If, in any warrant or other instrument or document issued in any Province of Canada, at any time, by any justice, it is stated that the same is given under the hand and seal of any justice signing it, such seal shall be presumed to have been affixed by him, and its absence shall not

invalidate the instrument, or such justice may, at any time thereafter, affix such seal, with the same effect as if it had been affixed when such instrument was signed. 32-33 V., c. 36, s. 4, *part.*

46. It shall not be necessary to make the warrant returnable at any particular time, but the same shall remain in force until executed. 32-33 V., c. 30, s. 18. Warrant in force until executed.

47. Such warrant may be executed by apprehending the offender at any place in the territorial division within which the justice issuing the same has jurisdiction, or in case of fresh pursuit, at any place in the next adjoining territorial division, and within seven miles of the border of the first mentioned territorial division, without having the warrant backed as hereinafter mentioned. 32-33 V., c. 30, s. 19. How and where a warrant may be executed.

48. If any warrant is directed to all constables or other peace officers in the territorial division within which the justice has jurisdiction, any constable or other peace officer for any place within such territorial division may execute the warrant at any place within the jurisdiction for which the justice acted when he granted such warrant, in like manner as if the warrant had been directed specially to such constable by name, and notwithstanding the place within which such warrant is executed is not within the place for which he is constable or peace officer. 32-33 V., c. 30, s. 20. When any constable, &c., may execute warrant.

49. If the person against whom any warrant has been issued cannot be found within the jurisdiction of the justice by whom the same was issued, or if he escapes into, or is supposed or is suspected to be, in any place within Canada, out of the jurisdiction of the justice issuing the warrant, any justice within the jurisdiction of whom the person so escapes, or in which he is or is suspected to be, upon proof alone being made on oath or affirmation of the handwriting of the justice who issued the same, without any security being given, shall make an indorsement (I) on the warrant, signed with his name, authorizing the execution of the warrant within the jurisdiction of the justice making the indorsement; and such indorsement shall be sufficient authority to the person bringing such warrant, and to all other persons to whom the same was originally directed, and also to all constables and other peace officers of the territorial division where the warrant has been so indorsed, to execute the same in such other territorial division, and to carry the person against whom the warrant issued, when apprehended, before the justice who first issued the warrant, or before some other justice for the same territorial division, or before some justice of the territorial division in which the offence mentioned in the warrant appears therein to have been committed. 32-33 V., c. 30, s. 23. Provisions as to the indorsement of warrants.
Effect of such indorsement.

Proceedings
after arrest in
such case.

50. If the prosecutor or any of the witnesses for the prosecution are then in the territorial division where such person has been apprehended, the constable or other person or persons who have apprehended him may, if so directed by the justice backing the warrant, take him before the justice who backed the warrant, or before some other justice for the same territorial division or place; and the said justice may thereupon take the examination of such prosecutor or witnesses, and proceed in every respect in the manner hereinafter directed, with respect to persons charged before a justice with an offence alleged to have been committed in another territorial division than that in which such persons have been apprehended. 32-33 V., c. 30, s. 24.

SEARCH WARRANTS AND SEARCHES.

Search war-
rant may be
granted in
certain cases.

51. If a credible witness proves, upon oath (K) before a justice, that there is reasonable cause to suspect that any property whatsoever, on or with respect to which any larceny or felony has been committed, is in any dwelling-house, out house, garden, yard, croft or other place or places, the justice may grant a warrant (K 2), to search such dwelling-house, garden, yard, croft or other place or places for such property, and if the same, or any part thereof, is then found, to bring the same and the person or persons in whose possession such house or other place then is, before the justice granting the warrant, or some other justice for the same territorial division. 32-33 V., c. 30, s. 12.

And in cer-
tain other
cases.

52. If any credible witness proves, upon oath before any justice, a reasonable cause to suspect that any person has in his possession or on his premises any property whatsoever, on or with respect to which any offence, punishable either upon indictment or upon summary conviction, by virtue of "*The Larceny Act*" or the "*Act respecting the protection of the Property of Seamen in the Navy,*" has been committed, the justice may grant a warrant to search for such property, as in the case of stolen goods. 32-33 V., c. 21, s. 117, *part*; --33 V., c. 31, s. 5, *part*.

Search war-
rant for gold,
silver, quartz,
&c.

53. On complaint in writing made to any justice of the county, district or place, by any person interested in any mining claim, that mined gold or gold-bearing quartz, or mined or unmanufactured silver or silver ore, is unlawfully deposited in any place, or held by any person contrary to law, a general search warrant may be issued by such justice, as in the case of stolen goods, including any number of places or persons named in such complaint; and if, upon such search, any such gold or gold-bearing quartz, or silver or silver ore is found to be unlawfully deposited or held, the justice shall make such order for the restoration thereof to the lawful owner as he considers right :

Order, if the
same is found.

2. The decision of such justice shall be subject to appeal, as in ordinary cases on summary conviction; but before such appeal shall be allowed, the appellant shall enter into a recognizance in the manner provided by law in cases of appeal from summary convictions, to the value of the gold or other property in question, that he will prosecute his appeal at the next sittings of any court having jurisdiction in that behalf, and will pay the costs of the appeal in case of a decision against him; and if the defendant appeals, that he will pay such fine as the court may impose, with costs. 32-33 V., c. 21, ss. 33 and 34.

Appeal on certain conditions.

54. If any constable or peace officer has reasonable cause to suspect that any timber, mast, spar, saw-log or other description of lumber, belonging to any lumberman or owner of lumber, and bearing the registered trade mark of such lumberman or owner of lumber, is kept or detained in any saw-mill, mill-yard, boom or raft, without the knowledge or consent of the owner, such constable or peace officer may enter into or upon the same, and search or examine, for the purpose of ascertaining whether such timber, mast, spar, saw-log or other description of lumber is detained therein without such knowledge and consent. 38 V., c. 40, s. 1, *part*.

Search for timber, lumber, &c., unlawfully detained.

55. If it is made to appear, by information on oath or affirmation before a justice, that there is reasonable cause to believe that any person has in his custody or possession, without lawful authority or excuse, any Dominion or Provincial note, or any note or bill of any bank or body corporate, company or person carrying on the business of bankers, or any frame, mould, or implement for making paper in imitation of the paper used for such notes or bills, or any such paper, or any plate, wood, stone or other material, having thereon any words, forms, devices or characters capable of producing or intended to produce the impression of any such note or bill or any part thereof, or any tool, implement or material used or employed, or intended to be used or employed, in or about any of the operations aforesaid, or any forged security, document or instrument whatsoever, or any machinery, frame, mould, plate, die, seal, paper or other matter or thing used or employed, or intended to be used or employed, in the forgery of any security, document or instrument whatsoever, such justice may, if he thinks fit, grant a warrant to search for the same; and if the same is found upon such search, it shall be lawful to seize and carry the same before some justice of the district, county or place, to be by him disposed of according to law; and all such matters and things so seized as aforesaid shall, by order of the court by which any such offender is tried, or if there is no such trial, then by order of some justice of the peace, be defaced and destroyed, or otherwise disposed of as such court or justice directs. 32-33 V., c. 19, s. 53.

Search for paper or implements employed in any forgery and for forged instruments.

The same may be destroyed by order of the court.

Counterfeit coin, &c., and coining tools to be seized.

56. If any person finds or discovers, in any place whatsoever, or in the custody or possession of any person having the same without lawful authority or excuse, any false or counterfeit coin resembling or apparently intended to resemble or pass for any current gold, silver or copper coin, or any coin of any foreign prince, state or country, or any instrument, tool or engine whatsoever, adapted and intended for the counterfeiting of any such coin, or any filings or clippings, or any gold or silver bullion, or any gold or silver, in dust, solution or otherwise, which has been produced or obtained by diminishing or lightening any current gold or silver coin, the person so finding or discovering shall seize and carry the same forthwith before a justice :

Search for counterfeit coin and coining tools.

2. If it is proved, on the oath of a credible witness, before any justice, that there is reasonable cause to suspect that any person has been concerned in counterfeiting current gold, silver or copper coin, or any foreign or other coin mentioned in the "*Act respecting Offences relating to the Coin,*" or has in his custody or possession any such false or counterfeit coin, or any instrument, tool or engine whatsoever, adapted and intended for the making or counterfeiting of any such coin, or any other machine used or intended to be used for making or counterfeiting any such coin, or any such filings, clippings or bullion, or any such gold or silver, in dust, solution or otherwise, as aforesaid, any justice may, by warrant under his hand, cause any place whatsoever belonging to or in the occupation or under the control of such suspected person to be searched, either in the day or in the night, and if any such false or counterfeit coin, or any such instrument, tool or engine, or any such machine, or any such filings, clippings or bullion, or any such gold or silver, in dust, solution or otherwise, as aforesaid, is found in any place so searched, to cause the same to be seized and carried forthwith before a justice :

How counterfeit coin, &c., and coinage tools shall be disposed of in such case.

3. Whenever any such false or counterfeit coin, or any such instrument, tool or engine, or any such machine, or any such filings, clippings or bullion, or any such gold or silver, in dust, solution or otherwise, as aforesaid, is in any case seized and carried before a justice, he shall, if necessary, cause the same to be secured, for the purpose of being produced in evidence against any person prosecuted for an offence against such Act, and all such false and counterfeit coin, and all instruments, tools and engines adapted and intended for the making or counterfeiting of coin, and all such machines, and all such filings, clippings and bullion, and all such gold and silver, in dust, solution or otherwise, as aforesaid, after they have been produced in evidence, or when they have been seized and are not required to be produced in evidence, shall forthwith be defaced, by the order of the court, or otherwise disposed of as the court directs. 32-33 V., c. 18, s. 27.

PROCEEDINGS ON APPEARANCE.

57. The room or building in which the justice takes the examination and statement shall not be deemed an open court; and the justice, in his discretion, may order that no person shall have access to or be or remain in such room or building without his consent or permission, if it appears to him that the ends of justice will be best answered by so doing. 32-33 V., c. 30, s. 35.

Place of examination not an open court.

58. No objection shall be taken or allowed to any information, complaint, summons or warrant, for any defect therein, in substance or in form, or for any variance between it and the evidence adduced on the part of the prosecution, before the justice who takes the examination of the witnesses in that behalf. 32-33 V., c. 30, ss. 11 and 21.

No objection allowed for alleged defect in substance or form.

59. If it appears to the justice that the person charged has been deceived or misled by any such variance in any summons or warrant, such justice, at the request of the person charged, may adjourn the hearing of the case to some future day, and in the meantime may remand such person, or admit him to bail, as hereinafter mentioned. 32-33 V., c. 30, s. 22.

If variance is important case may be adjourned.

60. If it is made to appear to any justice, by the oath or affirmation of any credible person, that any person within Canada is likely to give material evidence for the prosecution, and will not voluntarily appear for the purpose of being examined as a witness at the time and place appointed for the examination of the witnesses against the accused, such justice shall issue his summons (L) to such person, requiring him to be and appear before him at a time and place therein mentioned, or before such other justice for the same territorial division as shall then be there, to testify what he knows concerning the charge made against the accused person. 32-33 V., c. 30, s. 25.

Power to Justices to summon witnesses to attend, and give evidence.

61. If any person so summoned neglects or refuses to appear at the time and place appointed by the summons, and no just excuse is offered for such neglect or refusal, (after proof upon oath or affirmation of the summons having been served upon such person, either personally or left with some person for him at his last or usual place of abode), the justice before whom such person should have appeared may issue a warrant (L 2), to bring such person, at a time and place therein mentioned, before the justice who issued the summons, or before such other justice for the same territorial division as shall then be there, to testify as aforesaid, and, if necessary, the said warrant may be backed as hereinbefore mentioned, so that it may be executed out of the jurisdiction of the justice who issued the same. 32-33 V., c. 30, s. 26.

If summons is not obeyed, warrant may be issued to compel attendance.

In certain cases warrant may issue in first instance.

62. If the justice is satisfied, by evidence upon oath or affirmation, that it is probable the person will not attend to give evidence unless compelled so to do, then, instead of issuing such summons, the justice may issue his warrant (L 3) in the first instance, and the warrant, if necessary, may be backed as aforesaid. 32-33 V., c. 30, s. 27.

Persons appearing on summons and refusing to be examined may be committed.

63. If, on the appearance of the person so summoned, either in obedience to the summons or by virtue of the warrant, he refuses to be examined upon oath or affirmation concerning the premises, or refuses to take such oath or affirmation, or having taken such oath or affirmation, refuses to answer the questions then put to him concerning the premises, without giving any just excuse for such refusal, any justice then present and there having jurisdiction may, by warrant (L 4) commit the person so refusing to the common gaol or other place of confinement, for the territorial division where the person so refusing then is, there to remain and be imprisoned for any term not exceeding ten days, unless he in the meantime consents to be examined and to answer concerning the premises. 32-33 V., c. 30, s. 28.

Person accused may be remanded from time to time by warrant.

64. If, from the absence of witnesses or from any other reasonable cause, it becomes necessary or advisable to defer the examination or further examination of the witnesses for any time, the justice before whom the accused appears or has been brought may, by his warrant (M), from time to time, remand the person accused to the common gaol in the territorial division for which such justice is then acting, for such time as he deems reasonable, not exceeding eight clear days at any one time. 32-33 V., c. 30, s. 41.

Or for three days only by verbal order.

65. If the remand is for a time not exceeding three clear days, the justice may verbally order the constable or other person in whose custody the accused person then is, or any other constable or person named by the justice in that behalf, to keep the accused person in his custody, and to bring him before the same or such other justice as shall be there acting, at the time appointed for continuing the examination. 32-33 V., c. 30, s. 42.

Person accused may be brought upon an earlier day.

66. Any such justice may order the accused person to be brought before him, or before any other justice for the same territorial division, at any time before the expiration of the time for which such person has been remanded, and the gaoler or officer in whose custody he then is shall duly obey such order. 32-33 V., c. 30, s. 43.

Admission to bail on recognizance.

67. Instead of detaining the accused person in custody during the period for which he has been so remanded, any one justice, before whom such person has appeared or been

brought, may discharge him, upon his entering into a recognizance (M 2, 3), with or without sureties, in the discretion of the justice, conditioned for his appearance at the time and place appointed for the continuance of the examination. 32-33 V., c. 30, s. 44.

68. If the accused person does not afterwards appear at the time and place mentioned in the recognizance, the said justice, or any other justice who is then and there present, having certified (M 4) upon the back of the recognizance the non-appearance of such accused person, may transmit the recognizance to the clerk of the court where the accused person is to be tried, or other proper officer appointed by law, to be proceeded upon in like manner as other recognizances; and such certificate shall be *primâ facie* evidence of the non-appearance of the accused person. 32-33 V., c. 30, s. 45.

Proceedings if accused does not appear according to his recognizance.

69. Whenever any person appears or is brought before any justice charged with any indictable offence,—whether committed in Canada, or upon the high seas, or on land beyond the sea,—and whether such person appears voluntarily upon summons or has been apprehended, with or without warrant, or is in custody for the same or any other offence,—such justice, before he commits such accused person to prison for trial or before he admits him to bail, shall, in the presence of the accused person (who shall be at liberty to put questions to any witness produced against him), take the statements (N) on oath or affirmation of those who know the facts and circumstances of the case, and shall reduce the same to writing; and such depositions shall be read over to and signed respectively by the witnesses so examined, and shall be signed also by the justice taking the same; and the justice shall, before any witness is examined, administer to such witness the usual oath or affirmation. 32-33 V., c. 30, ss. 29 and 30, *part.*

Examination of witnesses to be in the presence of the accused, &c.

Witnesses to be sworn.

70. After the examinations of all the witnesses for the prosecution have been completed, the justice or one of the justices, by or before whom the examinations have been completed, shall, without requiring the attendance of the witnesses, read or cause to be read to the accused, the depositions taken against him, and shall say to him these words, or words to the like effect: "Having heard the evidence, do you wish to say anything in answer to the charge? You are not obliged to say anything unless you desire to do so, but whatever you say will be taken down in writing, and may be given in evidence against you at your trial;" and whatever the prisoner then says in answer thereto shall be taken down in writing (O) and read over to him, and shall be signed by the justice, and kept with the depositions of the witnesses, and shall be trans-

After examination, justice to read depositions taken against the accused, and caution him as to any statement he may make.

mitted with them, as hereinafter mentioned. 32-33 V., c. 30, s. 31.

Explanations to be made to the accused person.

71. The justice shall, before the accused makes any statement, state to him and give him clearly to understand that he has nothing to hope from any promise of favor, and nothing to fear from any threat which may have been held out to him to induce him to make any admission or confession of his guilt, but that whatever he then says may be given in evidence against him upon his trial, notwithstanding such promise or threat. 32-33 V., c. 30, s. 32.

Not to prevent giving in evidence confession, &c.

72. Nothing herein contained shall prevent any prosecutor from giving in evidence any admission or confession, or other statement, made at any time by the person accused or charged, which by law would be admissible as evidence against him. 32-33 V., c. 30, s. 33.

Discharge if evidence is insufficient.

73. When all the evidence offered upon the part of the prosecution against the accused has been heard, if the justice is of opinion that it is not sufficient to put the accused upon his trial for any indictable offence, such justice shall forthwith order the accused, if in custody, to be discharged as to the information then under inquiry; but if in the opinion of such justice the evidence is sufficient to put the accused upon his trial for an indictable offence, although it may not raise such a strong presumption of guilt as would induce him to commit the accused for trial without bail, or if the offence with which the person is accused is a misdemeanor, then the justice shall admit the accused to bail, as hereinafter provided; but if the offence is a felony, and the evidence given is such as to raise a strong presumption of guilt, then the justice shall, by his warrant (P), commit the accused to the common gaol for the territorial division to which, by law, he may be committed,—or in the case of an indictable offence committed on the high seas or on land beyond the sea, to the common gaol of the territorial division within which such justice has jurisdiction, to be there safely kept until delivered in due course of law: Provided, that in cases of misdemeanor the justice who has committed the accused for trial may, at any time before the first day of the sitting of the court at which the accused is to be tried, admit him to bail in manner aforesaid, or may certify on the back of the warrant of committal the amount of bail to be required, in which case any justice for the same territorial division may admit such person to bail in such amount, at any time before such first day of the sitting of the court aforesaid. 32-33 V., c. 30, s. 56.

Admission to bail.

Committal in certain cases.

As to bail after committal for trial.

Person accused entitled to a copy of depositions.

74. At any time after all the examinations have been completed, and before the first sitting of the court at which any person so committed to prison or admitted to bail is to

be tried, such person may require and shall be entitled to have from the officer or person having the custody of the same, copies of the depositions on which he has been committed or bailed, on payment of a reasonable sum for the same, not exceeding the rate of five cents for each folio of one hundred words. 32-33 V., c. 30, s. 58.

RECOGNIZANCES TO PROSECUTE OR GIVE EVIDENCE.

75. Any justice before whom any witness is examined, may bind, by recognizance (Q), the prosecutor and every such witness (except married women and infants, who shall find security for their appearance, if the justice sees fit) to appear at the next court of competent criminal jurisdiction at which the accused is to be tried, then and there to prosecute, or prosecute and give evidence, or to give evidence, as the case may be, against the person accused, which recognizance shall particularly specify the place of residence and the addition or occupation of each person entering into the same. 32-33 V., c. 30, s. 36.

Justice may bind over the prosecutors and witnesses.

76. The recognizance, being duly acknowledged by the person entering into the same, shall be subscribed by the justice before whom the same is acknowledged, and a notice (Q 2) thereof, signed by the said justice, shall, at the same time, be given to the person bound thereby. 32-33 V., c. 30, s. 37.

Recognizances to be subscribed by justice, &c.

77. The several recognizances so taken, together with the written information, if any, the depositions, the statement of the accused, and the recognizance of bail, if any, shall be delivered by the justice, or he shall cause the same to be delivered to the proper officer of the court in which the trial is to be had, before or at the opening of the court on the first day of the sitting thereof, or at such other time as the judge, justice or person who is to preside at such court, or at the trial, orders and appoints. 32-33 V., c. 30, s. 38.

Recognizances, &c., to be transmitted to the court in which the trial is to be had.

78. If any witness refuses to enter into recognizance, the justice, by his warrant (R), may commit him to the common gaol for the territorial division in which the person accused is to be tried, there to be imprisoned and safely kept until after the trial of such accused person, unless in the meantime such witness duly enters into a recognizance before a justice for the territorial division in which such gaol is situate. 32-33 V., c. 30, s. 39.

Witness refusing to enter into recognizances may be committed.

79. If afterwards, for want of sufficient evidence in that behalf, or other cause, the justice before whom the accused person has been brought does not commit him or hold him to bail for the offence charged, such justice, or any other justice for the same territorial division, by his order (R 2)

Release if person accused is discharged.

in that behalf, may order and direct the keeper of the gaol where the witness is in custody to discharge him from the same, and such keeper shall thereupon forthwith discharge him accordingly. 32-33 V., c. 30, s. 40.

Proceedings
in the case of
certain of-
fences.

30. If any charge or complaint is made before any justice that any person has committed, within the jurisdiction of such justice, any of the offences following, that is to say : perjury, subornation of perjury, conspiracy, obtaining money or other property by false pretences, forcible entry or detainer, nuisance, keeping a gambling house, keeping a disorderly house, or any indecent assault, and such justice refuses to commit or to bail the person charged with such offence, to be tried for the same, then, if the prosecutor desires to prefer an indictment respecting the said offence, the said justice shall take the recognizance of such prosecutor, to prosecute the said charge or complaint, and transmit the recognizance, information and depositions, if any, to the proper officer, in the same manner as such justice would have done in case he had committed the person charged to be tried for such offence. 32-33 V., c. 29, s. 29 ;—40 V., c. 26, s. 2.

BAIL.

Two justices
may admit to
bail persons
charged with
felony not
capital, &c.

31. When any person appears before any justice charged with a felony, or suspicion of felony, other than treason or felony punishable with death, or felony under the "*Act respecting Treason and other Offences against the Queen's authority*," and the evidence adduced is, in the opinion of such justice, sufficient to put the accused on his trial, but does not furnish such a strong presumption of guilt as to warrant his committal for trial, the justice, jointly, with some other justice, may admit the accused to bail upon his procuring and producing such surety or sureties as, in the opinion of the two justices, will be sufficient to insure his appearance at the time and place when and where he ought to be tried for the offence ; and thereupon the two justices shall take the recognizances (S and S 2) of the accused and his sureties, conditioned for his appearance at the time and place of trial, and that he will then surrender and take his trial and not depart the court without leave ; and when the offence committed or suspected to have been committed is a misdemeanor, any one justice before whom the accused appears may admit to bail in manner aforesaid,—and such justice may, in his discretion, require such bail to justify upon oath as to their sufficiency, which oath the said justice may administer ; and in default of such person procuring sufficient bail, such justice may commit him to prison, there to be kept until delivered according to law. 32-33 V., c. 30, s. 52.

And one
justice in
cases of mis-
demeanor.

82. In all cases of felony or suspicion of felony, other than treason or felony punishable with death, or *felony under the "Act respecting Treason and other Offences against the Queen's authority,"* and in all cases of misdemeanor, where the accused has been finally committed as herein provided, any judge of any superior or county court, having jurisdiction in the district or county within the limits of which the accused is confined, may, in his discretion, on application made to him for that purpose, order the accused to be admitted to bail on entering into recognizance with sufficient sureties before two justices, in such amount as the judge directs, and thereupon the justices shall issue a warrant of deliverance (S 3) as hereinafter provided, and shall attach thereto the order of the judge directing the admitting of the accused to bail. 32-33 V., c. 30, s. 53.

Superior or county judge may order a person committed for trial to be admitted to bail.

83. No judge of a county court or justices shall admit any person to bail accused of treason or felony punishable with death, or *felony under the "Act respecting Treason and other Offences against the Queen's authority,"* nor shall any such person be admitted to bail, except by order of a superior court of criminal jurisdiction for the Province in which the accused stands committed, or of one of the judges thereof, or in the Province of Quebec, by order of a judge of the Court of Queen's Bench or Superior Court; and nothing herein contained shall prevent such courts or judges admitting any person accused of felony or misdemeanor to bail when they think it right so to do. 32-33 V., c. 30, s. 54.

Certain offences not bailable except by judge's order.

84. Whenever any justice or justices admit to bail any person who is then in any prison charged with the offence for which he is so admitted to bail, such justice or justices shall send to or cause to be lodged with the keeper of such prison, a warrant of deliverance (S 3) under his or their hands and seals, requiring the said keeper to discharge the person so admitted to bail if he is detained for no other offence, and upon such warrant of deliverance being delivered to or lodged with such keeper, he shall forthwith obey the same. 32-33 V., c. 30, s. 55.

Justice bailing after committal to issue a warrant of deliverance.

DELIVERY OF ACCUSED TO PRISON.

85. The constable or any of the constables, or other person to whom any warrant of commitment authorized by this or any other Act or law is directed, shall convey the accused person therein named or described to the gaol or other prison mentioned in such warrant, and there deliver him, together with the warrant, to the keeper of such gaol or prison, who shall thereupon give the constable or other person delivering the prisoner into his custody, a receipt (T) for the prisoner, setting forth the state and condition of the prisoner when delivered into his custody. 32-33 V., c. 30, s. 57.

Conveyance of prisoners to gaol.

PROCEEDINGS WHERE OFFENDER IS APPREHENDED IN A DISTRICT IN WHICH THE OFFENCE WAS NOT COMMITTED.

If a person is apprehended in one division for an offence committed in another, he may be examined in the former, and committed in the latter.

86. Whenever a person appears or is brought before a justice in the territorial division, wherein such justice has jurisdiction, charged with an offence alleged to have been committed within any territorial division in Canada wherein such justice has not jurisdiction, such justice shall examine such witnesses and receive such evidence in proof of the charge as may be produced before him within his jurisdiction; and if in his opinion, such testimony and evidence are sufficient proof of the charge made against the accused, the justice shall thereupon commit him to the common gaol for the territorial division where the offence is alleged to have been committed, or shall admit him to bail as hereinbefore mentioned, and shall bind over the prosecutor (if he has appeared before him) and the witnesses, by recognizance as hereinbefore mentioned. 32-33 V., c. 30, s. 46.

If evidence is not deemed sufficient, it may be transmitted to the proper division, &c.

87. If the testimony and evidence are not, in the opinion of the justice, sufficient to put the accused upon his trial for the offence with which he is charged, the justice shall, by recognizance, bind over the witness or witnesses whom he has examined to give evidence as hereinbefore mentioned; and such justice shall, by warrant (U), order the accused to be taken before any justice in and for the territorial division where the offence is alleged to have been committed, and shall, at the same time, deliver up the information and complaint, and also the depositions and recognizances so taken by him to the constable who has the execution of the last mentioned warrant, to be by him delivered to the justice before whom he takes the accused, in obedience to the warrant; and the depositions and recognizances shall be deemed to be taken in the case, and shall be treated to all intents and purposes as if they had been taken by or before the last mentioned justice,—and shall, together with the depositions and recognizances taken by the last mentioned justice in the matter of the charge against the accused, be transmitted to the clerk of the court or other proper officer where the accused ought to be tried, in the manner and at the time herein mentioned, if the accused is committed for trial upon the charge, or is admitted to bail. 32-33 V., c. 30, s. 47.

Transmission of record in such case.

Expenses of constable conveying the accused to be repaid him.

88. If the accused is taken before the justice last aforesaid, by virtue of the said last mentioned warrant, the constable or other person or persons to whom the said warrant is directed, and who has conveyed the accused before such last mentioned justice, shall, upon producing the accused before such justice and delivering him into the custody of such person as the said justice directs or names in that behalf, be entitled to be paid his costs, and expenses of conveying the accused before such justice. 32-33 V., c. 30, s. 48.

89. Upon the constable delivering to the justice the warrant, information, if any, depositions and recognizances, and proving on oath or affirmation, the handwriting of the justice who has subscribed the same, such justice, before whom the accused is produced, shall thereupon furnish such constable with a receipt or certificate (U 2) of his having received from him the body of the accused, together with the warrant, information, if any, depositions and recognizances, and of his having proved to him, upon oath or affirmation, the handwriting of the justice who issued the warrant. 32-33 V., c. 30, s. 49.

Justice to furnish constable with a receipt or certificate. &c.

90. The said constable, on producing such receipt or certificate to the proper officer for paying such charges, shall be entitled to be paid all his reasonable charges, costs and expenses of conveying the accused into such other territorial division, and returning from the same. 32-33 V., c. 30, s. 50.

Constable to be paid by proper officer.

91. If such justice does not commit the accused for trial, or hold him to bail, the recognizances taken before the first mentioned justice shall be void. 32-33 V., c. 30, s. 51.

Recognizances void in certain cases.

DUTIES OF CORONERS AND JUSTICES.

92. Every coroner, upon any inquisition taken before him, whereby any person is indicted for manslaughter or murder, or as an accessory to murder before the fact, shall, in presence of the accused, if he can be apprehended, reduce to writing the evidence given to the jury before him, or as much thereof as is material, giving the accused full opportunity of cross-examination; and the coroner shall have authority to bind by recognizance all such persons as know or declare anything material touching the manslaughter or murder, or the offence of being accessory to murder, to appear at the next court of oyer and terminer, or gaol delivery, or other court or term or sitting of a court, at which the trial is to be, then and there to prosecute or give evidence against the person charged; and every such coroner shall certify and subscribe the evidence and all the recognizances, and also the inquisition taken before him, and shall deliver the same to the proper officer of the court at the time and in the manner specified in the *seventy-seventh* section of this Act. 32-33 V., c. 30, s. 60.

Duty of coroner, in cases of murder or manslaughter.

Recognizances, &c., to be sent to proper officer.

93. When any person has been committed for trial by any justice or coroner, the prisoner, his counsel, attorney or agent may notify the committing justice or coroner, that he will, as soon as counsel can be heard, move before a superior court of the Province in which such person stands committed, or one of the judges thereof, or the judge of the county court, if it is intended to apply to such judge, under the *eighty-second* section of

When person committed wishes to be bailed, justices to forward all information to the proper officer.

this Act, for an order to the justice or coroner for the territorial division where such prisoner is confined, to admit such prisoner to bail,—whereupon such committing justice or coroner shall, as soon as may be, transmit to the office of the clerk of the Crown, or the chief clerk of the court, or the clerk of the county court or other proper officer (as the case may be), close under his hand and seal, a certified copy of all informations, examinations and other evidences, touching the offence wherewith the prisoner has been charged, together with a copy of the warrant of commitment and inquest, if any such there is; and the packet containing the same shall be handed to the person applying therefor, for transmission, and it shall be certified on the outside thereof to contain the information concerning the case in question. 32-33 V., c. 30, s. 61.

How transmitted.

Same order to be made as upon *habeas corpus*.

94. Upon such application to any such court or judge, as in the next preceding section mentioned, the same order concerning the prisoner being bailed or continued in custody, shall be made as if the prisoner was brought up upon a *habeas corpus*. 32-33 V., c. 30, s. 62,

Penalty on justices and coroners disobeying foregoing provisions.

95. If any justice or coroner neglects or offends in anything contrary to the true intent and meaning of any of the provisions of the *three* sections next preceding, the court to whose officer any such examination, information, evidence, bailment, recognizance or inquisition ought to have been delivered, shall, upon examination and proof of the offence, in a summary manner, impose such fine upon every such justice or coroner as the court thinks fit. 32-33 V., c. 30, s. 63.

Provisions to apply to all justices and coroners.

96. The provisions of this Act relating to justices and coroners, shall apply to the justices and coroners not only of districts and counties at large, but also of all other territorial divisions and jurisdictions. 32-33 V., c. 30, s. 64.

REMOVAL OF PRISONERS.

Removal of prisoners to another gaol may be ordered if gaol is insecure.

97. The Governor in Council or the Lieutenant Governor in Council of any Province may, if, from the insecurity or unfitness of any gaol of any county or district for the safe custody of prisoners, or for any other cause, he deems it expedient so to do, order any person charged with treason or felony confined in such gaol or for whose arrest a warrant has been issued, to be removed to any other gaol of any other county or district in the same Province, to be named in such order, there to be detained until discharged in due course of law, or removed for the purpose of trial to the gaol of the county or district in which the trial is to take place; and a copy of such order, certified by the clerk of the Queen's Privy Council for Canada, or the clerk of the

Authority for such removal.

Executive Council, or by any person acting as such clerk of the Privy Council or Executive Council, shall be sufficient authority to the sheriffs and gaolers of the counties or districts respectively named in such order, to deliver over and to receive the body of any person named in such order. 31 V., c. 74, s. 1;—47 V., c. 44, ss. 1 and 2, *parts*.

98. The Governor in Council or a Lieutenant Governor in Council may, in any such order, direct the sheriff in whose custody the person to be removed then is, to convey the said person to the gaol of the county or district in which he is to be confined, and the sheriff or gaoler of such county or district to receive the said person, and to detain him until he is discharged in due course of law, or is removed for the purpose of trial to any other county or district. 31 V., c. 74, s. 2;—47 V., c. 44, ss. 1 and 2, *parts*.

Sherrif may be directed to remove prisoner.

99. If a true bill for treason or felony, is afterwards returned by any grand jury of the county or district from which any such person is removed, against any such person, the court into which such true bill is returned, may make an order for the removal of such person, from the gaol in which he is then confined, to the gaol of the county or district in which such court is sitting, for the purpose of his being tried in such county or district. 31 V., c. 74, s. 3;—47 V., c. 44, s. 2, *part*.

Removal for trial into county where indictment is found.

100. The Governor in Council or a Lieutenant Governor in Council may make an order as hereinbefore provided in respect of any person under sentence of imprisonment or under sentence of death,—and, in the latter case, the sheriff to whose gaol the prisoner is removed shall obey any direction given by the said order or by any subsequent order in council, for the return of such prisoner to the custody of the sheriff by whom the sentence is to be executed. 47 V., c. 44, s. 3.

When sentence of death or of imprisonment has been pronounced.

101. When an indictment is found against any person for whose appearance at any court to answer the offence a recognizance has been given, and such person is confined in any penitentiary or gaol within the jurisdiction of such court, under warrant of commitment or under sentence for some other offence, the court may, by order in writing, direct the warden of the penitentiary or the keeper of such gaol, to bring up such person to be arraigned on such indictment, without a writ of *habeas corpus*, and the warden or keeper shall obey such order. 32-33 V., c. 29, s. 14.

When indictment is found against a person already in custody.

CHANGE OF VENUE.

102. Whenever it appears to the satisfaction of the court or judge hereinafter mentioned, that it is expedient to the

Change of venue in certain cases.

ends of justice that the trial of any person charged with felony or misdemeanor should be held in some district, county or place other than that in which the offence is supposed to have been committed, or would otherwise be triable, the court before which such person is or is liable to be indicted may, at any term or sitting thereof, and any judge who might hold or sit in such court may, at any other time, either before or after the presentation of a bill of indictment, order that the trial shall be proceeded with in some other district, county or place within the same Province, named by the court or judge in such order; but such order shall be made upon such conditions as to the payment of any additional expense thereby caused to the accused, as the court or judge thinks proper to prescribe :

Payment of expenses.

Transmission of record, &c., to place of trial.

2. Forthwith upon the order of removal being made by the court or judge, the indictment, if any has been found against the prisoner, and all inquisitions, informations, depositions, recognizances and other documents whatsoever, relating to the prosecution against him, shall be transmitted by the officer having the custody thereof to the proper officer of the court at the place where the trial is to be had, and all proceedings in the case shall be had, or, if previously commenced, shall be continued in such district, county or place, as if the case had arisen or the offence had been committed therein :

Removal of prisoners to new place of trial.

3. The order of the court, or of the judge, made under this section, shall be a sufficient warrant, justification and authority, to all sheriffs gaolers and peace officers, for the removal, disposal and reception of the prisoner, in conformity with the terms of such order; and the sheriff may appoint and empower any constable to convey the prisoner to the gaol in the district, county or place in which the trial is ordered to be had :

Recognizances to apply to such place.

4. Every recognizance entered into for the prosecution of any person, and every recognizance, as well of any witness to give evidence, as of any person for any offence, shall, in case any such order, as provided by this section, is made, be obligatory on each of the persons bound by such recognizance as to all things therein mentioned with reference to the said trial, at the place where such trial is so ordered to be had, in like manner as if such recognizance had been originally entered into for the doing of such things at such last mentioned place: Provided that notice in writing shall be given either personally or by leaving the same at the place of residence of the persons bound by such recognizance, as therein described, to appear before the court, at the place where such trial is ordered to be had. 32-33 V., c 29, s. 11.

Proviso: notice to cognizors.

INDICTMENTS.

103. It shall not be necessary that any indictment or any record or document relative to any criminal case be written on parchment. 32-33 V., c. 29, s. 13. Indictment need not be on parchment.

104. It shall not be necessary to state any venue in the body of any indictment; and the district, county or place named in the margin thereof, shall be the venue for all the facts stated in the body of the indictment; but if local description is required, such local description shall be given in the body thereof. 32-33 V., c. 29, s. 15. Not necessary to state the venue in the body of the indictment.

105. The abolition of the benefit of clergy shall not prevent the joinder in any indictment of any counts which might have been joined but for such abolition. 32-33 V., c. 29, s. 16. As to abolition of benefit of clergy.

106. Any number of the matters, acts or deeds by which any compassings, imaginations, inventions, devices or intentions, or any of them, have been expressed, uttered or declared, may be charged against the offender, for any felony, under the "*Act respecting Treason and other Offences against the Queen's authority.*" 31 V., c. 69, s. 7. In cases specified more than one overt act may be charged.

107. In any indictment for perjury, or for unlawfully, illegally, falsely, fraudulently, deceitfully, maliciously or corruptly taking, making, signing or subscribing any oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate or other writing, it shall be sufficient to set forth the substance of the offence charged against the accused, and by what court or before whom the oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate or other writing was taken, made, signed or subscribed, without setting forth the bill, answer, information, indictment, declaration, or any part of any proceeding, either in law or equity, and without setting forth the commission or authority of the court or person before whom such offence was committed. 32-33 V., c. 23, s. 9. Form of indictment for perjury.

108. In every indictment for subornation of perjury, or for corrupt bargaining or contracting with any person to commit wilful and corrupt perjury, or for inciting, causing or procuring any person unlawfully, wilfully, falsely, fraudulently, deceitfully, maliciously or corruptly, to take, make, sign or subscribe any oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate or other writing, it shall be sufficient, whenever such perjury or other offence aforesaid has been actually committed, to allege the offence of the person who actually committed such perjury or other offence, in the manner hereinbefore mentioned, and then to allege that the defendant unlaw-

fully, wilfully and corruptly did cause and procure the said person to do and commit the said offence in manner and form aforesaid; and whenever such perjury or other offence aforesaid has not actually been committed, it shall be sufficient to set forth the substance of the offence charged upon the defendant, without setting forth or averring any of the matters or things hereinbefore rendered unnecessary to be set forth or averred in the case of wilful and corrupt perjury. 32-33 V., c. 23, s. 10.

Form of indictment for murder or manslaughter.

109. In any indictment for murder or manslaughter, or for being an accessory to any murder or manslaughter, it shall not be necessary to set forth the manner in which, or the means by which, the death of the deceased was caused; but it shall be sufficient in any indictment for murder to charge that the accused did feloniously, wilfully, of his malice aforethought, kill and murder the deceased,—and it shall be sufficient in any indictment for manslaughter to charge that the accused did feloniously kill and slay the deceased; and it shall be sufficient in any indictment against any accessory to any murder or manslaughter to charge the principal with the murder or manslaughter, as the case may be, in the manner hereinbefore specified, and then to charge the accused as an accessory, in the manner heretofore used and accustomed, or by law provided. 32-33 V., c. 20, s. 6.

Form of indictment for stealing, &c., document of title to lands.

110. In any indictment for stealing, or, for any fraudulent purpose, destroying, cancelling, obliterating or concealing the whole or any part of any document of title to land, it shall be sufficient to allege such document to be or contain evidence of the title, or of part of the title, or of some matter affecting the title, of the person or of some one of the persons having an interest, whether vested or contingent, legal or equitable, in the real property to which the same relates, and to mention such real property or some part thereof. 32-33 V., c. 21, s. 16, *part*.

Distinct acts of embezzlement, &c., may be charged in the same indictment.

111. Any number of distinct acts of embezzlement, or of fraudulent application or disposition, not exceeding three, committed by the offender, against Her Majesty, or against the same municipality, master or employer, within the space of six months from the first to the last of such acts, may be charged in any indictment, and if the offence relates to any money or any valuable security, it shall be sufficient to allege the embezzlement or fraudulent application or disposition to be of money, without specifying any particular coin or valuable security; and such allegation, so far as regards the description of the property, shall be sustained if the offender is proved to have embezzled or fraudulently applied or disposed of any amount, although the particular species of coin or valuable security of which such amount

was composed is not proved, or if he is proved to have embezzled or fraudulently applied or disposed of any piece of coin or any valuable security, or any portion of the value thereof, although such piece of coin or valuable security was delivered to him in order that some part of the value thereof should be returned to the person delivering the same or to some other person, and such part has been returned accordingly. 32-33 V., c. 21, s. 73.

112. In any indictment for obtaining or attempting to obtain any property by false pretences it shall be sufficient to allege that the person accused did the act with intent to defraud, and without alleging an intent to defraud any particular person, and without alleging any ownership of the chattel, money or valuable security; and on the trial of any such indictment, it shall not be necessary to prove an intent to defraud any particular person, but it shall be sufficient to prove that the person accused did the act charged with an intent to defraud. 32-33 V., c. 21, s. 93, *part*.

Form of indictment for obtaining property by false pretences.

113. It shall not be necessary to allege, in any indictment against any person for wrongfully and wilfully pretending or alleging that he inclosed and sent, or caused to be inclosed and sent, in any post letter, any money, valuable security or chattel, or to prove on the trial that the act was done with intent to defraud. 32-33 V., c. 21, s. 96, *part*.

Intent to defraud need not be stated in case specified.

114. In any indictment for forging, altering, uttering, offering, disposing of or putting off any instrument whatsoever, where it is necessary to allege an intent to defraud, it shall be sufficient to allege that the person accused did the act with intent to defraud, without alleging an intent to defraud any particular person; and on the trial of any such offence it shall not be necessary to prove an intent to defraud any particular person, but it shall be sufficient to prove that the person accused did the act charged with an intent to defraud. 32-33 V., c. 19, s. 51.

Form of indictment for forgery, &c.

115. In any indictment against any person for buying, selling, receiving, paying or putting off, or offering to buy, sell, receive, pay or put off, without lawful authority or excuse, any false or counterfeit coin, resembling or apparently intended to resemble or pass for any current gold or silver coin, at or for a lower rate or value than the same imports or was apparently intended to import, it shall be sufficient to allege that the person accused did buy, sell, receive, pay or put off, or did offer to buy, sell, receive, pay or put off the false or counterfeit coin, at or for a lower rate of value than the same imports, or was apparently intended to import, without alleging at or for what rate, price or value the same was bought, sold, received, paid or put off, or offered to be bought, sold, received, paid or put off. 32-33 V., c. 18, s. 6, *part*.

Form of indictment for buying or selling counterfeit coin, &c.

Form of indictment for malicious injury to property.

116. It shall be sufficient in any indictment for any offence against the "*Act respecting Malicious Injuries to Property*," where it is necessary to allege an intent to injure or defraud, to allege that the person accused did the act with intent to injure or defraud, as the case may be, without alleging an intent to injure or defraud any particular person; and on the trial of any such offence it shall not be necessary to prove an intent to injure or defraud any particular person, but it shall be sufficient to prove that the person accused did the act charged with an intent to injure or defraud, as the case may be. 32-33 V., c. 22, s. 68.

In case of offences with respect to—

117. In any indictment for any offence committed in or upon or with respect to,—

Churches, &c.

(a) Any church, chapel, or place of religious worship, or anything made of metal fixed in any square or street, or in any place dedicated to public use or ornament, or in any burial-ground,—

Public buildings.

(b) Any highway, bridge, court-house, gaol, house of correction, penitentiary, infirmary, asylum, or other public building,—

Public works.

(c) Any railway, canal, lock, dam, or other public work, erected or maintained in whole or in part at the expense of Canada, or of any of the Provinces of Canada, or of any municipality, county, parish or township, or other sub-division thereof,—

Materials for such buildings or works.

(d) Any materials, goods or chattels belonging to or provided for, or at the expense of Canada, or of any such Province, or of any municipality or other sub-division thereof, to be used for making, altering or repairing any highway or bridge, or any court-house or other such building, railway, canal, lock, dam or other public work as aforesaid, or to be used in or with any such work, or for any other purpose whatsoever,—

Records of courts, &c.

(e) The whole or any part of any record, writ, return, affirmation, recognizance, *cognovit actionem*, bill, petition, answer, decree, panel, process, interrogatory, deposition, affidavit, rule, order or warrant of attorney, or of any original document whatsoever, of or belonging to any court of justice, or relating to any cause or matter, begun, depending or terminated in any such court, or of any original document in any wise relating to the business of any office or employment under Her Majesty, and being or remaining in any office appertaining to any court of justice, or in any Government or public office,—

Wills.

(f) The whole or any part of any will, codicil or other testamentary instrument, or—

(g) Any writ of election, return to a writ of election, indenture, poll-book, voters' list, certificate, affidavit, report, document or paper, made, prepared or drawn out according to any law respecting provincial, municipal or civic elections,— Election documents.

It shall not be necessary to allege that any such property, instrument or articles is the property of any person. 32-33 V., c. 21, ss. 17, *part*, 18, *part*, 20, *part*, and c. 29, s. 19;—29-30 V. (Can.), c. 51, s. 188, *part*. Property need not be stated to be of any value.

118. If, in any indictment for any offence, it is requisite to state the ownership of any property, real or personal, which belongs to or is in possession of more than one person, whether such persons are partners in trade, joint tenants, parceners or tenants in common, it shall be sufficient to name one of such persons, and to state the property to belong to the person so named, and another or others, as the case may be. 32-33 V., c. 29, s. 17. If property is owned by partners, &c., it shall be sufficient to name one of such partners, &c.

119. If, in any indictment for any offence, it is necessary for any purpose to mention any partners, joint tenants, parceners or tenants in common, it shall be sufficient to describe them in the manner aforesaid; and this provision and that of the next preceding section shall extend to all joint stock companies and trustees. 32-33 V., c. 29, s. 18. Case of joint tenants, joint stock companies, &c.

120. In any indictment for any offence committed on or with respect to any house, building, gate, machine, lamp, board, stone, post, fence or other thing erected or provided by any trustees or commissioners, in pursuance of any Act in force in Canada, or in any Province thereof, for making any turnpike road, or to any conveniences or appurtenances thereunto respectively belonging, or to any materials, tools or implements provided for making, altering or repairing any such road, it shall be sufficient to state any such property to belong to the trustees or commissioners of such road, without specifying the names of such trustees or commissioners. 32-33 V., c. 29, s. 20. Property in roads, &c., to be laid in trustees or commissioners without naming them.

121. In any indictment for any offence committed on or with respect to any buildings, or any goods or chattels, or any other property, real or personal, in the occupation or under the superintendence, charge or management of any public officer or commissioner, or any county, parish, township or municipal officer or commissioner, it shall be sufficient to state any such property to belong to the officer or commissioner in whose occupation or under whose superintendence, charge or management such property is, and it shall not be necessary to specify the names of any such officers or commissioners. 32-33 V., c. 29, s. 21. Ownership of property in possession of public officers, how to be stated.

Property under management of body corporate.

122. All property, real and personal, whereof any body corporate has, by law, the management, control or custody, shall, for the purpose of any indictment or proceeding against any other person for any offence committed on or in respect thereof, be deemed to be the property of such body corporate. 32-33 V., c. 29, s. 22.

County or district need not be stated in indictment for stealing oysters, &c.

123. In any indictment against any person for stealing any oysters or oyster brood from any oyster bed, laying or fishery, it shall be sufficient to describe, either by name or otherwise, the bed, laying or fishery in respect of which any of the said offences has been committed, without stating the same to be in any particular county, district or local division. 32-33 V., c. 21, s. 14, *part*.

In whom property may be laid in indictment for stealing minerals, &c.

124. In any indictment for any offence mentioned in sections *twenty-five to twenty-nine, both inclusive*, of "*The Larceny Act*," it shall be sufficient to lay the property in Her Majesty, or in any person or corporation, in different counts in such indictment; and any variance in the latter case, between the statement in the indictment and the evidence adduced, may be amended at the trial; and if no owner is proved the indictment may be amended by laying the property in Her Majesty. 32-33 V., c. 21, s. 36.

In indictment for stealing postage stamps, &c.

125. In any indictment for any offence committed in respect of any postal card, postage stamp or other stamp issued or prepared for issue by the authority of the Parliament of Canada, or of the Legislature of any Province of Canada, for the payment of any fee, rate or duty whatsoever, the property therein may be laid in the person in whose possession, as the owner thereof, it was when the larceny or offence was committed, or in Her Majesty, if it was then unissued, or in the possession of any officer or agent of the Government of Canada or of the Province, by authority of the Legislature whereof it was issued or prepared for issue. 35 V., c. 33, s. 1, *part*.

In indictment for embezzlement by persons in the public service.

126. In every case of larceny, embezzlement or fraudulent application or disposition of any chattel, money or valuable security, under sections *fifty-three, fifty-four and fifty-five* of "*The Larceny Act*," the property in any such chattel, money or valuable security may, *in the warrant of commitment by the justice of the peace* before whom the offender is charged, and in the indictment preferred against such offender, be laid in Her Majesty, or in the municipality, as the case may be. 32-33 V., c. 21, s. 72, *part*.

Form of indictment in case of stealing by lodgers.

127. An indictment in the common form for larceny may be preferred against any person who steals any chattel let to be used by him in or with any house or lodging,—and in every case of stealing any fixture so let to be used, an

indictment in the same form as if the offender was not a tenant or lodger may be preferred,—and in either case the property may be laid in the owner or person letting to hire. 32-33 V., c. 21, s. 75, *part.*

128. No indictment shall be held insufficient for want of the averment of any matter unnecessary to be proved, nor for the omission of the words “as appears upon the record” or “as appears by the record,” or of the words “with force and arms,” or of the words “against the peace” or for the insertion of the words “against the form of the statute” instead of the words “against the form of the statutes,” or *vice versa*,—or for the omission of such words, or for the want of an addition or for an imperfect addition of any person mentioned in the indictment, or because any person mentioned in the indictment is designated by a name of office or other descriptive appellation instead of his proper name, or for omitting to state the time at which the offence was committed in any case in which time is not of the essence of the offence, or for stating the time imperfectly, or for stating the offence to have been committed on a day subsequent to the finding of the indictment, or on an impossible day, or on a day that never happened, or for want of a proper or perfect venue, or for want of a proper or formal conclusion, or for want of or imperfection in the addition of any defendant, or for want of the statement of the value or price of any matter or thing, or the amount of damage, injury or spoil, in any case in which the value or price or amount of damage, injury or spoil is not of the essence of the offence. 32-33 V., c. 29, s. 23.

Omission of certain averments, &c., not fatal to indictment.

129. Whenever, in any indictment, it is necessary to make an averment as to any money or to any note of any bank, or Dominion or Provincial note, it shall be sufficient to describe such money or note simply as money, without any allegation, so far as regards the description of the property, specifying any particular coin or note; and such averment shall be sustained by proof of any amount of coin or of any such note, although the particular species of coin of which such amount was composed or the particular nature of the note is not proved. 32-33 V., c. 29, s. 25.

What necessary to state in describing money or bank notes.

130. Whenever it is necessary to make an averment in an indictment, as to any instrument, whether the same consists wholly or in part of writing, print or figures, it shall be sufficient to describe such instrument by any name or designation by which the same is usually known, or by the purport thereof, without setting out any copy or *fac simile* of the whole or of any part thereof. 32-33 V., c. 29, s. 24.

Description of instruments generally.

131. In any indictment for forging, altering, offering, uttering, disposing of or putting off any instrument, stamp, mark or thing, it shall be sufficient to describe the same by

Description of instrument in indictment for forgery.

any name or designation by which the same is usually known, or by the purport thereof, without setting out any copy or *fac simile* thereof, or otherwise describing the same or the value thereof. 32-33 V., c. 19, s. 49.

And in indictment for unlawful engraving.

132. In any indictment for engraving or making the whole or any part of any instrument, matter or thing whatsoever, or for using or having the unlawful custody or possession of any plate or other material upon which the whole or any part of any instrument, matter or thing whatsoever has been engraved or made, or for having the unlawful custody or possession of any paper upon which the whole or any part of any instrument, matter or thing whatsoever has been made or printed, it shall be sufficient to describe such instrument, matter or thing by any name or designation by which the same is usually known, without setting out any copy or *fac simile* of the whole or any part of such instrument, matter or thing. 32-33 V., c. 19, s. 50.

Several accessories may be included in one indictment.

133. Any number of accessories at different times to any felony may be charged with substantive felonies, in the same indictment, and may be tried together, notwithstanding the principal felon is not included in the same indictment, or is not in custody or amenable to justice. 31 V., c. 72, s. 7, *part*.

Three larcenies may be charged in one indictment.

134. Several counts may be inserted in the same indictment against the same person for any number of distinct acts of stealing, not exceeding three, committed by him against the same person, within six months from the first to the last of such acts, and all or any of them may be proceeded upon. 32-33 V., c. 21, s. 5.

Indictment for stealing may have a count for receiving.

135. In any indictment containing a charge of feloniously stealing any property, a count, or several counts, for feloniously receiving the same or any part or parts thereof, knowing the same to have been stolen may be added, and in any indictment for feloniously receiving any property, knowing it to have been stolen, a count for feloniously stealing the same may be added. 32-33 V., c. 21, s. 101, *part*.

How receiver of stolen goods may be indicted, &c.

136. Every one who receives any chattel, money, valuable security or other property whatsoever, the stealing, taking, extorting, obtaining, embezzling and otherwise disposing whereof, amounts to a felony, either at common law or by statute, knowing the same to have been feloniously stolen, taken, extorted, obtained, embezzled or disposed of, may be indicted and convicted, either as an accessory after the fact or for a substantive felony, and in the latter case, whether the principal felon has or has not been previously convicted, or is or is not amenable to justice: Provided, that no

person, howsoever tried for receiving as aforesaid, shall be liable to be prosecuted a second time for the same offence. 32-33 V., c. 21, s. 100, *part*.

137. Every such receiver may, if the offence is a misdemeanor, be indicted and tried for the misdemeanor, whether the person guilty of the principal misdemeanor has or has not been previously convicted thereof, or is or is not amenable to justice. 32-33 V., c. 21, s. 104, *part*.

If stealing, &c., is a misdemeanor.

138. Any number of receivers at different times, of property, or any part or parts thereof, so stolen, taken, extorted, obtained, embezzled or otherwise disposed of at one time, may be charged with substantive felonies in the same indictment, and may be tried together, notwithstanding that the principal felon is not included in the same indictment, or is not in custody or amenable to justice. 31 V., c. 72, s. 7, *part*;—32-33 V., c. 21, s. 102.

Separate receivers may be included in the same indictment.

139. In any indictment for any indictable offence, committed after a previous conviction or convictions for any felony, misdemeanor, or offence or offences punishable upon summary conviction (and for which a greater punishment may be inflicted on that account), it shall be sufficient, after charging the subsequent offence, to state that the offender was at a certain time and place, or at certain times and places, convicted of felony or of a misdemeanor, or of an offence or offences punishable upon summary conviction, as the case may be, and to state the substance and effect only, omitting the formal part of the indictment and conviction, or of the summary conviction, as the case may be, for the previous offence, without otherwise describing the previous offence or offences. 32-33 V., c. 29, s. 26, *part*.

Indictment, &c., for subsequent offences: what statements shall be sufficient.

PRELIMINARY REQUIREMENTS AS TO CERTAIN INDICTMENTS.

140. No bill of indictment for any of the offences following, that is to say: perjury, subornation of perjury, conspiracy, obtaining money or other property by false pretences, forcible entry or detainer, nuisance, keeping a gambling house, keeping a disorderly house, or any indecent assault, shall be presented to or found by any grand jury, unless the prosecutor or other person presenting such indictment has been bound by recognizance to prosecute or give evidence against the person accused of such offence, or unless the person accused has been committed to or detained in custody, or has been bound by recognizance to appear to answer to an indictment to be preferred against him for such offence, or unless the indictment for such offence is preferred by the direction of the Attorney General or Solicitor General for the Province, or by the direction or with the consent of

Requirements as to indictments for certain offences.

a court or judge having jurisdiction to give such direction or to try the offence :

Indictment may contain counts for such offences upon certain conditions.

2. Nothing herein shall prevent the presentment to or finding by a grand jury of any bill of indictment, containing a count or counts for any of such offences, if such count or counts are such as may now be lawfully joined with the rest of such bill of indictment, and if the same count or counts are founded, in the opinion of the court in or before which the said bill of indictment is preferred, upon the facts or evidence disclosed in any examination or deposition taken before a justice in the presence of the person accused or proposed to be accused by such bill of indictment, and transmitted or delivered to such court in due course of law. 32-33 V., c. 29, s. 28 ;—40 V., c. 26, ss. 1 and 2.

PLEAS,

No person entitled of right to traverse or to have time to plead.

Court may postpone trial, upon terms, &c.

141. No person prosecuted shall be entitled as of right to traverse or postpone the trial of any indictment preferred against him in any court, or to imparl, or to have time allowed him to plead or demur to any such indictment : Provided always, that if the court, before which any person is so indicted, upon the application of such person, or otherwise, is of opinion that he ought to be allowed a further time to plead or demur or to prepare for his defence, or otherwise, such court may grant such further time to plead or demur, or may adjourn the receiving or taking of the plea or demurrer and the trial, or, as the case may be, the trial of such person, to a future time of the sittings of the court or to the next or any subsequent session or sittings of the court, and upon such terms, as to bail or otherwise, as to the court seem meet, and may, in the case of adjournment to another session or sitting, respite the recognizances of the prosecutor and witnesses accordingly,—in which case the prosecutor and witnesses shall be bound to attend to prosecute and give evidence at such subsequent session or sittings, without entering into any fresh recognizances for that purpose. 32-33 V., c. 29, s. 30.

Indictment not to be abated by reason of dilatory plea of misnomer, &c.

142. No indictment shall be abated by reason of any dilatory plea of misnomer, or of want of addition, or of wrong addition of any person offering such plea ; but if the court is satisfied, by affidavit or otherwise, of the truth of such plea, the court shall forthwith cause the indictment to be amended according to the truth, and shall call upon such person to plead thereto, and shall proceed as if no such dilatory plea had been pleaded. 32-33 V., c. 29, s. 31.

When objection to indictment is to be taken.

143. Every objection to any indictment for any defect apparent on the face thereof, shall be taken by demurrer or motion to quash the indictment, before the defendant has

pleaded, and not afterwards; and every court before which any such objection is taken may, if it is thought necessary, cause the indictment to be forthwith amended in such particular, by some officer of the court or other person, and thereupon the trial shall proceed as if no such defect had appeared; and no motion in arrest of judgment shall be allowed for any defect in the indictment which might have been taken advantage of by demurrer, or amended under the authority of this Act. 32-33 V., c. 29, s. 32.

How defects may be amended.

144. If any person, being arraigned upon any indictment for any indictable offence, pleads thereto a plea of "not guilty," he shall, by such plea, without any further form, be deemed to have put himself upon the country for trial, and the court may, in the usual manner, order a jury for the trial of such person accordingly. 32-33 V., c. 29, s. 33.

Effect of plea of "Not guilty."

145. If any person, being arraigned upon any indictment for any indictable offence, stands mute of malice, or will not answer directly to the indictment, the court may order the proper officer to enter a plea of "not guilty," on behalf of such person, and the plea so entered shall have the same force and effect as if such person had actually pleaded the same. 32-33 V., c. 29, s. 34.

Court may order a plea of "Not guilty" to be entered, in case of refusal to plead.

146. In any of plea of *autrefois convict* or *autrefois acquit* it shall be sufficient for any defendant to state that he has been lawfully convicted or acquitted, as the case may be, of the offence charged in the indictment. 32-33 V., c. 29, s. 35.

Form of plea of *autrefois convict* or *autrefois acquit*.

147. No plea setting forth any attainder shall be pleaded in bar of any indictment, unless the attainder is for the same offence as that charged in the indictment. 32-33 V., c. 29, s. 36.

Attainder of another crime not pleadable.

LIBEL.

148. Every one accused of publishing a defamatory libel may plead that the defamatory matter was true, and that it was for the public benefit that such matter should be published, to which plea the prosecutor may reply generally, denying the whole thereof. 37 V., c. 38, s. 5, *part*, and s. 6, *part*.

What may be pleaded in a case of libel.

149. Without such plea, the truth of the matters charged as libellous in any such indictment or information, or that it was for the public benefit that such matters should have been published, shall in no case be inquired into. 37 V., c. 38, s. 7.

Truth not to be inquired into unless specially pleaded.

150. If, after such plea, the defendant is convicted on such indictment or information, the court, in pronouncing

Effect of plea of justification.

sentence, may consider whether the guilt of the defendant is aggravated or mitigated by such plea, and by the evidence given to prove or disprove the same. 37 V., c. 38, s. 8.

Plea of not guilty in addition.

151. In addition to such plea of justification, the defendant may plead not guilty; and no defence otherwise open to the defendant under the plea of not guilty shall be taken away or prejudiced by reason of such special plea. 37 V., c. 38, s. 9.

Proceedings on indictment for libel.

152. On the trial of any indictment or information for the making or publishing of any defamatory libel, on the plea of not guilty pleaded, the jury sworn to try the issue may give a general verdict of guilty or not guilty, upon the whole matter put in issue upon such indictment or information, and shall not be required or directed, by the court or judge before whom such indictment or information is tried, to find the defendant guilty, merely on the proof of publication by such defendant of the paper charged to be a defamatory libel, and of the sense ascribed to the same in such indictment or information; but the court or judge before whom such trial is had shall, according to the discretion of such court or judge, give the opinion and direction of such court or judge to the jury, on the matter in issue, as in other criminal cases; and the jury may, on such issue, find a special verdict if they think fit so to do; and the defendant, if found guilty, may move in arrest of judgment on such ground and in such manner as he might have done before the passing of this Act. 37 V., c. 38, s. 4.

As between private prosecutor and defendant, costs to follow the judgment.

153. In the case of an indictment or information by a private prosecutor for the publication of a defamatory libel, if judgment is given against the defendant he shall be liable for the costs sustained by the prosecutor, by reason of such indictment or information; and if judgment is given for the defendant he shall be entitled to recover from such prosecutor the costs incurred by him, by reason of such indictment or information; and such costs, so to be recovered by the prosecutor or defendant respectively, shall be taxed by the court, judge or the proper officer of the court before which such indictment or information is tried. 37 V., c. 38, s. 12.

Enforcing payment of such costs.

154. The costs mentioned in the next preceding section shall be recoverable either by warrant of distress issued out of the said court, or by action or suit as for an ordinary debt. 37 V., c. 38, s. 13.

CORPORATIONS.

Corporation indicted to appear and

155. Every corporation against which a bill of indictment for a misdemeanor is found, at any court having crim-

inal jurisdiction, shall appear by attorney in the court in which such indictment is found, and plead or demur there-
to. 46 V., c. 34, s. 1. plead by attorney.

156. No writ of *certiorari* shall be necessary to remove any such indictment into any superior court with the view of compelling the defendant to plead thereto; nor shall it be necessary to issue any writ of *distringas*, or other process, to compel the defendant to appear and plead to such indictment. 46 V., c. 34, s. 2. Certiorari not required, &c.

157. The prosecutor, when any such indictment is found against any corporation, or the clerk of the court, when such indictment is founded on a presentment of the grand jury, may cause a notice thereof to be served on the mayor or chief officer of such corporation, or upon the clerk or secretary thereof, stating the nature and purport of such indictment, and that, unless such corporation appears and pleads thereto in two days after the service of such notice, a plea of not guilty will be entered thereto for the defendant by the court, and that the trial thereof will be proceeded with in like manner as if the said corporation had appeared and pleaded thereto. 46 V., c. 34, s. 3. What notice shall be served on the corporation.

158. If such corporation does not appear, in the court in which the indictment has been found, and plead or demur thereto within the time specified in the said notice, the judge presiding at such court may, on proof to him by affidavit of the due service of such notice, order the clerk or proper officer of the court to enter a plea of "not guilty" on behalf of such corporation; and such plea shall have the same force and effect as if such corporation had appeared by its attorney and pleaded such plea. 46 V., c. 34, s. 4. On default to appear, court may order plea of not guilty to be entered.

159. The court may,—whether such corporation appears and pleads to the indictment, or whether a plea of "not guilty" is entered by order of the court,—proceed with the trial of the indictment in the absence of the defendant, in the same manner as if the corporation had appeared at the trial and defended the same; and, in case of conviction, may award such judgment and take such other and subsequent proceedings to enforce the same as are applicable to convictions against corporations. 46 V., c. 34, s. 5. Trial may be proceeded with in absence of defendant.

JURIES AND CHALLENGES.

160. Every person qualified and summoned as a grand juror or as a petit juror, according to the laws in force for the time being in any Province of Canada, shall be and shall be held to be duly qualified to serve as such grand or petit juror in criminal cases in that Province, whether such laws were in force or were or are enacted by the Legislature of the Pro-
Who are qualified to serve as grand or petit jurors.

vince before or after such Province became a part of Canada, but subject always to any provision in any Act of the Parliament of Canada, and in so far as such laws are not inconsistent with any such Act. 32-33 V., c. 29, s. 44 ;—46 V., c. 10, s. 3.

Juries *de medietate linguæ*.

161. No alien shall be entitled to be tried by a jury *de medietate linguæ*, but shall be tried as if he was a natural born subject. 32-33 V., c. 29, s. 39 ;—44 V., c. 13, s. 8.

Certain persons may make affirmation and act as jurors.

162. Any quaker or other person allowed by law to affirm instead of swearing in civil cases, or solemnly declaring that the taking of any oath is, according to his religious belief, unlawful, who is summoned as a grand or petit juror in any criminal case shall, instead of being sworn in the usual form, be permitted to make a solemn affirmation beginning with the words following: "I, A. B. do solemnly, sincerely and truly affirm," and then may serve as a juror as if he had been sworn, and his declaration or affirmation shall have the same effect as an oath to the like effect; and in any record or proceeding relating to the case, it may be stated that the jurors were sworn or affirmed; and in any indictment, the words "upon their oath present," shall be understood to include the affirmation of any juror affirming instead of swearing. 32-33 V., c. 29, s. 43.

Peremptory challenge by the prisoner; to what extent allowed and when void.

163. If any person arraigned for treason or felony challenges peremptorily a greater number of persons returned to be of the jury than twenty, in a case of indictment for treason or felony punishable with death, or twelve, in a case of indictment for any other felony, or four, in a case of indictment for misdemeanor, every peremptory challenge beyond the number so allowed in the said cases respectively, shall be void, and the trial of such person shall proceed as if no such challenge had been made; but nothing herein contained shall be construed to prevent the challenge of any number of jurors for cause. 32-33 V., c. 29, s. 37.

Challenges on part of the Crown.

164. In all criminal trials, four jurors may be peremptorily challenged on the part of the Crown; but this shall not be construed to affect the right of the Crown to cause any juror to stand aside until the panel has been gone through, or to challenge any number of jurors for cause. 32-33 V., c. 29, s. 38.

As to right to set juries aside in cases of libel.

165. The right of the Crown to cause any juror to stand aside until the panel has been gone through, shall not be exercised on the trial of any indictment or information by a private prosecutor for the publication of a defamatory libel. 37 V., c. 38, s. 11.

As to juries half English and half

166. In those districts in the Province of Quebec in which the sheriff is required by law to return a panel of petit

jurors, composed one half of persons speaking the English language, and one half of persons speaking the French language, he shall, in his return, specify separately those jurors whom he returns as speaking the English language, and those whom he returns as speaking the French language respectively ; and the names of the jurors so summoned shall be called alternately from such lists :

French in
Quebec.

2. Whenever any person accused of treason or felony elects to be tried by a jury composed one half of persons skilled in the language of the defence, the number of peremptory challenges to which he is entitled shall be divided, so that he shall only have the right to challenge one half of such number from among the English speaking jurors and one half from among the French speaking jurors :

Peremptory
challenges to
be divided.

3. This section applies only to the Province of Quebec.

32-33 V., c. 29, s. 40.

Application
of section.

167. Whenever any person who is arraigned before the Court of Queen's Bench for Manitoba, demands a jury composed for the one half at least of persons skilled in the language of the defence, if such language is either English or French, he shall be tried by a jury composed for the one half at least of the persons whose names stand first in succession upon the general panel, and who, on appearing, and not being lawfully challenged, are found, in the judgment of the court, to be skilled in the language of the defence :

As to juries
half English
and half
French in
Manitoba.

2. Whenever, from the number of challenges, or any other cause, there is, in any such case, a deficiency of persons skilled in the language of the defence, the court shall fix another day for the trial of such case, and the sheriff shall supply the deficiency by summoning, for the day so fixed, such additional number of jurors skilled in the language of the defence as the court orders, and as are found inscribed next in succession on the list of petit jurors :

Provision if
the panel is
exhausted.

3. Whenever a person accused of treason or felony elects to be tried by a jury composed one half of persons skilled in the language of the defence, the number of peremptory challenges to which he is entitled shall be divided, so that he shall only have the right to challenge one half of such number from among the English speaking jurors, and one half from among the French speaking jurors :

Peremptory
challenges to
be divided.

4. This section applies only to the Province of Manitoba.

34 V., c. 14, ss. 3, 4 and 5.

Application
of section.

168. Whenever, in any criminal case, the panel has been exhausted by challenge, or by default of jurors by non-attendance or not answering when called, or from any other

Supplying
jurors if the
panel is
exhausted.

cause, and a complete jury for the trial of such case cannot be had by reason thereof, then, upon request made on behalf of the Crown, the court may, in its discretion, order the sheriff or other proper officer forthwith to summon such number of good men of the district, county or place, whether on the roll of jurors or otherwise qualified as jurors or not, as the court deems necessary and directs, in order to make up a full jury :

How such jurors shall be summoned.

2. Such sheriff or officer shall forthwith summon by word of mouth or in writing, the number of persons he is so required to summon, and add their names to the general panel of jurors returned to serve at that court, and, subject to the right of the Crown and of the accused respectively, as to challenge or direction to stand aside, the persons whose names are so added to the panel shall, whether otherwise qualified or not, be deemed duly qualified as jurors in the case, and so until a complete jury is obtained, and the trial shall then proceed as if such jurors were originally returned duly and regularly on the panel ; and if, before such order, one or more persons have been sworn or admitted unchallenged on the jury, he or they may be retained on the jury, or the jury may be discharged, as the court directs :

Person so summoned shall attend.

3. Every person so summoned as a juror shall forthwith attend and act in obedience to the summons, and if he makes default shall be punishable in like manner as a juror summoned in the usual way ; and such jurors so newly summoned shall be added to the panel for such case only. 32-33 V., c. 29, s. 41.

Jury may be allowed to separate.

169. In all criminal cases, less than felony, the jury may, in the discretion of the court, and under its direction as to the conditions, mode and time, be allowed to separate during the progress of the trial. 32-33 V., c. 29, s. 57.

Saving of powers not expressly altered.

170. Nothing in this Act shall alter, abridge or affect any power or authority which any court or judge has when this Act takes effect, or any practice or form in regard to trials by jury, jury process, juries or jurors, except in cases where such power or authority is expressly altered by or is inconsistent with the provisions of this Act. 32-33 V., c. 29, s. 42.

VIEW.

Court may order a view out of the county in which the venue is laid.

171. Whenever it appears to any court having criminal jurisdiction or to any judge thereof, that it will be proper and necessary that the jurors, or some of them, who are to try the issues in such case, should have a view of the place in question, in order to their better understanding the evidence that may be given upon the trial of such

sues, whether such place is situate within the county or united counties in which the venue in any such case is laid, or without such county or united counties, in any other county, such court or judge may order a rule to be drawn up, containing the usual terms,—and, if such court or judge thinks fit, also requiring the person applying for the view to deposit in the hands of the sheriff of the county or united counties in which the venue in any such case is laid, a sum of money to be named in the rule, for payment of the expenses of the view. 29-30 V. (Can.), c. 46, s. 1.

Rule.

Deposit by person requiring the view.

172. All the duties and obligations now imposed by law on the several sheriffs and other persons when the place to be viewed is situate in the county or united counties in which the venue in any such case is laid, shall be imposed upon and attach to such sheriffs and other persons when the place to be viewed is situate out of the county or united counties in which the venue in any such case is laid. 29-30 V. (Can.), c. 46, s. 2.

Duties of sheriffs, &c., in such cases.

SWEARING WITNESSES BEFORE GRAND JURY.

173. It shall not be necessary for any person to take an oath in open court in order to qualify him to give evidence before any grand jury. C. S. U. C., c. 109, s. 1.

Witness before grand jury need not be sworn in court.

174. The foreman of the grand jury and any member of the grand jury who may, for the time being, act on behalf of the foreman in the examination of witnesses, may administer an oath to every person who, under the circumstances hereinafter enacted, appears before such grand jury to give evidence in support of any bill of indictment; and every such person may be sworn and examined upon oath by such grand jury touching the matters in question. C. S. U. C., c. 109, ss. 2 and 6, *part*;—C. S. L. C., c. 105, s. 2.

How such witness may be sworn.

175. The name of every witness examined, or intended to be so examined, shall be indorsed on the bill of indictment; and the foreman of the grand jury, or any member of the grand jury so acting for him, shall write his initials against the name of each witness sworn by him and examined touching such bill of indictment. C. S. U. C., c. 109, s. 3.

Name to be indorsed on the bill and marked with initials of the foreman.

176. The name of every witness intended to be examined on any bill of indictment shall be submitted to the grand jury by the officer prosecuting on behalf of the Crown, and no others shall be examined by or before such grand jury, unless upon the written order of the presiding judge. C. S. U. C., c. 109, s. 4.

Who may be examined before grand jury.

As to fees.

177. Nothing in this Act shall affect any fees by law payable to any officer of any court for swearing witnesses, but such fees shall be payable as if the witnesses had been sworn in open court. C. S. U. C., c. 109, s. 5.

TRIAL.

Full defence allowed.

178. Every person tried for any indictable offence shall be admitted, after the close of the case for the prosecution, to make full answer and defence thereto by counsel learned in the law. 32-33 V., c. 29, s. 45, *part.*

How addresses of counsel to jury shall be regulated.

179. Upon the trial the addresses to the jury shall be regulated as follows: the counsel for the prosecution, in the event of the defendant or his counsel not announcing, at the close of the case for the prosecution, his intention to adduce evidence, shall be allowed to address the jury a second time at the close of such case, for the purpose of summing up the evidence; and the accused, or his counsel, shall then be allowed to open his case and also to sum up the evidence, if any is adduced for the defence; and the right of reply shall be according to the practice of the courts in England: Provided always, that the right of reply shall be always allowed to the Attorney General or Solicitor General, or to any Queen's counsel acting on behalf of the Crown. 32-33 V., c. 29, s. 45, *part.*

Proviso.

Inspection of depositions by prisoners.

180. Every person under trial shall be entitled, at the time of his trial, to inspect, without fee or reward, all depositions, or copies thereof, taken against him, and returned into the court before which such trial is had. 32-33 V., c. 29, s. 46.

Copy of indictment to persons under trial.

181. Every person indicted for any crime or offence shall, before being arraigned on the indictment, be entitled to a copy thereof, on paying the clerk ten cents per folio for the same, if the court is of opinion that the same can be made without delay to the trial, but not otherwise. 32-33 V., c. 29, s. 47.

Also copies of depositions, under certain conditions.

182. Every person indicted shall be entitled to a copy of the depositions returned into court on payment of ten cents per folio for the same, provided, if the same are not demanded before the opening of the assizes, term, sittings or sessions, the court is of opinion that the same can be made without delay to the trial, but not otherwise; but the court may, if it sees fit, postpone the trial on account of such copy of the depositions not having been previously had by the person charged. 32-33 V., c. 29, s. 48.

Verdict and punishment in cases where offences are

183. If, on the trial of any person charged with any felony or misdemeanor, it appears to the jury, upon the evidence, that the defendant did not complete the offence charged, but

that he was guilty only of an attempt to commit the same, such person shall not, by reason thereof, be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that the defendant is not guilty of the felony or misdemeanor charged, but is guilty of an attempt to commit the same; and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for attempting to commit the particular felony or misdemeanor charged in the indictment; and no person tried as lastly mentioned shall be liable to be afterwards prosecuted for committing or attempting to commit the felony or misdemeanor for which he was so tried. 32-33 V., c. 29, s. 49.

not completed.

184. If, upon the trial of any person for any misdemeanor, it appears that the facts given in evidence, while they include such misdemeanor, amount in law to a felony, such person shall not, by reason thereof, be entitled to be acquitted of such misdemeanor, unless the court before which such trial is had thinks fit, in its discretion, to discharge the jury from giving any verdict upon such trial, and to direct such person to be indicted for felony,—in which case such person may be dealt with in all respects as if he had not been put upon his trial for such misdemeanor; and the person tried for such misdemeanor, if convicted, shall not be liable to be afterwards prosecuted for felony on the same facts. 32-33 V., c. 29, s. 50.

Persons tried for misdemeanor and found guilty of felony not to be acquitted.

185. No person shall be tried or prosecuted for an attempt to commit any felony or misdemeanor, who has been previously tried for committing the same offence. 32-33 V., c. 29, s. 52.

Non-liability for attempt after trial for commission.

186. If the facts or matters alleged in an indictment for any felony under the "*Act respecting Treason and other Offences against the Queen's authority*," amount in law to treason, such indictment shall not, by reason thereof, be deemed void, erroneous or defective; and if the facts or matters proved on the trial of any person indicted for felony under the said Act amount in law to treason, such person shall not, by reason thereof, be entitled to be acquitted of such felony; but no person tried for such felony shall be liable to be afterwards prosecuted for treason upon the same facts. 31 V., c. 69, s. 8.

Indictment for felony valid, though facts amount to treason.

187. The jury empanelled to try any person for treason or felony shall not be charged to inquire concerning his lands, tenements or goods, nor whether he fled for such treason or felony. 32-33 V., c. 29, s. 53.

No inquiry concerning lands.

188. If any person tried for the murder of any child is acquitted thereof, the jury by whose verdict such person is

On trial for murder of a child, convicted.

tion may be
for conceal-
ment of birth.

acquitted may find, in case it so appears in evidence, that the child had recently been born, and that such person did, by some secret disposition of such child or of the dead body of such child, endeavor to conceal the birth thereof, and thereupon the court may pass such sentence as if such person had been convicted upon an indictment for the concealment of birth. 32-33 V., c. 20, s. 61, *part*.

On trial for
felony, con-
viction may
be for causing
grievous
bodily harm.

189. If, upon the trial of any indictment for any felony, except in cases of murder or manslaughter, the indictment alleges that the accused did wound or inflict grievous bodily harm on any person with intent to maim, disfigure or disable any person, or to do some other grievous bodily harm to any person, or with the intent to resist or prevent the lawful apprehension or detainer of any person, and the jury is satisfied that the accused is guilty of the wounding, or inflicting grievous bodily harm, charged in the indictment, but is not satisfied that the accused is guilty of the felony charged in such indictment, the jury may acquit of the felony, and find the accused guilty of unlawfully *and maliciously* wounding, or inflicting grievous bodily harm; and such accused shall be liable to three years' imprisonment. 32-33 V., c. 20, s. 19, *part*.

On trial for
felony by
poisoning,
conviction
may be of mis-
demeanor.

190. If, upon the trial of any person for unlawfully and maliciously administering to or causing to be administered to or taken by any other person, any poison or other destructive or noxious thing, so as thereby to endanger the life of such person, or so as thereby to inflict upon such person any grievous bodily harm, the jury is not satisfied that such person is guilty of such felony, but is satisfied that he is guilty of the misdemeanor of unlawfully and maliciously administering to, or causing to be administered to or taken by such person, any poison or other destructive or noxious thing, with intent to injure, aggrieve or annoy such person, the jury may acquit the accused of such felony, and find him guilty of such misdemeanor; and thereupon he shall be punished in the same manner as if convicted upon an indictment for such misdemeanor. 32-33 V., c. 20, s. 24.

Verdict of
assault in
cases of
felony includ-
ing assault.

191. If, upon the trial of any person for any felony whatsoever, the crime charged includes an assault against the person, although an assault is not charged in terms, the jury may acquit of the felony, and find a verdict of guilty of assault against the person indicted, if the evidence warrants such finding, and the person so convicted shall be liable to five years' imprisonment. 32-33 V., c. 29, s. 51.

On trial for
robbery, con-
viction may
be of assault
with intent to
rob.

192. If, upon the trial of any person upon an indictment for robbery, it appears to the jury, upon the evidence, that the accused did not commit the crime of robbery, but that he did commit an assault with intent to rob, the accused

shall not, by reason thereof, be entitled to be acquitted, but the jury may find him guilty of an assault with intent to rob; and thereupon he shall be liable to be punished in the same manner as if he had been convicted upon an indictment for feloniously assaulting with intent to rob; and no person so tried, as is herein lastly mentioned, shall be liable to be afterwards prosecuted for an assault with intent to commit the robbery for which he was so tried. 32-33 V., c. 21, s. 40.

193. Every one who is indicted for any burglary, where the breaking and entering are proved at the trial to have been made in the day-time and no breaking out appears to have been made in the night-time, or where it is left doubtful whether such breaking and entering or breaking out took place in the day or night-time, shall be acquitted of the burglary, but may be convicted of the offence of breaking and entering the dwelling-house with intent to commit a felony therein. 32-33 V., c. 21, s. 57.

On trial for burglary, conviction may be of house-breaking.

194. It shall not be available, by way of defence, to a person charged with the offence of breaking and entering any dwelling-house, church, chapel, meeting-house or other place of divine worship, or any building within the curtilage, school-house, shop, warehouse or counting-house, with intent to commit any felony therein, to show that the breaking and entering were such as to amount in law to burglary: Provided, that the offender shall not be afterwards prosecuted for burglary upon the same facts; but it shall be open to the court before which the trial for such offence takes place, upon the application of the person conducting the prosecution, to allow an acquittal on the ground that the offence, as proved, amounts to burglary; and if an acquittal takes place on such ground, and is so returned by the jury in delivering its verdict, the same shall be recorded together with the verdict, and such acquittal shall not then avail as a bar or defence upon an indictment for such burglary. 32-33 V., c. 21, s. 58.

Proof of burglary not a defence on charge of house-breaking.

Offender in such case may be indicted for burglary.

195. If, upon the trial of any person indicted for embezzlement or fraudulent application or disposition of any chattel, money or valuable security, it is proved that he took the property in question in any such manner as to amount in law to larceny, he shall not by reason thereof be entitled to be acquitted, but the jury may acquit the accused of embezzlement or fraudulent application or disposition, and find him guilty of simple larceny or larceny as a clerk, servant or person employed for the purpose or in the capacity of a clerk or servant, or as a person employed in the public service, as the case may be, and thereupon the accused shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such

On trial for embezzlement, &c., conviction may be of larceny and vice versa.

larceny; and if, upon the trial of any person indicted for larceny, it is proved that he took the property in question in any such manner as to amount in law to embezzlement or fraudulent application or disposition as aforesaid, he shall not, by reason thereof, be entitled to be acquitted, but the jury may acquit the accused of larceny, and find him guilty of embezzlement or fraudulent application or disposition, as the case may be, and thereupon the accused shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such embezzlement, fraudulent application or disposition; and no person so tried for embezzlement, fraudulent application or disposition, or larceny as aforesaid, shall be liable to be afterwards prosecuted for larceny, fraudulent application or disposition, or embezzlement, upon the same facts. 32-33 V., c. 21, s. 74.

No acquittal of obtaining property by false pretences because offence amounts to larceny.

196. If, upon the trial of any person indicted for obtaining from any other person, by any false pretence, any chattel, money or valuable security, with intent to defraud, it is proved that he obtained the property in question in any such manner as to amount in law to larceny, he shall not, by reason thereof, be entitled to be acquitted of such misdemeanor; and no person tried for such misdemeanor shall be liable to be afterwards prosecuted for larceny upon the same facts. 32-33 V., c. 21, s. 93, *part*.

The like in cases of frauds by agents, &c.

197. If, upon the trial of any person for any misdemeanor, under any of the provisions of sections *sixty to seventy-six*, both inclusive, of "*The Larceny Act*," it appears that the offence proved amounts to larceny, he shall not by reason thereof be entitled to be acquitted of the misdemeanor. 32-33 V., c. 21, s. 92, *part*.

On trial for larceny, conviction may be of obtaining property by false pretences.

198. If, upon the trial of any person for larceny, it appears that the property taken was obtained by such person by fraud, under circumstances which do not amount to such taking as constitutes larceny, such person shall not by reason thereof be entitled to be acquitted, but the jury may acquit the accused of larceny, and find him guilty of obtaining such property by false pretences, with intent to defraud, if the evidence proves such to have been the case, and thereupon the accused shall be punished in the same manner as if he had been convicted upon an indictment for obtaining property by false pretences, and no person so tried for larceny as aforesaid, shall be afterwards prosecuted for obtaining property by false pretences upon the same facts. 32-33 V., c. 21, s. 99.

When indictment for stealing contains a count for receiving.

199. If any indictment containing counts for feloniously stealing any property, and for feloniously receiving the same, or any part or parts thereof, knowing the same to have been stolen, has been preferred and found against any person, the

prosecutor shall not be put to his election, but the jury may find a verdict of guilty, either of stealing the property or of receiving the same, or any part or parts thereof, knowing the same to have been stolen; and if such indictment has been preferred and found against two or more persons, the jury may find all or any of the said persons guilty either of stealing the property or receiving the same, or any part or parts thereof, knowing the same to have been stolen, or may find one or more of the said persons guilty of stealing the property, and the other or others of them guilty of receiving the same, or any part or parts thereof, knowing the same to have been stolen. 32-33 V., c. 21, s. 101, *part*.

If two or more persons are included.

200. If, upon the trial of two or more persons indicted for jointly receiving any property, it is proved that one or more of such persons separately received any part or parts of such property, the jury may convict, upon such indictment, such of the said persons as are proved to have received any part or parts of such property. 32-33 V., c. 21, s. 103.

Conviction on indictment for jointly receiving.

201. If, on the trial of any person for larceny, for embezzlement, or for obtaining any property by false pretences, the jury is of opinion that such person is not guilty of the offence charged in the indictment, but is of opinion that he is guilty of an offence against section *eighty-five* of "*The Larceny Act*," it may find him so guilty, and he shall be liable to be punished as therein provided, as if he had been convicted on an indictment under such section. 32-33 V., c. 21, s. 110, *part*.

On trial for larceny, &c., conviction may be of fraudulent appropriation.

202. If, upon the trial of any indictment for larceny, it appears that the property alleged in such indictment to have been stolen at one time was taken at different times, the prosecutor or counsel for the prosecution shall not, by reason thereof, be required to elect upon which taking he will proceed, unless it appears that there were more than three takings, or that more than six months elapsed between the first and the last of such takings; and in either of such last mentioned cases the prosecutor or counsel for the prosecution shall be required to elect to proceed for such number of takings, not exceeding three, as appear to have taken place within the period of six months from the first to the last of such takings. 32-33 V., c. 21, s. 6.

If one act of larceny is charged and several acts at different times are proved.

203. When proceedings are taken against any person for having received goods, knowing them to be stolen, or for having in his possession stolen property, evidence may be given, at any stage of the proceedings, that there was found in the possession of such person other property stolen within the preceding period of twelve months, and such evidence may be taken into consideration for the purpose of

Evidence of former possession of other stolen goods in cases of receiving.

Notice to accused. proving that such person knew the property which forms the subject of the proceedings taken against him to be stolen : Provided, that not less than three days' notice in writing has been given to the person accused, that proof is intended to be given of such other property, stolen within the preceding period of twelve months, having been found in his possession ; and such notice shall specify the nature or description of such other property, and the person from whom the same was stolen. 40 V., c. 26, s. 3.

And of previous conviction of fraud or dishonesty in such cases.

204. When proceedings are taken against any person for having received goods, knowing them to be stolen, or for having in his possession stolen property, and evidence has been given that the stolen property has been found in his possession,—then if such person has, within five years immediately preceding, been convicted of any offence involving fraud or dishonesty, evidence of such previous conviction may be given at any stage of the proceedings, and may be taken into consideration for the purpose of proving that the person accused knew the property which was proved to be in his possession to have been stolen : Provided, that not less than three days' notice in writing has been given to the person accused, that proof is intended to be given of such previous conviction ; and it shall not be necessary, for the purposes of this section, to charge in the indictment the previous conviction of the person so accused. 40 V., c. 26, s. 4.

Notice to accused.

Previous conviction need not be charged.

Differences in date, &c., of true and false coin, not ground for acquittal.

205. Upon the trial of any person accused of any offence respecting the currency or coin, or against the provisions of the "*Act respecting Offences relating to the Coin*" no difference in the date or year, or in any legend marked upon the lawful coin described in the indictment, and the date or year or legend marked upon the false coin counterfeited to resemble or pass for such lawful coin, or upon any die, plate, press, tool or instrument used, constructed, devised, adapted or designed, for the purpose of counterfeiting or imitating any such lawful coin, shall be considered a just or lawful cause or reason for acquitting any such person of such offence ; and it shall, in any case, be sufficient to prove such general resemblance to the lawful coin as will show an intention that the counterfeit should pass for it. 32-33 V., c. 18, s. 31.

On trial for destroying buildings, conviction may be of injuring the same.

206. If, upon the trial of any person for any felony mentioned in the *ninth* section of the "*Act respecting riots, unlawful assemblies, and breaches of the peace,*" the jury is not satisfied that such person is guilty thereof, but is satisfied that he is guilty of any offence mentioned in the *tenth* section of such Act, they may find him guilty thereof, and he may be punished accordingly. 32-33 V., c. 22, s. 16, *part*.

Proceedings when previous offence charged.

207. The proceedings upon any indictment for committing any offence after a previous conviction or convictions, shall be as follows, that is to say : the offender shall, in the first instance, be arraigned upon so much only of the indictment as charges the subsequent offence, and if he pleads not guilty, or if the court orders a plea of not guilty to be entered on his behalf, the jury shall be charged, in the first instance, to inquire concerning such subsequent offence only, and if the jury finds him guilty, or if, on arraignment, he pleads guilty, he shall then, and not before, be asked whether he was so previously convicted as alleged in the indictment ; and if he answers that he was so previously convicted, the court may proceed to sentence him accordingly, but if he denies that he was so previously convicted, or stands mute of malice, or will not answer directly to such question, the jury shall then be charged to inquire concerning such previous conviction or convictions, and in such case it shall not be necessary to swear the jury again, but the oath already taken by them shall, for all purposes, be deemed to extend to such last mentioned inquiry : Provided, that if upon the trial of any person for any such subsequent offence, such person gives evidence of his good character, the prosecutor may, in answer thereto, give evidence of the conviction of such person for the previous offence or offences, before such verdict of guilty is returned, and the jury shall inquire concerning such previous conviction or convictions at the same time that they inquire concerning such subsequent offence. 32-33 V., c. 29, s. 26, *part.*

How previous conviction shall be proved.

If the defendant adduces evidence of good character.

Impounding Documents.

208. Whenever any instrument which has been forged or fraudulently altered is admitted in evidence, the court or the judge or person who admits the same, may, at the request of any person against whom the same is admitted in evidence, direct that the same shall be impounded and be kept in custody of some officer of the court or other proper person, for such period and subject to such conditions as to the court, judge or person admitting the same, seems meet. 32-33 V., c. 19, s. 36.

Court may order documents to be impounded.

Destroying Counterfeit Coin.

209. If any false or counterfeit coin is produced in any court, the court shall order the same to be cut in pieces in open court, or in the presence of a justice of the peace, and then delivered to or for the lawful owner thereof, if such owner claims the same. 32-33 V., c. 18, s. 28.

Counterfeit coin to be destroyed.

WITNESSES AND EVIDENCE.

Witnesses
summoned
must attend.

210. Every witness duly subpoenaed to attend and give evidence at any criminal trial before any court of criminal jurisdiction, shall be bound to attend and remain in attendance throughout the trial. 39 V., c. 36, s. 1.

Judge may
cause witness
to be arrested
to answer for
his default.

211. Upon proof to the satisfaction of the judge, of the service of the subpoena upon any witness who fails to attend or remain in attendance, 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 or not remaining in attendance; and the judge may, in a summary manner, examine into and dispose of the charge against such witness, who, if he is found guilty thereof, shall be liable to a fine not exceeding one hundred dollars, or to imprisonment, with or without hard labor, for a term not exceeding ninety days, or to both. 39 V., c. 36, s. 2.

Punishment
of witness
found guilty
of such
default.

Witnesses
within
Canada but
without the
jurisdiction
of the Court.

212. If any witness in any criminal case, cognizable by indictment in any court of criminal jurisdiction at any term, sessions or sittings of any such court in any part of Canada, resides in any part thereof, not within the ordinary jurisdiction of the court before which such criminal case is cognizable, such court may issue a writ of subpoena, directed to such witness, in like manner as if such witness was resident within the jurisdiction of the court; and if such witness does not obey such writ of subpoena, the court issuing the same may proceed against such witness for contempt or otherwise, or bind over such witness to appear at such days and time as are necessary, and upon default being made in such appearance, may cause the recognizances of such witness to be estreated, and the amount thereof to be sued for and recovered by process of law, in like manner as if such witness was resident within the jurisdiction of the court. 32-33 V., c. 29, s. 59.

Punishment
for disobey-
ing subpoena.

Witnesses
confined in a
penitentiary,
&c.

213. When the attendance of any person confined in any penitentiary or in any prison or gaol in Canada, or upon the limits of any gaol, is required in any court of criminal jurisdiction in any case cognizable therein by indictment, the court before whom such prisoner is required to attend may, or any judge of such court, or of any superior court or county court may, before or during any such term or sittings at which the attendance of such person is

required, make an order upon the warden of the penitentiary, or upon the sheriff, gaoler or other person having the custody of such prisoner, to deliver such prisoner to the person named in such order to receive him ; and such person shall, at the time prescribed in such order, convey such prisoner to the place at which such person is required to attend, there to receive and obey such further order as to the said court seems meet. 32-33 V., c. 29, s. 60.

214. No person offered as a witness shall, by reason of any alleged incapacity from crime or interest, be excluded from giving evidence on the trial of any criminal case, or in any proceeding relating or incidental to such case. 32-33 V., c. 29, s. 62, and c. 19, s. 54, *part*.

Who may be admitted as witnesses.

215. Every person so offered shall be admitted and be compellable to give evidence on oath, or solemn affirmation, where an affirmation is receivable, notwithstanding that such person has or may have an interest in the matter in question, or in the event of the trial in which he is offered as a witness, or of any proceeding relating or incidental to such case, and notwithstanding that such person so offered as a witness has been previously convicted of a crime or offence. 32-33 V., c. 29, s. 63.

An interest in the question, or a conviction not to disqualify.

216. On the summary or other trial of any person upon any complaint, information or indictment, for common assault, or for assault and battery, the defendant shall be a competent witness for the prosecution or on his own behalf :

Defendant competent as witness in case of assault.

2. On any such trial the wife or husband of the defendant shall be a competent witness on behalf of the defendant :

Evidence of wife or husband.

3. If another crime is charged, and the court having power to try the same is of opinion, at the close of the evidence for the prosecution, that the only case apparently made out is one of common assault, or of assault and battery, the defendant shall be a competent witness for the prosecution or on his own behalf, and his wife, or her husband, if the defendant is a woman, shall be a competent witness on behalf of the defendant, in respect of the charge of common assault, or assault and battery :

If another crime is charged, but not proved.

4. Except as in the next preceding sub-section mentioned, this section shall not apply to any prosecution in which any other crime than common assault, or assault and battery, is charged in the information or indictment. 43 V., c. 37, s. 2.

Application of section.

217. Nothing herein contained shall, except as provided in the next preceding section, render any person who is charged, in any criminal proceeding, with the commission of any indictable offence, or any offence punishable on sum-

In other cases, accused or wife or husband not to give evidence.

mary conviction, competent or compellable to give evidence for or against himself, or shall render any person compellable to answer any question tending to criminate himself; and nothing herein contained shall render any husband competent or compellable to give evidence for or against his wife, or any wife competent or compellable to give evidence for or against her husband in any criminal proceeding. C. S. U. C., c. 32, s. 18;—R. S. N. S. (3rd S.), c. 135, s. 44, *part*;—19 V. (N.B.), c. 41, s. 2, *part*;—16 V. (P. E. I.), c. 12, s. 13, *part*.

Corroborative evidence necessary in forgery cases.

218. The evidence of any person interested or supposed to be interested in respect of any deed, writing, instrument or other matter given in evidence on the trial of any indictment or information against any person for any offence punishable under the "*Act respecting Forgery*," shall not be sufficient to sustain a conviction for any of the said offences unless the same is corroborated by other legal evidence in support of such prosecution. 32-33 V., c. 19, s. 54, *part*.

Certain persons may make solemn affirmation.

219. Any quaker or other person allowed by law to affirm instead of swearing in civil cases, or who solemnly declares that the taking of any oath is, according to his religious belief, unlawful, who is required to give evidence in any criminal case shall, instead of taking an oath in the usual form, be permitted to make his solemn affirmation or declaration, beginning with the words following, that is to say: "I, (A. B.), do solemnly, sincerely and truly declare and affirm;" which said affirmation or declaration shall be of the same force and effect as if such quaker or other person as aforesaid had taken an oath in the usual form. 32-33 V., c. 29, s. 61.

Commissioner may be appointed to take evidence of person dangerously ill.

220. Whenever it is made to appear at the instance of the Crown, or of the prisoner or defendant, to the satisfaction of a judge of a superior court, or a judge of a county court having criminal jurisdiction, that any person who is dangerously ill, and who, in the opinion of some licensed medical practitioner is not likely to recover from such illness, is able and willing to give material information relating to any indictable offence, or relating to any person accused of any such offence, such judge may, by order under his hand, appoint a commissioner to take in writing the statement on oath or affirmation of such person:

To be transmitted to the proper officers.

2. Such commissioner shall take such statement and shall subscribe the same and add thereto the names of the persons, if any, present at the taking thereof, and if the deposition relates to any indictable offence for which any accused person is already committed or bailed to appear for trial, shall transmit the same, with the said addition, to the proper officer of the court for trial at which such accused person

has been so committed or bailed ; and in every other case he shall transmit the same to the clerk of the peace of the county, division or city in which he has taken the same, and such clerk of the peace shall preserve the same and file it of record, and, upon order of the court or of a judge, transmit the same to the proper officer of the court where the same shall be required to be used as evidence :

3. If afterwards, upon the trial of any offender or offence to which the same relates, the person who made the statement is proved to be dead, or if it is proved that there is no reasonable probability that such person will ever be able to attend at the trial to give evidence, such statement may, upon the production of the judge's order appointing such commissioner, be read in evidence, either for or against the accused, without further proof thereof, if the same purports to be signed by the commissioner by or before whom it purports to have been taken, and if it is proved to the satisfaction of the court that reasonable notice of the intention to take such statement was served upon the person (whether prosecutor or accused) against whom it is proposed to be read in evidence, and that such person or his counsel or attorney had, or might have had, if he had chosen to be present, full opportunity of cross-examining the person who made the same. 43 V., c. 35, ss. 1 and 3, *part.*

Statement may be read in evidence if deponent is dead or not able to attend.

221. Whenever a prisoner in actual custody is served or receives notice of an intention to take such statement as hereinbefore mentioned, the judge who has appointed the commissioner may, by an order in writing, direct the gaoler having the custody of the prisoner to convey him to the place mentioned in the said notice, for the purpose of being present at the taking of the statement ; and such gaoler shall convey the prisoner accordingly, and the expenses of such conveyance shall be paid out of the funds applicable to the other expenses of the prison from which the prisoner has been conveyed. 43 V., c. 35, ss. 2 and 3, *part.*

How prisoner may be present at the taking of such statement.

222. If, upon the trial of any accused person, it is proved upon the oath or affirmation of any credible witness, that any person whose deposition has been taken by a justice in the preliminary or other investigation of any charge, is dead, or is so ill as not to be able to travel, or is absent from Canada, and if it is also proved that such deposition was taken in the presence of the person accused, and that he, his counsel or attorney, had a full opportunity of cross-examining the witness, then if the deposition purports to be signed by the justice by or before whom the same purports to have been taken, it shall be read as evidence in the prosecution, without further proof thereof, unless it is proved that such deposition was not in fact signed by the justice purporting to have signed the same. 32-33 V., c. 30, s. 30, *part.*

Depositions of persons dying, absent, &c., how to be used.

Statement of accused may be given in evidence.

223. The statement made by the accused person before the justice may, if necessary, upon the trial of such person, be given in evidence against him without further proof thereof, unless it is proved that the justice purporting to have signed the same did not in fact sign the same. 32-33 V., c. 30, s. 34.

Depositions taken on one charge may be read in prosecution of others.

224. Depositions taken in the preliminary or other investigation of any charge against any person may be read as evidence in the prosecution of such person for any other offence whatsoever, upon the like proof and in the same manner, in all respects, as they may, according to law, be read in the prosecution of the offence with which such person was charged when such depositions were taken. 32-33 V., c. 29, s. 58.

Certificate of trial at which perjury was committed, sufficient evidence of trial.

225. A certificate, containing the substance and effect only, omitting the formal part, of the indictment and trial for any felony or misdemeanor, purporting to be signed by the clerk of the court or other officer having the custody of the records of the court whereat the indictment was tried, or among which such indictment has been filed, or by the deputy of such clerk or other officer, shall, upon the trial of an indictment for perjury or subornation of perjury, be sufficient evidence of the trial of such indictment for felony or misdemeanor, without proof of the signature or official character of the person appearing to have signed the same. 32-33 V., c. 23, s. 11.

What shall be evidence of carnal knowledge.

226. Whenever, upon the trial of any offence, it is necessary to prove carnal knowledge, it shall not be necessary to prove the actual emission of seed in order to constitute a carnal knowledge, but the carnal knowledge shall be deemed complete on proof of any degree of penetration only. 32-33 V., c. 20, s. 65.

Evidence at trial for child murder.

227. The trial of any woman charged with the murder of any issue of her body, male or female, which, being born alive, would, by law, be bastard, shall proceed and be governed by such and like rules of evidence and presumption as are by law used and allowed to take place in respect to other trials for murder. 32-33 V., c. 20, s. 62.

What shall be evidence of ownership of timber.

228. In any prosecution, proceeding or trial for any offence under the *eighty-seventh* section of "*The Larceny Act*," a timber mark, duly registered under the provisions of the "*Act respecting the Marking of Timber*," on any timber, mast, spar, saw-log, or other description of lumber, shall be *prima facie* evidence that the same is the property of the registered owner of such timber mark; and possession by any offender, or by others in his employ, or on his behalf, of any such timber, mast, spar, saw-log or other description of lum-

Proof of lawful possession of marked timber to lie on accused.

ber so marked, shall, in all cases, throw upon the person charged with any such offence the burden of proving that such timber, mast, spar, saw-log or other description of lumber, came lawfully into his possession, or the possession of such others in his employ or on his behalf as aforesaid. 38 V., c. 40, s. 1, *part*.

229. When, upon the trial of any person, it becomes necessary to prove that any coin produced in evidence against such person is false or counterfeit, it shall not be necessary to prove the same to be false and counterfeit by the evidence of any moneyer or other officer of Her Majesty's mint, or other person employed in producing the lawful coin in Her Majesty's dominions or elsewhere, whether the coin counterfeited is current coin, or the coin of any foreign prince, state or country, not current in Canada, but it shall be sufficient to prove the same to be false or counterfeit by the evidence of any other credible witness. 32-33 V., c. 18, s. 30.

What shall be evidence of coin being false or counterfeit.

230. A certificate, containing the substance and effect only, omitting the formal part, of any previous indictment and conviction for any felony or misdemeanor, or a copy of any summary conviction, purporting to be signed by the clerk of the court or other officer having the custody of the records of the court before which the offender was first convicted, or to which such summary conviction was returned, or by the deputy of such clerk or officer, shall, upon proof of the identity of the person of the offender, be sufficient evidence of such conviction, without proof of the signature or official character of the person appearing to have signed the same. 32-33 V., c. 29, s. 26, *part*.

Certificate by proper officer of previous conviction to be evidence.

231. A witness may be questioned as to whether he has been convicted of any felony or misdemeanor, and upon being so questioned, if he either denies the fact or refuses to answer, the opposite party may prove such conviction; and a certificate, as provided in the next preceding section, shall, upon proof of the identity of the witness, as such convict, be sufficient evidence of his conviction, without proof of the signature or the official character of the person appearing to have signed the certificate. 32-33 V., c. 29, s. 65.

Proof of previous conviction of a witness may be given, if he denies it, &c.

232. It shall not be necessary to prove by the attesting witness any instrument to the validity of which attestation is not requisite; and such instrument may be proved by admission or otherwise as if there had been no attesting witness thereto. 32-33 V., c. 29, s. 66.

When attesting witness need not be called.

233. Comparison of a disputed writing with any writing proved to the satisfaction of the court to be genuine, shall be permitted to be made by witnesses; and such writings

Comparison of disputed writing with genuine.

and the evidence of witnesses respecting the same may be submitted to the court and jury, as evidence of the genuineness or otherwise of the writing in dispute. 32-33 V., c. 29, s. 67.

How far a party may discredit his own witness.

234. A party producing a witness shall not be allowed to impeach his credit by general evidence of bad character, but if the witness, in the opinion of the court, proves adverse, such party may contradict him by other evidence, or, by leave of the court, may prove that the witness made at other times a statement inconsistent with his present testimony; but before such last mentioned proof can be given, the circumstances of the supposed statement, sufficient to designate the particular occasion, shall be mentioned to the witness, and he shall be asked whether or not he did make such statement. 32-33 V., c. 29, s. 68.

Cross-examination as to previous statements in writing

235. Upon any trial, a witness may be cross-examined as to previous statements made by him in writing, or reduced to writing, relative to the subject matter of the case, without such writing being shown to him; but if it is intended to contradict the witness by the writing, his attention must, before such contradictory proof can be given, be called to those parts of the writing which are to be used for the purpose of so contradicting him; and the judge at any time during the trial may require the production of the writing for his inspection, and he may thereupon make such use of it for the purposes of the trial as he thinks fit: Provided, that a deposition of the witness, purporting to have been taken before a justice on the investigation of the charge, and to be signed by the witness and the justice, returned to and produced from the custody of the proper officer, shall be presumed *primâ facie* to have been signed by the witness. 32-33 V., c. 29, s. 64;—40 V., c. 26, s. 5.

Proviso: proof of deposition of witness.

Proof of contradictory statements by witness.

236. If a witness, upon cross-examination as to a former statement made by him, relative to the subject matter of the case, and inconsistent with his present testimony, does not distinctly admit that he did make such statement, proof may be given that he did in fact make it; but before such proof can be given, the circumstances of the supposed statement, sufficient to designate the particular occasion, shall be mentioned to the witness, and he shall be asked whether or not he did make such statement. 32-33 V., c. 29, s. 69.

VARIANCES—RECORDS.

Variances, how corrected.

237. Whenever, in the indictment whereon a trial is pending before any court of criminal jurisdiction in Canada, any variance appears between any matter in writing or in print produced in evidence, and the recital or setting forth thereof, such court may cause the indictment to be forthwith

amended in such particular or particulars, by some officer of the court, and after such amendment the trial shall proceed in the same manner in all respects, both with regard to the liability of witnesses to be indicted for perjury, and otherwise, as if no such variance had appeared. 32-33 V., c. 29, s. 70.

238. Whenever, on the trial of an indictment for any felony or misdemeanor, any variance appears between the statement in such indictment and the evidence offered in proof thereof, in names, dates, places or other matters or circumstances therein mentioned, not material to the merits of the case, and by the misstatement whereof the person on trial cannot be prejudiced in his defence on such merits, the court before which the trial is pending may order such indictment to be amended according to the proof, by some officer of the court or other person—both in that part of the indictment where the variance occurs, and in every other part of the indictment which it may become necessary to amend—on such terms as to postponing the trial to be had before the same or another jury as such court thinks reasonable; and if the trial is postponed the court may respite the recognizances of the prosecutor and witnesses, and of the defendant and his sureties, if any,—in which case they shall respectively be bound to attend at the time and place to which the trial is postponed, without entering into new recognizances, and as if such time and place had been mentioned in the recognizances respited, as those at which they were respectively bound to appear. 32-33 V., c. 29, s. 71.

Court may order indictment to be amended, to agree with evidence.

Conditions may be imposed by the court.

239. After any such amendment the trial shall proceed, whenever the same is proceeded with, in the same manner and with the same consequences, both with respect to the liability of witnesses to be indicted for perjury and in all other respects, as if no such variance had occurred. 32-33 V., c. 29, s. 72.

How trial may be afterwards proceeded with.

240. In such case the order for the amendment shall be indorsed on the record; and all other rolls and proceedings connected therewith shall be amended accordingly by the proper officer and filed with the indictment, among the proper records of the court. 32-33 V., c. 29, s. 73.

Order for amending to be recorded.

241. When any such trial is had before a second jury, the Crown and the defendant respectively shall be entitled to the same challenges as they were entitled to with respect to the first jury. 32-33 V., c. 29, s. 74.

In case of trial before a second jury.

242. Every verdict and judgment given after the making of any such amendment shall be of the same force and effect in all respects as if the indictment had originally been in the same form in which it is after such amendment has been made. 32-33 V., c. 29, s. 75.

Verdict, &c., to be valid after amendment.

Formal record, how to be drawn up.

243. If it becomes necessary to draw up a formal record in any case in which an amendment has been made as aforesaid, such record shall be drawn up in the form in which the indictment remained after the amendment was made, without taking any notice of the fact of such amendment having been made. 32-33 V., c. 29, s. 76.

Record of conviction or acquittal.

244. In making up the record of any conviction or acquittal on any indictment, it shall be sufficient to copy the indictment with the plea pleaded thereto, without any formal caption or heading; and the statement of the arraignment and the proceedings subsequent thereto, shall be entered of record in the same manner as before the passing of this Act, subject to any such alterations in the forms of such entry as are, from time to time, prescribed by any rule or rules of the superior courts of criminal jurisdiction respectively,—which rules shall also apply to such inferior courts of criminal jurisdiction as are therein designated. 32-33 V., c. 29, s. 77.

FORMAL DEFECTS CURED AFTER VERDICT.

What defects not to vitiate judgment after verdict or conviction by confession or otherwise.

245. No judgment upon any indictment for any felony or misdemeanor, whether after verdict or outlawry, or by confession, default or otherwise, shall be stayed or reversed for want of the averment of any matter unnecessary to be proved, nor for the omission of the words “as appears by the record,” or of the words “with force and arms,” or of the words “against the peace,” nor for the insertion of the words “against the form of the statute,” instead of the words “against the form of the statutes,” or *vice versa*, or the omission of such words or words of like import, nor because any person mentioned in the indictment is designated by a name of office or other descriptive appellation, instead of his proper name, nor for want of or any imperfection in the addition of any defendant or other person, nor for omitting to state the time at which the offence was committed in any case where time is not of the essence of the offence, nor for stating the time imperfectly, nor for stating the offence to have been committed on a day subsequent to the finding of the indictment or exhibiting the information, or on an impossible day, or on a day that never happened, nor for want of the statement of the value or price of any matter or thing, or the amount of damage, injury or spoil, in any case where such value, price, damage, injury or spoil, is not of the essence of the offence, nor for the want of a proper or perfect venue, where the court appears by the indictment to have had jurisdiction over the offence. 32-33 V., c. 29, s. 78.

Certain formal defects not to stay or reverse judg-

246. Judgment, after verdict upon an indictment for any felony or misdemeanor, shall not be stayed or reversed for want of a *similiter*, nor by reason that the jury

process has been awarded to a wrong officer, upon an insufficient suggestion, nor for any misnomer or misdescription of the officer returning such process, or of any of the jurors, nor because any person has served upon the jury who was not returned as a juror by the sheriff or other officer; and where the offence charged is an offence created by any statute, or subjected to a greater degree of punishment by any statute, the indictment shall, after verdict, be held sufficient, if it describes the offence in the words of the statute creating the offence, or prescribing the punishment, although they are disjunctively stated or appear to include more than one offence, or otherwise. 32-33 V., c. 29, s. 79.

247. No omission to observe the directions contained in any Act as respects the qualification, selection, balloting or distribution of jurors, the preparation of the juror's book, the selecting of jury lists, the drafting panels from the jury lists or the striking of special juries, shall be a ground for impeaching any verdict, or shall be allowed for error upon any writ of error or appeal to be brought upon any judgment rendered in any criminal case. C. S. U. C., c. 31, s. 139.

COSTS.

248. When any person is convicted on any indictment of any assault whether with or without battery and wounding, or either of them, such person may, if the court thinks fit, in addition to any sentence which the court deems proper for the offence, be adjudged to pay to the prosecutor his actual and necessary costs and expenses of the prosecution, and such moderate allowance for loss of time as the court, by affidavit or other inquiry and examination, ascertains to be reasonable; and unless the sums so awarded are sooner paid, the offender shall be liable to imprisonment, for any term not exceeding three months, in addition to the term of imprisonment, if any, to which the offender is sentenced for the offence. 32-33 V., c. 20, s. 78.

249. The court may, by warrant in writing, order such sum as is so awarded, to be levied by distress and sale of the goods and chattels of the offender, and paid to the prosecutor, and the surplus, if any, arising from such sale, to the owner; and if such sum is so levied, the offender shall be released from such imprisonment. 32-33 V., c. 20, s. 79.

RESTITUTION OF STOLEN PROPERTY.

250. If any person who is guilty of any felony or misdemeanor, in stealing, taking, obtaining, extorting, embezzling, appropriating, converting or disposing of, or in knowingly

ment after verdict.

Verdict not to be impeached for certain omissions as to jurors.

On conviction for assault defendant may be ordered to pay prosecutor's costs.

Such costs may be levied by distress.

Restitution of stolen property after conviction.

receiving any chattel, money, valuable security, or other property whatsoever, is indicted for such offence, by or on behalf of the owner of the property, or his executor or administrator, and convicted thereof, the property shall be restored to the owner or his representative :

Writs of restitution.

2. In every such case, the court before whom such person is tried for any such felony or misdemeanor, shall have power to award, from time to time, writs of restitution for the said property or to order the restitution thereof in a summary manner; and the court may also, if it sees fit, award restitution of the property taken from the prosecutor, or any witness for the prosecution, by such felony or misdemeanor, although the person indicted is not convicted thereof, if the jury declares, as it may do, that such property belongs to such prosecutor or witness, and that he was unlawfully deprived of it by such felony or misdemeanor :

Restitution in other cases.

As to valuable and negotiable securities.

3. If it appears before any award or order is made, that any valuable security has been *bonâ fide* paid or discharged by any person liable to the payment thereof, or being a negotiable instrument, has been *bonâ fide* taken or received by transfer or delivery, by any person, for a just and valuable consideration, without any notice or without any reasonable cause to suspect that the same had, by any felony or misdemeanor, been stolen, taken, obtained, extorted, embezzled, converted or disposed of, the court shall not award or order the restitution of such security :

Not to apply to certain offenders.

4. Nothing in this section contained shall apply to the case of any prosecution of any trustee, banker, merchant, attorney, factor, broker or other agent intrusted with the possession of goods or documents of title to goods, for any misdemeanor under "*The Larceny Act.*" 32-33 V., c. 21, s. 113.

Restitution in certain cases out of money taken from the prisoner.

251. When any prisoner has been convicted, either summarily or otherwise, of any larceny or other offence, including the stealing or unlawfully obtaining any property, and it appears to the court, by the evidence, that the prisoner sold such property or part of it to any person who had no knowledge that it was stolen or unlawfully obtained, and that money has been taken from the prisoner on his apprehension, the court may, on the application of such purchaser and on restitution of the property to its owner, order that out of the money so taken from the prisoner, a sum not exceeding the amount of the proceeds of the sale be delivered to such purchaser. 32-33 V., c. 21, s. 114.

INSANE PRISONERS.

Jury acquitting prisoner on ground of

252. Whenever it is given in evidence upon the trial of any person charged with any offence, whether the same

is treason, felony or misdemeanor, that such person was insane at the time of the commission of such offence, and such person is acquitted, the jury shall be required to find, specially, whether such person was insane at the time of the commission of such offence, and to declare whether he is acquitted by it on account of such insanity; and if it finds that such person was insane at the time of committing such offence, the court before which such trial is had, shall order such person to be kept in strict custody in such place and in such manner as to the court seems fit, until the pleasure of the Lieutenant Governor is known. 32-33 V., c. 29, s. 99.

insanity, to state so in their verdict.

253. The Lieutenant Governor of the Province in which the case arises may, thereupon, make such order for the safe custody of such person during his pleasure, in such place and in such manner as to him seems fit. 32-33 V., c. 29, s. 100.

Such person may be ordered to be kept in custody.

254. If any person, before the passing of this Act, whether before or after the first day of July, one thousand eight hundred and sixty-seven, was acquitted of any such offence on the ground of insanity at the time of the commission thereof, and has been detained in custody as a dangerous person by order of the court before which such person was tried, and still remains in custody, the Lieutenant Governor may make a like order for the safe custody of such person during pleasure. 32-33 V., c. 29, s. 101;—40 V., c. 26, s. 7.

Lt. Governor may give like order in certain other cases.

255. If any person indicted for any offence is insane, and upon arraignment is so found by a jury empanelled for that purpose, so that such person cannot be tried upon such indictment, or if, upon the trial of any person so indicted, such person appears to the jury charged with the indictment to be insane, the court, before which such person is brought to be arraigned, or is tried as aforesaid, may direct such finding to be recorded, and thereupon may order such person to be kept in strict custody until the pleasure of the Lieutenant Governor is known. 32-33 V., c. 29, s. 102.

Provisions with respect to persons indicted for any offence, and found to be insane by a jury.

256. If any person charged with an offence is brought before any court to be discharged for want of prosecution, and such person appears to be insane, the court shall order a jury to be empanelled to try the sanity of such person; and if the jury so empanelled finds him insane, the court shall order such person to be kept in strict custody, in such place and in such manner as to the court seems fit, until the pleasure of the Lieutenant Governor is known. 32-33 V., c. 29, s. 103.

And in the case of a prisoner about to be discharged for want of prosecution.

257. In all cases of insanity so found, the Lieutenant Governor may make such order for the safe custody, during

In such cases Lt. Governor may give orders, &c.

pleasure, of the person so found to be insane, in such place and in such manner as to him seems fit. 32-33 V., c. 29, s. 104.

Removal and custody of insane prisoners.

258. The Lieutenant Governor, upon such evidence of the insanity of any person imprisoned for an offence, or imprisoned for safe custody charged with an offence, or imprisoned for not finding bail for good behavior or to keep the peace, as the Lieutenant Governor considers sufficient, may order the removal of such insane person to a place of safe keeping; and such person shall remain there, or in such other place of safe keeping, as the Lieutenant Governor from time to time orders, until his complete or partial recovery is certified to the satisfaction of the Lieutenant Governor, who may then order such insane person back to imprisonment, if then liable thereto, or otherwise to be discharged. 36 V., c. 51, s. 1.

CROWN CASES RESERVED.

In certain cases questions of law may be reserved.

259. Every court before which any person is convicted on indictment of any treason, felony or misdemeanor, and every county judges' criminal court before which any person is convicted of any felony or misdemeanor, may, in its discretion, reserve any question of law which arises on the trial, for the consideration of the justices of the court for Crown cases reserved, and thereupon may respite execution of the judgment on such conviction, or postpone the judgment, until such question has been considered and decided; and in either case the court before which the person is convicted may, in its discretion, commit the person convicted to prison, or take a recognizance of bail, with one or two sufficient sureties, in such sum as such court thinks fit, conditioned for his appearance at such time as such court directs, to receive judgment or to render himself in execution, as the case may be. 38 V., c. 45, s. 1;—46 V., c. 10, s. 5, *part*;—C. S. U. C., c. 112, s. 1;—C. S. L. C., c. 77, s. 57;—R. S. N. S. (3rd, S.), c. 171, s. 99, *part*;—1 R. S. N. B., c. 159, s. 22, *part*.

Committal or admission to bail in such case.

Judge to state and sign a case.

260. The judge or other person presiding at the court before which the person is convicted, shall thereupon state in a case to be signed by such judge or other person, any question of law so reserved, with the special circumstances upon which the same arose; and such case shall be transmitted by such judge, or other person, to the court for Crown cases reserved, on or before the last day of the first week of the term of such court next after the time when such trial was had. C. S. U. C., c. 112, s. 2;—C. S. L. C., c. 77, s. 58, *part*;—R. S. N. S. (3rd S.), c. 171, s. 100;—1 R. S. N. B., c. 159, s. 23, *part*.

Transmission thereof.

Proceedings thereupon in court for

261. The justices of the court for Crown cases reserved, to which the case is transmitted, shall hear and finally

determine such question, and reverse, affirm or amend any judgment given on the trial wherein such question arose, or shall avoid such judgment or order an entry to be made on the record, that in the judgment of such justices the person convicted ought not to have been convicted, or shall arrest the judgment, or if no judgment has been given, shall order judgment to be given thereon at some future session of the court before which the person was convicted, or shall make such other order as justice requires. C. S. U. C., c. 112, s. 3;—C. S. L. C., c. 77, s. 58, *part*;—R. S. N. S. (3rd S.), c. 171, s. 101;—1 R. S. N. B., c. 159, s. 23, *part*.

Crown cases reserved.

262. The judgment and order of such justices shall be certified under the hand of the chief justice, president or senior judge of the court for Crown cases reserved, to the clerk of the court before which the person was convicted, who shall enter the same on the original record in proper form, and a certificate of such entry, under the hand of such clerk, in the form as near as may be, or to the effect mentioned in the third schedule to this Act, with the necessary alterations to adapt it to the circumstances of the case, shall be delivered or transmitted by him to the sheriff or gaoler in whose custody the person convicted is; and the said certificate shall be sufficient warrant to such sheriff or gaoler, and all other persons, for the execution of the judgment, as so certified to have been affirmed or amended, and execution shall thereupon be carried out on such judgment, or if the judgment has been reversed, avoided or arrested, the person convicted shall be discharged from further imprisonment, and the court before which the person was convicted shall, at its next session, vacate the recognizance of bail, if any; or if the court before which the person was convicted is directed to give judgment, such court shall proceed to give judgment at the next session thereof. 46 V., c. 10, s. 5, *part*;—C. S. U. C., c. 112, s. 4;—C. S. L. C., c. 77, s. 59;—R. S. N. S. (3rd S.), c. 171, s. 102;—1 R. S. N. B., c. 159, s. 23, *part*.

How judgment or order shall be certified.

Entry and certificate thereof.

Effect of such certificate.

263. The judgment of the justices of the court for Crown cases reserved shall be delivered in open court, after hearing counsel or the parties, in case the prosecutor or person convicted thinks it fit that the case should be argued, in like manner as other judgments of such court are delivered, but no notice, appearance or other form of procedure, except such only as such justices in such case see fit to direct, shall be requisite. C. S. U. C., c. 112, s. 5;—C. S. L. C., c. 77, s. 60;—R. S. N. S. (3rd S.), c. 171, s. 103.

How the judgment shall be delivered.

264. The justices of the court for Crown cases reserved, when any question has been so reserved for their consideration, may cause the case or certificate to be sent back for amendment, and thereupon the same shall be amended

Case may be sent back for amendment.

accordingly, and judgment may be delivered after it has been amended. C. S. U. C., c. 112, s. 6;—C. S. L. C., c. 77, s. 61;—1 R. S. N. B., c. 159, s. 24.

WRITS OF ERROR.

Writs of error, how tested and returnable.

265. Writs of error shall run in the name of the Queen, and shall be tested and returnable according to the practice of the court granting such writ, and shall, *in the Province of Quebec*, operate a stay of execution of the judgment of *the court below*. C. S. U. C., c. 113, s. 16, *part*;—C. S. L. C., c. 77, s. 56, *part*.

On what such writ shall be founded.

266. No writ of error shall be allowed in any criminal case unless it is founded on some question of law which could not have been reserved, or which the judge presiding at the trial refused to reserve for the consideration of the court having jurisdiction in such cases. 32-33 V., c. 29, s. 80, *part*.

Proceedings in court of error.

267. Whenever in a criminal case any writ of error has been brought upon any judgment or any indictment, information, presentment or inquisition, and the *court of error* reverses the judgment, the *court of error* may either pronounce the proper judgment, or remit the record to the court below, in order that such court may pronounce the proper judgment upon such indictment, information, presentment or inquisition. C. S. U. C., c. 113, s. 17;—C. S. L. C., c. 77, s. 62;—1 R. S. N. B., c. 160, s. 1.

NEW TRIALS.

When a new trial may and may not be granted.

268. *A new trial shall not be granted in any criminal case unless the conviction is declared bad for a cause which makes the former trial a nullity so that there was no lawful trial in the case: Provided that a new trial may be granted in cases of misdemeanor in which, by law, new trials may now be granted, and that nothing herein contained shall interfere with the power of the Supreme Court of Canada to grant a new trial, as provided in "The Supreme and Exchequer Courts Act," or with the power of the Court of Queen's Bench in Manitoba to grant a new trial, as provided in "The North-West Territories Act."* 32-33 V., c. 29, s. 80, *part*.

SPECIAL PROVISIONS.

Judge, &c., in Ontario may reserve decision.

269. Any judge, retired judge, or Queen's counsel presiding at any sittings of the High Court of Justice of Ontario may reserve the giving of his final decision on questions raised at the trial; and his decision, whenever given, shall be considered as if given at the time of the trial. 46 V., c. 10, s. 1.

270. The practice and procedure in all criminal cases and matters whatsoever in the said High Court of Justice shall be the same as the practice and procedure in similar cases and matters before the establishment of the said High Court. 46 V., c. 10, s. 2.

Practice and procedure in criminal cases.

271. If any general commission for the holding of a court of assize and nisi prius, oyer and terminer or general gaol delivery is issued by the Governor General for any county or district in the Province of Ontario, such commission shall contain the names of the justices of the Supreme Court of Judicature for Ontario, and may also contain the names of the judges of any of the county courts in Ontario, and of any of Her Majesty's counsel learned in the law, appointed for the Province of Upper Canada, or for the Province of Ontario, and if any such commission is for the provisional judicial district of Algoma such commission may contain the name of the judge of the district court of the said district :

Who may be commissioned for holding assizes, &c.

2. The said courts shall be presided over by one of the justices of the said Supreme Court, or in their absence by one of such county court judges or by one of such counsel, or in the case of the said district by the judge of the said district court. 46 V., c. 10, s. 4.

Who shall preside.

272. It shall not be necessary for any court of General Sessions in the Province of Ontario to deliver the gaol of all prisoners who are confined upon charges of simple larceny, but the court may leave any such cases to be tried at the next court of oyer and terminer and general gaol delivery, if, by reason of the difficulty or importance of the case, or for any other cause, it appears to it proper so to do. C. S. U. C., c. 17, s. 8.

Court not required to deliver the gaol.

273. If any person is prosecuted in either division of the High Court of Justice for Ontario, for any misdemeanor, by information there filed or by indictment there found, or removed into such court, and appears therein in term time, in person, or, in case of a corporation, by attorney, to answer to such information or indictment, such defendant, upon being charged therewith, shall not imparl to a following term, but shall plead or demur thereto, within four days from the time of his appearance; and in default of his pleading or demurring within four days as aforesaid, judgment may be entered against such defendant for want of a plea. C. S. U. C., c. 108, s. 1.

Defendant in misdemeanor may not postpone trial by imparlance.

274. If such defendant appears to such information or indictment by attorney, such defendant shall not imparl to a following term, but a rule, requiring him to plead, may forthwith be given and served, and a plea to such informa-

Defendant may be required to plead forthwith.

tion or indictment may be enforced, or judgment in default may be entered, in the same manner as might have been done formerly in cases in which the defendant had appeared to such information or indictment by attorney in a previous term ; but the court, or any judge thereof, upon sufficient cause shown for that purpose, may allow further time for such defendant to plead or demur to such information or indictment. C. S. U. C., c. 108, s. 2.

Time may be allowed.

Provision if defendant is not brought to trial within 12 months.

275. If any prosecution for misdemeanor instituted by the Attorney General for Ontario in the said court, is not brought to trial within twelve months next after the plea of not guilty has been pleaded thereto, the court in which such prosecution is depending, upon application made on behalf of any defendant in such prosecution, of which application twenty days' previous notice shall be given to such Attorney General, may make an order, authorizing such defendant to bring on the trial of such prosecution ; and thereupon such defendant may bring on such trial accordingly, unless a *nolle prosequi* is entered to such prosecution. C. S. U. C., c. 108, s. 4.

Calendar of criminal cases for grand jury in N. S.

276. In the Province of Nova Scotia a calendar of the criminal cases shall be sent by the clerk of the Crown to the grand jury in each term, together with the depositions taken in each case and the names of the different witnesses, and the indictments shall not be made out, except in Halifax, until the grand jury so directs. R. S. N. S. (3rd S.), c. 123, s. 17.

When sentence may be pronounced in N. S.

277. A judge of the Supreme Court of Nova Scotia may sentence convicted criminals on any day of the sittings at Halifax, as well as in term time. R. S. N. S. (3rd S.), c. 171, s. 75.

GENERAL PROVISIONS.

Forms in schedule to be sufficient!

As to offences not mentioned.

278. The several forms in the schedules to this Act, or forms to the like effect, shall be good, valid and sufficient in law, and the forms of indictment contained in the second schedule to this Act may be used, and shall be sufficient as respects the several offences to which they respectively relate ; and as respects offences not mentioned in such second schedule, the said forms shall serve as a guide to show the manner in which offences are to be charged, so as to avoid surplusage and verbiage, and the averment of matters not necessary to be proved, and the indictment shall be good if, in the opinion of the court, the prisoner will sustain no injury from its being held to be so, and the offence or offences intended to be charged by it can be understood from it. 32-33 V., c. 29, s. 27, and c. 30, s. 66.

279. Nothing herein contained shall alter or affect any of the laws relating to the government of Her Majesty's land or naval forces. 32-33 V., c. 29, s. 137. Army and navy laws not affected.

FIRST SCHEDULE.

(A.)

INFORMATION AND COMPLAINT FOR AN INDICTABLE OFFENCE.

Canada, }
Province of }
district (or county, }
united counties, or }
as the case may be), }
of }

The information and complaint of C. D. of (yeoman), taken this day of , in the year before the undersigned, , a justice of the peace in and for the said district (or county, or as the case may be), of . who says that (&c., stating the offence).

Sworn (or affirmed) before (me) the day and year first above mentioned, at

J. S.

(B.)

WARRANT TO APPREHEND A PERSON CHARGED WITH AN INDICTABLE OFFENCE.

Canada, }
Province of }
district (or county, }
united counties, or }
as the case may be), }
of }

To all or any of the constables or other peace officers in the said district (or county, united counties, or as the case may be), of

Whereas A. B., of (laborer), has this day been charged upon oath before the undersigned , a justice of the peace in and for the said district (or county, united counties, or as the case may be), of , for that he, on , at , did (&c., stating shortly the offence); These are therefore to command you, in Her Majesty's name, forthwith to apprehend the said A. B., and to bring him before (me) or some other justice of the peace in and for the said district (or county, united counties, or as the case may be), of

A. B., of the _____, was charged before (*me* or *us*.) the undersigned (*or name the justice or justices, or as the case may be*), (*a*) justice of the peace in and for the said district (*or county, united counties, as the case may be*), of _____ for that (*&c., as in the summons*); and whereas (I, *or he the said justice of the peace, or we or they, the said justices of the peace*) did then issue (*my, our, his or their*) summons to the said A. B., commanding him, in Her Majesty's name, to be and appear before (*me*) on _____ at _____ o'clock in the (*fore*) noon, at _____, or before such other justice or justices of the peace as should then be there, to answer to the said charge and to be further dealt with according to law; and whereas the said A. B. has neglected to be or appear at the time and place appointed in and by the said summons, although it has now been proved to (*me*) upon oath that the said summons was duly served upon the said A. B.; These are therefore to command you, in Her Majesty's name, forthwith to apprehend the said A. B., and to bring him before (*me*) or some other justice of the peace in and for the said district (*or county, united counties, or as the case may be*), of _____, to answer the said charge, and to be further dealt with according to law.

Given under (*my*) hand and seal, this _____ day of _____ in the year _____, at _____, in the district (*or county, &c.*), aforesaid.

J. S. [Ls.]

(D. 2)

WARRANT TO APPREHEND A PERSON CHARGED WITH AN INDICTABLE OFFENCE COMMITTED ON THE HIGH SEAS OR ABROAD.

For offences committed on the high seas the warrant may be the same as in ordinary cases, but describing the offence to have been committed "on the high seas, out of the body of any district or county of Canada and within the jurisdiction of the Admiralty of England."

For offences committed abroad, for which the parties may be indicted in Canada, the warrant also may be the same as in ordinary cases, but describing the offence to have been committed "on land out of Canada, to wit: at _____ in the Kingdom of _____, or at _____, in the Island of _____, in the West Indies, or at _____, in the East Indies," or as the case may be.

(E.)

CERTIFICATE OF INDICTMENT BEING FOUND.

I hereby certify that at a Court of (Oyer and Terminer, or General Gaol Delivery, or General Sessions of the Peace) holden in and for the district (or county, united counties, or as the case may be), of _____, at _____, in the said district, (county, &c.), on _____, a bill of indictment was found by the grand jury against A. B., therein described as A. B., late of _____ (laborer), for that he (&c., stating shortly the offence), and that the said A. B. has not appeared or pleaded to the said indictment.

Dated this _____ day of _____, in the year _____

Z. X.
Clerk.

Clerk of the Crown, (or deputy clerk of the Crown) for the district (or county, united counties, or as the case may be);

or

Clerk of the peace of and for the said district (or county, united counties, or as the case may be).

(F.)

WARRANT TO APPREHEND A PERSON INDICTED.

Canada,	}
Province of	
district (or county, united counties, or as the case may be),	
of	

To all or any of the constables or other peace officers in the said district (or county, united counties, or as the case may be), of _____,

Whereas it has been duly certified by J. D., clerk of the Crown, of (name the court) (or E. G., deputy clerk of the Crown or clerk of the peace, as the case may be), in and for the district (or county, united counties, or as the case may be), of _____, that (&c., stating the certificate); These are therefore to command you in Her Majesty's name forthwith to apprehend the said A. B., and to bring him before (me)

or some other justice or justices, of the peace in and for the said district (*or county, united counties, or as the case may be*), to be dealt with according to law.

Given under my hand and seal, this day of
in the year , at , in the district (*or*
county, &c.), aforesaid.

J. S. [L. s.]

(G.)

WARRANT OF COMMITMENT OF A PERSON INDICTED.

Canada, Province of district (<i>or county,</i> <i>united counties, or</i> <i>as the case may be</i>), of	}
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To all or any of the constables, or other peace officers in the said district (*or county, &c.*), of , and the keeper of the common gaol, at , in the said district (*or county, united counties, or as the case may be*), of

Whereas by a warrant under the hand and seal of
(a) justice of the peace in and for the said district (*or county, united counties, or as the case may be*), of under hand and seal, dated , after reciting that it had been certified by J. D., (*&c., as in the certificate*), () the said justice of the peace commanded all or any of the constables, in Her Majesty's name, forthwith to apprehend the said A. B., and to bring him before (*him*) the said justice of the peace in and for the said district (*or county, united counties, or as the case may be*), of or before some other justice or justices in and for the said district (*or county, united counties, or as the case may be*), to be dealt with according to law; and whereas the said A. B. has been apprehended under and by virtue of the said warrant, and being now brought before (*me*) it is hereupon duly proved to (*me*) upon oath that the said A. B. is the same person who is named and charged by , in the said indictment; These are therefore to command you, the said constables and peace officers, or any of you, in Her Majesty's name, forthwith to take and convey the said A. B. to the said common gaol at , in the said district (*or county, united counties, or as the case may be*), of and there to deliver him to the keeper thereof, together with this precept; and (*I*) hereby command you the said keeper

(I.)

INDORSEMENT IN BACKING A WARRANT.

Canada, }
 Province of }
 district (or county, }
 united counties, or }
 as the case may be), }
 of }

Whereas proof upon oath has this day been made before me, _____ a justice of the peace in and for the said district (or county, united counties, or as the case may be), of _____ that the name of J.S. to the within warrant subscribed, is of the handwriting of the justice of the peace within mentioned; I do therefore hereby authorize W.T. who brings to me this warrant and all other persons to whom this warrant was originally directed, or by whom it may be lawfully executed, and also all constables and other peace officers of the said district (or county, united counties, or as the case may be), of _____, to execute the same within the said last mentioned district (or county, united counties, or as the case may be).

Given under my hand, this _____ day of _____, in the year _____, at _____, in the district (or county, &c.), aforesaid. .

J. L.

(K.)

INFORMATION TO OBTAIN A SEARCH WARRANT.

Canada, }
 Province of }
 district (or county, }
 united counties, or }
 as the case may be), }
 of }

The information of A. B., of the _____, of _____, in the said district (or county, &c.), (*yeoman*), taken this day of _____, in the year _____ before me, W. S., Esquire, a justice of the peace, in and for the district (or county, united counties, or as the case may be), of _____, who says that on the _____ day of _____ (*insert the description of articles stolen*) of the goods and chattels of deponent, were feloniously stolen, taken and carried away, from and out of the (*dwelling-house, &c.*), of this deponent, at the (*township, &c.*), aforesaid, by some person or persons unknown (*or name the person*), and that he

has just and reasonable cause to suspect, and suspects, that the said goods and chattels, or some part of them are concealed in the (*dwelling-house, &c.*) of C. D., of in the said district (*or county, &c.*), (*here add the causes of suspicion, whatever they may be*); Wherefore (*he*) prays that a search warrant may be granted to him to search the (*dwelling-house, &c.*), of the said C. D., as aforesaid, for the said goods and chattels so feloniously stolen, taken and carried away as aforesaid.

Sworn (*or affirmed*) before me the day and year first above mentioned, at _____ in the said district (*or county, &c.*), of

W. S.,
J. P.

(K. 2.)

SEARCH WARRANT.

Canada, }
Province of }
district (*or county,* }
united counties, *or* }
as the case may be), }
of }

To all or any of the constables, or other peace officers, in the district (*or county, united counties, or as the case may be*), of _____ :

Whereas A. B. of the _____, of _____ in the said district (*or county, &c.*), has this day made oath before me the undersigned _____ a justice of the peace, in and for the said district (*or county, united counties, or as the case may be*), of _____ that, on the _____ day of _____, (*copy information as far as place of supposed concealment*); These are therefore in Her Majesty's name to authorize and require you, and each and every of you, with necessary and proper assistance, to enter in the day-time into the said (*dwelling-house, &c.*), of the said _____, and there diligently search for the said goods and chattels, and if the same, or any part thereof, are found upon such search, that you bring the goods so found, and also the body of the said C. D. before me, and some other justice of the peace, in and for the said district (*or county, united counties, or as the case may be*), of _____ to be disposed of and dealt with according to law.

Given under my hand and seal, at _____, in the said district (*or county, &c.*), this _____ day of _____, in the year _____

W. S., J. P. (Seal)

(L.)

SUMMONS TO A WITNESS.

Canada, }
 Province of }
 district (or county,
 united counties, or
 as the case may be), }
 of }

To E. F., of (laborer).

Whereas information has been laid before the undersigned
 , a justice of the peace in and for the said district (or
 county, united counties, or as the case me be), of
 that A. B. (&c., as in the summons or warrant against the
 accused), and it has been made to appear to me upon (oath),
 that you are likely to give material evidence for (prosecution);
 These are therefore to require you to be and to appear
 before me on next, at o'clock in the (fore)
 noon, at , or before such other justice or justices
 of the peace of the same district (or county, united counties,
 or as the case may be), of , as shall then be there, to
 testify what you know concerning the said charge so made
 against the said A. B. as aforesaid. Herein fail not.

Given under my hand and seal, this day of in
 the year , at , in the district (or county, &c.),
 aforesaid.

J.S. [L.S.]

(L. 2.)

WARRANT WHEN A WITNESS HAS NOT OBEYED THE
 SUMMONS.

Canada, }
 Province of }
 district (or county,
 united counties, or
 as the case may be), }
 of }

To all or any of the constables or other peace officers in
 the said district (or county, united counties, or as the case
 may be), of

Whereas information having been laid before , a
 justice of the peace, in and for the said district (or county,
 &c.), of , that A. B. (&c., as in the summons); and

it having been made to appear to *(me)* upon oath that E.F. of *(laborer)*, was likely to give material evidence for the prosecution *(I)* duly issued *(my)* summons to the said E.F., requiring him to be and appear before *(me)* on _____, at _____ or before such other justice or justices of the peace for the same district *(or county, united counties, or as the case may be)*, as should then be there, to testify what he knows respecting the said charge so made against the said A.B., as aforesaid; and whereas proof has this day been made upon oath before *(me)* of such summons having been duly served upon the said E.F.; and whereas the said E.F. has neglected to appear at the time and place appointed by the said summons, and no just excuse has been offered for such neglect; These are therefore to command you to bring and have the said E.F. before *(me)* on _____ at _____ o'clock in the *(fore)* noon, at _____ or before such other justice or justices for the same district *(or county, united counties, or as the case may be)*, as shall then be there, to testify what he knows concerning the said charge so made against the said A.B. as aforesaid.

Given under *(my)* hand and seal, this _____ day of _____ in the year _____, at _____ in the district *(or county, &c.)*, aforesaid.

J. S. [L.S.]

(L. 3.)

WARRANT FOR A WITNESS IN THE FIRST INSTANCE.

Canada, Province of district <i>(or county,</i> united counties, <i>or</i> <i>as the case may be)</i> , of	}
---	---

To all or any of the constables or other peace officers in the said district *(or county, united counties, or as the case may be)*, of _____

Whereas information has been laid before the undersigned _____, a justice of the peace, in and for the said district *(or county, united counties, or as the case may be)*, of _____, that *(&c., as in the summons)*; and it having been made to appear to *(me)* upon oath, that E. F. of *(laborer)*, is likely to give material evidence for the prosecution, and that it is probable that the said E. F. will not attend to give evidence unless compelled to do so: These are therefore to command you to bring and have the said E. F. before *(me)* on _____

at _____ o'clock in the (*fore*) noon, at _____, or before such other justice or justices of the peace for the same district (*or county, united counties, or as the case may be*), as shall then be there, to testify what he knows concerning the said charge so made against the said A. B. as aforesaid.

Given under my hand and seal, this _____ day of _____ in the year _____, at _____ in the district (*or county, &c.*), aforesaid.

J. S. [L.S.]

(L. 4.)

WARRANT OF COMMITMENT OF A WITNESS FOR REFUSING TO BE SWORN, OR TO GIVE EVIDENCE.

Canada, }
Province of }
district (*or county,* }
united counties, *or* }
as the case may be), }
of }

To all or any of the constables or other peace officers in the district (*or county, united counties, or as the case may be*), of _____ and to the keeper of the common gaol at _____, in the said district (*or county, united counties, or as the case may be*), of _____ :

Whereas A. B. was lately charged before a justice of the peace in and for the said district (*or county, united counties, or as the case may be*), of _____, for that (*&c., as in the summons*) ; and it having been made to appear to (*me*) upon oath that E. F. of _____ was likely to give material evidence for the prosecution (*I*) duly issued (*my*) summons to the said E. F., requiring him to be and appear before me on _____, at _____, or before such other justice or justices of the peace for the same district (*or county, united counties, or as the case may be*), as should then be there, to testify what he knows concerning the said charge so made against the said A. B. as aforesaid ; and the said E. F. now appearing before (*me*) (*or being brought before (me) by virtue of a warrant in that behalf*), to testify as aforesaid, and being required to make oath or affirmation as a witness in that behalf, now refuses so to do (*or being duly sworn as a witness now refuses to answer certain questions concerning the premises which are now here put to him, and more particularly the following _____*) without offering any just excuse for such refusal ; These are therefore to command you, the said constables, peace officers,

or any one of you, to take the said E. F. and him safely convey to the common gaol at _____, in the district (or county, &c.), aforesaid, and there to deliver him to the keeper thereof, together with this precept: And (I) do hereby command you, the said keeper of the said common gaol to receive the said E. F. into your custody in the said common gaol, and him there safely keep for the space of _____ days, for his said contempt, unless in the meantime he consents to be examined, and to answer concerning the premises; and for your so doing, this shall be your sufficient warrant.

Given under (my) hand and seal, this _____ day of _____ in the year _____, at _____, in the district (or county, &c.), aforesaid.

J. S. [L. s.]

(M.)

WARRANT REMANDING A PRISONER.

Canada, }
Province of }
district (or county, }
united counties, or }
as the case may be), }
of }

To all or any of the constables and other peace officers in the said district (or county, united counties, or as the case may be), of _____, and to the keeper of the (common gaol or lock-up house) _____, in the said district (or county, &c.), of _____

Whereas A. B. was this day charged before the undersigned _____, a justice of the peace in and for the said district (or county, united counties, or as the case may be), of _____, for that (&c., as in the warrant to apprehend), and it appears to (me) to be necessary to remand the said A. B.; These are therefore to command you, in Her Majesty's name, forthwith to convey the said A. B. to the (common gaol or lock-up house) at _____, in the said district (or county, &c.), and there to deliver him to the keeper thereof, together with this precept; and I hereby command you the said keeper to receive the said A. B. into your custody in the said (common gaol or lock-up house), and there safely keep him until the _____ day of _____, (instant) when I hereby command you to have him at _____, at _____ o'clock in the (fore) noon of the same day before (me) or before such other justice or justices of the

peace for the said district (*or county, united counties, or as the case may be*), as shall then be there, to answer further to the said charge, and to be further dealt with according to law, unless you shall be otherwise ordered in the meantime.

Given under my hand and seal, this day of ,
 in the year , at in the district (*or county, &c.*),
 aforesaid.

J. S. [L.S.]

(M. 2.)

RECOGNIZANCE OF BAIL INSTEAD OF REMAND ON AN ADJOURNMENT OF EXAMINATION.

Canada,
 Province of }
 district (*or county,*
united counties, or
as the case may be), }
 of }

Be it remembered, that on the day of
 in the year A.B. of (*laborer*),
 L. M., of (*grocer*), and N. O., of (*butcher*)
 personally came before me, , a justice
 of the peace for the said district (*or county, united*
counties, or as the case may be), and severally acknowledged
 themselves to owe to our Sovereign Lady the Queen, her
 heirs and successors, the several sums following, that is to
 say : the said A. B. the sum of and the said L. M.
 and N. O. the sum of , each, of good and lawful
 current money of Canada, to be made and levied of their
 several goods and chattels, lands and tenements respective-
 ly, to the use of our said Lady the Queen, her heirs and
 successors, if he, the said A. B., fails in the condition in-
 dorsed (*or hereunder written*).

Taken and acknowledged the day and year first above
 mentioned, at before me.

J. S.

CONDITION.

The condition of the within (*or above*) written recognizance
 is such that whereas the within bounden A. B. was this day
 (*or on* last past) charged before me for that (*&c., as*
in the warrant); and whereas the examination of the witnesses
 for the prosecution in this behalf is adjourned until the
 day of (*instant*): If, therefore, the

said A. B. appears before me on the said _____ day of
 (instant) _____ at _____ o'clock
 in the (fore) noon, or before such other justice or justices
 of the peace for the said district (or county, united counties,
 or as the case may be), as shall then be there, to answer
 (further) to the said charge, and to be further dealt with
 according to law, the said recognizance to be void, otherwise
 to stand in full force and virtue.

(M. 3.)

NOTICE OF RECOGNIZANCE TO BE GIVEN TO THE ACCUSED AND
 HIS SURETIES.

Canada,
 Province of _____)
 district (or county, _____)
 united counties, or _____)
 as the case may be), _____)
 of _____)

Take notice that you, A. B., of _____, are bound in the
 sum of _____, and your sureties, L. M. and N. O., in the
 sum of _____, each, that you, A. B., appear before me,
 J. S., a justice of the peace for the district (or county,
 united counties, or as the case may be), of _____,
 on _____, the _____ day of _____ (instant), at _____,
 o'clock in the (fore) noon at _____, or before such other
 justice or justices of the same district (or county, united
 counties, or as the case may be), as shall then be there, to
 answer (further) to the charge made against you by C. D.,
 and to be further dealt with according to law; and unless
 you, A. B., personally appear accordingly, the recognizance
 entered into by yourself and sureties will be forthwith levied
 on you and them.

Dated this _____ day of _____, in the year _____

J. S.

(M. 4.)

CERTIFICATE OF NON-APPEARANCE TO BE INDORSED ON THE
 RECOGNIZANCE.

I hereby certify that the said A. B. has not appeared at
 the time and place, in the above condition mentioned, but
 therein has made default, by reason whereof the within
 written recognizance is forfeited.

J. S.

(N.)

DEPOSITIONS OF WITNESSES.

Canada, }
 Province of }
 district (or county, }
 united counties, or }
 as the case may be), }
 of }

The examination of C. W., of (farmer), and E. F., of (laborer), taken on (oath) this day of , in the year , at in the district (or county, &c., or as the case may be), aforesaid, before the undersigned , a justice of the peace for the said district (or county, united counties, or as the case may be), in the presence and hearing of A. B., who is charged this day before (me) for that he, the said A. B., at (&c., describe the offence as in a warrant of commitment).

This deponent, C. D., upon his (oath) says as follows: (&c., stating the deposition of the witness as nearly as possible in the words he uses. When his deposition is completed let him sign it).

And this deponent, E. F., upon his (oath) says as follows: (&c.) .

The above depositions of C. D. and E. F. were taken and (sworn) before me, at , on the day and year first above mentioned.

J. S.

(O.)

STATEMENT OF THE ACCUSED.

Canada, }
 Province of }
 district (or county, }
 united counties, or }
 as the case may be), }
 of }

A. B. stands charged before the undersigned , a justice of the peace, in and for the district (or county, united counties, or as the case may be), aforesaid, this day of , in the year , for that the said A. B., on , at (&c.,

as in the captions of the depositions); and the said charge being read to the said A. B., and the witnesses for the prosecution, C. D. and E. F., being severally examined in his presence, the said A. B. is now addressed by me as follows: "Having heard the evidence, do you wish to say anything in answer to the charge? You are not obliged to say anything unless you desire to do so; but whatever you say will be taken down in writing, and may be given in evidence against you at your trial." Whereupon the said A. B. says as follows: (*Here state whatever the prisoner says, and in his very words, as nearly as possible. Get him to sign it if he will.*)

A. B.

Taken before me, at _____, the day and year first above mentioned.

J.S.

 (P.)

WARRANT OF COMMITMENT.

Canada, Province of district (or county, united counties, or as the case may be) of	}
--	---

To all or any of the constables or other peace officers in the district (*or county, united counties, or as the case may be*), of _____, and to the keeper of the common gaol of the district (*or county, united counties, or as the case may be*), at _____, in the said district (*or county, &c.*), of

Whereas A. B. was this day charged before (*me*) J. S., a justice of the peace in and for the said district (*or county, united counties, or as the case may be*), of _____ on the oath of C. D., of _____ (*farmer*), and others, for that (*&c., stating shortly the offence*); These are therefore to command you the said constables or peace officers, or any of you, to take the said A. B., and him safely convey to the common gaol at _____ aforesaid, and there deliver him to the keeper thereof, together with this precept: And I do hereby command you, the said keeper of the said common gaol, to receive the said A. B. into your custody in

the said common gaol, and there safely to keep him until he shall be thence delivered by due course of law.

Given under my hand and seal, this _____ day of _____, in the year _____, at _____, in the district (*or county, &c.*), aforesaid.

J. S. [L. s.]

(Q.)

RECOGNIZANCE TO PROSECUTE OR GIVE EVIDENCE.

Canada, }
Province of }
district (*or county,* }
united counties, *or* }
as the case may be), }
of }

Be it remembered, that on the _____ day of _____, in the year _____ C. D. of _____, in the _____ of _____, in the said district (*or county, &c.*), of _____ (*farmer*), personally came before me _____, a justice of the peace in and for the said district (*or county, united counties, or as the case may be*), of _____, and acknowledged himself to owe to our Sovereign Lady the Queen, Her heirs and successors, the sum of _____, of good and lawful current money of Canada, to be made and levied of his goods and chattels, lands and tenements, to the use of our said Sovereign Lady the Queen, Her heirs and successors, if the said C. D. fails in the condition indorsed (*or hereunder written*).

Taken and acknowledged the day and year first above mentioned at _____, before me.

J. S.

CONDITION TO PROSECUTE.

The condition of the within (*or above*) written recognizance is such that whereas one A. B. was this day charged before me, J. S., a justice of the peace within mentioned, for that (*&c. as in the caption of the depositions*); if, therefore, he the said C. D. appears at the next court of oyer and terminer *or* general gaol delivery, (*or at the next court of General or Quarter Sessions of the Peace*), to be holden in

and for the district (*or county, united counties, or as the case may be*), of* , and there prefers or causes to be preferred a bill of indictment for the offence aforesaid, against the said A. B., and there also duly prosecutes such indictment, then the said recognizance to be void otherwise to stand in full force and virtue.

CONDITION TO PROSECUTE AND GIVE EVIDENCE.

(*Same as the last form, to the asterisk,* and then thus*):—And there prefers or causes to be preferred a bill of indictment against the said A. B. for the offence aforesaid, and duly prosecutes such indictment, and gives evidence thereon, as well to the jurors who shall then inquire into the said offence, as also to them who shall pass upon the trial of the said A. B., then the said recognizance to be void, or else to stand in full force and virtue.

CONDITION TO GIVE EVIDENCE.

(*Same as the last form but one, to the asterisk,* and then thus*):—And there gives such evidence as he knows upon a bill of indictment to be then and there preferred against the said A. B. for the offence aforesaid, as well to the jurors who shall there inquire of the said offence, as also to the jurors who shall pass upon the trial of the said A. B., if the said bill shall be found a true bill, then the said recognizance to be void, otherwise to remain in full force and virtue.

(Q. 2.)

NOTICE OF THE SAID RECOGNIZANCE TO BE GIVEN TO THE PROSECUTOR AND HIS WITNESSES.

Canada, }
 Province of }
 district (*or county,* }
united counties, or }
as the case may be), }
 of }

Take notice that you C. D. of , are bound in the sum of to appear at the next court of oyer and terminer and general gaol delivery (*or at the next court of General Sessions of the Peace*), in and for the district (*or county, united counties, or as the case may be*), of to be holden at , in the said district (*or county, &c.*), and then and there (*prosecute and*) give evidence against

A. B., and unless you then appear there (*prosecute and*) give evidence accordingly, the recognizance entered into by you will be forwith levied on you.

Dated this day of in the year

J. S.

• ———
(R.)

COMMITMENT OF A WITNESS FOR REFUSING TO ENTER INTO
THE RECOGNIZANCE.

Canada, |
Province of |
 district (*or county,* |
 united counties, *or* |
 as the case may be), |
 of |

To all or any of the constables or other peace officers in the said district (*or county, &c.*), of , and to the keeper of the common gaol of the said district, (*or county, &c.*, *or as the case may be*), at , in the said district (*or county, &c.*, *or as the case may be*), of :

Whereas A. B. was lately charged before the undersigned (*name of the justice of the peace*), a justice of the peace in and for the said district (*or county, &c.*), of for that (*&c.*, *as in the summons to the witness*), and it having been made to appear to (*me*) upon oath that E. F., of was likely to give material evidence for the prosecution, (*I*) duly issued (*my*) summons to the said E. F., requiring him to be and appear before (*me*) on , at or before such other justice or justices of the peace as should then be there, to testify what he knows concerning the said charge so made against the said A. B. as aforesaid; and the said E. F. now appearing before (*me*) (*or being brought before (me) by virtue of a warrant in that behalf to testify as aforesaid*), has been now examined before (*me*) touching the premises, but being by (*me*) required to enter into a recognizance conditioned to give evidence against the said A. B., now refuses so to do: These are therefore to command you the said constables or peace officers, or any one of you, to take the said E. F. and him safely convey to the common gaol at , in the district (*or county, &c.*), aforesaid, and there deliver him to the said keeper thereof, together with this precept: And I do hereby command you, the said keeper of the said common gaol, to receive the said E. F. into your custody in the said common gaol, there to imprison and safely keep him until after the trial of the said A. B. for the offence

aforsaid, unless in the meantime the said E. F. duly enters into such recognizance as aforesaid, in the sum of before some one justice of the peace for the said district, (or county, united counties, or as the case may be), conditioned in the usual form to appear at the next court of oyer and terminer, or general gaol delivery (or General or Quarter Sessions of the Peace), to be holden in and for the said district (or county, united counties, or as the case may be), of , and there to give evidence before the grand jury upon any bill of indictment which shall then and there be preferred against the said A. B. for the offence aforesaid, and also to give evidence upon the trial of the said A. B. for the said offence, if a true bill is found against him for the same.

Given under my hand and seal, this day of , in the year , at in the district (or county, &c.), aforesaid.

J. S. [L.S.]

(R. 2.)

SUBSEQUENT ORDER TO DISCHARGE THE WITNESS.

Canada, }
 Province of }
 district (or county, }
 united counties, or }
 as the case may be), }
 of }

To the keeper of the common gaol at , in the district (or county, &c.), of aforesaid

Whereas by (my) order dated the day of (instant) reciting that A. B. was lately before then charged before (me) for a certain offence therein mentioned, and that E. F. having appeared before (me) and being examined as a witness for the prosecution on that behalf, refused to enter into recognizance to give evidence against the said A. B., and I therefore thereby committed the said E. F. to your custody, and required you safely to keep him until after the trial of the said A. B. for the offence aforesaid, unless in the meantime he should enter into such recognizance as aforesaid; and whereas for want of sufficient evidence against the said A. B., the said A. B. has not been committed or holden to bail for the said offence, but on the contrary thereof has been since discharged, and it is therefore not necessary that the said E. F. should be detained longer in

your custody : These are therefore to order and direct you the said keeper to discharge the said E. F. out of your custody, as to the said commitment, and suffer him to go at large.

Given under my hand and seal, this day of
in the year , at in the district (or county,
&c.), aforesaid.

J. S. [L. S.]

(S.)

RECOGNIZANCE OF BAIL.

Canada, }
Province of }
 district (or county, }
 united counties, or }
 as the case may be), }
 of }

Be it remembered, that on the day of in
the year , A. B. of (laborer), L. M.
of , (grocer), and N. O. of (butcher,) personally
came before (us) the undersigned, (two) justices of the peace
for the district (or county, united counties, or as the case
may be), of and severally acknowledged themselves
to owe to our Sovereign Lady the Queen, Her heirs and
successors, the several sums following, that is to say : the
said A. B. the sum of , and the said L. M. and N.O.
the sum of , each, of good and lawful current money
of Canada, to be made and levied of their several goods and
chattels, lands and tenements respectively, to the use of
our said Sovereign Lady the Queen, Her heirs and succes-
sors, if he, the said A. B., fails in the condition indorsed (or
hereunder written).

Taken and acknowledged the day and year first above
mentioned, at before us.

J. S.
J. N.

CONDITION.

The condition of the within (or above) written recogni-
zance, is such that whereas the said A. B. was this day
charged before (us), the justices within mentioned for that
(&c., as in the warrant) ; if, therefore, the said A. B. appears
at the next court of oyer and terminer (or general gaol de-

livery *or* court of General or Quarter Sessions of the Peace) to be holden in and for the district (*or* county, united counties, *or as the case may be*), of _____, and there surrenders himself into the custody of the keeper of the common gaol (*or* lock-up house) there, and pleads to such indictment as may be found against him by the grand jury, for and in respect to the charge aforesaid, and takes his trial upon the same, and does not depart the said court without leave, then the said recognizance to be void, otherwise to stand in full force and virtue.

(S. 2.)

NOTICE OF THE SAID RECOGNIZANCE TO BE GIVEN TO THE
ACCUSED AND HIS BAIL.

Take notice that you A. B., of _____, are bound in the sum of _____, and your sureties (L. M. and N. O.) in the sum of _____, each, that you A. B. appear (*&c., as in the condition of the recognizance*), and not depart the said court without leave; and unless you, the said A. B., personally appear and plead, and take your trial accordingly, the recognizance entered into by you and your sureties shall be forthwith levied on you and them.

Dated this _____ day of _____, in the year
J. S.

(S. 3.)

WARRANT OF DELIVERANCE ON BAIL BEING GIVEN FOR A
PRISONER ALREADY COMMITTED.

Canada,	}
Province of	
district (<i>or</i> county, united counties, <i>or</i> <i>as the case may be</i>),	
of	

To the keeper of the common gaol of the district (*or* county, united counties, *or as the case may be*), of _____ at _____, in the said district (*or* county, united counties, *or as the case may be*).

Whereas A. B. late of _____ (*laborer*), has before (*us*) (*two*) justices of the peace in and for the said district (*or* county, united counties, *or as the case may be*), of _____, entered

into his own recognizance, and found sufficient sureties for his appearance at the next court of oyer and terminer or general gaol delivery (or court of General or Quarter Sessions of the Peace), to be holden in and for the district (or county, united counties, or as the case may be), of _____, to answer Our Sovereign Lady the Queen, for that (&c., as in the commitment), for which he was taken and committed to your said common gaol: These are therefore to command you, in Her Majesty's name, that if the said A. B. remains in your custody in the said common gaol for the said cause, and for no other, you shall forthwith suffer him to go at large.

Given under our hands and seals, this _____ day of _____, in the year _____, at _____ in the district (or county, &c.), aforesaid.

J. S. [L. S.]
J. N. [L. S.]

(T.)

GAOLER'S RECEIPT TO THE CONSTABLE FOR THE PRISONER.

I hereby certify that I have received from W. T., constable, of the district (or county, &c.), of _____, the body of A. B., together with a warrant under the hand and seal of J. S., Esquire, a justice of the peace for the said district (or county, united counties, or as the case may be), of _____, and that the said A. B. was sober, (or as the case may be), at the time he was delivered into my custody.

P. K.,
Keeper of the common gaol of
the said district (or county,
&c).

(U.)

WARRANT TO CONVEY THE ACCUSED BEFORE A JUSTICE OF THE COUNTY IN WHICH THE OFFENCE WAS COMMITTED.

Canada, }
Province of }
district (or county, }
united counties, or }
as the case may be, }
of }

To all or any of the constables or other peace officers in the said district (or county, united counties, or as the case may be), of _____

J. S., Esquire, a justice of the peace in and for the district (or county, united counties, or as the case may be), of , produced before me one A. B., charged before the said J. S. with having (&c., stating shortly the offence), and delivered him into the custody of , by my direction, to answer to the said charge, and further to be dealt with according to law, and has also delivered unto me the said warrant, together with the information (if any) in that behalf, and the deposition (s) of C. D. (and of) in the said warrant mentioned, and that he has also proved to me, upon oath, the handwriting of the said J. S. subscribed to the same.

Dated the day and year first above mentioned, at in the said district (or county, &c.), of

J. P.

SECOND SCHEDULE.

FORMS OF INDICTMENT.

Murder.

County (or district) } The jurors for our Lady the Queen,
of , to wit: } upon their oath, present that A. B., on
the day of in the year
, at in the county (or district)
of , did feloniously, wilfully, and of his malice afore-
thought, kill and murder one C. D.

Manslaughter.

County (or district) } Same as last form, omitting "wilfully
of , to wit: } and of malice aforethought," and sub-
stituting the word "slay" for the word "murder."

Bodily Harm.

County (or district) } The jurors for our Lady the Queen,
of , to wit: } upon their oath, present that J. B., on
the day of , at , did feloniously administer
to (or cause to be taken by) one A. B., poison (or other des-
tructive thing) and did thereby cause bodily harm to the
said A. B., with intent to kill the said A. B. (or C. D.)

Rape.

County (or district) } The jurors for our Lady the Queen,
of , to wit: } upon their oath, present that A. B., on
the day of , at , by force and against her
will, feloniously ravished and carnally knew C. D., a woman
above the age of twelve years.

Simple Larceny.

County (or district) } The jurors for our Lady the Queen,
of , to wit: } upon their oath, present that A. B., on
the day of , at , did feloniously steal a
gold watch, the property of C. D.

Robbery.

County (or district) } The jurors for our Lady the Queen.
of , to wit: } upon their oath, present that A. B.,
on the day of , at , did feloniously
rob C. D. (and at the time of, or immediately before or after
such robbery *(if the case is so)*, did cause grievous bodily
harm to the said C. D.), *(or to any person, naming him)*.

Burglary.

County (or district) } The jurors for our Lady the Queen,
of , to wit: } upon their oath, present that A. B., on
the day of , at did feloniously
break into and enter the dwelling-house of C. D., in the
night-time, with intent to commit a felony therein *(or as
the case may be)*.

Stealing Money.

County (or district) } The jurors for our Lady the Queen,
of , to wit: } upon their oath, present that A. B., on
the day of , at , did feloniously
steal a certain sum of money, to wit, to the amount of
dollars, the property of one C. D. *(or as the case may be)*.

Embezzlement.

County (or district) } The jurors for our Lady the Queen,
of , to wit: } upon their oath, present that A. B., on
the day of , at , being a servant
(or clerk) then employed in that capacity by one C. D., did
then and there, in virtue thereof, receive a certain sum of
money, to wit, to the amount of , for and on
account of the said C. D., and the said money did feloniously
embezzle.

False Pretences.

County (or district) } The jurors for our Lady the Queen,
of , to wit: } on their oath, present that A. B., on
the day of , at , unlawfully,
fraudulently and knowingly, by false pretences, did obtain
from one C. D., *six yards of muslin*, of the goods and chattels
of the said C. D., with intent to defraud.

Offences against the Habitation.

County (or district) } The jurors for our Lady the Queen,
of , to wit: } upon their oath, present that A. B., on
the day of , at , did feloniously
and maliciously set fire to the dwelling-house of C. D., the
said C. D. (or some other person by name, or if the name is un-
known, some person) being therein.

Malicious Injuries to Property.

County (or district) } The jurors for our Lady the Queen,
of , to wit: } upon their oath, present that A. B., on
the day of , at , did feloniously
and maliciously set fire, or attempt to set fire, to a certain
building or erection, that is to say (a house or barn or bridge,
or as the case may be) the property of one C. D. (or as the case
may be).

Forgery.

County (or district) } The jurors for our Lady the Queen,
of , to wit: } upon their oath, present that A. B., on
the day of , at , did feloniously
forge (or utter, knowing the same to be forged) a certain
promissory note, &c. (or clandestinely and without the con-
sent of the owner, did make an alteration in a certain writ-
ten instrument with intent to defraud, or as the case may be).

Coining.

County (or district) } The jurors for our Lady the Queen,
of , to wit: } on their oath, present that A. B., on
the day of , at , did feloniously
counterfeit a gold coin of the United Kingdom, called a
sovereign, current by law in Canada, with intent to defraud,
(or had in his possession a
counterfeit of a gold coin of the United Kingdom, called a
sovereign, current by law in Canada, knowing the same to be
counterfeit, and with intent to defraud by uttering the same).

Perjury.

County (or district) } The jurors for our Lady the Queen,
of , to wit: } upon their oath, present that hereto-
fore, to wit, at the (assizes) holden for the county (or dis-
trict) of , on the day of ,
before (one of the judges of our Lady the Queen), a certain
issue between one E. F. and one J. H., in a certain action of
covenant, was tried, upon which trial A. B. appeared as a
witness for and on behalf of the said E. F., and was then

and there duly *sworn* before the said _____, and did then and there, upon his *oath*, aforesaid, falsely, wilfully and corruptly depose and *swear* in substance and to the effect following, "*that he saw the said G. H. duly execute the deed on which the said action was brought,*" whereas, in truth, the said A. B. did not see the said G. H. execute the said deed, and the said deed was not executed by the said G. H., and the said A. B. did thereby commit wilful and corrupt perjury.

Subornation of Perjury.

County (or district) } Same as last form to the end, and then
of _____, to wit : } *proceed* :—And the jurors further present, that before the committing of the said offence by the said A. B., to wit, on the _____ day of _____, at _____, C.D., unlawfully, wilfully and corruptly did cause and procure the said A. B. to do and commit the said offence in manner and form aforesaid.

Offences against the Public Peace.

County (or district) } The jurors for our Lady the Queen,
of _____ to wit : } upon their oath, present that A.B., on the _____ day of _____, at _____, with *two* or more persons, did riotously and tumultuously assemble together to the disturbance of the public peace, and with force did demolish, pull down or destroy (*or attempt or begin to demolish, &c.*), a certain building or erection of C. D.

Offences against the Administration of Justice.

County (or district) } The jurors for our Lady the Queen,
of _____, to wit : } upon their oath, present that A.B., on the _____ day of _____, at _____ did corruptly take or receive money under pretence of helping C. D. to a chattel (*or money, &c.*), that is to say, a horse (*or five dollars, or a note, or a carriage*), which had been stolen (*or as the case may be*).

Bigamy or offences against the Law for the Solemnization of Marriage.

County (or district) } The jurors for our Lady the Queen,
of _____, to wit : } upon their oath, present that A.B., on the _____ day of _____, at _____, being then married, did feloniously marry C. D. during the lifetime of the wife of the said A. B.—(*or not being duly authorized, did solemnize (or assist in the solemnization of) a marriage between C. D. and E. F., or being duly authorized to marry, did solemnize marriage, between C. D. and E. F. before proclamation of banns according to law, or without a license for such marriage under the hand and seal of the Governor*).

Offences relating to the Army.

County (or district) } The jurors for our Lady the Queen,
of , to wit : } upon their oath, present that A.B., on
the day of , at , did solicit (or procure) a
soldier to desert the Queen's service (or as the case may be).

Offences against Public Morals and Decency.

County (or district) } The jurors for our Lady the Queen,
of , to wit : } upon their oath, present that A. B., on
the day of , at , did keep a common gaming,
bawdy or disorderly house (or rooms).

General Form.

County (or district) } The jurors for our Lady the Queen,
of to wit : } upon their oath, present that A.B., on
the day of , at , did (*here describe the
offence in the terms in which it is described in the law, or state
such fact as constitute the offence intended to be charged, and
if the offence is felony, state the act to have been done feloniously*).

THIRD SCHEDULE.

Whereas at (*stating the session of the court before which
the person was convicted*), held for the county (or united
counties) of , on before
A. B., late of , having been found
guilty of felony, and judgment thereon given, that (*state
the substance*), the court before whom he was tried reserved
a certain question of law for the consideration of the
justices of (*name of court*), and execution was thereupon
respited in the meantime (*as the case may be*): This is to
certify that the justices of (*name of court*) having met at
in term (*or as the
case may be*), it was considered by the said justices there,
that the judgment aforesaid should be annulled, and an
entry made on the record, that the said A. B. ought not, in
the judgment of the said justices, to have been convicted of
the felony aforesaid; and you are therefore hereby required
forthwith to discharge the said A. B. from your custody.

(Signed), E. F.
Clerk of (*as the case may be*).

To the sheriff of , and }
the gaoler of , and }
all others whom it may concern.

32-33 V., c. 29, schs. A and B, and c. 30, sch.

C. S. U. C., c. 112, sch.

C. S. L. C., c. 77, sch. A.

R. S. N. S. (3rd S.), c. 171, sch.

1 R. S. N. B., Title XL, and sch., Form (U).

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
C.S.U.C., c. 17...	s. 8.			
c. 31...	s. 139.			
c. 32...	s. 18.			
c. 108...	ss. 1, 2 and 4.			
c. 109...	The whole, except part of s. 6.	s. 6, (part).		
c. 112...	The whole.			
c. 113...	ss. 16 (part) and 17.			
c. 128...	ss. 100, 101 and 105.			
C.S.L.C., c. 77...	ss. 56 (part), 57, 58, 59, 60, 61, 62 and schedule A.			
c. 80...	s. 6.			
c. 105	s. 2.			
R.S.N.S., 3rd S., c. 123.	s. 17.			
R.S.N.S., 3rd S., c. 135	s. 44 (part).			
c. 171...	ss. 75, 99, 100, 101, 102, 103 and schedule.			
R.S.N.B., c. 159...	ss. 22, 23, 24 and form U in schedule.			
c. 160.	s. 1.			
19 V. (N.B.) c. 41	s. 2.			
16 V. (P.E.I.) c. 12	s. 13.			
29-30 V. (Can.) c. 46.	The whole, except s. 3.	s. 3.		
c. 51.....	ss. 52, 53, 55, and 188 (part).			
31 V., c. 69.....	ss. 7 and 8.			
c. 72.....	ss. 7 and 8.			
c. 74.....	The whole.			
32-33 V., c. 17.....	s. 2.			
c. 18.....	ss. 6 (part), 27, 28, 29, 30, 31 and 33.			
c. 19.....	ss. 36, 48, 49, 50, 51, 53 and 54.			
c. 20.....	ss. 6, 9, 19 (part), 24, 48, 58 (part), 61 (part), 62, 65, 71, 78 and 79.			
c. 21.....	ss. 5, 6, 14 (part), 16 (part), 17 (part), 18 (part), 20 (part), 33, 34, 36, 40, 57, 58, 72 (part), 73, 74, 75 (part), 92, 93 (part), 96 (part), 99, 100 (part), 101, 102, 103, 104 (part), 105, 110 (part), 112 (part), 113, 114, 117 and 121.			
c. 22.....	ss. 16 (part), 68 and 69.			
c. 23.....	ss. 8, 9, 10 and 11.			
c. 29.....	The whole, except—			
	s. 1 (part)	s. 1 (part)	s. 1, (part)	Punishments.
	s. 7 .....	.....	s. 7.....	Summary convictions.
	ss. 54, 55 and 56 .....	.....	ss. 54, 55 and 56	Punishments.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
32-32 V., c. 29...	The whole, except— ss. 81, 82 and 83, 88 to 95, 93 (part) and 97. s. 80, (part).... s. 96. (part).... ss. 84, 85 and 87. s. 86 ss. 106 to 129... ss. 130 to 135... s. 138 Schedule B.....	s. 80, (part). s. 138.	ss. 81-83, 88-95 96 (part), and 97. s. 96. (part).... ss. 84, 85 and 87 s. 86 ss. 106-129..... ss. 130-135 Schedule B.....	Punishments. Penitentiaries. Escapes, &c. Threats, &c. Punishments. Actions against Justices, &c. Punishments.
c. 30.....	The whole, except s. 67.	s. 67.		
c. 36.....	ss. 4 (part), and 8			
33 V., c. 26.....	s. 1, (part).			
c. 31.....	s. 5 (part).			
34 V., c. 14.....	ss. 2-5.			
35 V., c. 33.....	s. 1, (part).			
36 V., c. 51.....	The whole.			
37 V., c. 38.....	ss. 4, 5 (part), 6 (part) 7-9, 11-13			
c. 42.....	s. 5.			
38 V., c. 40.....	s. 1 (part).			
c. 45.....	s. 1.			
39 V., c. 36.....	The whole.			
40 V., c. 4.....	s. 4, (part).			
c. 26.....	ss. 1-5 and 7.			
43 V., c. 35.....	The whole.			
c. 37.....	s. 2.			
44 V., c. 13.....	s. 8.			
46 V., c. 10.....	The whole except s. 5 (part).			
c. 34.....	The whole.			
47 V., c. 44.....	ss. 1-3.			

CHAPTER 169.

An Act respecting Recognizances.

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

Surety may obtain order to render.

1. Any surety for any person charged with any indictable offence may, upon affidavit showing the grounds therefor, with a certified copy of the recognizance, obtain from a judge of a superior court or from a judge of a county court having criminal jurisdiction, an order in writing under his hand, to render such person to the common gaol of the county where the offence is to be tried. 1 R. S. N. B., c. 157, s. 1.

Sureties may arrest, &c.

2. The sureties, under such order, may arrest such person, and deliver him, with the order, to the gaoler named therein, who shall receive and imprison him in the said gaol, and shall be charged with the keeping of such person until he is discharged by due course of law. 1 R. S. N. B., c. 157, s. 2.

Application for admission to bail.

3. The person rendered may apply to a judge of a superior court, or in cases in which a judge of a county court may admit to bail, to a judge of a county court, to be again admitted to bail, who may on examination allow or refuse the same, and make such order as to the number of the sureties and the amount of recognizance as he deems meet, —which order shall be dealt with in the same manner as the first order for bail, and so on as often as the case requires. 1 R. S. N. B., c. 157, s. 3.

Entry of such render.

4. On due proof of such render, and certificate of the sheriff, proved by the affidavit of a subscribing witness, that such person has been so rendered, a judge of the superior or county court, as the case may be, shall order an entry of such render to be made on the recognizance by the officer in charge thereof, which shall vacate the recognizance, and may be pleaded or alleged in discharge thereof. 1 R. S. N. B., c. 157, s. 4.

Effect of entry.

Render in open court.

5. The sureties may bring the person charged as aforesaid into the court at which he is bound to appear, during the sitting thereof, and then, by leave of the court, render him in discharge of such recognizance at any time before trial, and such person shall be committed to gaol, there to remain until discharged by due course of law; but such

court may admit such person to bail for his appearance at any time it deems meet. 1 R. S. N. B., c. 157, s. 5.

6. The arraignment or conviction of any person charged and bound as aforesaid, shall not discharge the recognizance, but the same shall be effectual for his appearance for trial or sentence, as the case may be; and the court may commit such person to gaol upon his arraignment or trial, or may require new or additional sureties for his appearance for trial or sentence, as the case may be, notwithstanding such recognizance; and such commitment shall be a discharge of the sureties. 1 R. S. N. B., c. 157, s. 6.

Arraignment or conviction not to discharge recognizance.

7. Nothing in the foregoing provisions shall limit or restrict any right which a surety now has of taking and rendering to custody any person charged with any such offence, and for whom he is such surety.

Other rights not affected.

New.

8. Unless otherwise provided, all fines, issues, amercements and forfeited recognizances, the disposal of which is within the legislative authority of the Parliament of Canada, set, imposed, lost or forfeited before any court, of criminal jurisdiction shall, within twenty-one days after the adjournment of such court be fairly entered and extracted on a roll by the clerk of the court, or in case of his death or absence, by any other person, under the direction of the judge who presided at such court, which roll shall be made in duplicate and signed by the clerk of the court, or in case of his death or absence, by such judge:

Fines, forfeited recognizances, &c., to be entered on a roll.

2. If such court is a superior court of criminal jurisdiction, one of such rolls shall be filed with the clerk, prothonotary, registrar or other proper officer,—

With whom roll shall be filed.

(a) In the Province of Ontario, of a division of the High Court of Justice,—

(b) In the Provinces of Nova Scotia, New Brunswick and British Columbia, of the Supreme Court of the Province,—

(c) In the Province of Prince Edward Island, of the Supreme Court of Judicature of that Province, and—

(d) In the Province of Manitoba, of the Court of Queen's Bench of that Province,—

On or before the first day of the term next succeeding the court by or before which such fines or forfeitures were imposed or forfeited :

Time for filing.

3. If such court is a court of General Sessions of the Peace, or a county court, one of such rolls shall remain

Copy with clerk of certain courts.

deposited in the office of the clerk of such court. C. S. U. C., c. 117, ss. 1 *and* 2, *part*, 3 *and* 4, *part*.

Duplicate to be transmitted to sheriff.

9. The other of such rolls shall, as soon as the same is prepared, be sent by the clerk of the court making the same, or in case of his death or absence, by such judge as aforesaid, with a writ of *feri facias* and *capias*, according to the form in the schedule to this Act, to the sheriff of the county in and for which such court was holden; and such writ shall be authority to the sheriff for proceeding to the immediate levying and recovering of such fines, issues, amercements and forfeited recognizances, on the goods and chattels, lands and tenements of the several persons named therein, or for taking into custody the bodies of such persons respectively, in case sufficient goods and chattels, lands or tenements cannot be found, whereof the sums required can be made; and every person so taken shall be lodged in the common gaol of the county, until satisfaction is made, or until the court into which such writ is returnable, upon cause shown by the party, as hereinafter mentioned, makes an order in the case, and until such order has been fully complied with. C. S. U. C., c. 117, ss. 2, *part*, 4, *part*, *and* 5.

Powers of the sheriff thereunder.

List of estreats to be prepared.

10. If any person bound by recognizance for his appearance (or for whose appearance any other person has become so bound) to prosecute or give evidence in any case of felony or misdemeanor, or to answer for any common assault, or to articles of the peace, makes default, the officer of the court by whom the estreats are made out, shall prepare a list in writing, specifying the name of every person so making default, and the nature of the offence in respect of which such person, or his surety, was so bound, together with the residence, trade, profession or calling of every such person and surety, and shall, in such list, distinguish the principals from the sureties, and shall state the cause, if known, why each such person did not appear, and whether, by reason of the non-appearance of such person, the ends of justice have been defeated or delayed. C. S. C., c. 99, s. 120.

What the list shall set forth.

To be submitted to the judge.

11. Every such officer shall, before any such recognizance is estreated, lay such list before the judge or one of the judges who presided at the court, or if such court was not presided over by a judge, before two justices of the peace who attended at such court, and such judge or justices shall examine such list, and make such order touching the estreating or putting in process any such recognizance as appears just, subject, in the Province of Quebec, to the provisions hereinafter contained; and no officer of any such court shall estreat or put in process any such recognizance without the written order of the judge or justices of the peace before whom respectively such list has been laid. C. S. C., c. 99, s. 121.

No estreat without order.

12. Except in the cases of persons bound by recognizance for their appearance, or for whose appearance any other person has become bound to prosecute or give evidence in any case of felony or misdemeanor, or to answer for any common assault, or to articles of the peace, in every case of default whereby a recognizance becomes forfeited, if the cause of absence is made known to the court in which the person was bound to appear, the court, on consideration of such cause, and considering also, whether, by the non-appearance of such person the ends of justice have been defeated or delayed, may forbear to order the recognizance to be estreated; and, with respect to all recognizances estreated, if it appears to the satisfaction of the judge who presided at such court that the absence of any person for whose appearance any recognizance was entered into, was owing to circumstances which rendered such absence justifiable, such judge may make an order directing that the sum forfeited upon such estreated recognizance shall not be levied. C. S. U. C., c. 117, s. 6, *part*.

Court may forbear estreating recognizances under certain circumstances.

13. The clerk of the court shall, for such purpose, before sending to the sheriff any roll, with a writ of *feri facias* and *captas*, as directed by this Act, submit the same to the judge who presided at the court, and such judge may make a minute on the said roll and writ of any such forfeited recognizances and fines as he thinks fit to direct not to be levied; and the sheriff shall observe the direction in such minute written upon such roll and writ, or indorsed thereon, and shall forbear accordingly to levy any such forfeited recognizance or fine. C. S. U. C., c. 117, s. 7.

Minute on roll by the judge and effect thereof.

14. If upon any writ issued under this Act, the sheriff takes lands or tenements in execution, he shall advertise the same in like manner as he is required to do before the sale of lands in execution in other cases; and no sale shall take place in less than twelve months from the time the writ came to the hands of the sheriff. C. S. U. C., c. 117, s. 8.

Proceedings when lands are seized.

15. The clerk of the court shall, at the foot of each roll made out as herein directed, make and take an affidavit in the following form, that is to say:—

Affidavit to be made by clerk of the court.

“I, A. B. (*describing his office*), make oath that this roll is
 “truly and carefully made up and examined, and that all
 “fines, issues, amercements, recognizances and forfeitures
 “which were set, lost, imposed or forfeited, at or by the
 “court therein mentioned, and which, in right and due
 “course of law, ought to be levied and paid, are, to the best
 “of my knowledge and understanding, inserted in the said
 “roll; and that in the said roll are also contained and ex-
 “pressed all such fines as have been paid to or received by
 “me, either in court or otherwise, without any wilful

“ discharge, omission, misnomer or defect whatsoever. So help me God ;”

Which oath any justice of the peace for the county is hereby authorized to administer. C. S. U. C., c. 117, s. 9.

Release of a person or goods of a person in custody.

16. If any person on whose goods and chattels a sheriff, bailiff or other officer is authorized to levy any such forfeited recognizance, gives security to the said sheriff or other officer for his appearance at the return day mentioned in the writ, in the court into which such writ is returnable, then and there to abide the decision of such court, and also to pay such forfeited recognizance, or sum of money to be paid in lieu or satisfaction thereof, together with all such expenses as are adjudged and ordered by the court, such sheriff or officer shall discharge such person out of custody ; and if such person does not appear in pursuance of his undertaking, the court may forthwith issue a writ of *feri facias* and *capias* against the surety or sureties of the person so bound as aforesaid. C. S. U. C., c. 117, s. 10.

Forfeited recognizances may be discharged under certain circumstances.

17. The court, into which any writ of *feri facias* and *capias*, issued under this Act, is returnable, may inquire into the circumstances of the case, and may, in its discretion, order the discharge of the whole of the forfeited recognizance, or sum of money paid or to be paid in lieu or satisfaction thereof, and make such order thereon as to such court appears just ; and such order shall accordingly be a discharge to the sheriff, or to the party, according to the circumstances of the case. C. S. U. C., c. 117, s. 11.

Return of writ by the sheriff.

18. The sheriff, to whom any writ is directed under this Act, shall return the same on the day on which the same is made returnable, and shall state, on the back of the roll attached to such writ, what has been done in the execution thereof ; and such return shall be filed in the court into which such return is made. C. S. U. C., c. 117, s. 12.

Copy of roll and return for Minister of Finance.

19. A copy of such roll and return, certified by the clerk of the court into which such return is made, shall be forthwith transmitted to the Minister of Finance and Receiver General, with a minute thereon of any of the sums therein mentioned, which have been remitted by order of the court, in whole or in part, or directed to be forborne, under the authority of this Act. C. S. U. C., c. 117, s. 13.

Payments by the sheriff.

20. The sheriff or other officer shall, without delay, pay over all moneys collected under this Act by him, to the Minister of Finance and Receiver General, or other person entitled to receive the same. C. S. U. C., c. 117, s. 14.

QUEBEC,

21. The provisions of sections *eight and nine* and of *twelve to nineteen*, both inclusive, shall not apply to the Province of Quebec, and the following provisions shall apply to that Province only.

Provisions applicable to Quebec.

22. Whenever default is made in the condition of any recognizance lawfully entered into or taken in any criminal case, proceeding or matter, in the Province of Quebec, within the legislative authority of the Parliament of Canada, so that the penal sum therein mentioned becomes forfeited and due to the Crown, such recognizance shall thereupon be estreated or withdrawn from any record or proceeding in which it then is—or a certificate or minute of such recognizance, under the seal of the court, shall be made from the records of such court where the recognizance has been entered into orally in open court :

Forfeited recognizances in criminal cases in Quebec to be estreated.

2. Such recognizance, certificate or minute, as the case may be, shall be transmitted by the court, recorder, justice of the peace, magistrate or other functionary before whom the cognizor, or the principal cognizor, where there is a surety or sureties, was bound to appear, or to do that, by his default to do which the condition of the recognizance is broken, to the Superior Court in the district in which the place where such default was made is included for civil purposes, with the certificate of the court, recorder, justice of the peace, magistrate or other functionary as aforesaid, of the breach of the condition of such recognizance, of which and of the forfeiture to the Crown of the penal sum therein mentioned, such certificate shall be conclusive evidence :

And certified to Superior Court.

3. The date of the receipt of such recognizance or minute and certificate by the prothonotary of the said court, shall be indorsed thereon by him, and he shall enter judgment in favor of the Crown against the cognizor for the penal sum mentioned in such recognizance, and execution may issue therefor after the same delay as in other cases, which shall be reckoned from the time when the judgment is entered by the prothonotary of the said court :

Judgment for the Crown to be entered.

4. Such execution shall issue upon *fiat* or *præcipe* of the Attorney General, or of any person thereunto authorized in writing by him ; and the Crown shall be entitled to the costs of execution and to costs on all proceedings in the case subsequent to execution, and to such costs for the entry of the judgment, as are fixed by any tariff :

Execution to issue on fiat of Attorney General.

5. Nothing in this section contained shall prevent the recovery of the sum forfeited by the breach of any recognizance from being recovered by suit in the manner pro-

Other modes of recovery not affected.

vided by law, whenever the same cannot, for any reason, be recovered in the manner provided in this section :

Proceedings
in such case.

6. In such case the sum forfeited by the non-performance of the conditions of such recognizance shall be recoverable, with costs, by action in any court having jurisdiction in civil cases to the amount, at the suit of the Attorney General of *Canada* or of *Quebec*, or other person or officer authorized to sue for the Crown; and in any such action it shall be held that the person suing for the Crown is duly empowered so to do, and that the conditions of the recognizance were not performed, and that the sum therein mentioned is, therefore, due to the Crown, unless the defendant proves the contrary :

Cognizor
defined.

7. In this section, unless the context otherwise requires, the expression "cognizor" includes any number of cognizors in the same recognizance, whether as principals or sureties. C. S. L. C., c. 106, s. 2.

Recogni-
zances trans-
mitted to
have the
same effect as
if taken
where the
court is held.

23. When a person has been arrested in any district for a crime or offence committed within the limits of the Province of *Quebec*, and a justice of the peace has taken recognizances from the witnesses heard before him or another justice of the peace, for their appearance at the next session or term of the court of competent criminal jurisdiction, before which such person is to undergo his trial, there to testify and give evidence on such trial, and such recognizances have been transmitted to the office of the clerk of such court, the said court may proceed on the said recognizances in the same manner as if they had been taken in the district in which such court is held. C. S. L. C., c. 106, s. 1.

SCHEDULE.

FORM.

Victoria, by the Grace of God, &c.

To the sheriff of _____, Greeting :

You are hereby commanded to levy of the goods and chattels, lands and tenements, of all and singular, the persons mentioned in the roll or extract to this writ annexed, all and singular the debts and sums of money upon them severally imposed and charged, as therein is specified; and if any of the said several debts cannot be levied, by reason that no goods or chattels, lands or tenements can be found belonging to the said parties, respectively, then, and

in all such cases, that you take the bodies of such parties, and keep them safely in the gaol of your county, there to abide the judgment of our court (*as the case may be*) upon any matter to be shown by them, respectively, or otherwise to remain in your custody as aforesaid, until such debt is satisfied, unless any of such persons respectively gives sufficient security for his appearance at the said court, on the return day hereof, for which you will be held answerable; and what you do in the premises make appear before us in our court (*as the case may be*), on the day of _____ term next, and have then and there this writ. Witness, &c., A. B., clerk (*as the case may be*).
C. S. U. C., c. 11, sch.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
C. S. C., c. 99. C.S.U.C., c. 117.	ss. 120 and 121. The whole, except ss. 15 and 16.	ss. 15 and 16.		
C.S.L.C., c. 106. 1 R.S.N.B., c. 157	The whole. The whole.			

CHAPTER 170.

An Act for the speedy trial, in the Provinces of Ontario, Quebec and Manitoba, of certain indictable offences.

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 Speedy Trials Act.*" 42 V., c. 44, s. 1.

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

" Judge." (a) The expression " judge " means and includes,—

(1) In the Province of Ontario, any judge of a county court, junior judge or deputy judge authorized to act as chairman of the General Sessions of the Peace, and also the judge of the provisional district of Algoma, authorized to act as chairman of the General Sessions of the Peace ;

(2) In the Province of Quebec, in any district wherein there is a judge of the sessions, such judge of sessions, and in any district wherein there is no judge of sessions but wherein there is a district magistrate, such district magistrate, and in any district wherein there is neither a judge of sessions nor a district magistrate, the sheriff of such district ;

(3) In the Province of Manitoba, the chief justice, or a puisne judge of the Court of Queen's Bench or a judge of a county court :

" Court of General Sessions of the Peace." (b) The expression " Court of General Sessions of the Peace " means and includes,—

(1) In the Province of Quebec, any court for the time being discharging the functions of a Court of General Sessions of the Peace ;

(2) In the Province of Manitoba, the Court of Queen's Bench and the county court judges' criminal courts :

" County attorney " or " clerk of the peace." (c) The expression " county attorney " or " clerk of the peace " includes, in the Province of Manitoba, any deputy clerk of the peace, Crown attorney, the prothonotary of the Court of Queen's Bench and any deputy prothonotary

thereof. 32-33 V., c. 35, s. 8;—37 V., c. 41;—42 V., c. 44, s. 9;—47 V., c. 41.

3. This Act shall apply to the Provinces of Ontario, Quebec and Manitoba only. 32-33 V., c. 35, s. 9;—38 V., c. 54, s. 1. Application of Act.

4. The judge sitting on any trial under this Act, for all the purposes thereof and proceedings connected therewith or relating thereto, shall be a court of record, and in the Provinces of Ontario and Manitoba such court shall be called "The County Judge's Criminal Court" of the county or union of counties or judicial district in which the same is held : Court to be a court of record.
How styled.

2. The record in any such case shall be filed among the records of the court of General Sessions of the Peace, as indictments are filed, and as part of such records. 32-33 V., c. 35, s. 5;—42 V., c. 44, s. 2. Records, when filed.

5. Every person committed to a gaol for trial on a charge of being guilty of any offence for which he may be tried at a court of General Sessions of the Peace, may, with his own consent (of which consent an entry shall then be made of record), and subject to the provisions herein, be tried out of sessions, whether the court before which, but for such consent, the said person would be triable for the offence charged, or the grand jury thereof is or is not then in session, and if such person is convicted, he may be sentenced by the judge. 32-33 V., c. 35, s. 1;—38 V., c. 45, s. 2. Speedy trial of certain offenders with their own consent.

6. Every sheriff shall within twenty-four hours after any prisoner charged as aforesaid is committed to gaol for trial, notify the judge in writing that such prisoner is so confined, stating his name and the nature of the charge preferred against him,—whereupon with as little delay as possible, such judge shall cause the prisoner to be brought before him. 32-33 V., c. 35, s. 2. Duty of sheriff having a prisoner so triable.

7. The judge, upon having obtained the depositions on which the prisoner was so committed, shall state to him,— Statement to be made to the prisoner by the judge.

(a) That he is charged with the offence, describing it ;

(b) That he has the option to be forthwith tried before such judge without the intervention of a jury, or to remain untried until the next sittings of the court of the General Sessions of the Peace or of a court of oyer and terminer, or, in Quebec, of any court having criminal jurisdiction :

2. If the prisoner demands a trial by jury, the judge shall remand him to gaol ; but if he consents to be tried If the prisoner objects—or consents.

If he pleads guilty.

by the judge without a jury, the county attorney or clerk of the peace shall draw up a record of the proceedings as nearly as may be in one of the forms A or B in the schedule to this Act; and if, upon being arraigned upon the charge, the prisoner pleads guilty, such plea shall be entered on the record, and the judge shall pass the sentence of the law on such prisoner, which shall have the same force and effect as if passed at any Court of General Sessions of the Peace. 32-33 V., c. 35, s. 3.

As to several prisoners charged with the same offence.

8. If one of two or more prisoners charged with the same offence demands a trial by jury, and the other or others consent to be tried by the judge without a jury, the judge, in his discretion, may remand the said prisoners to gaol to await trial, in all respects as if this Act had not been passed. 38 V., c. 45, s. 3.

Effect of election, under certain Acts, of trial by a jury.

9. If under "*The Summary Trials Act*," or "*The Juvenile Offenders' Act*," any person has been asked to elect whether he would be tried by the magistrate or justices of the peace, as the case may be, or before a jury, and he has elected to be tried before a jury, and if such election is stated in the warrant of committal for trial, the sheriff and judge shall not be required to take the proceedings directed by this Act. 38 V., c. 47, s. 6, *part*.

If the magistrate decides not to proceed under the said Acts.

10. If, on the trial under "*The Summary Trials Act*," or "*The Juvenile Offenders' Act*," of any person charged with any offence triable under this Act, the magistrate or justices of the peace decide not to try the same summarily, but commit such person for trial, such person may afterwards, with his own consent, be tried under this Act. 32-33 V., c. 33, s. 5, *part*;—38 V., c. 47, s. 7, *part*.

If the prisoner pleads not guilty.

11. If the prisoner upon being so arraigned and consenting as aforesaid pleads not guilty, the judge shall appoint an early day, or the same day, for his trial, and the county attorney or clerk of the peace shall subpoena the witnesses named in the depositions, or such of them and such other witnesses as he thinks requisite to prove the charge, to attend at the time appointed for such trial, and the prisoner being ready, the judge shall proceed to try him, and if he is found guilty, sentence shall be passed as hereinafter mentioned; but if he is found not guilty the judge shall immediately discharge him from custody, so far as respects the charge in question. 32-33 V., c. 35, s. 4.

Trial and conviction or discharge.

Offender may be charged with other offences than that for which he was committed.

12. The county attorney or clerk of the peace may, with the consent of the judge, prefer against the prisoner a charge or charges for any offence or offences for which he may be tried at a court of General Sessions of the Peace,

other than the charge or charges for which he has been committed to gaol for trial, although such charge or charges do not appear or are not mentioned in the depositions upon which the prisoner was so committed. 42 V., c. 44, s. 3.

13. The judge shall, in any case tried before him, have the same power as to acquitting or convicting, or convicting of any other offence than that charged, as a jury would have in case the prisoner was tried at a sitting of the court of General Sessions of the Peace, and may render any verdict which may be rendered by a jury, upon a trial at a sitting of a court of General Sessions of the Peace 42 V., c. 44, s. 4.

Powers of the judge in any case tried before him.

14. If a prisoner elects to be tried by the judge without the intervention of a jury, the judge may, in his discretion, admit him to bail to appear for his trial, and extend the bail from time to time in case the court is adjourned or there is any other reason therefor; and such bail may be entered into and perfected before the clerk of the peace in open court. 42 V., c. 44, s. 5.

Judge may admit to bail prisoner electing to be tried without a jury.

15. If a prisoner elects to be tried by a jury, the judge may, instead of remanding him to gaol, admit him to bail, to appear for trial at such time and place and before such court as is determined upon, and such bail may be entered into and perfected before the clerk of the peace in open court. 42 V., c. 44, s. 6.

Or if he elects to be tried by a jury.

16. The judge may adjourn any trial from time to time until finally terminated. 42 V., c. 44, s. 7.

Adjourning trial.

17. The judge shall have all powers of amendment which the court of General Sessions of the Peace would have if the trial was before such court. 42 V., c. 44, s. 8.

Powers of amendment.

18. Every witness, whether on behalf of the prisoner or against him, duly summoned or subpœnaed to attend and give evidence before such judge, sitting on any such trial, on the day appointed for the same, shall be bound to attend, and remain in attendance throughout the trial; and if he fails so to attend, he shall be held guilty of contempt of court, and may be proceeded against therefor accordingly. 32-33 V., c. 35, s. 6.

Attendance of witnesses.

19. Upon proof to the satisfaction of the judge of the service of subpœna upon any witness who fails to attend before him, as required by such subpœna, and 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 as required

Proceedings against witnesses failing to attend when summoned.

Witness may
be admitted
to bail.

Punishment
for contempt.

Form of war-
rant and
conviction.

by such subpoena, and to answer for his disregard of the same; and such witness may be detained on such warrant before the said judge or in the common gaol, with a view to secure his presence as a witness; or, in the discretion of the judge, such witness may be released on recognizance with or without sureties, conditioned for his appearance to give evidence as therein mentioned, and to answer for his default, in not attending upon the said subpoena, as for a contempt; and the judge may, in a summary manner, examine into 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 in the common gaol, with or without hard labor, and not to exceed the term of ninety days:

2. Such warrant may be in the form C and the conviction for contempt in the form D in the schedule to this Act, and the same shall be authority to the persons and officers therein required to act, to do as therein they are respectively directed. 32-33 V., c. 35, s. 7.

SCHEDULE.

FORM A.

Form of Record when the Prisoner pleads Not Guilty.

Province of _____,)
County (or district) of _____,)
to wit: _____) Be it remembered that A.B., being
a prisoner in the gaol of the said
county (or district), committed for
trial on a charge of having, on _____ day of _____, 18____, feloniously
stolen, &c. (*one cow, the property of C.D., or as the case may
be, stating briefly the offence*), and being brought before me,
(*describe the judge*) on the _____ day of _____, 18____, and
asked by me if he consented to be tried before me without
the intervention of a jury, consented to be so tried; and that
upon the _____ day of _____, 18____, the said A.B., being again
brought before me for trial, and declaring himself ready, was
arraigned upon the said charge and pleaded not guilty; and
after hearing the evidence adduced, as well in support of
the said charge as for the prisoner's defence (*or as the case
may be*), I find him to be guilty of the offence with which
he is charged as aforesaid, and I accordingly sentence him
to be (*here insert such sentence as the law allows and the judge
thinks right*), (*or* I find him not guilty of the offence
with which he is charged, and discharge him accordingly).

Witness my hand at _____, in the county (or district)
of _____, this _____ day of _____, 18____.

O. K.
Signature of Judge

FORM B.

Form of Record when the Prisoner pleads Guilty.

Province of _____,)
 County (or district) of _____,)
 , to wit: _____)

Be it remembered that A.B., being a prisoner in the gaol of the said county (or district), on a charge of having on the _____ day of _____, 18____, feloniously stolen, &c., (*one cow, the property of, or as the case may be, stating briefly the offence*), and being brought before me (*describe the judge*) on the _____ day of _____, 18____, and asked by me if he consented to be tried before me without the intervention of a jury, consented to be so tried; and that the said A.B., being then arraigned upon the said charge, he pleaded guilty thereof, whereupon I sentenced the said A.B. to be (*here insert such sentence as the law allows and the judge thinks right*).

Witness my hand this _____ day of _____ 18____

O.K.

Signature of Judge.

FORM C.

Form of Warrant to apprehend Witness.

(L.S.) Canada,)
 Province of _____,)
 County (or district, as _____)
 the case may be) of _____)
 , to wit: _____)

To all or any of the constables or other peace officers in the said county (or district, or as the case may be) of _____

Whereas it having been made to appear before me, that E. F., in the said county (or district, or as the case may be), was likely to give material evidence on behalf of the prosecution or defence (*as the case may be*) on the trial of a certain charge of _____ (*as larceny, or as the case may be*), against A. B., and that the said E. F. was duly subpœnaed or bound under recognizances to appear on the _____ day of _____, 18____, at _____, in the said county (or district, or as the case may be), at _____ o'clock (forenoon or afternoon, *as the case may be*), before me, to testify what he knows concerning the said charge against the said E. F.

And whereas proof has this day been made before me, upon oath, of such subpœna having been duly served upon the said E. F., or of the said E. F. having been duly bound in recognizances to appear before me (*as the case may be*);

and whereas the said E. F. has neglected to appear at the trial and place appointed, and no just excuse has been offered for such neglect: These are therefore to command you to take the said E. F., and to bring him and have him forthwith before me, to testify what he knows concerning the said charges against the said A. B., and also to answer his contempt for such neglect.

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

O. K.,
Judge

FORM D.

Form of Conviction for Contempt.

(L.S.) Canada, } Be it remembered, that on the
Province of } day of , in the year 18 , in
County (or district) } the county (or district, or as the
of , to wit: } case may be) of , E. F. is
convicted before me, for that he the said E. F. did not attend before me to give evidence on the trial of a certain charge against one A. B. of (*larceny, or as the case may be*), although duly subpoenaed or bound by recognizance to appear and give evidence in that behalf (*as the case may be*), but made default therein, and has not shown before me any sufficient excuse for such default, and I adjudge the said E. F., for his said offence, to be imprisoned in the common gaol of the county (or district) of at for the space of , there to be kept at hard labor (*and in case a fine is also intended to be imposed, then proceed*); and I also adjudge that the said E. F. do forthwith pay to and for the use of Her Majesty a fine of dollars, and in default of payment, that the said fine, with the cost of collection, be levied by distress and sale of the goods and chattels of the said E. F. (*or in case a fine alone is imposed, then the clause for imprisonment is to be omitted*).

Given under my hand at in the said county (or district) of , the day and year first above mentioned.

O. K.,
Judge.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
32-33 V., c 33...	s 5 (part) .....	.....	Remainder.....	Juvenile Offenders.
32-33 V., c 35...	The whole.			
37 V., c. 41	The whole.			
38 V., c. 45.....	The whole, except s. 1.	.....	s. 1.....	Procedure.
38 V., c 47	ss 6 (part) and 7 (part).	.....	Remainder.....	Summary trials and Juvenile Offenders.
38 V., c 54	s. 1.			
42 V., c. 44	The whole, except s. 10.	.....	s. 10	Summary Convictions.
47 V., c. 41	The whole.			

CHAPTER 171.

An Act respecting the Summary Administration of Criminal Justice.

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 Summary Trials Act.*"
New.
- Interpretation. **2.** In this Act, unless the context otherwise requires :—
- "Magistrate." (a) The expression "magistrate" means and includes,—
- (1) In the Provinces of Ontario, Quebec and Manitoba, any recorder, judge of a county court, being a justice of the peace, commissioner of police, judge of the sessions of the peace, police magistrate, district magistrate, or other functionary or tribunal, invested by the proper legislative authority, with power to do alone such acts as are usually required to be done by two or more justices of the peace, and acting within the local limits of his or of its jurisdiction ;
- (2) In the Provinces of Nova Scotia and New Brunswick, any recorder, judge of a county court, stipendiary magistrate or police magistrate, acting within the local limits of his jurisdiction, and any commissioner of police and any functionary, tribunal or person invested by the proper legislative authority with power to do alone such acts as are usually required to be done by two or more justices of the peace ;
- (3) In the Provinces of Prince Edward Island and British Columbia and in the District of Keewatin, any two justices of the peace sitting together, and any functionary or tribunal having the powers of two justices of the peace :
- "Common gaol or other place of confinement." (b) The expression "the common gaol or other place of confinement," in the case of any offender whose age at the time of his conviction does not, in the opinion of the magistrate, exceed sixteen years, includes any reformatory prison provided for the reception of juvenile offenders in the Province in which the conviction referred to takes place, and to which by the law of that Province the offender may be sent ; and—

(c) The expression "property" includes everything included under the same expression or under the expression "valuable security," as defined by "*The Larceny Act*," and in the case of any "valuable security," the value thereof shall be reckoned in the manner prescribed in the said Act. 32-33 V., c. 32, ss. 1 and 33;—37 V., c. 39, s. 3;—37 V., c. 40;—39 V., c. 21, sch., *part*;—40 V., c. 4, sch., *part*;—47 V., c. 42, s. 1, *part*. "Property."

3. Whenever any person is charged before a magistrate,— Certain offences specified.

(a) With having committed simple larceny, larceny from the person, embezzlement or obtaining money or property by false pretences, or feloniously receiving stolen property, and the value of the property alleged to have been stolen, embezzled, obtained or received, does not, in the judgment of the magistrate, exceed ten dollars,— Larceny, &c.

(b) With having attempted to commit larceny from the person, or simple larceny,— Attempts at larceny.

(c) 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,— Aggravated assault.

(d) With having committed an assault upon any female whatsoever, or upon any male child whose age does not, in the opinion of the magistrate, exceed fourteen years, such assault being of a nature which cannot, in the opinion of the magistrate, be sufficiently punished by a summary conviction before him under any other Act, and such assault, if upon a female, not amounting, in his opinion, to an assault with intent to commit a rape,— Assaults on females or children.

(e) With having assaulted, obstructed, molested or hindered any magistrate, bailiff or constable, or officer of customs or excise or other officer, in the lawful performance of his duty, or with intent to prevent the performance thereof,— Assaults on magistrates or officers.

(f) With keeping or being an inmate, or habitual frequenter of any disorderly house, house of ill-fame or bawdy house, or— Disorderly houses.

(g) With using or knowingly allowing any part of any premises under his control to be used for the purpose of recording or registering any bet or wager, or selling any pool, or— Using premises for betting or pool-selling.

Keeping, exhibiting, or employing, or knowingly allowing to be kept, exhibited or employed, in any part of any premises under his control, any device or apparatus for the purpose of recording or registering any bet or wager, or selling any pool, or—

Becoming the custodian or depositary of any money, property, or valuable thing staked, wagered or pledged, or—

Recording or registering any bet or wager, or selling any pool,—

Upon the result of any political or municipal election, or of any race, or of any contest or trial of skill or endurance of man or beast,—

Summary trial.

The magistrate may, subject to the provisions hereinafter made, hear and determine the charge in a summary way. 32-33 V., c. 32, s. 2;—40 V., c. 31, s. 3.

Jurisdiction of magistrate absolute in certain cases.

4. The jurisdiction of such magistrate shall be absolute in the case of any person charged, within the police limits of any city in Canada, with therein keeping or being an inmate or habitual frequenter of any disorderly house, house of ill-fame or bawdy house, and shall not depend on the consent of the person charged to be tried by such magistrate, nor shall such person be asked whether he consents to be so tried; nor shall this Act affect the absolute summary jurisdiction given to any justice or justices of the peace in any case by any other Act. 32-33 V., c. 32, s. 15.

And as to certain persons.

5. The jurisdiction of the magistrate shall be absolute in the case of any person who, being a seafaring person and only transiently in Canada, and having no permanent domicile therein, is charged, either within the city of Quebec, as limited for the purpose of the police ordinance, or within the city of Montreal, as so limited, or in any other seaport city or town in Canada, where there is such magistrate, with the commission therein of any of the offences hereinbefore mentioned, and also in the case of any other person charged with any such offence on the complaint of any such seafaring person whose testimony is essential to the proof of the offence; and such jurisdiction shall not depend on the consent of any such person to be tried by the magistrate, nor shall such person be asked whether he consents to be so tried. 32-33 V., c. 32, s. 16.

And in all cases in certain parts of Canada.

6. The jurisdiction of the magistrate under this Act shall, in the Provinces of Prince Edward Island and British Columbia, and in the District of Keewatin, be absolute without the consent of the person charged. 39 V., c. 21, sch., part;—40 V., c. 4, sch., part;—47 V., c. 42, s. 1, part.

7. If any person is charged, in the Province of Ontario, before a police magistrate or before a stipendiary magistrate in any county, district or provisional county in such Province, with having committed any offence for which he may be tried at a court of General Sessions of the Peace, or if any person is committed to a gaol in the county, district or provisional county, under the warrant of any justice of the peace, for trial on a charge of being guilty of any such offence, such person may, with his own consent, be tried before such magistrate, and may, if found guilty, be sentenced, by the magistrate, to the same punishment as he would have been liable to if he had been tried before the court of General Sessions of the Peace. 38 V., c. 47, s. 1.

Trial by consent before magistrate in Ontario, instead of Court of G. S.

8. Whenever the magistrate, before whom any person is charged as aforesaid, proposes to dispose of the case summarily under the provisions of this Act, such magistrate, after ascertaining the nature and extent of the charge, but before the formal examination of the witnesses for the prosecution, and before calling on the person charged for any statement which he wishes to make, shall state to such person the substance of the charge against him, and (if the charge is not one that can be tried summarily without the consent of the accused) shall then say to him these words, or words to the like effect: "Do you consent that the charge against you shall be tried by me, or do you desire that it shall be sent for trial by a jury at the (*naming the court at which it could soonest be tried*);" and if the person charged consents to the charge being summarily tried and determined as aforesaid, or if the power of the magistrate to try it does not depend on the consent of the accused, the magistrate shall reduce the charge to writing, and read the same to such person, and shall then ask him whether he is guilty or not of such charge. 32-33 V., c. 32, s. 3.

Accused to be asked if he consents to be tried summarily.

If he consents, or the jurisdiction is absolute.

9. If the person charged confesses the charge, the magistrate shall then proceed to pass such sentence upon him as by law may be passed in respect to such offence, subject to the provisions of this Act; but if the person charged says that he is not guilty, the magistrate shall then examine the witnesses for the prosecution, and when the examination has been completed, the magistrate shall inquire of the person charged whether he has any defence to make to such charge, and if he states that he has a defence, the magistrate shall hear such defence, and shall then proceed to dispose of the case summarily. 32-33 V., c. 32, s. 4.

If he admits the charge.

If not.

And if he has a defence.

10. In the case of larceny, feloniously receiving stolen property, or attempt to commit larceny from the person, or simple larceny, charged under paragraphs (a) or (b) of the *third* section of this Act, the magistrate, after hearing the whole case for the prosecution and for the defence, shall, if he

Sentence in case of conviction of larceny, &c.

finds the charge proved, convict the person charged and commit him to the common gaol or other place of confinement, there to be imprisoned, with or without hard labor, for any term not exceeding six months. 32-33 V., c. 32, s. 5

Sentence on persons convicted of certain offences.

11. In any case summarily tried under paragraphs (c), (d), (e), (f) or (g), of the *third* section of this Act, if the magistrate finds the charge proved, he may convict the person charged and commit him to the common gaol or other place of confinement, there to be imprisoned, with or without hard labor, for any term not exceeding six months, or may condemn him to pay a fine not exceeding, with the costs in the case, one hundred dollars, or to both fine and imprisonment not exceeding the said sum and term; and such fine may be levied by warrant of distress under the hand and seal of the magistrate, or the person convicted may be condemned, in addition to any other imprisonment on the same conviction, to be committed to the common gaol or other place of confinement for a further term not exceeding six months, unless such fine is sooner paid. 32-33 V., c. 32, s. 17.

Levying fine imposed.

If the value of the property exceeds \$10, and the magistrate thinks the case one to be tried summarily.

12. When any person is charged before a magistrate with simple larceny, or with having obtained property by false pretences, or with having embezzled, or having feloniously received stolen property, or with committing larceny from the person, or with larceny as a clerk or servant, and the value of the property, stolen, obtained, embezzled or received exceeds ten dollars, and the evidence in support of the prosecution is, in the opinion of the magistrate, sufficient to put the person on his trial for the offence charged, such magistrate, if the case appears to him to be one which may properly be disposed of in a summary way, and may be adequately punished by virtue of the powers conferred by this Act, shall reduce the charge to writing, and shall read it to the said person, and, unless such person is one who can be tried summarily without his consent, shall then put to him the question mentioned in the *eighth* section, and shall explain to him that he is not obliged to plead or answer before such magistrate, and that if he does not plead or answer before him, he will be committed for trial in the usual course. 32-33 V., c. 32, s. 10.

If the offender consents and pleads guilty.

13. If the person so charged consents to be tried by the magistrate, the magistrate shall then ask him whether he is guilty or not of the charge, and if such person says that he is guilty, the magistrate shall thereupon cause a plea of guilty to be entered upon the proceedings, and shall convict him of the offence, and commit him to the common gaol or other place of confinement, there to be imprisoned, with or without hard labor, for any term not exceeding twelve months. 32-33 V., c. 32, s. 11, *part*.

14. If, when his consent is necessary, the person charged does not consent to have the case heard and determined by the magistrate, or whenever it appears to the magistrate that the offence is one which, owing to a previous conviction of the person charged, or from any other circumstance, ought to be made the subject of prosecution by indictment rather than to be disposed of summarily, such magistrate may, before such person has made his defence, decide not to adjudicate summarily upon the case, and shall deal therewith in all respects as if this Act had not been passed; but a previous conviction shall not prevent the magistrate from trying the offender summarily, if he thinks fit so to do. 32-33 V., c. 32, s. 8;—38 V., c. 47, s. 7, *part*.

If the accused does not consent or the magistrate thinks the case proper to be otherwise tried.

15. If, when his consent is necessary, the person charged does not so consent, but elects to be tried before a jury, the magistrate shall state in the warrant of committal the fact of such election having been made. 38 V., c. 47, s. 6, *part*.

Fact of election to be mentioned in the warrant.

16. In every case of summary proceedings under this Act, the person accused shall be allowed to make his full answer and defence, and to have all witnesses examined and cross-examined by counsel or attorney. 32-33 V., c. 32, s. 12.

Full defence allowed.

17. Every court, held by a magistrate for the purposes of this Act, shall be an open public court, and a written or printed notice of the day and hour for holding such court shall be posted up or affixed, by the clerk of the court, upon the outside of some conspicuous part of the building or place where the same is held. 32-33 V., c. 32, s. 26.

Magistrate's court to be open.

18. The magistrate before whom any person is charged under this Act may, by summons, require the attendance of any person as a witness upon the hearing of the case, at a time and place to be named in such summons, and such magistrate may bind, by recognizance, all persons whom he considers necessary to be examined, touching the matter of such charge, to attend at the time and place appointed by him and then and there to give evidence upon the hearing of such charge; and if any person so summoned, or required or bound as aforesaid, neglects or refuses to attend in pursuance of such summons or recognizance, and if proof is made of such person having been duly summoned as hereinafter mentioned, or bound by recognizance as aforesaid, the magistrate before whom such person should have attended may issue a warrant to compel his appearance as a witness. 32-33 V., c. 32, s. 13.

Power to summon and compel attendance of witnesses.

19. Every summons issued under this Act may be served by delivering a copy of the summons to the person summoned, or by delivering a copy of the summons to some

Mode of summoning under this Act.

inmate of such person's usual place of abode; and every person so required by any writing under the hand of any magistrate to attend and give evidence as aforesaid, shall be deemed to have been duly summoned, 32-33 V., c. 32, s. 14.

Offence not proved.

20. Whenever the magistrate finds the offence not proved, he shall dismiss the charge, and make out and deliver to the person charged a certificate under his hand stating the fact of such dismissal. 32-33 V., c. 32, s. 6.

Discharge in certain cases.

21. If, upon the hearing of the charge, the magistrate is of opinion that there are circumstances in the case which render it inexpedient to inflict any punishment, he may dismiss the person charged, without proceeding to a conviction. 32-33 V., c. 32, s. 9.

Effect of conviction.

22. Every conviction under this Act shall have the same effect as a conviction upon indictment for the same offence would have had, except that no conviction under this Act shall be attended with forfeiture beyond the penalty, if any, imposed in the case. 32-33 V., c. 32, s. 28;—38 V., c. 47, s. 3.

And of dismissal.

23. Every person who obtains a certificate of dismissal or is convicted under this Act, shall be released from all further or other criminal proceedings for the same cause. 32-33 V., c. 32, s. 29;—38 V., c. 47, s. 4.

No conviction to be quashed for want of form.

24. No conviction, sentence or proceeding under this Act, shall be quashed for want of form; and no warrant of commitment upon a conviction shall be held void by reason of any defect therein, if it is therein alleged that the offender has been convicted, and there is a good and valid conviction to sustain the same. 32-33 V., c. 32, s. 30;—38 V., c. 47, s. 5:

Conviction to be transmitted to court of sessions of the peace.

25. The magistrate adjudicating under this Act shall transmit the conviction, or a duplicate of a certificate of dismissal, with the written charge, the depositions of witnesses for the prosecution and for the defence, and the statement of the accused, to the next court of General or Quarter Sessions of the Peace or to the court discharging the functions of a court of General or Quarter Sessions of the Peace, for the district, county or place, there to be kept by the proper officer among the records of the court. 32-33 V., c. 32, s. 23.

Proof of conviction or dismissal.

26. A copy of such conviction, or of such certificate of dismissal, certified by the proper officer of the court, or proved to be a true copy, shall be sufficient evidence to prove a conviction or dismissal for the offence mentioned

therein, in any legal proceedings whatsoever. 32-33 V., c. 32, s. 24.

27. The magistrate by whom any person has been convicted under this Act, may order restitution of the property stolen, or taken or obtained by false pretences, in any case in which the court before whom the person convicted would have been tried but for this Act, might by law order restitution. 32-33 V., c. 32, s. 25.

Restitution of property.

28. Whenever any person is charged before any justice or justices of the peace, with any offence mentioned in this Act, and in the opinion of such justice or justices the case is proper to be disposed of by a magistrate, as herein provided, the justice or justices before whom such person is so charged may, if he or they see fit, remand such person for further examination before the nearest magistrate, in like manner in all respects as a justice or justices are authorized to remand a person accused for trial at any court, under "*The Criminal Procedure Act.*" 32-33 V., c. 32, s. 19.

Persons brought before justices may be remanded for trial under this Act.

29. No justice or justices of the peace, in any Province, shall so remand any person for further examination or trial before any such magistrate in any other Province. 32-33 V., c. 32, s. 20.

But not into any other Province.

30. Any person so remanded for further examination before a magistrate in any city, may be examined and dealt with by any other magistrate in the same city. 32-33 V., c. 32, s. 21.

Before whom to be tried.

31. If any person suffered to go at large, upon entering into such recognizance as the justice or justices are authorized, under the last mentioned Act, to take on the remand of a person accused, conditioned for his appearance before a magistrate, does not afterwards appear, pursuant to such recognizance, the magistrate before whom he should have appeared shall certify, under his hand, on the back of the recognizance, to the clerk of the peace of the district, county or place, or *other proper officer*, as the case may be, the fact of such non-appearance, and such recognizance shall be proceeded upon in like manner as other recognizances; and such certificate shall be *primâ facie* evidence of such non-appearance. 32-33 V., c. 32, s. 22.

Person not appearing according to his recognizance.

32. Every fine and penalty imposed under the authority of this Act shall be paid and applied as follows, that is to say:—

Application of penalties.

(a) In the Province of Ontario, to the magistrate who imposed the same, or to the clerk of the court or clerk of the peace, as the case may be, to be paid over by him to the county treasurer for county purposes;

In Ontario.

In Quebec. (b) In any new district in the Province of Quebec, to the sheriff of such district, as treasurer of the building and jury fund for such district, to form part of such fund,—and if in any other district in the said Province, to the prothonotary of such district, to be applied by him, under the direction of the Lieutenant Governor in Council, towards the keeping in repair of the court house in such district, or to be added by him to the moneys and fees collected by him for the erection of a court house and gaol in such district, so long as such fees are collected to defray the cost of such erection;

In N.S. and N.B. (c) In the Provinces of Nova Scotia and New Brunswick, to the county treasurer for county purposes; and—

In P.E.I., Man. and B.C. (d) In the Provinces of Prince Edward Island, *Manitoba* and *British Columbia*, to the treasurer of the Province. 32-33 V., c. 32, s. 32;—40 V., c. 4, s. 8, *part*.

Forms in schedule may be used. **33.** Every conviction or certificate may be in the form in the schedule hereto applicable to the case, or to the like effect, and whenever the nature of the case requires it, such forms may be altered by omitting the words stating the consent of the person to be tried before the magistrate, and by adding the requisite words, stating the fine imposed, if any, and the imprisonment, if any, to which the person convicted is to be subjected if the fine is not sooner paid. 32-33 V., c. 32, s. 7, s. 11, *part*, and s. 18.

Certain provisions not to apply to cases under this Act. **34.** The provisions of "*The Criminal Procedure Act*," except as mentioned in the *twenty-eighth* section, and of "*The Summary Convictions Act*," shall not apply to any proceedings under this Act. 32-33 V., c. 32, s. 27.

Act not to affect that for trial of juvenile offenders. **35.** Nothing in this Act shall affect the provisions of "*The Juvenile Offenders' Act*," and this Act shall not extend to persons punishable under that Act, so far as regards offences for which such persons may be punished thereunder. 32-33 V., c. 32, s. 31.

SCHEDULE.

FORM A.

CONVICTION.

Province of _____, city (or as the }
 case may be) of _____ to wit: }

Be it remembered that on the _____ day of _____
 in the year _____, at _____, A.B., being
 charged before me, the undersigned, _____, of the said
 (city) (and consenting to my trying the charge summarily),

is convicted before me, for that he, the said A.B., &c. (*stating the offence, and the time and place when and where committed*), and I adjudge the said A.B., for his said offence, to be imprisoned in the (and there kept to hard labor) for the term of

Given under my hand and seal, the day and year first above mentioned, at aforesaid.

J. S. [L.S.]

FORM B.

CONVICTION UPON A PLEA OF GUILTY.

Province of _____, city (*or as the case may be*) of _____ to wit: _____ }

Be it remembered that on the _____ day of _____, in the year _____, at _____ A.B., being charged before me, the undersigned, _____, of the said (*city*) (and consenting to my trying the charge summarily), for that he, the said A.B., &c. (*stating the offence, and the time and place when and where committed*), and pleading guilty to such charge, he is thereupon convicted before me of the said offence; and I adjudge him, the said A.B., for his said offence, to be imprisoned in the _____ (and there kept to hard labor) for the term of _____

Given under my hand and seal, the day and year first above mentioned, at aforesaid.

J. S. [L.S.]

FORM C.

CERTIFICATE OF DISMISSAL.

Province of _____, city (*or as the case may be*) of _____ to wit: _____ }

I, the undersigned, _____, of the city (*or as the case may be*) of _____, certify that on the _____ day of _____, in the year _____, at _____ aforesaid, A.B., being charged before me (and consenting to my trying the charge summarily), for that he, the said A.B., &c. (*stating the offence charged, and the time and place when and where alleged to have been committed*), I did, after having summarily tried the said charge, dismiss the same.

Given under my hand and seal, this _____ day of _____, at _____ aforesaid.

J. S. [L.S.]

Proposed to be Consolidated.	Part Consolidated	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
32-33 V., c. 32.	The whole except ss. 34 and 35.	ss. 34 and 35.		
37 V., c. 39	s. 3 (part)	ss. 1 and 2	s. 3 (part)	Juvenile Offenders.
37 V., c. 40	The whole.			
38 V., c. 47	The whole, except ss 6 (part) and 7 (part)		ss. 6 (part) and 7 (part)	Speedy Trials.
39 V., c. 21.	Part of schedule.		s 6 (part)	Juvenile offenders.
40 V., c. 4	s. 8 (part) and part of schedule.			
40 V., c 31	s. 3.		ss. 1 and 2	Lotteries, Betting and Pool selling.
47 V., c. 42	s. 1.		s 2.	Juvenile offenders.

CHAPTER 172.

An Act respecting Juvenile Offenders.

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 Juvenile Offenders' Short Title Act.*"

New.

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

(a) The expression "two or more justices," or "the justices" includes,— "Two or more justices" or "the justices."

(1) In the Provinces of Ontario and Manitoba any judge of the county court being a justice of the peace, police magistrate or stipendiary magistrate, or any two justices of the peace, acting within their respective jurisdictions ;

(2) In the Province of Quebec any two or more justices of the peace, the sheriff of any district, except Montreal and Quebec, the deputy sheriff of Gaspé, and any recorder, judge of the Sessions of the Peace, police magistrate, district magistrate or stipendiary magistrate acting within the limits of their respective jurisdictions ;

(3) In the Provinces of Nova Scotia, New Brunswick, Prince Edward Island, and British Columbia, and in the District of Keewatin, any functionary or tribunal invested by the proper legislative authority with power to do acts usually required to be done by two or more justices of the peace ;

(b) The expression "the common gaol or other place of confinement" includes any reformatory prison provided for the reception of juvenile offenders in the Province in which the conviction referred to takes place, and to which, by the law of that Province, the offender may be sent. 32-33 V., c. 33, s. 1 ;—37 V., c. 39, s. 3, *part* ;—39 V., c. 21, *sch. part* ;—40 V., c. 4, *sch. part* ;—47 V., c. 42, s. 2, *part*. "Common gaol or other place of confinement."

3. Every person charged with having committed, or having attempted to commit, or with having been an aider, abettor, counsellor or procurer in the commission of any offence which is simple larceny, or punishable as simple Summary trial of persons not more than sixteen years of age charged with

certain offences. larceny, and whose age, at the period of the commission or attempted commission of such offence, does not, in the opinion of the justice before whom he is brought or appears, exceed the age of sixteen years, shall, upon conviction thereof, in open court, upon his own confession or upon proof, before any two or more justices, be committed to the common gaol or other place of confinement within the jurisdiction of such justices, there to be imprisoned, with or without hard labor, for any term not exceeding three months, or, in the discretion of such justices, shall forfeit and pay such sum, not exceeding twenty dollars, as such justices adjudge. 32-33 V., c. 33, s. 2.

Compelling person accused to attend.

4. Whenever any person, whose age is alleged not to exceed sixteen years, is charged with any offence mentioned in the next preceding section, on the oath of a credible witness, before any justice of the peace, such justice may issue his summons or warrant, to summon or to apprehend the person so charged, to appear before any two justices of the peace, at a time and place to be named in such summons or warrant. 32-33 V., c. 33, s. 7.

Power to remand or take bail.

5. Any justice of the peace, if he thinks fit, may remand for further examination or for trial, or suffer to go at large, upon his finding sufficient sureties, any such person charged before him with any such offence as aforesaid. 32-33 V., c. 33, s. 8.

Condition of recognizance.

6. Every such surety shall be bound by recognizance to be conditioned for the appearance of such person before the same or some other justice or justices of the peace for further examination, or for trial before two or more justices of the peace as aforesaid, or for trial by indictment at the proper court of criminal jurisdiction, as the case may be. 32-33 V., c. 33, s. 9.

Enlarging or discharging recognizance.

7. Every such recognizance may be enlarged, from time to time, by any such justice or justices to such further time as he or they appoint; and every such recognizance not so enlarged shall be discharged without fee or reward, when the person has appeared according to the condition thereof. 32-33 V., c. 33, s. 10.

Defendant to be asked if he consents to be tried summarily.

8. The justices before whom any person is charged and proceeded against under this Act, before such person is asked whether he has any cause to show why he should not be convicted, shall say to the person so charged, these words, or words to the like effect:

“We shall have to hear what you wish to say in answer to the charge against you; but if you wish to be tried by a jury, you must object now to our deciding upon it at once:”

And if such person, or a parent or guardian of such person, then objects, such person shall be dealt with as if this Act had not been passed; but nothing in this Act shall prevent the summary conviction of any such person before one or more justices of the peace, for any offence for which he is liable to be so convicted under any other Act. 32-33 V., c. 33, s. 3.

If he does not consent.

9. If the justices are of opinion, before the person charged has made his defence, that the charge is, from any circumstance, a fit subject for prosecution by indictment, or if the person charged, upon being called upon to answer the charge, objects to the case being summarily disposed of under the provisions of this Act, such justices shall, instead of summarily adjudicating thereupon, deal with the case in all respects as if this Act had not been passed; and, in the latter case, shall state in the warrant of committal the fact of such election having been made. 32-33 V., c. 33, s. 5, *part*;—38 V., c. 47, s. 6, *part*.

Justices may send the case to be tried by a jury.

10. Any justice of the peace may, by summons, require the attendance of any person as a witness upon the hearing of any case before two justices, under the authority of this Act, at a time and place to be named in such summons. 32-33 V., c. 33, s. 11.

Summoning witnesses.

11. Any such justice may require and bind by recognizance every person whom he considers necessary to be examined, touching the matter of such charge, to attend at the time and place appointed by him and then and there to give evidence upon the hearing of such charge. 32-33 V., c. 33, s. 12.

Binding witnesses to attend.

12. If any person so summoned or required or bound, as aforesaid, neglects or refuses to attend in pursuance of such summons or recognizance, and if proof is given of such person having been duly summoned, as hereinafter mentioned, or bound by recognizance, as aforesaid, either of the justices before whom any such person should have attended, may issue a warrant to compel his appearance as a witness. 32-33 V., c. 33, s. 13.

Compelling attendance in case of refusal or neglect.

13. Every summons issued under the authority of this Act may be served by delivering a copy thereof to the person, or to some inmate at such person's usual place of abode, and every person so required by any writing under the hand or hands of any justice or justices to attend and give evidence as aforesaid, shall be deemed to have been duly summoned. 32-33 V., c. 33, s. 14.

Service of summons.

14. If the justices, upon the hearing of any such case, deem the offence not proved, or that it is not expedient to

Discharge in certain cases.

Certificate of discharge. inflict any punishment, they shall dismiss the person charged,—in the latter case on his finding sureties for his future good behavior, and in the former case without sureties, and then make out and deliver to the person charged a certificate in the form A in the schedule to this Act, or to the like effect, under the hands of such justices, stating the fact of such dismissal. 32-33 V., c. 33, s. 4, *part*.

Effect of such certificate or of conviction. **15.** Every person who obtains such certificate of dismissal, or is so convicted, shall be released from all further or other criminal proceedings for the same cause. 32-33 V., c. 33, s. 6.

Form of conviction. **16.** The justices before whom any person is summarily convicted of any offence hereinbefore mentioned, may cause the conviction to be drawn up in the form B in the schedule hereto, or in any other form to the same effect, and the conviction shall be good and effectual to all intents and purposes. 32-33 V., c. 33, s. 15, *part*.

Conviction not void for want of form, &c. **17.** No such conviction shall be quashed for want of form, or be removed by *certiorari* or otherwise into any court of record; 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 there is a good and valid conviction to sustain the same. 32-33 V., c. 33, s. 16.

Conviction to be sent to Clerk of the Peace, &c. **18.** The justices before whom any person is convicted under the provisions of this Act, shall forthwith transmit the conviction and recognizances to the clerk of the peace or other proper officer, for the district, city, county or union of counties wherein the offence was committed, there to be kept by the proper officer among the records of the court of General or Quarter Sessions of the Peace, or of any other court discharging the functions of a court of General or Quarter Sessions of the Peace. 32-33 V., c. 33, s. 17.

Returns to Minister of Agriculture. **19.** Every clerk of the peace, or other proper officer, shall transmit to the *Minister of Agriculture* a quarterly return of the names, offences and punishments mentioned in the convictions, with such other particulars as are, from time to time, required. 32-33 V., c. 33, s. 18.

No forfeiture, but restitution may be ordered. **20.** No conviction under the authority of this Act shall be attended with any forfeiture, except such penalty as is imposed by the sentence; but whenever any person is adjudged guilty under the provisions of this Act, the presiding justice may order restitution of the property in respect of which the offence was committed, to the owner thereof or his representatives. 32-33 V., c. 33, s. 19.

21. If such property is not then forthcoming, the justices, whether they award punishment or not, may inquire into and ascertain the value thereof in money; and, if they think proper, order payment of such sum of money to the true owner, by the person convicted, either at one time or by instalments, at such periods as the justices deem reasonable. 32-33 V., c. 33, s. 20.

Or the payment of the value in money.

22. The person ordered to pay such sum may be sued for the same as a debt in any court in which debts of the like amount are, by law, recoverable, with costs of suit, according to the practice of such court. 32-33 V., c. 33, s. 21.

Recovery of such value.

23. Whenever the justices adjudge any offender to forfeit and pay a pecuniary penalty under the authority of this Act, and such penalty is not forthwith paid, they may, if they deem it expedient, appoint some future day for the payment thereof, and order the offender to be detained in safe custody until the day so appointed, unless such offender gives security, to the satisfaction of the justices, for his appearance on such day; and the justices may take such security by way of recognizance or otherwise in their discretion. 32-33 V., c. 32, s. 22.

Enforcing payment of penalties.

24. If at any time so appointed such penalty has not been paid, the same or any other justices of the peace may, by warrant under their hands and seals, commit the offender to the common gaol or other place of confinement within their jurisdiction, there to remain for any time not exceeding three months, reckoned from the day of such adjudication. 32-33 V., c. 32, s. 23, *part*.

Committal for non-payment.

25. The justices before whom any person is prosecuted or tried for any offence cognizable under this Act, may, in their discretion, at the request of the prosecutor or of any other person who appears on recognizance or summons to prosecute or give evidence against such person, order payment to the prosecutor and witnesses for the prosecution, of such sums as to them seem reasonable and sufficient, to reimburse such prosecutor and witnesses for the expenses they have severally incurred in attending before them, and in otherwise carrying on such prosecution, and also to compensate them for their trouble and loss of time therein, and may order payment to the constables and other peace officers for the apprehension and detention of any person so charged. 32-33 V., c. 32, s. 24.

Costs of prosecution may be awarded.

26. The justices may, although no conviction takes place, order all or any of the payments aforesaid to be made, when they are of opinion that the persons, or any of them, have acted in good faith. 32-33 V., c. 32, s. 25.

Even without conviction.

Application of penalties. **27.** Every fine imposed under the authority of this Act shall be paid and applied as follows, that is to say:—

In Ontario. (a) In the Province of Ontario, to the justices who impose the same, or the clerk of the county court, or the clerk of the peace, or other proper officer, as the case may be, to be by him or them paid over to the county treasurer for county purposes ;

In Quebec. (b) In any new district in the Province of Quebec, to the sheriff of such district as treasurer of the building and jury fund for such district, to form part of such fund, and in any other district in the Province of Quebec, to the prothonotary of such district, to be applied by him, under the direction of the Lieutenant Governor in Council, towards the keeping in repair of the court house in such district, or to be added by him to the moneys or fees collected by him for the erection of a court house or gaol in such district, so long as such fees are collected to defray the cost of such erection ;

In N.S. and N.B. (c) In the Provinces of Nova Scotia and New Brunswick to the county treasurer, for county purposes ; and—

In P.E.I., Man., and B.C. (d) In the Provinces of Prince Edward Island, *Manitoba* and *British Columbia*, to the treasurer of the Province. 32-33 V., c. 33, s. 26 ;—40 V., c. 4, s. 8, *part*.

Certificate of expenses. **28.** The amount of expenses of attending before the justices and the compensation for trouble and loss of time therein, and the allowances to the constables and other peace officers for the apprehension and detention of the offender, and the allowances to be paid to the prosecutor, witnesses and constables for attending at the trial or examination of the offender, shall be ascertained by and certified under the hands of such justices ; but the amount of the costs, charges and expenses attending any such prosecution, to be allowed and paid as aforesaid, shall not in any one case exceed the sum of eight dollars. 32-33 V., c. 33, s. 27.

By whom such expenses shall be paid. **29.** Every such order of payment to any prosecutor or other person, after the amount thereof has been certified by the proper justices of the peace as aforesaid, shall be forthwith made out and delivered by the said justices or one of them, or by the clerk of the peace or other proper officer, as the case may be, to such prosecutor or other person, upon such clerk or officer being paid his lawful fee for the same, and shall be made upon the officer to whom fines imposed under the authority of this Act are required to be paid over in the district, city, county or union of counties in which the offence was committed, or was supposed to have been committed, who, upon sight of every such order, shall forthwith pay to the person named therein, or to any other

as the case may be) for that, he, the said A. O. did (*specify the offence and the time and place when and where the same was committed, as the case may be, but without setting forth the evidence*), and we, the said J. P. and J. R. (or I, the said S. J.), adjudge the said A. O., for his said offence, to be imprisoned in the _____ (or to be imprisoned in the _____, and there kept at hard labor), for the space of _____, (or we) (or I) adjudge the said A. O., for his said offence, to forfeit and pay _____ (*here state the penalty actually imposed*), and in default of immediate payment of the said sum, to be imprisoned in the _____ (or to be imprisoned in the _____ and kept at hard labor) for the term of _____, unless the said sum is sooner paid.

Given under our hand and seals (or my hand and seal), the day and year first above mentioned.

J. P. [L. s.]
 J. R. [L. s.]
 or S. J. [L. s.]

32-33 V., c. 33, s. 4, part, and s. 15, part.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere	To be Consolidated with.
32-33 V., c. 33.....	The whole, except ss. 5 (part), 23 (part), 29 and 30.	ss. 29 and 30	s. 5 (part)..... s. 23 (part)	Speedy Trials Punishments.
37 V., c. 39.	s. 3 (part).....	ss. 1 and 2.....	s. 3 (part)	S u m m a r y Trials.
38 V., c. 47	s. 6 (part).			
39 V., c. 21.	Part of schedule.			
40 V., c. 4	s. 8 (part) and part of schedule.			
43 V., c. 39.....	s. 15 (part).	{		
47 V., c. 42.....	s. 2 .....	.....	s. 1.	S u m m a r y Trials.

CHAPTER 173.

An Act respecting Summary Proceedings before Justices of the Peace.

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 Summary Convictions Act.*" Short title.
New.

INTERPRETATION.

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

(a) The expression "justice" means a justice of the peace, and includes two or more justices if two or more justices act or have jurisdiction, and also any person having the power or authority of two or more justices of the peace; "Justice."

(b) The expression "clerk of the peace" includes the proper officer of the court having jurisdiction in appeal under this Act; "Clerk of the peace."

(c) The expression "territorial division" means district, county, union of counties, township, city, town, parish or other judicial division or place; "Territorial division."

(d) The expression "district" or "county" includes any territorial or judicial division or place, in and for which there is such judge, justice, justice's court, officer or prison as is mentioned in the context; "District" or "county."

(e) The expression "common gaol" or "prison" means any place other than a penitentiary in which persons charged with offences are usually kept and detained in custody. 32-33 V., c. 81, ss. 94 and 95;—40 V., c. 27, s. 3. "Common gaol" or "prison."

JURISDICTION.

3. This Act shall apply to,—

(a) Every case in which any person commits, or is suspected of having committed any offence or act over Application of Act.
Offences punishable on summary conviction.

which the Parliament of Canada has legislative authority, and for which such person is liable, on summary conviction, to imprisonment, fine, penalty or other punishment ;

Cases in which an order for the payment of money may be made.

(b) Every case in which a complaint is made to any justice in relation to any matter over which the Parliament of Canada has legislative authority, and with respect to which such justice has authority by law to make any order for the payment of money or otherwise ;—

Subject to any special provision otherwise enacted with respect to such offence, act or matter. 32-33 V., c. 18, s. 35. c. 20, s. 80, c. 21, s. 123, c. 22, s. 75, c. 27, s. 7, c. 29, s. 7, and c. 31, s. 1, *part* ;—33 V., c. 31, s. 6 ;—35 V., c. 31, ss. 2, *part*, and 3 ;—38 V., c. 42, s. 11 ;—40 V., c. 35, s. 5 ;—43 V., c. 38, s. 4 ;—44 V., c. 30, s. 10, *part*.

By whom complaint shall be heard.

4. Every complaint and information shall be heard, tried, determined and adjudged by one justice or two or more justices, as directed by the Act or law upon which the complaint or information is framed, or by any other Act or law in that behalf. 32-33 V., c. 31, s. 27.

If there is no direction in the Act.

5. If there is no such direction in any Act or law, then the complaint or information may be heard, tried, determined and adjudged by any one justice for the territorial division where the matter of the complaint or information arose. 32-33 V., c. 31, s. 28.

In what cases one justice may act.

6. Any one justice may receive the information or complaint, and grant a summons or warrant thereon, and issue his summons or warrant to compel the attendance of any witnesses for either party, and do all other acts and matters necessary, preliminary to the hearing, even if by the statute in that behalf it is provided that the information or complaint shall be heard and determined by two or more justices. 32-33 V., c. 31, s. 85.

After hearing, &c.

7. After a case has been heard and determined, one justice may issue all warrants of distress or commitment thereon. 32-33 V., c. 31, s. 86.

Proceedings after judgment.

8. It shall not be necessary that the justice who acts before or after the hearing be the justice or one of the justices by whom the case is or was heard and determined. 32-33 V., c. 31, s. 87.

If two justices are required.

9. If it is required by any Act or law that an information or complaint shall be heard and determined by two or more justices, or that a conviction or order shall be made by two or more justices, such justices shall be present and acting together during the whole of the hearing and determination of the case. 32-33 V., c. 31, s. 88.

10. Every judge of Sessions of the Peace, recorder, police magistrate, district magistrate or stipendiary magistrate, appointed for any district, county, city, borough, town or place, shall have full power to do alone whatever is authorized to be done by two or more justices. 32-33 V., c. 31, s. 91, *part.*

Certain magistrates to have the power of two justices.

LIMITATIONS.

11. If 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 three months from the time when the matter of the complaint or information arose, except in the North-West Territories, and in that part of the county of Saguenay which extends from Portneuf, in the said county, to the eastward as far as the limits of Canada, including all the islands adjoining thereto, where the time within which such complaint shall be made, or such information shall be laid, shall be extended to twelve months from the time when the matter of the complaint or information arose. 32-33 V., c. 31, s. 26; — 43 V., c. 25, *sch., part.*

When no time is limited for information or complaint.

Exception as to certain districts.

ABETTORS.

12. Every one who aids, abets, counsels or procures the commission of any offence punishable on summary conviction, may be proceeded against and convicted either in the territorial division or place where the principal offender may be convicted, or in that in which the offence of aiding, abetting, counselling or procuring was committed. 32-33 V., c. 31, s. 15, *part.*

Where abettors may be proceeded against.

ENFORCING ATTENDANCE OF DEFENDANTS.

13. Whenever an information (A) is laid before any justice for any territorial division of Canada, that any person, being within the jurisdiction of such justice, has committed or is suspected to have committed any offence or act for which he is liable by law, on summary conviction, to be imprisoned or fined, or otherwise punished, or a complaint is made to any such justice in relation to any matter upon which he has authority by law to make any order for the payment of money or otherwise, such justice may issue his summons (B), directed to such person, stating shortly the matter of the information or complaint, and requiring him to appear at a certain time and place, before such justice, or before such other justice in and for the same territorial division as shall then be there, to answer to the said information or complaint, and to be further dealt with according to law. 32-33 V., c. 31, s. 1, *part.*

When information is laid before justice, a summons to the accused may be issued.

Service of
summons.

14. Every such summons shall be served by a constable or other peace officer, or other person to whom the same is delivered, upon the person to whom it is directed, by delivering the same to such person personally, or by leaving it with some person for him at his last or most usual place of abode. 32-33 V., c. 31, s. 2.

Proof of ser-
vice.

15. The constable, peace officer or person who serves such summons, shall attend at the time and place, and before the justice in the summons mentioned, to depose, if necessary, to the service thereof. 32-33 V., c. 31, s. 3.

As to *ex parte*
cases.

16. Nothing herein contained shall oblige any justice to issue any such summons whenever the application for any order may, by law, be made *ex parte*. 32-33 V., c. 31, s. 4.

If the sum-
mons is not
obeyed, the
justice may
issue his war-
rant.

17. If the person served with a summons does not appear before the justice at the time and place mentioned in the summons, and it is made to appear to the justice, by oath or affirmation, that the summons was duly served, a reasonable time, in the opinion of the justice, before the time therein appointed for appearing to the same, the justice, upon oath or affirmation being made before him, substantiating the matter of the information or complaint to his satisfaction, may, if he thinks fit, issue his warrant (C) to apprehend the person so summoned, and to bring him before such justice or before some other justice in and for the same territorial division, to answer to the said information or complaint, and to be further dealt with according to law. 32-33 V., c. 31, s. 6, *part*.

Warrant may
issue in the
first instance
on informa-
tion sup-
ported by
oath, &c.

18. Any justice before whom any such information is laid for any offence punishable on summary conviction, may, if he thinks fit, upon oath or affirmation being made before him, substantiating the matter of the information to his satisfaction, instead of issuing a summons, issue in the first instance his warrant (D) for apprehending the person against whom the information has been laid, and bringing him before such justice, or before some other justice in and for the same territorial division, to answer to the information and to be further dealt with according to law: Provided, that whenever a warrant is issued in the first instance, the justice issuing it shall furnish a copy or copies thereof, and cause a copy to be served on each person arrested at the time of such arrest. 32-33 V., c. 31, s. 6, *part*.

Copy of war-
rant to be
served on
defendant.

Warrant to be
under hand
and seal; to
whom
directed.

19. Every warrant to apprehend a defendant, that he may answer to an information or complaint, shall be under the hand and seal of the justice issuing the same, and may be directed to any one or more or to all of the constables or other peace officers of the territorial division

within which it is to be executed, or to such constable and all other constables in the territorial division within which the justice who issued the warrant has jurisdiction, or generally to all the constables or peace officers within such territorial division :

2. Such warrant shall state shortly the matter of the information or complaint on which it is founded, and shall name or otherwise describe the person against whom it has been issued, and it shall order the constables or other peace officers to whom it is directed, to apprehend the defendant and to bring him before one or more justice or justices of the same territorial division, as the case requires, to answer to the information or complaint and to be further dealt with according to law. 32-33 V., c. 31, s. 8.

What the warrant shall contain.

20. It shall not be necessary to make the warrant returnable at any particular time, but the same shall remain in full force until executed ; and the warrant may be executed by apprehending the defendant at any place in the territorial division within which the justice who issued the same has jurisdiction, or, in case of fresh pursuit, at any place in the next adjoining territorial division, within seven miles of the border of the first mentioned territorial division, without having the warrant backed as hereinafter mentioned. 32-33 V., c. 31, s. 9.

Duration of warrant and how to be executed.

21. If the warrant is directed to all constables or peace officers in the territorial division within which the justice who issued the same has jurisdiction, any constable or peace officer for any place within the limits of the jurisdiction may execute the warrant, in like manner as if the warrant was directed specially to him by name, and notwithstanding that the place in which the warrant is executed is not within the place for which he is a constable or peace officer. 32-33 V., c. 31, s. 10.

What officer may execute it, and where.

22. If any person against whom any warrant has been issued is not found within the jurisdiction of the justice by whom it was issued, or, if he escapes into, or is or is suspected to be in any place within Canada, out of the jurisdiction of such justice, any justice, within whose jurisdiction such person is or is suspected to be, upon proof upon oath or affirmation of the handwriting of the justice issuing the warrant, may make an indorsement upon it, signed with his name, authorizing the execution of the warrant within his jurisdiction ; and such indorsement shall be a sufficient authority to the person bringing the warrant, and to all other persons to whom it was originally directed, and to all constables or other peace officers of the territorial division wherein the indorsement is made, to execute the same in any place within the jurisdiction of the justice

Indorsing of the warrant in another jurisdiction.

Effect of such indorsement.

indorsing the same, and to carry the offender, when apprehended, before the justice who first issued the warrant or some other justice having the same jurisdiction. 32-33 V., c. 31, s. 11.

INFORMATIONS AND COMPLAINTS.

Certain complaints need not be in writing.

23. It shall not be necessary that any complaint upon which a justice may make an order for the payment of money or otherwise, shall be in writing, unless it is so required by some particular Act or law upon which such complaint is founded. 32-33 V., c. 31, s. 20.

Complaints need not be on oath unless so provided.

24. Every complaint upon which a justice is authorized by law to make an order, and every information for any offence or act punishable on summary conviction, may, unless it is herein or by some particular Act or law otherwise provided, be made or laid without any oath or affirmation as to the truth thereof. 32-33 V., c. 31, s. 24.

Exception, when warrant is issued in the first instance.

25. Whenever the justice issues his warrant in the first instance, the matter of the information shall be substantiated by the oath or affirmation of the informant, or by some witness or witnesses on his behalf, before the warrant is issued. 32-33 V., c. 31, s. 25, *part*.

Complaint to be for one matter only, &c.

26. Every complaint shall be for one matter of complaint only, and not for two or more matters of complaint, and every information shall be for one offence only, and not for two or more offences; and every complaint or information may be laid or made by the complainant or informant in person, or by his counsel or attorney or other person authorized in that behalf. 32-33 V., c. 31, s. 25, *part*.

Description of property of partners, &c.

27. In any information or complaint, or proceedings thereon, in which it is necessary to state the ownership of any property belonging to or in possession of partners, joint tenants, parceners or tenants in common, or *par indivis*, it shall be sufficient to name one of such persons, and to state the property to belong to the person so named, and another or others, as the case may be:

Partners, &c., may be described in like manner.

2. Whenever, in any information or complaint, or the proceedings thereon, it is necessary to mention, for any purpose whatsoever, any partners, joint tenants, parceners or tenants in common, or *par indivis*, it shall be sufficient to describe them in the manner aforesaid:

Description of property of municipal corporation.

3. Whenever, in any information or complaint, or the proceedings thereon, it is necessary to describe the ownership of any work or building made, maintained or repaired at the expense of the corporation or inhabitants of any

territorial division or place, or of any materials for the making, altering or repairing the same, they may be there-in described as the property of the inhabitants of such territorial division or place. 32-33 V.; c. 31, s. 14.

28. No objection shall be allowed to any information, complaint, summons or warrant, for any alleged defect therein, in substance or in form, or for any variance between such information, complaint, summons or warrant, and the evidence adduced on the part of the informant or complainant at the hearing of such information or complaint :

No objection allowed on account of defect in substance or form &c.

2. Any variance between the information, for any offence or act punishable on summary conviction, and the evidence adduced in support thereof as to the time at which such offence or act is alleged to have been committed, shall not be deemed material, if it is proved that such information was, in fact, laid within the time limited by law for laying the same :

When variance as to time shall not be material.

3. Any variance between the information and the evidence adduced in support thereof, as to the place in which the offence or act is alleged to have been committed, shall not be deemed material, if the offence or act is proved to have been committed within the jurisdiction of the justice by whom the information is heard and determined :

When variance as to place shall not be material.

4. If any such variance, or any other variance between the information, complaint, summons or warrant, and the evidence adduced in support thereof, appears to the justice present, and acting at the hearing, to be such that the defendant has been thereby deceived or misled, the justice may, upon such terms as he thinks fit, adjourn the hearing of the case to some future day. 32-33 V., c. 31, ss. 5, 12, *part*, 21 and 22, *part*.

If defendant had been misled, the justice may adjourn the case.

WITNESSES.

29. If it is made to appear to any justice, by the oath or affirmation of any credible person, that any person within the jurisdiction of such justice is likely to give material evidence on behalf of the prosecutor or complainant or defendant, and will not voluntarily appear as a witness at the time and place appointed for the hearing of the information or complaint, the justice shall issue his summons (E 1) to such person, requiring him to be and appear at a time and place mentioned in the summons, before such justice, or any other justice in and for the territorial division, who shall then be there, to testify what he knows concerning the information or complaint. 32-33 V., c. 31, s. 16.

Summons to person likely to give material evidence.

30. If any person so summoned neglects or refuses to appear at the time and place appointed by the summons,

Warrant if such person fails to appear.

and no just excuse is offered for such neglect or refusal, then, after proof upon oath or affirmation of the summons having been served upon him, either personally or by leaving the same for him with some person at his last or most usual place of abode, the justice before whom such person should have appeared may issue a warrant (E 2) to bring and have such person, at a time and place to be therein mentioned, before the justice who issued the summons, or before any other justice in and for the same territorial division who shall then be there, to testify as aforesaid, and the said warrant may, if necessary, be backed as herein mentioned, in order to its being executed out of the jurisdiction of the justice who issued the same. 32-33 V., c. 31, s. 17.

May be backed.

Warrant in the first instance.

31. If the justice is satisfied, by evidence upon oath or affirmation, that it is probable that the person will not attend to give evidence without being compelled so to do, he may instead of issuing a summons issue his warrant (E 3) in the first instance, and the warrant may, if necessary, be backed as aforesaid. 32-33 V., c. 21, s. 18.

Commitment for refusal to give evidence.

32. If, on the appearance of the person so summoned before the justice, either in obedience to the summons or upon being brought before him, by virtue of the warrant, such person refuses to be examined upon oath or affirmation, concerning the premises, or refuses to take an oath or affirmation, or having taken the oath or affirmation, refuses to answer such questions concerning the premises as are then put to him, without offering any just excuse for his refusal, any justice then present and having jurisdiction, may, by warrant (E 4), commit the person so refusing to the common gaol or other prison for the territorial division where the person then is, there to remain and be imprisoned for any term not exceeding ten days, unless, in the meantime, he consents to be examined and to answer concerning the premises. 32-33 V., c. 31, s. 19.

HEARING.

Place of hearing to be deemed an open court.

33. The room or place in which the justice sits to hear and try any complaint or information shall be deemed an open and public court, to which the public generally may have access, so far as the same can conveniently contain them. 32-33 V., c. 31, s. 29.

Defendant may make full defence.

34. The person against whom the complaint is made or information laid shall be admitted to make his full answer and defence thereto, and to have the witnesses examined and cross-examined by counsel or attorney on his behalf. 32-33 V., c. 31, s. 30.

35. Every complainant or informant in any such case shall be at liberty to conduct the complaint or information, and to have the witnesses examined and cross-examined, by counsel or attorney on his behalf. 32-33 V., c. 31, s. 31. Prosecutor may be heard by counsel or attorney.

36. Every witness at any hearing shall be examined upon oath or affirmation, and the justice before whom any witness appears for the purpose of being examined shall have full power and authority to administer to every witness the usual oath or affirmation. 32-33 V., c. 31, s. 45, *part*. Witnesses to be examined on oath.

37. Every prosecutor of any information not having any pecuniary interest in the result, and every complainant in any complaint, whatever his interest may be in the result of the same, shall be a competent witness to support such information or complaint, and no prosecutor shall be deemed incompetent as a witness on the ground only that he may be liable to costs. 32-33 V., c. 31, s. 45, *part*. Prosecutor, &c., competent witnesses in certain cases.

38. The evidence of the person aggrieved, and also the evidence of any inhabitant of the district, county or place in which any offence has been committed, shall be admitted in proof of the offence, notwithstanding that any forfeiture or penalty incurred by the offence is payable to any public fund of such district, county or place. 32-33 V., c. 31, s. 90. Certain evidence may be admitted.

39. If, on the day and at the place appointed by the summons for hearing and determining the complaint or information, the defendant against whom the same has been made or laid does not appear when called, the constable or other person who served the defendant with the summons shall declare upon oath in what manner he served the summons; and if it appears to the satisfaction of the justice that such constable or other person duly served the summons a reasonable time before the time appointed for appearance, such justice may proceed *ex parte* to hear and determine the case in the absence of the defendant, as fully and effectually, to all intents and purposes, as if the defendant had personally appeared in obedience to such summons, or the justice, upon the non-appearance of the defendant, may, if he thinks fit, issue his warrant in manner herein directed, and adjourn the hearing of the complaint or information until the defendant is apprehended. 32-33 V., c. 31, ss. 7 and 32. If the defendant does not appear. Proceeding *ex parte*, or warrant and adjournment.

40. When the defendant has been apprehended under the warrant, he shall be brought before the justice who issued it, or some other justice in and for the same territorial division, who shall thereupon, either by his warrant (F) commit the defendant to the common gaol or other prison, or if he thinks fit, verbally to the custody of the constable or other person who apprehended him, or to such When defendant has been apprehended.

other safe custody as he deems fit, and may order the defendant to be brought up at a certain time and place before him, of which order the complainant or informant shall have due notice; but no committal under this section shall be for more than one week. 32-33 V., c. 31, s. 33.

Proviso.

If defendant appears, &c., and the complainant does not.

41. If, upon the day and at the place so appointed, the defendant appears voluntarily in obedience to the summons in that behalf served upon him, or is brought before the justice by virtue of a warrant, then, if the complainant or informant, having had due notice, does not appear by himself, his counsel or attorney, the justice shall dismiss the complaint or information, unless for some reason he thinks proper to adjourn the hearing of the same until some other day, upon such terms as he thinks fit. 32-33 V., c. 31, s. 34, *part.*

If both parties appear.

42. If both parties appear, either personally or by their respective counsel or attorneys, before the justice who is to hear and determine the complaint or information, such justice shall proceed to hear and determine the same. 32-33 V., c. 31, s. 36.

Proceedings on the hearing.

43. If the defendant is present at the hearing, the substance of the information or complaint shall be stated to him, and he shall be asked if he has any cause to show why he should not be convicted, or why an order should not be made against him, as the case may be. 32-33 V., c. 31, s. 37.

Justice may convict, &c., if defendant admits the truth.

44. If the defendant thereupon admits the truth of the information or complaint, and shows no sufficient cause why he should not be convicted, or why an order should not be made against him, as the case may be, the justice present at the hearing, shall convict him or make an order against him accordingly. 32-33 V., c. 31, s. 38.

If he does not admit the truth, &c., examination of witnesses, &c.

45. If the defendant does not admit the truth of the information or complaint, the justice shall proceed to hear the prosecutor or complainant and such witnesses as he examines and such other evidence as he adduces in support of his information or complaint, and shall also hear the defendant and such witnesses as he examines, and such other evidence as he adduces in his defence, and also hear such witnesses as the prosecutor or complainant examines in reply, if such defendant has examined any witnesses or given any evidence other than evidence as to his general character. 32-33 V., c. 31, s. 39.

As to observations by either party.

46. The prosecutor or complainant shall not be entitled to make any observations in reply, upon the evidence given by the defendant, nor shall the defendant be entitled to make any observations in reply upon the evidence given

by the prosecutor or complainant in reply. 32-33 V., c. 31, s. 40.

47. If the information or complaint in any case negatives an exemption, exception, proviso or condition in the statute on which the same is founded, it shall not be necessary for the prosecutor or complainant to prove such negative, but the defendant may prove the affirmative thereof in his defence, if he wishes to avail himself of the same. 32-33 V., c. 31, s. 44.

If information or complaint negatives any exemption, &c.

48. Before or during the hearing of any information or complaint, the justice may, in his discretion, adjourn the hearing of the same to a certain time and place, to be then appointed and stated in the presence and hearing of the party or parties, or of their respective attorneys or agents then present, but no such adjournment shall be for more than one week. 32-33 V., c. 31, s. 46, *part*.

Adjournment of the case.

49. If, at the time and place to which the hearing or further hearing is adjourned, either or both of the parties do not appear, personally or by his or their counsel or attorneys respectively, before the justice or such other justice as shall then be there, the justice who is then there may proceed to the hearing or further hearing as if the party or parties were present. 32-33 V., c. 31, s. 47.

If prosecutor or defendant does not appear, case may proceed.

50. If the prosecutor or complainant does not appear, the justice may dismiss the information with or without costs, as to him seems fit. 32-33 V., c. 31, s. 48.

If the prosecutor does not appear.

51. Whenever any justice adjourns the hearing of any case, he may suffer the defendant to go at large or may commit him (G) to the common gaol or other prison, within the territorial division for which such justice is then acting, or to such other safe custody as such justice thinks fit, or may discharge the defendant upon his recognizance (H), with or without sureties, at the discretion of such justice, conditioned for his appearance at the time and place to which such hearing or further hearing is adjourned:

On adjournment defendant may be allowed to go at large, or may be committed.

2. Whenever any defendant who is discharged upon recognizance or allowed to go at large, does not appear at the time mentioned in the recognizance or to which the hearing or further hearing is adjourned, the justice may issue his warrant for the apprehension of the defendant. 32-33 V., c. 31, ss. 12, *part*, 13, *part*, 22, *part*, 34, *part*, and 46, *part*.

Warrant may be issued for arrest of defendant on bail not appearing.

52. The justice, having heard what each party has to say, and the witnesses and evidence adduced, shall consider the whole matter, and, unless otherwise provided, determine

Decision of the case.

the same, and convict or make an order upon the defendant, or dismiss the information or complaint, as the case may be. 32-33 V., c. 31, s. 41.

Minute of conviction or order to be made.

53. If the justice convicts or makes an order against the defendant, a minute or memorandum thereof shall then be made, for which no fee shall be paid, and the conviction or order shall afterwards be drawn up by the justice on parchment or on paper, under his hand and seal, in such one of the forms of conviction (J 1, 2, 3) or of orders (K 1, 2, 3) in the schedule to this Act, as is applicable to the case or to the like effect. 32-33 V., c. 31, ss. 42, 50 and 51.

Amount payable to person aggrieved limited.

54. When several persons join in the commission of the same offence, and, upon conviction thereof, each is adjudged to pay a penalty, which includes the value of the property, or the amount of the injury done, no further sum shall be paid to the person aggrieved than such amount or value, and costs, if any, and the residue of the penalties imposed shall be applied in the same manner as other penalties imposed by a justice are directed to be applied. 32-33 V., c. 31, s. 89.

In certain cases defendant may be discharged on making satisfaction.

55. Whenever any person is summarily convicted before a justice of any offence against "*The Larceny Act*," or the "*Act respecting Malicious Injuries to Property*," or the "*Act respecting the Protection of the Property of Seamen in the Navy*," and it is a first conviction, the justice may, if he thinks fit, discharge the offender from his conviction, upon his making such satisfaction to the person aggrieved, for damages and costs, or either of them, as are ascertained by the justice. 32-33 V., c. 21, s. 119, and c. 22, s. 72;—33 V., c. 31, s. 5, part.

Certificate if the complaint, &c., is dismissed.

56. If the justice dismisses the information or complaint, he may, when required so to do, make an order of dismissal of the same (L), and shall give the defendant a certificate thereof (M),—which certificate, upon being afterwards produced, shall, without further proof, be a bar to any subsequent information or complaint for the same matter, against the same defendant. 32-33 V., c. 31, s. 43.

Defendant to be served with copy of the minute before distress or commitment.

57. Whenever, by any Act or law, authority is given to commit a person to prison or to levy any sum upon his goods or chattels by distress, for not obeying an order of a justice, the defendant shall be served with a copy of the minute of the order before any warrant of commitment or of distress is issued in that behalf; and the order or minute shall not form any part of the warrant of commitment or of distress. 32-33 V., c. 31, s. 52.

COSTS.

Justice may award costs not inconsis-

58. In every case of a summary conviction, or of an order made by a justice, such justice may, in his discretion, award

and order in and by the conviction or order, that the defendant shall pay to the prosecutor or complainant such costs as to the said justice seems reasonable in that behalf, and not inconsistent with the fees established by law to be taken on proceedings had by and before justices. 32-33 V., c. 31, s. 53.

tent with the fees established by law.

59. Whenever the justice, instead of convicting or making an order, dismisses the information or complaint, he may, in his discretion, in and by his order of dismissal, award and order that the prosecutor or complainant shall pay to the defendant such costs as to the said justice seems reasonable and consistent with law. 32-33 V., c. 31, s. 54.

Costs may be awarded to defendant when the case is dismissed.

60. The sums so allowed for costs shall, in all cases, be specified in the conviction or order, or order of dismissal, and the same shall be recoverable in the same manner and under the same warrants as any penalty, adjudged to be paid by the conviction or order, is to be recovered. 32-33 V., c. 31, s. 55.

Costs so allowed shall be specified, &c.

61. Whenever there is no such penalty to be recovered, such costs shall be recoverable by distress and sale of the goods and chattels of the party, and in default of distress, by imprisonment, with or without hard labor, for any term not exceeding one month. 32-33 V., c. 31, s. 56, *part*.

May be recovered by distress.

WARRANTS OF DISTRESS AND COMMITMENT.

62. Whenever a conviction adjudges a pecuniary penalty or compensation to be paid, or an order requires the payment of a sum of money, and by the Act or law authorizing such conviction or order, the penalty, compensation or sum of money is to be levied upon the goods and chattels of the defendant, by distress and sale thereof,—and whenever, by the Act or law in that behalf, no mode of raising or levying the penalty, compensation or sum of money, or of enforcing the payment of the same, is stated or provided, the justice or any one of the justices making such conviction or order, or any justice in and for the same territorial division, may issue his warrant of distress (N 1, N 2) for the purpose of levying the same,—which warrant of distress shall be in writing, under the hand and seal of the justice making the same. 32-33 V., c. 31, s. 57.

Justice may issue warrant of distress in cases where a pecuniary penalty, &c., has been adjudged.

63. If, after delivery of the warrant of distress to the constable or constables to whom the same has been directed to be executed, sufficient distress cannot be found within the limits of the jurisdiction of the justice granting the warrant, then upon proof being made upon oath or affirmation of the handwriting of the justice granting the warrant, before any justice of any other territorial division,

In certain cases warrant may be backed for execution in another jurisdiction.

such justice shall thereupon make an indorsement (N 3) on the warrant, signed with his hand, authorizing the execution of the warrant within the limits of his jurisdiction,—by virtue of which warrant and indorsement the penalty or sum and costs, or so much thereof as has not been before levied or paid, shall be levied by the person bringing the warrant, or by the person or persons to whom the warrant was originally directed, or by any constable or other peace officer of the last mentioned territorial division, by distress and sale of the goods and chattels of the defendant therein. 32-33 V., c. 31, s. 58.

When the issuing of a warrant would be ruinous to defendant, or there are no goods, justice may commit him.

64. Whenever it appears to any justice to whom application is made for any warrant of distress, that the issuing thereof would be ruinous to the defendant and his family, or whenever it appears to the justice, by the confession of the defendant or otherwise, that he has no goods and chattels whereon to levy such distress, then the justice, if he deems it fit, instead of issuing a warrant of distress, may (O 1, O 2) commit the defendant to the common gaol or other prison in the territorial division, there to be imprisoned, with or without hard labor, for the time and in the manner the defendant could by law be committed in case such warrant of distress had issued, and no goods or chattels had been found whereon to levy the penalty or sum and costs. 32-33 V., c. 31, s. 59.

When warrant of distress is issued, defendant may be bailed or detained until it is returned.

65. Whenever a justice issues any warrant of distress, he may suffer the defendant to go at large, or verbally, or by a written warrant in that behalf, may order the defendant to be kept and detained in safe custody, until return has been made to the warrant of distress, unless the defendant gives sufficient security, by recognizance or otherwise, to the satisfaction of the justice, for his appearance, at the time and place appointed for the return of the warrant of distress, before him or before such other justice for the same territorial division as shall then be there. 32-33 V., c. 31, s. 60.

In default of sufficient distress, justice may commit defendant to prison.

66. If, at the time and place appointed for the return of any warrant of distress, the constable, who has had the execution of the same, returns (N 4) that he could find no goods or chattels whereon he could levy the sum or sums therein mentioned, together with the costs of or occasioned by the levy of the same, the justice before whom the same is returned may issue his warrant of commitment (N 5), directed to the same or any other constable, reciting the conviction or order shortly, the issuing of the warrant of distress and the return thereto, and requiring the constable to convey the defendant to the common gaol or other prison of the territorial division for which the justice is then acting, and there to deliver him to the keeper thereof,—and requir-

ing the keeper to receive the defendant into such gaol or prison, and there to imprison him, or to imprison him and keep him at hard labor, in the manner and for the time directed by the Act or law on which the conviction or order mentioned in the warrant of distress is founded, unless the sum or sums adjudged to be paid, and all costs and charges of the distress, and also the costs and charges of the commitment and conveying of the defendant to prison, if such justice thinks fit so to order (the amount thereof being ascertained and stated in such commitment), are sooner paid. 32-33 V., c. 31, s. 62, *part.*

67. Whenever, by the Act or law on which the conviction or order is founded, the justice is authorized to issue a warrant of distress, to levy penalties or other sums recovered before him by distress and sale of the defendant's goods, but no further remedy is thereby provided in case no sufficient distress is found whereon to levy such penalties or other sums,—and whenever the Act or law on which the conviction or order is founded provides no remedy, in case it shall be returned to a warrant of distress thereon, that no sufficient goods of the defendant can be found, the justice to whom such return is made, or any other justice in and for the same territorial division, may, if he thinks fit, by his warrant, as aforesaid, commit the defendant to the common gaol or other prison of the territorial division for which such justice is acting, for any term not exceeding three months. 32-33 V., c. 31, s. 62, *part.*

Term for which defendant may be committed in default of distress.

Re-drafted in conformity with 11-12 V., c. 43, s. 22 (Imp.).

68. In every case of a summary conviction for an offence under "*The Larceny Act*," the "*Act respecting Malicious Injuries to Property*," or the "*Act respecting the Protection of the Property of Seamen in the Navy*," when the penalty imposed by the justice is not paid, either immediately after the conviction, or within such period as the justice, at the time of the conviction, appoints, such justice, unless where otherwise specially directed, may commit the offender to the common gaol or other place of confinement, there to be imprisoned only, or to be imprisoned and kept at hard labor, in the discretion of the justice, for any term not exceeding two months if the amount of the penalty imposed, together with the costs, does not exceed twenty-five dollars, and for any term not exceeding three months if such amount, with costs, exceeds twenty-five dollars. 32-33 V., c. 21, s. 118, and c. 22, s. 71;—33 V., c. 31, s. 5, *part.*

Term of imprisonment in certain cases if penalty imposed is not paid.

69. Whenever a justice, upon any information or complaint, adjudges the defendant to be imprisoned, and the defendant is then in prison undergoing imprisonment

Imprisonment for a subsequent offence if defendant

is already in
gaol.

upon conviction for any other offence, the warrant of commitment for the subsequent offence shall be forthwith delivered to the gaoler or other officer to whom it is directed ; and the justice who issued the same, if he thinks fit, may award and order therein that the imprisonment for the subsequent offence shall commence at the expiration of the imprisonment to which the defendant was previously sentenced. 32-33 V., c. 31, s. 63.

If information
is dismissed,
costs may be
recovered by
distress on
prosecutor.

70. When any information or complaint is dismissed with costs, the sum awarded for costs in the order for dismissal may be levied by distress (P 1) on the goods and chattels of the prosecutor or complainant, in the manner aforesaid ; and in default of distress or payment, the prosecutor or complainant may be committed (P 2) to the common gaol or other prison, in manner aforesaid, for any term not exceeding one month, unless such sum, and all costs and charges of the distress, and of the commitment and conveying of the prosecutor or complainant to prison (the amount thereof being ascertained and stated in the commitment), are sooner paid. 32-33 V., c. 31, s. 64.

RECOGNIZANCES.

If defendant
is discharged
on recogni-
zance and fails
to appear.

71. Whenever a defendant gives security by or is discharged upon recognizance and does not afterwards appear at the time and place mentioned in the recognizance, the justice who took the recognizance, or any justice who is then present, having certified (Q) upon the back of the recognizance the non-appearance of the defendant, may transmit such recognizance to the proper officer in the Province appointed by law to receive the same, to be proceeded upon in like manner as other recognizances ; and such certificate shall be *primâ facie* evidence of the non-appearance of the said defendant. 32-33 V., c. 31, ss. 13, part, 23, 35, 49 and 61.

To what
officers recog-
nizances shall
be trans-
mitted.

In Ontario.

In the other
Provinces.

72. Whenever a person who has entered into any recognizance under this Act, has failed to appear according to the condition of such recognizance, and his default has been certified by the justice, the proper officer to whom the recognizance and certificate of default are to be transmitted, in the Province of Ontario, shall be the clerk of the peace of the county for which such justice is acting ; and the court of General Sessions of the Peace for such county shall, at its then next sitting, order all such recognizances to be forfeited and estreated, and the same shall be enforced and collected in the same manner and subject to the same conditions as any fines, forfeitures or amercements imposed by or forfeited before such court ; and in the other Provinces of Canada, the proper officer to whom any such recognizance and certificate shall be transmitted, shall be the officer to whom like

recognizances have been heretofore accustomed to be transmitted under the law in force before the passing of this Act; and such recognizances shall be enforced and collected in the same manner as like recognizances have heretofore been enforced and collected. 32-33 V., c. 36, s. 6.

ASSAULTS.

73. Whenever any person unlawfully assaults or beats any other person, any justice, upon complaint by or on behalf of the person aggrieved, praying him to proceed summarily on the complaint, may hear and determine such offence :

Proceedings in a case of assault.

2. If such justice finds the assault or battery complained of to have been accompanied by an attempt to commit felony, or is of opinion that the same is, from any other circumstance, a fit subject for prosecution by indictment, he shall abstain from any adjudication thereupon, and shall deal with the case in all respects in the same manner as if he had no authority finally to hear and determine the same :

When there has been an attempt to commit felony, &c.

3. No justice shall hear and determine any case of assault or battery, in which any question arises as to the title to any lands, tenements, hereditaments, or any interest therein or accruing therefrom, or as to any bankruptcy or insolvency, or any execution under the process of any court of justice. 32-33 V., c. 20, s. 43, *part*, and s. 46.

In certain cases justice not to determine the matter.

74. If the justice, upon the hearing of any case of assault or battery upon the merits, where the complaint is preferred by or on behalf of the person aggrieved, under the next preceding section, deems the offence not to be proved, or finds the assault or battery to have been justified, or so trifling as not to merit any punishment, and accordingly dismisses the complaint, he shall forthwith make out a certificate under his hand, stating the fact of such dismissal, and shall deliver such certificate to the person against whom the complaint was preferred. 32-33 V., c. 20, s. 44.

Certificate if the case is dismissed.

75. If any person against whom any such complaint has been preferred, by or on the behalf of the person aggrieved, obtains such certificate, or, having been convicted, pays the whole amount adjudged to be paid or suffers the imprisonment, or imprisonment with hard labor awarded, he shall be released from all further or other proceedings, civil or criminal, for the same cause. 32-33 V., c. 20, s. 45.

Certificate or conviction a bar to any further proceeding.

APPEALS.

76. Unless it is otherwise provided in any special Act under which a conviction takes place or an order is made

Unless otherwise provided parties

aggrieved
may appeal to
certain courts
in the several
Provinces.

by a justice, or unless some other court of appeal having jurisdiction in the premises is provided by an Act of the Legislature of the Province within which such conviction takes place or such order is made, any person who thinks himself aggrieved by any such conviction or order may appeal, in the Province of Ontario, to the court of General Sessions of the Peace; in the Province of Quebec, to the Court of Queen's Bench, Crown side; in the Provinces of Nova Scotia, New Brunswick and Manitoba, to the county court of the district or county where the cause of the information or complaint arose; in the Province of Prince Edward Island, to the Supreme Court; and in the Province of British Columbia, to the county or district court, at the sitting thereof which shall be held nearest to the place where the cause of the information or complaint arose; and if any other court of appeal is provided in any Province as aforesaid, the appeal shall be to such court:

In certain
districts and
provisional
counties in
Ontario.

2. In the districts of Muskoka and Parry Sound, in the Province of Ontario, such person may appeal to the court of General Sessions of the Peace for the county of Simcoe; in the provisional county of Haliburton, to the court of General Sessions of the Peace for the county of Victoria, in the said Province; in the district of Thunder Bay, to the court of General Sessions of the Peace for the district of Algoma; and in the district of Nipissing, to the court of General Sessions of the Peace for the county of Renfrew. 40 V., c. 4, s. 6, *part*, and c. 27, s. 2, *part*;—47 V., c. 43, s. 1.

Conditions of
appeal.

77. Every right of appeal shall, unless it is otherwise provided in any special Act, be subject to the conditions following, that is to say:—

To what sit-
tings appeal
shall be made.

(a) If the conviction or order is made more than twelve days before the sittings of the court to which the appeal is given, such appeal shall be made to the then next sittings of such court; but if the conviction or order is made within twelve days of the sittings of such court, then to the second sittings next after such conviction or order:

Notice to be
given.

(b) The person aggrieved shall give to the prosecutor or complainant, or to the convicting justice, for him, a notice in writing (R) of such appeal, within four days after such conviction or order:

Person so ap-
pealing to re-
main in cus-
tody or give
security.

(c) The person aggrieved shall either remain in custody until the holding of the court to which the appeal is given, or shall enter into a recognizance (S) with two sufficient sureties, before a justice, conditioned personally to appear at the said court, and to try such appeal, and to abide the judgment of the court thereupon, and to pay such costs as are awarded by the court; or, if the appeal is against any

conviction or order, whereby only a penalty or sum of money is adjudged to be paid, the person aggrieved, (although the order directs imprisonment in default of payment), instead of remaining in custody as aforesaid, or giving such recognizance as aforesaid, may deposit with the justice convicting or making the order such sum of money as such justice deems sufficient to cover the sum so adjudged to be paid, together with the costs of the conviction or order, and the costs of the appeal; and upon such recognizance being given, or such deposit being made, the justice before whom such recognizance is entered into, or deposit made, shall liberate such person, if in custody :

Deposit of money in certain cases.

(d) The court to which such appeal is made shall thereupon hear and determine the matter of appeal and make such order therein, with or without costs to either party, including costs of the court below, as seems meet to the court,—and, in case of the dismissal of the appeal or the affirmance of the conviction or order, shall order and adjudge the offender to be punished according to the conviction, or the defendant to pay the amount adjudged by the said order, and to pay such costs as are awarded,—and shall, if necessary, issue process for enforcing the judgment of the court; and whenever after any such deposit has been made as aforesaid, the conviction or order is affirmed, the court may order the sum thereby adjudged to be paid, together with the costs of the conviction or order, and the costs of the appeal, to be paid out of the money deposited, and the residue, if any, to be repaid to the defendant; and whenever, after any such deposit, the conviction or order is quashed, the court shall order the money to be repaid to the defendant :

Proceedings on the appeal.

If the conviction or order is affirmed.

If quashed.

(e) The said court shall have power, if necessary, from time to time, by order indorsed on the conviction or order, to adjourn the hearing of the appeal from one sittings to another, or others, of the said court :

Proceedings may be adjourned.

(f) Whenever any conviction or order is quashed on appeal, as aforesaid, the clerk of the peace or other proper officer shall forthwith indorse on the conviction or order a memorandum that the same has been quashed; and whenever any copy or certificate of such conviction or order is made, a copy of such memorandum shall be added thereto, and shall, when certified under the hand of the clerk of the peace, or of the proper officer having the custody of the same, be sufficient evidence, in all courts and for all purposes, that the conviction or order has been quashed. 33 V., c. 27, s. 1, *part*;—40 V., c. 4, s. 6, *part*, and c. 27, s. 2, *part*.

Memorandum of quashing to be made.

Its effect.

78. When an appeal against any summary conviction or decision has been lodged in due form, and in compliance

Court appealed to may empanel a jury

to try the case. with the requirements of this Act, the court appealed to may, at the request of either appellant or respondent, empanel a jury to try the facts of the case, and shall administer to such jury an oath in the form following :—

Oath of juror. “ You shall well and truly try the facts in dispute in the matter of A. B. (*the informant*) against C. D. (*the defendant*), and a true verdict give according to the evidence. So help you God :”

Judgment. And the court, on the finding of the jury, shall give such judgment as the law requires ; and if a jury is not so demanded, the court shall try and be the absolute judge, as well of the fact as of the law, in respect to such conviction or decision ; and any of the parties to the appeal may call witnesses and adduce evidence, whether such witnesses were called or evidence adduced at the hearing before the justice or not. 32-33 V., c. 31, s. 66 ;—42 V., c. 44, s. 10.

As to evidence.

Appeal not to be based on alleged defect in form or substance, except in cases specified.

79. No judgment shall be given in favor of the appellant if the appeal is based on an objection to any information, complaint or summons, or to any warrant to apprehend a defendant, issued upon any such information, complaint or summons, for any alleged defect therein, in substance or in form, or for any variance between such information, complaint, summons or warrant and the evidence adduced in support thereof at the hearing of such information or complaint, unless it is proved before the court hearing the appeal that such objection was made before the justice before whom the case was tried and by whom such conviction, judgment or decision was given, nor unless it is proved that notwithstanding it was shown to such justice that by such variance the person summoned and appearing or apprehended had been deceived or misled, such justice refused to adjourn the hearing of the case to some further day, as herein provided. 32-33 V., c. 31, s. 67.

Decision to be given on the merits, notwithstanding defect of form in conviction, which may be amended.

80. In every case of appeal from any summary conviction or order had or made before any justice, the court to which such appeal is made shall hear and determine the charge or complaint on which such conviction or order has been had or made, upon the merits, notwithstanding any defect of form or otherwise in such conviction or order ; and if the person charged or complained against is found guilty, the conviction or order shall be affirmed and the court shall amend the same if necessary ; and any conviction or order so affirmed, or affirmed and amended, shall be enforced in the same manner as convictions or orders affirmed on appeal. 32-33 V., c. 31, s. 68.

If appeal is abandoned, after notice

81. The court to which an appeal is made, upon proof of notice of the appeal to such court having been given to

the person entitled to receive the same, though such appeal was not afterwards prosecuted or entered, may, if such appeal has not been abandoned according to law, at the same sittings for which such notice was given, order to the party or parties receiving the same such costs and charges as are thought reasonable and just by the court, to be paid by the party or parties giving such notice; and such costs shall be recoverable in the manner provided by this Act for the recovery of costs upon an appeal against an order or conviction. 32-33 V., c. 31, s. 69.

given, costs to be recoverable.

82. If any appeal against any conviction or order is decided in favor of the respondents, the justice who made the conviction or order, or any other justice for the same territorial division, may issue the warrant of distress or commitment for execution of the same, as if no appeal had been brought. 32-33 V., c. 31, s. 70.

Proceedings after appeal.

83. No conviction or order affirmed, or affirmed and amended, in appeal, shall be quashed for want of form, or be removed by *certiorari* into any superior court, and no warrant or commitment shall be held void by reason of any defect therein, provided it is therein alleged that the defendant has been convicted, and there is a good and valid conviction to sustain the same. 33 V., c. 27, s. 2.

No conviction approved to be removed by *certiorari*, &c.

84. Every justice before whom any person is summarily convicted of any offence, shall transmit the conviction to the court to which the appeal is herein given, in and for the district, county or place wherein the offence has been committed, before the time when an appeal from such conviction may be heard, there to be kept by the proper officer among the records of the court; and if such conviction has been appealed against, and a deposit of money made, such justice shall return the deposit into the said court, and the conviction shall be presumed not to have been appealed against, until the contrary is shown. 32-33 V., c. 31, s. 72, *part.*

Justice convicting to return the conviction.

And the deposit money, if any.

85. And upon any indictment or information against any person for a subsequent offence, a copy of such conviction, certified by the proper officer of the court, or proved to be a true copy, shall be sufficient evidence to prove a conviction for the former offence. 32-33 V., c. 31, s. 72, *part.*

Certificate of conviction to be evidence.

86. Whenever it appears by the conviction, that the defendant has appeared and pleaded, and the merits have been tried, and that the defendant has not appealed against the conviction, where an appeal is allowed, or if appealed against, the conviction has been affirmed, such conviction shall not afterwards be set aside or vacated in consequence of any defect of form whatever, but the construction shall

Effect of conviction if no appeal.

be such a fair and liberal construction as will be agreeable to the justice of the case. 32-33 V., c. 31, s. 73.

To whom costs to be payable.

87. If upon any appeal the court trying the appeal orders either party to pay costs, the order shall direct the costs to be paid to the clerk of the peace or other proper officer of the court, to be paid over by him to the person entitled to the same, and shall state within what time the costs shall be paid. 32-33 V., c. 31, s. 74.

Enforcement of payment.

88. If such costs are not paid within the time so limited, and the person ordered to pay the same has not been bound by any recognizance conditioned to pay such costs, the clerk of the peace or his deputy, on application of the person entitled to the costs, or of any person on his behalf, and on payment of any fee to which he is entitled, shall grant to the person so applying, a certificate (T) that the costs have not been paid; and upon production of the certificate to any justice in and for the same territorial division, such justice may enforce the payment of the costs by warrant of distress (U) in manner aforesaid, and in default of distress may commit (U 2) the person against whom the warrant has issued in manner hereinbefore mentioned, for any term not exceeding two months, unless the amount of the costs and all costs and charges of the distress and also the costs of the commitment and conveying of the party to prison, if the justice thinks fit so to order, (the amount thereof being ascertained and stated in the commitment), are sooner paid. 32-33 V., c. 31, s. 75.

By distress or imprisonment.

TENDER AND PAYMENT.

In case of tender or payment of the amount of the distress.

89. Whenever a warrant of distress has issued against any person, and such person pays or tenders to the constable having the execution of the same, the sum or sums in the warrant mentioned, together with the amount of the expenses of the distress up to the time of payment or tender, the constable shall cease to execute the same. 32-33 V., c. 31, s. 83.

Payment may be made to the keeper of the prison.

90. Whenever any person is imprisoned for non-payment of any penalty or other sum, he may pay or cause to be paid to the keeper of the prison in which he is imprisoned, the sum in the warrant of commitment mentioned, together with the amount of the costs and charges and expenses therein also mentioned, and the keeper shall receive the same, and shall thereupon discharge the person, if he is in his custody for no other matter. 32-33 V., c. 31, s. 56, *part*, and s. 84.

RETURNS RESPECTING CONVICTIONS AND MONEYS RECEIVED.

Returns to be made quarterly by justices.

91. Every justice shall, quarterly, on or before the second Tuesday in each of the months of March, June,

September and December in each year, make to the clerk of the peace or other proper officer of the court having jurisdiction in appeal, as herein provided, a return in writing, under his hand, of all convictions made by him, and of the receipt and application by him of the moneys received from the defendants,—which return shall include all convictions and other matters not included in some previous return, and shall be in the form (V) in the schedule to this Act :

2. If two or more justices are present, and join in the conviction, they shall make a joint return : Joint return.

3. In the Province of Prince Edward Island such return shall be made to the clerk of the court of assize of the county in which the convictions are made, and up to the twelfth day next before the sitting of the said court next after such convictions are so made : In Prince Edward Island.

4. Every such return shall be made, in the districts of Muskoka and Parry Sound, in the Province of Ontario, to the clerk of the peace for the county of Simcoe, in the said Province ; in the provisional county of Haliburton, in the said Province, to the clerk of the peace for the county of Victoria, in the said Province ; in the district of Thunder Bay, in the said Province, to the clerk of the peace for the district of Algoma, in the said Province ; and in the district of Nipissing in the said Province, to the clerk of the peace for the county of Renfrew, in the said Province. In certain districts and provisional counties in Ontario.
 32-33 V., c. 31, s. 76, *part* ;—33 V., c. 27, s. 3 ;—40 V., c. 4, s. 7 ;—47 V., c. 43, s. 2.

92. Every justice, to whom any such moneys are afterwards paid, shall make a return of the receipts and application thereof, to the court having jurisdiction in appeal as hereinbefore provided,—which return shall be filed by the clerk of the peace with the records of his office. Return of subsequent receipts, &c.
 32-33 V., c. 31, s. 77.

93. Every justice, before whom any such conviction takes place or who receives any such moneys, who neglects or refuses to make such return thereof, or wilfully makes a false, partial or incorrect return, or wilfully receives a larger amount of fees than by law he is authorized to receive, shall incur a penalty of eighty dollars, together with full costs of suit, which may be recovered by any person who sues for the same by action of debt or information in any court of record in the Province in which such return ought to have been or is made : Penalty on justices of the peace neglecting to comply with the provisions of this Act as to returns, &c.

2. One moiety of such penalty shall belong to the person suing, and the other moiety to Her Majesty, for the public uses of Canada. Application of penalty.
 32-33 V., c. 31, s. 78.

Actions for such penalties limited to six months after cause.

94. All prosecutions for penalties arising under the provisions of the next preceding section shall be commenced within six months next after the cause of action accrues, and the same shall be tried in the district, county or place wherein such penalties have been incurred; and if a verdict or judgment passes for the defendant, or the plaintiff becomes non-suit, or discontinues the action after issue joined, or if, upon demurrer or otherwise, judgment is given against the plaintiff, the defendant shall recover his full costs of suit, as between solicitor and client, and shall have the like remedy for the same as any defendant has by law in other cases. 32-33 V., c. 31, s. 79.

As to costs.

Clerk of the peace, &c., to publish and post up the returns so made.

95. The clerk of the peace of the district or county in which any such returns are made, or the proper officer, other than the clerk of the peace, to whom such returns are made, shall, within seven days after the adjournment of the next ensuing General or Quarter Sessions, or of the term or sitting of such other court as aforesaid, cause the said returns to be published in one newspaper in the district or county, or if there is no such newspaper, then in a newspaper of an adjoining district or county, and shall also post up in the court house of the district or county, and also in a conspicuous place in the office of such clerk of the peace, or other proper officer, for public inspection, a schedule of the returns so made by such justices; and the same shall continue to be so posted up and exhibited until the end of the next ensuing General or Quarter Sessions of the Peace, or of the term or sitting of such other court as aforesaid; and for every schedule so made and exhibited by such clerk or officer, he shall be allowed the expense of publication, and such fee as is fixed by competent authority. 32-33 V., c. 31, s. 80.

Fee for posting up.

Copy of returns to be sent to Minister of Finance.

96. Such clerk of the peace or other officer of each district or county, within twenty days after the end of each General or Quarter Sessions of the Peace, or the sitting of such court as aforesaid, shall transmit to the Minister of Finance and Receiver General a true copy of all such returns made within his district or county. 32-33 V., c. 31, s. 81.

Not to prevent prosecution of a justice in default.

97. Nothing in the six sections next preceding shall have the effect of preventing any person aggrieved from prosecuting, by indictment, any justice, for any offence, the commission of which would subject him to indictment at the time of the coming into force of this Act. 32-33 V., c. 31, s. 82.

GENERAL PROVISIONS.

Returns not vitiated by certain mat-

98. No return purporting to be made by any justice under this Act shall be vitiated by the fact of its including,

by mistake, any convictions or orders had or made before him in any matter over which any Provincial Legislature has exclusive jurisdiction, or with respect to which he acted under the authority of any provincial law. 32-33 V., c. 36, s. 7. ters being included therein.

99. If it is stated in any summons, warrant, document or other instrument issued at any time in any Province of Canada, by any justice, that the same is given under the hand and seal of the justice signing it, such seal shall be presumed to have been affixed by him, and its absence shall not invalidate the instrument; or such justice may at any time thereafter affix such seal with the same effect as if it had been affixed when such instrument was signed. 32-33 V., c. 36, s. 4, *part*. Seals to warrants and other documents.

100. Every judge of Sessions of the Peace, police magistrate, district magistrate or stipendiary magistrate, shall have such and like powers and authority to preserve order in the said courts during the holding thereof, and by the like ways and means as now by law are or may be exercised and used in like cases and for the like purposes by any court in Canada, or by the judges thereof, during the sittings thereof. 32-33 V., c. 31, s. 92. Power to preserve order, &c.

101. Every judge of the Sessions of the Peace, police magistrate, district magistrate or stipendiary magistrate, whenever any resistance is offered to the execution of any summons, warrant of execution or other process issued by him, may enforce the due execution of the same by the means provided by the law for enforcing the execution of the process of other courts in like cases. 32-33 V., c. 31, s. 93. Power to punish resistance to process, &c.

102. The several forms in the schedule to this Act contained, varied to suit the case, or forms to the like effect, shall be deemed good, valid and sufficient in law. 32-33 V., c. 31, ss. 91, *part*, and 96. Forms to be sufficient.

103. So much of this Act as gives any appeal from any conviction or order had or made under it, shall not apply to the North-West Territories. 43 V., c. 25, sch., *part*. No appeal in N. W. T.

SCHEDULE.

(A.)

FORM OF INFORMATION OR OF COMPLAINT ON OATH.

Canada. }
 Province of }
 district (or county, }
 united counties, or as }
 the case may be), }
 of }

The information (or complaint) of C. D., of the township of _____, in the said district (or county, united counties, or as the case may be), of _____ (laborer). (If preferred by an attorney or agent, say—by D. E., his duly authorized agent or attorney), in this behalf, taken upon oath before me, the undersigned, a justice of the peace in and for the said district (or county, united counties, or as the case may be), of _____, at N., in the said district (or county, as the case may be) of _____ this _____ day of _____, in the year _____, who says * that he has just cause to suspect and believe, and does suspect and believe that A. B., of the (township) of _____, in the said district (or county, as the case may be) of _____, within the space of _____, (the time within which the information (or complaint) should be laid), last past, to wit, on the _____ day of _____, at the (township) of _____, in the district (county, or as the case may be) aforesaid, did (here set out the offence, &c.), contrary to the form of the statute in such case made and provided.

C. D. (or D. E.)

Taken and sworn before me, the day and year and at the place above mentioned.

J. S.

(B.)

SUMMONS TO THE DEFENDANT UPON AN INFORMATION OR COMPLAINT.

Canada. }
 Province of }
 district (or county, }
 united counties, or }
 as the case may be), }
 of }

To A. B., of _____ (laborer) :

Whereas information has this day been laid (or complaint has this day been made) before the undersigned, a justice

of the peace in and for the said district (*or county, united counties, city, town, &c., as the case may be*), of
 for that you (*here state shortly the matter of the information or complaint*): These are, therefore, to command you, in Her Majesty's name, to be and appear on
 at _____ o'clock in the (fore) noon, at _____,
 before me, or such justice or justices of the peace for the said district (*or county, united counties, or as the case may be*), as shall then be there, to answer to the said information (*or complaint*), and to be further dealt with according to law.

Given under my hand and seal this _____ day of _____,
 in the year _____, at _____ in the district
 (*or county, or as the case may be*), aforesaid.

J. S. [L. s.]

(C.)

WARRANT WHEN THE SUMMONS IS DISOBEYED.

Canada. }
 Province of }
 district (*or county,*
united counties, or
as the case may be), }
 of }

To all or any of the constables or other peace officers in the said district (*or county, united counties, or as the case may be*), of

Whereas on _____ last past, information was laid (*or complaint was made*) before _____, a justice of the peace in and for the said district (*or county, united counties, or as the case may be*), of _____, for that A. B. (*&c., as in the summons*); And whereas (I) the said justice of the peace then issued (my) summons unto the said A. B., commanding him, in Her Majesty's name, to be and appear on _____, at _____ o'clock in the (fore) noon, at _____, before (*me*) or such justice or justices of the peace as should then be there, to answer unto the said information (*or complaint*), and to be further dealt with according to law; And whereas the said A. B. has neglected to be and appear at the time and place so appointed in and by the said summons, although it has now been proved to me upon oath that the said summons was duly served upon the said A. B.: These are, therefore, to command you, in Her Majesty's name, forthwith to apprehend the said A. B. and to bring him before (me) or

some one or more justices of the peace in and for the said district (*or county, united counties, or as the case may be*), to answer to the said information (*or complaint*), and to be further dealt with according to law.

Given under my hand and seal, this day of
in the year at , in the district (*or*
county, united counties, or as the case may be), aforesaid.

J. S. [L. S.]

(D.)

WARRANT IN THE FIRST INSTANCE.

Canada. Province of district (<i>or county,</i> <i>united counties, or</i> <i>as the case may be</i>), of	}
--	---

To all or any of the constables or other peace officers in the said district (*or county, united counties, or as the case may be*), of

Whereas information has this day been laid before the undersigned, a justice of the peace in and for the said district (*or county, united counties, or as the case may be*), of for that A. B. (*here state shortly the matter of information*); and oath being now made before me substantiating the matter of such information: These are, therefore, to command you, in Her Majesty's name, forthwith to apprehend the said A. B. and to bring him before (me) or some one or more justices of the peace in and for the said district (*or county, united counties, or as the case may be*), to answer to the said information, and to be further dealt with according to law.

Given under my hand and seal, this day of , in
the year , at , in the district (*county,*
&c., as the case may be) aforesaid.

J. S. [L. S.]

(E. 1.)

SUMMONS TO A WITNESS.

Canada. }
 Province of }
 district (or county, }
 united counties, or }
 as the case may be), }
 of }

To E. F., of _____, in the said district (or county, united counties, or as the case may be), of _____.

Whereas information was laid (or complaint was made) before _____, a justice of the peace in and for the said district (or county, united counties, or as the case may be), of _____, for that (&c., as in the summons), and it has been made to appear to me upon (oath) that you are likely to give material evidence on behalf of the prosecutor (or complainant or defendant), in this behalf: These are, therefore, to require you to be and appear on _____ at _____ o'clock in the (fore) noon, at _____, before me or such justice or justices of the peace for the said district (or county, united counties, or as the case may be), as shall then be there, to testify what you know concerning the matter of the said information (or complaint).

Given under my hand and seal this _____ day of _____, in the year _____, at _____, in the district (or county, or as the case may be), aforesaid.

J. S. [L. S.]

(E. 2.)

WARRANT WHERE A WITNESS HAS NOT OBEYED A SUMMONS.

Canada. }
 Province of }
 district (or county, }
 united counties, or }
 as the case may be), }
 of }

To all or any of the constables and other peace officers in the said district (or county, united counties, or as the case may be), of _____.

Whereas information was laid (or complaint was made) before _____, a justice of the peace in and for the said district (or county, united counties, or as the case may

be), of _____, for that (&c., as in the summons), and it having been made to appear to (me) upon oath that E. F., of _____, in the said district (or county, united counties, or as the case may be), (laborer) was likely to give material evidence on behalf of the (prosecutor, or as the case may be), (I) did duly issue (my) summons to the said E. F., requiring him to be and appear on _____, at _____ o'clock in the (fore) noon of the same day, at _____, before me or such justice or justices of the peace for the said district (or county, united counties, or as the case may be), as should then be there, to testify to what he knew concerning the said A. B., or the matter of the said information (or complaint); And whereas proof has this day been made before me, upon oath, of such summons having been duly served upon the said E. F.; And whereas the said E. F. has neglected to appear at the time and place appointed by the said summons, and no just excuse has been offered for such neglect: These are, therefore, to command you to take the said E. F., and to bring and have him on _____, at _____ o'clock in the _____ noon, at _____, before me or such justice or justices of the peace for the district (or county, united counties, or as the case may be), as shall then be there, to testify what he knows concerning the said information (or complaint).

Given under (my) hand and seal this _____ day of _____ in the year _____, at _____ in the district (or county, or as the case may be), aforesaid.

J. S. [L. s.]

(E. 3.)

WARRANT FOR A WITNESS IN THE FIRST INSTANCE.

Canada. }
 Province of }
 district (or county, }
 united counties, or }
 as the case may be), }
 of }

To all or any of the constables or other peace officers in the said district (or county, united counties, or as the case may be), of _____

Whereas information was laid (or complaint was made) before the undersigned _____, a justice of the peace in and for the said district (or county, united counties, or as the case may be), of _____ for that (&c.,

as in the summons), and it being made to appear before me upon oath, that E. F., of _____, (laborer), is likely to give material evidence on behalf of the (prosecutor, *or as the case may be*), in this matter, and it is probable that the said E. F. will not attend to give evidence without being compelled so to do: These are, therefore, to command you to bring and have the said E. F., on _____, at _____ o'clock in the (*fore*) noon, at _____, before me or such other justice or justices of the peace, for the district (*or county, united counties, or as the case may be*), as shall then be there, to testify what he knows concerning the matter of the said information (*or complaint*).

Given under (my) hand and seal this _____ day of _____, in the year _____, at _____, in the district (*or county, or as the case may be*), aforesaid.

J. S. [L. s.]

(E. 4.)

COMMITMENT OF A WITNESS FOR REFUSING TO BE SWORN
OR GIVE EVIDENCE.

Canada. }
Province of }
district (*or county,*
united counties *or*
as the case may be), }
of . }

To all or any of the constables or other peace officers in the said district (*or county, united counties, or as the case may be*), of _____ and to the keeper of the common gaol of the said district (*or county, united counties, or as the case may be*), at _____

Whereas information was laid (*or complaint was made*) before (me) _____, a justice of the peace, in and for the said district (*or county, united counties, or as the case may be*), of _____, for that (&c., *as in the summons*), and one E. F., now appearing before me, such justice as aforesaid, on _____, at _____, and being required by me to make oath (*or affirmation*) as a witness in that behalf, refuses so to do (*or being now here duly sworn as a witness in the matter of the said information or complaint*) refuses to answer a certain question concerning the premises which is now here put to him, and more particularly the following question (*here insert the exact words of the question*), without offering any just excuse for such his refusal: These are, therefore, to command you, or any one of the said constables or peace officers, to take the said E. F., and him safely to convey to

the common gaol at _____ aforesaid, and there deliver him to the said keeper thereof, together with this precept ; And I do hereby command you, the said keeper of the said common gaol, to receive the said E. F. into your custody in the said common gaol and there imprison him for such his contempt for the term of _____ days, unless he shall in the meantime consent to be examined and to answer concerning the premises, and for so doing this shall be your sufficient warrant.

Given under (my) hand and seal, this _____ day of _____ in the year _____, at _____, in the district (or county, *or as the case may be*), aforesaid.

J. S. [L. S.]

(F.)

WARRANT TO REMAND A DEFENDANT WHEN APPREHENDED.

Canada.	}
Province of	
district (<i>or county, united counties, or as the case may be</i>),	
of	

To all or any of the constables, or other peace officers in the said district (*or county, united counties, or as the case may be*), of _____, and to the keeper of the common gaol (*or lock-up house*) at _____

Whereas information was laid (*or complaint was made*) before _____, a justice of the peace in and for the district (*or county, united counties, or as the case may be*), of _____, for that (*&c., as in the summons or warrant*); And whereas the said A. B. has been apprehended, under and by virtue of a warrant, upon such information (*or complaint*), and is now brought before me as such justice as aforesaid : These are, therefore, to command you, or any one of the said constables or peace officers, in Her Majesty's name, forthwith to convey the said A. B. to the common gaol (*or lock-up house*) at _____, and there to deliver him to the said keeper thereof, together with this precept ; And I do hereby command you, the said keeper, to receive the said A. B. into your custody in the said common gaol (*or lock-up house*), and there safely keep him until _____ next, the day of _____ (*instant*), when you are hereby commanded to convey and have him at _____, at _____ o'clock in the noon of the same day, before me, or such justice or justices of the peace of the said district (*or county, united counties, or as the case may be*), as shall then be there, to answer to the said information (*or complaint*), and to be further dealt with according to law.

Given under (my) hand and seal, this day of
 in the year , at , in the district (or
 county, *or as the case may be*), aforesaid.

J. S. [L. s.]

(G.)

WARRANT OF COMMITTAL FOR SAFE CUSTODY DURING AN
 ADJOURNMENT OF THE HEARING.

Canada.)
 Province of)
 district (or county,
 united counties, or
 as the case may be),)
 of)

To all or any of the constables or peace officers in the dis-
 trict (or county, united counties, *or as the case may be*), of
 , and to the keeper of the common gaol (or lock-up
 house) at

Whereas on last past, information was
 laid (or complaint made) before , a justice of
 the peace in and for the said district (or counties, united
 counties, *or as the case may be*), of , for that (&c., *as*
in the summons); And whereas the hearing of the same is
 adjourned to the of (instant) at
 o'clock in the (*fore*) noon, at , and it is
 necessary that the said A.B. should, in the meantime, be
 kept in safe custody: These are, therefore, to command you,
 or any one of the said constables or peace officers, in Her
 Majesty's name, forthwith to convey the said A.B. to the
 common gaol (or lock-up house), at , and there
 deliver him into the custody of the keeper thereof, together
 with this precept; And I do hereby require you, the said
 keeper, to receive the said A.B. into your custody in the
 said common gaol (or lock-up house), and there safely keep
 him until the day of , (instant) when
 you are hereby required to convey and have him, the said
 A.B., at the time and place to which the said hearing is so
 adjourned as aforesaid, before such justices of the peace for
 the said district (or county, united counties, *or as the case may*
be), as shall then be there, to answer further to the said
 information (or complaint), and to be further dealt with
 according to law.

Given under my hand and seal, this day of ,
 in the year , at , in the district (or county,
 &c., *as the case may be*) aforesaid.

J. S. [L.S.]

(H.)

RECOGNIZANCE FOR THE APPEARANCE OF THE DEFENDANT
WHEN THE CASE IS ADJOURNED, OR NOT AT ONCE PRO-
CEEDED WITH.

Canada. }
Province of }
district (or county, }
united counties, or }
as the case may be), }
of }

Be it remembered, that on _____, A. B.
(laborer), and L. M., of _____ (grocer), and O. P. of
(yeoman), personally came and appeared before the under-
signed, _____, a justice of the peace in and for the
said district (or county, united counties, or as the case may
be) of _____, and severally acknowledged
themselves to owe to our Sovereign Lady the Queen the
several sums following, that is to say: the said A. B., the
sum of _____, and the said L. M. and O. P. the sum
of _____, each, of good and lawful current money of
Canada, to be made and levied of their several goods and
chattels, lands and tenements respectively, to the use of
our said Lady the Queen, her heirs and successors, if he, the
said A. B., fails in the condition indorsed (or hereunder
written).

Taken and acknowledged the day and year first above
mentioned at _____ before me.

J. S. [L. s.]

The condition of the within (or the above) written recog-
nizance is such that if the said A. B. personally appears on
the _____ day of _____, (instant) at _____ o'clock in the
(fore) noon, at _____, before me or such justices of
the peace for the said district (or county, united counties,
or as the case may be), as shall then be there, to answer
further to the information (or complaint) of C. D., exhibited
against the said A. B., and to be further dealt with accord-
ing to law, then the said recognizance to be void, otherwise
to remain in full force and virtue.

NOTICE OF SUCH RECOGNIZANCE TO BE GIVEN TO THE
DEFENDANT AND HIS SURETIES.

Take notice that you, A. B., are bound in the sum of
_____, and you, L. M. and O. P., in the sum of
_____, each, that you A. B., appear personally on _____ at
o'clock in the (fore) noon at _____, before me or such
justice of the peace for the district (or county, united coun-
ties, or as the case may be), of _____, as shall then be
there, to answer further to a certain information (or com-

plaint) of C. D., the further hearing of which was adjourned to the said time and place, and unless you appear accordingly, the recognizance entered into by you, A. B., and by L. M. and O. P. as your sureties, will forthwith be levied on you and them.

Dated this _____ day of _____, one thousand eight hundred and _____

J. S. [L. S.]

(I. 1.)

CONVICTION FOR A PENALTY TO BE LEVIED BY DISTRESS,
AND IN DEFAULT OF SUFFICIENT DISTRESS, BY IMPRISONMENT.

Canada. }
Province of }
district (or county, }
united counties, or }
as the case may be), }
of }

Be it remembered, that on the _____ day of _____ in the year _____, at _____ in the said district (or county, united counties, or as the case may be), A. B. is convicted before the undersigned, _____, a justice of the peace for the said district (or county, united counties, or as the case may be), for that the said A. B. (&c., stating the offence, and the time and place when and where committed), and I adjudge the said A. B. for his said offence to forfeit and pay the sum of _____ (stating the penalty, and also the compensation, if any), to be paid and applied according to law, and also to pay to the said C. D. the sum of _____, for his costs in this behalf; and if the said several sums are not paid forthwith, (or on or before the _____ of _____ next), * I order that the same be levied by distress and sale of the goods and chattels of the said A. B., and in default of sufficient distress, * I adjudge the said A. B. to be imprisoned in the common gaol of the said district (or county, united counties, or as the case may be), at _____ in the said district (or county) of _____ (there to be kept at hard labor, if such is the sentence) for the term of _____ unless the said several sums and all costs and charges of the said distress (and of the commitment and conveying of the said A. B. to the said gaol) are sooner paid.

Given under (my) hand and seal, the day and year first above mentioned, at _____, in the district (or county, united counties, or as the case may be), aforesaid.

J. S. [L.S.]

* Or when the issuing of a distress warrant would be ruinous to the defendant or his family, or it appears he has no goods whereon to levy a distress, then instead of the words between the asterisks * * say, "inasmuch as it is now made to appear to me that the issuing of a warrant of distress in this behalf would be ruinous to the said A. B. and his family," [or, "that the said A. B. has no goods or chattels whereon to levy the said sums by distress"], I adjudge, &c., [as above, to the end].

(I. 2.)

CONVICTION FOR A PENALTY, AND IN DEFAULT OF PAYMENT,
IMPRISONMENT.

Canada.	}
Province of	
district (or county, united counties, or as the case may be),	
of	

Be it remembered, that on the _____ day of _____ in the year _____, at _____, in the said district (or county, united counties, or as the case may be), A. B. is convicted before the undersigned, _____ a justice of the peace for the said district (or county, united counties, or as the case may be), for that he the said A. B. (&c., stating the offence, and the time and place when and where it was committed), and I adjudge the said A. B. for his said offence to forfeit and pay the sum of _____ (stating the penalty and the compensation, if any), to be paid and applied according to law; and also to pay to the said C. D. the sum of _____ for his costs in this behalf; and if the said several sums are not paid forthwith (or, on or before _____ next), I adjudge the said A. B. to be imprisoned in the common gaol of the said district (or county, united counties, or as the case may be), at _____, in the said district (or county) of _____ (and there to be kept at hard labor) for the term of _____, unless the said sums and the costs and charges of conveying the said A. B. to the said common gaol are sooner paid.

Given under (my) hand and seal, the day and year first above mentioned, at _____ in the district (or county, united counties, or as the case may be), aforesaid.

J. S. [L.S.]

(I. 3.)

CONVICTION WHEN THE PUNISHMENT IS BY IMPRISON-
MENT, ETC.

Province of	}	Canada.
district (or county,		
united counties, or		
as the case may be),		
of		.

Be it remembered, that on the _____ day of _____, in the year _____, in the said district (or county, united counties, or as the case may be), A. B. is convicted before the undersigned, _____, a justice of the peace in and for the said district (or county, united counties, or as the case may be), for that he the said A. B. (&c., stating the offence, and the time and place when and where it was committed); and I adjudge the said A. B. for his said offence to be imprisoned in the common gaol of the said district (or county, united counties, or as the case may be), at _____, in the county of _____ (and there to be kept at hard labor) for the term of _____; and I also adjudge the said A. B. to pay to the said C. D. the sum of _____, for his costs in this behalf, and if the said sum for costs are not paid forthwith (or on or before _____ next,) then * I order that the said sum be levied by distress and sale of the goods and chattels of the said A. B.; and in default of sufficient distress in that behalf, * I adjudge the said A. B. to be imprisoned in the said common gaol (and kept there at hard labor) for the term of _____, to commence at _____ and from the term of his imprisonment aforesaid, unless the said sum for costs is sooner paid.

Given under (my) hand and seal, the day and year first above mentioned at _____, in the district (or county, united counties, or as the case may be), aforesaid.

J. S. [L.S.]

* Or, when the issuing of a distress warrant would be ruinous to the defendant and his family, or it appears that he has no goods whereon to levy a distress, then, instead of the words between the asterisks * * say, "inasmuch as it is now made to appear to me that the issuing of a warrant of distress in this behalf would be ruinous to the said A. B. and his family," (or, "that the said A. B. has no goods or chattels whereon to levy the said sum for costs by distress") I adjudge, &c.

(K. 1.)

ORDER FOR PAYMENT OF MONEY TO BE LEVIED BY DISTRESS,
AND IN DEFAULT OF DISTRESS, IMPRISONMENT.

Canada.	}
Province of	
district (or county, united counties, or as the case may be),	
of	

Be it remembered, that on _____, complaint was made before the undersigned, _____, a justice of the peace in and for the said district (or county, united counties, or as the case may be), of _____, for that (*stating the facts entitling the complainant to the order, with the time and place when and where they occurred*), and now at this day, to wit, on _____, at _____, the parties aforesaid appear before me the said justice (or, the said C. D. appears before me the said justice, but the said A. B., although duly called, does not appear by himself, his counsel or attorney, and it is now satisfactorily proved to me on oath that the said A. B. was duly served with the summons in this behalf, which required him to be and appear here on this day before me or such justice or justices of the peace for the district (or county, united counties, or as the case may be), as should now be here, to answer the said complaint, and to be further dealt with according to law); and now having heard the matter of the said complaint, I do adjudge the said A. B. to pay to the said C. D. the sum of _____ forthwith (or on or before _____ next, or as the Act or law requires), and also to pay to the said C. D. the sum of _____ for his costs in this behalf; and if the said several sums are not paid forthwith (or on or before _____ next), then, * I hereby order that the same be levied by distress and sale of the goods and chattels of the said A. B., and in default of sufficient distress in that behalf, * I adjudge the said A. B. to be imprisoned in the common gaol of the said district (or county, united counties, or as the case may be), at _____, in the said district (or county) of _____, (and there kept at hard labor) for the term of _____, unless the said several sums, and all costs and charges of the said distress (and the commitment and conveyance of the said A. B. to the said common gaol) are sooner paid.

Given under (my) hand and seal, this _____ day of _____ in the year _____, at _____ in the district (or county, or as the case may be), aforesaid.

J. S. [L.S.]

*Or, when the issuing of a distress warrant would be ruinous to the defendant and his family, or it appears he has no goods whereon to levy a distress, then, instead of the words between the asterisks ** say, "inasmuch as it is now made to appear

to me that the issuing of a warrant of distress in this behalf would be ruinous to the said A. B. and his family," (or, "that the said A. B. has no goods or chattels whereon to levy the said sums by distress").

(K. 2.)

ORDER FOR PAYMENT OF MONEY, AND IN DEFAULT OF
PAYMENT, IMPRISONMENT.

Canada.
Province of
district (or county,
united counties (or
as the case may be),
of

Be it remembered, that on _____, complaint was made before the undersigned, _____ a justice of the peace in and for the said district (or county, united counties, or as the case may be) of _____, for that (*stating the facts entitling the complainant to the order, with the time and place when and where they occurred*), and now on this day, to wit, on _____, at _____, the parties aforesaid appear before me the said justice (or the said C. D. appears before me the said justice, but the said A. B., although duly called, does not appear by himself, his counsel or attorney, and it is now satisfactorily proved to me upon oath that the said A. B. was duly served with the summons in this behalf, which required him to be and appear here this day before me, or such justice or justices of the peace for the said district (or county, united counties, or as the case may be), as should now be here, to answer to the said complaint, and to be further dealt with according to law), and now having heard the matter of the said complaint, I do adjudge the said A. B. to pay to the said C. D. the sum of _____ forthwith (or on or before _____ next, or as the Act or law requires), and also to pay to the said C. D. the sum of _____ for his costs in this behalf; and if the said several sums are not paid forthwith (or on or before _____ next), then I adjudge the said A. B. to be imprisoned in the common gaol of the said district (or county, united counties, or as the case may be), at _____, in the said district (or county) of _____ (there to be kept at hard labor if the Act or law authorizes this) for the term of _____ unless the said several sums (and costs and charges of commitment and conveying the said A. B. to the said common gaol) are sooner paid.

Given under (my) hand and seal this _____ day of _____, in the year _____, at _____, in the district (or county, united counties, or as the case may be), aforesaid.

J. S. [L.S.]

(K. 3.)

ORDER FOR ANY OTHER MATTER WHERE THE DISOBEYING
OF IT IS PUNISHABLE WITH IMPRISONMENT.

Canada.	}
Province of	
district (or county,	
united counties, or	
as the case may be),	
of	}

Be it remembered, that on _____, complaint was made before the undersigned, _____ a justice of the peace in and for the said district (or county, united counties, or as the case may be), of _____, for that (*stating the facts entitling the complainant to the order, with the time and place where and when they occurred*); and now on this day, to wit, on _____, at _____, the parties aforesaid appear before me the said justice (or the said C.D. appears before me the said justice, but the said A.B., although duly called, does not appear by himself, his counsel or attorney, and it is now satisfactorily proved to me, upon oath, that the said A.B. was duly served with the summons in this behalf, which required him to be and appear here this day before me, or such justice or justices of the peace for the said district (or county, united counties, or as the case may be), as should now be here, to answer to the said complaint, and to be further dealt with according to law); and now having heard the matter of the said complaint, I do adjudge the said A.B. to (*here state the matter required to be done*), and if, upon a copy of the minute of this order being served upon the said A.B., either personally or by leaving the same for him at his last or most usual place of abode, he neglects or refuses to obey the same, in that case I adjudge the said A.B., for such his disobedience, to be imprisoned in the common gaol of the said district (or county, united counties, or as the case may be), at _____, in the said county of _____ (there to be kept at hard labor, *if the statute authorizes this*), for the term of _____, unless the said order is sooner obeyed, and I do also adjudge the said A.B. to pay to the said C.D. the sum of _____, for his costs in this behalf, and if the said sum for costs is not paid forthwith (or on or before _____ next), I order the same to be levied by distress and sale of the goods and chattels of the said A.B., and in default of sufficient distress in that behalf, I adjudge the said A.B. to be imprisoned in the said common gaol (there to be kept at hard labor) for the space of _____, to commence at and from the termination of his imprisonment aforesaid, unless the said sum for costs is sooner paid.

Given under (my) hand and seal, this _____ day of _____, in the year _____, at _____, in the district (or county, united counties, or as the case may be), aforesaid.

J. S. [L.S.]

(L.)

FORM OF ORDER OF DISMISSAL OF AN INFORMATION OR COMPLAINT.

Canada. }
 Province of }
 district (or county, }
 united counties, or }
 as the case may be), }
 of }

Be it remembered, that on _____, information was laid (or complaint was made) before the undersigned, _____ a justice of the peace in and for the said district (or county, united counties, or as the case may be), of _____, for that (&c., as in the summons of the defendant) and now at this day, to wit, on _____, at _____, (if at any adjournment insert here: "to which day the hearing of this case was duly adjourned, of which the said C.D. had due notice"), both the said parties appear before me in order that I should hear and determine the said information (or complaint) (or the said A.B. appears before me, but the said C.D., although duly called, does not appear; [whereupon the matter of the said information (or complaint) being by me duly considered, it manifestly appears to me that the said information (or complaint) is not proved, and] (if the informant (or complainant) does not appear, these words may be omitted), I do therefore dismiss the same) and do adjudge that the said C.D. do pay to the said A.B. the sum of _____, for his costs incurred by him in defence in his behalf; and if the said sum for costs is not paid forthwith (or on or before _____), I order that the same be levied by distress and sale of the goods and chattels of the said C.D., and in default of sufficient distress in that behalf, I adjudge the said C.D. to be imprisoned in the common gaol of the said district (or county, united counties, or as the case may be), of _____, at _____, in the said (county) of _____ (and there kept at hard labor) for the term of _____, unless the said sum for costs, and all costs and charges of the said distress (and of the commitment and conveying of the said C.D. to the said common gaol) are sooner paid.

Given under my hand and seal, this _____ day of _____, in the year _____, at _____, in the district (or county, united counties, or as the case may be), aforesaid.

J. S. [L.S.]

(M.)

FORM OF CERTIFICATE OF DISMISSAL.

I hereby certify that an information (*or complaint*) preferred by C.D. against A.B. for that (*&c., as in the summons*) was this day considered by me, a justice of the peace in and for the said district (*or county, united counties, or as the case may be*), of _____, and was by me dismissed (with costs).

Dated this _____ day of _____, one thousand _____ J. S.

(N. 1.)

WARRANT OF DISTRESS UPON A CONVICTION FOR A PENALTY

Canada. Province of district (<i>or county,</i> <i>united counties, or</i> <i>as the case may be</i>), of	}
--	---

To all or any of the constables or other peace officers in the said district (*or county, united counties, or as the case may be*), of _____,

Whereas A.B., late of _____ (*laborer*) was on this day (*or on* _____ last past) duly convicted before a justice of the peace, in and for the said district (*or county, united counties, or as the case may be*), of _____, for that (*stating the offence, as in the conviction*), and it was thereby adjudged that the said A.B. should for such his offence, forfeit and pay (*&c., as in the conviction*), and should also pay to the said C.D. the sum of _____, for his costs in that behalf; and it was thereby ordered that if the said several sums were not paid (forthwith) the same should be levied by distress and sale of the goods and chattels of the said A.B., and it was thereby also adjudged that the said A.B., in default of sufficient distress, should be imprisoned in the common gaol of the said district (*or county, united counties, or as the case may be*), at _____, in the said county of _____ (and there kept at hard labor) for the space of _____, unless the said several sums and all costs and charges of the said distress, and of the commitment and conveying of the said A.B. to the said common gaol were sooner paid; *And whereas the said A.B., being so convicted as aforesaid, and being (now)

required to pay the said sums of and has not paid the same or any part thereof, but therein has made default: These are, therefore, to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said A.B.; and if within days next after the making of such distress, the said sums, together with the reasonable charges of taking and keeping the distress, are not paid, then to sell the said goods and chattels so by you distrained, and to pay the money arising from such sale unto me (*the convicting justice or one of the convicting justices*) that I (*or he*) may pay and apply the same as by law directed, and may render the overplus, if any, on demand, to the said A.B.; and if no such distress is found, then to certify the same unto me, that such further proceedings may be had thereon as to law appertain.

Given under my hand and seal, this day of in the year , at , in the district (*or county, or as the case may be*), aforesaid.

J. S. [L.S.]

—
(N. 2.)

WARRANT OF DISTRESS UPON AN ORDER FOR THE PAYMENT OF MONEY.

Canada.	}
Province of	
district (<i>or county,</i>	
united counties, <i>or</i>	
<i>as the case may be</i>),	}
of	

To all or any of the constables or other peace officers, in the said district (*or county, united counties, or as the case may be*), of

Whereas on , last past, a complaint was made before , a justice of the peace in and for the said district (*or county, united counties, or as the case may be*), for that (*&c., as in the order*), and afterwards, to wit, on , at , the said parties appeared before (*as in the order*), and thereupon the matter of the said complaint having been considered, the said A.B. was adjudged (to pay to the said C. D. the sum of , on or before then next), and also to pay to the said C.D. the sum of , for his costs in that behalf; and it was ordered that if the said several sums were not paid on or before the said then next, the same should

be levied by distress and sale of the goods and chattels of the said A.B.; and it was adjudged that in default of sufficient distress in that behalf, the said A.B. should be imprisoned in the common gaol of the said district (or county, united counties, or as the case may be), at

, in the said county of (and there kept at hard labor) for the term of , unless the said several sums and all costs and charges of the distress (and of the commitment and conveying of the said A.B. to the said common gaol) were sooner paid; . *And whereas the time in and by the said order appointed for the payment of the said several sums of , and has elapsed, but the said A. B. has not paid the same, or any part thereof, but therein has made default: These are, therefore, to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said A. B.; and if within the space of days after the making of such distress, the said last mentioned sums, together with the reasonable charges of taking and keeping the said distress, are not paid, then to sell the said goods and chattels so by you distrained, and to pay the money arising from such sale unto me (or some other of the convicting justices, as the case may be), that I (or he) may pay and apply the same as by law directed, and may render the overplus, if any, on demand to the said A. B.; and if no such distress can be found, then to certify the same unto me, to the end that such proceedings may be had therein, as to law appertain.

Given under my hand and seal, this day of , in the year , at , in the district (or county, or as the case may be), aforesaid.

J. S. [L. S.]

(N. 3.)

INDORSEMENT IN BACKING A WARRANT OF DISTRESS.

Canada. }
 Province of }
 district (or county, }
 united counties, or }
 as the case may be), }
 of }

Whereas proof upon oath has this day been made before me , a justice of the peace in and for the said district (or county, united counties, or as the case may be), that the name of J. S. to the within warrant subscribed, is of the hand-

writing of the justice of the peace within mentioned, I do therefore authorize U. T., who brings me this warrant, and all other persons to whom this warrant was originally directed, or by whom the same may be lawfully executed, and also all constables and other peace officers in the said district (*or county, united counties, or as the case may be*), of _____ to execute the same within the said district (*or county, united counties, or as the case may be*).

Given under my hand, this _____ day of _____, one thousand eight hundred and _____

O. K.

(N. 4.)

CONSTABLE'S RETURN TO A WARRANT OF DISTRESS.

I, W. T., constable of _____, in the district (*or county, united counties, or as the case may be*), of _____ hereby certify to J. S., Esquire, a justice of the peace in and for the district (*or county, united counties, or as the case may be*), of _____, that by virtue of this warrant I have made diligent search for the goods and chattels of the within mentioned A. B., and that I can find no sufficient goods or chattels of the said A. B. whereon to levy the sums within mentioned.

Witness my hand, this _____ day of _____, one thousand eight hundred and _____

W. T.

(N. 5.)

WARRANT OF COMMITMENT FOR WANT OF DISTRESS.

Canada. }
Province of }
district (*or county,* }
united counties, *or* }
as the case may be), }
of _____ }

To all or any of the constables, or other peace officers in the district (*or county, united counties, or as the case may be*), of _____, and to the keeper of the common gaol of the said district (*or county, united counties, or as the case may be*), of _____, at _____, in the said district (*or county*) of _____

Whereas (&c., as in either of the foregoing distress warrants, N 1, N 2, to the asterisk,* and then thus): And whereas, afterwards on the _____ day of _____, in the year aforesaid, I, the said justice, issued a warrant to all or any of the constables or other peace officers of the district (or county, united counties, or as the case may be), of _____, commanding them, or any of them, to levy the said sums of _____ and _____ by distress and sale of the goods and chattels of the said A. B.; And whereas it appears to me, as well by the return of the said warrant of distress, by the constable who had the execution of the same, as otherwise, that the said constable has made diligent search for the goods and chattels of the said A. B., but that no sufficient distress whereon to levy the sums above mentioned could be found: These are, therefore, to command you, the said constables or peace officers, or any one of you, to take the said A. B., and him safely to convey to the common gaol at _____ aforesaid, and there deliver him to the said keeper, together with this precept: And I do hereby command you, the said keeper of the said common gaol, to receive the said A. B. into your custody, in the said common gaol, there to imprison him (and keep him at hard labor) for the term of _____, unless the said several sums, and all the costs and charges of the said distress (and of the commitment and conveying of the said A. B. to the said common gaol) amounting to the further sum of _____, are sooner paid unto you, the said keeper; and for so doing this shall be your sufficient warrant.

Given under my hand and seal, this _____ day of _____, in the year _____, at _____, in the district (or county, united counties, or as the case may be), aforesaid.

J. S. [L. S.]

(O. 1.)

WARRANT OF COMMITMENT UPON A CONVICTION FOR A PENALTY IN THE FIRST

Canada.	}
Province of	
district (or county	
united counties, or	
as the case may be),	
of	}

To all or any of the constables and other peace officers in the said district (or county, united counties, or as the case may be), of _____, and to the keeper of the common gaol of the said district (or county, united counties, or as the case may be), of _____, at _____, in the said district (or county) of _____.

Whereas A. B., late of _____ (laborer), was on this day convicted before the undersigned _____, a justice of the peace in and for the said district (or county, united counties, or as the case may be), for that (stating the offence, as in the conviction), and it was thereby adjudged that the said A. B., for his offence, should forfeit and pay the sum of _____ (&c., as in the conviction), and should pay to the said C. D. the sum of _____, for his costs in that behalf; and it was thereby further adjudged that if the said several sums were not paid (forthwith) the said A. B. should be imprisoned in the common gaol of the said district (or county, united counties, or as the case may be), at _____, in the said district (or county) of _____ (and there kept at hard labor) for the term of _____, unless the said several sums (and the costs and charges of conveying the said A. B. to the said common gaol) were sooner paid; And whereas the time in and by the said conviction appointed for the payment of the said several sums has elapsed, but the said A. B. has not paid the same, or any part thereof, but therein has made default: These are, therefore, to command you, the said constables or peace officers, or any one of you, to take the said A. B., and him safely to convey to the common gaol at _____ aforesaid, and there to deliver him to the said keeper thereof, together with this precept: And I do hereby command you, the said keeper of the said common gaol, to receive the said A. B. into your custody in the said common gaol, there to imprison him (and keep him at hard labor) for the term of _____, unless the said several sums (and costs and charges of carrying him to the said common gaol, amounting to the further sum of _____), are sooner paid unto you, the said keeper; and for your so doing, this shall be your sufficient warrant.

Given under (my) hand and seal, this _____ day of _____, in the year _____, at _____, in the district or county, united counties or as the case may be), aforesaid.

J. S. [L. S.]

(O. 2.)

WARRANT OF COMMITMENT ON AN ORDER IN THE FIRST INSTANCE.

Canada. }
 Province of }
 district (or county, }
 united counties, or }
 as the case may be), }
 of }

To all or any of the constables and other peace officers in the said district (or county, united counties, or as the case may be), of _____, and to the keeper of the common gaol

of the district (*or county, united counties, or as the case may be*), of _____, at _____, in the said district (*or county*) of _____.

Whereas, on _____ last past, complaint was made before the undersigned _____, a justice of the peace in and for the said district (*or county, united counties, or as the case may be*), of _____, for that (&c., *as in the order*), and afterwards, to wit, on the _____ day of _____, at _____, the parties appeared before me, the said justice (*or as it is in the order*), and thereupon having considered the matter of the complaint, I adjudged the said A. B. to pay the said C. D. the sum of _____, on or before the _____ day of _____ then next, and also to pay to the said C. D. the sum of _____, for his costs in that behalf; and I also thereby adjudged that if the said several sums were not paid on or before the _____ day of _____ then next, the said A. B. should be imprisoned in the common gaol of the district (*or county, united counties, or as the case may be*), of _____, at _____, in the said county of _____ (and there be kept at hard labor) for the term of _____, unless the said several sums (and the costs and charges of conveying the said A.B. to the said common gaol, *as the case may be*) were sooner paid; And whereas the time in and by the said order appointed for the payment of the said several sums of money has elapsed, but the said A.B. has not paid the same, or any part thereof, but therein has made default: These are, therefore, to command you, the said constables and peace officers, or any of you, to take the said A.B. and him safely to convey to the said common gaol, at _____ aforesaid, and there to deliver him to the keeper thereof, together with this precept; And I do hereby command you, the said keeper of the said common gaol, to receive the said A.B. into your custody in the said common gaol, there to imprison him (and keep him at hard labor) for the term of _____, unless the said several sums (and the costs and charges of conveying him to the said common gaol, amounting to the further sum of _____), are sooner paid unto you the said keeper; and for your so doing, this shall be your sufficient warrant.

Given under my hand and seal, this _____ day of _____, in the year _____, at _____, in the district (*or county, united counties or as the case may be*), aforesaid.

J. S. [L.S.]

(P. 1.)

WARRANT OF DISTRESS FOR COSTS UPON AN ORDER FOR
DISMISSAL OF AN INFORMATION OR COMPLAINT.

Canada	}
Province of	
district (<i>or county,</i> united counties, <i>or</i> <i>as the case may be</i>),	
of	

To all or any of the constables or other peace officers in the
said district (*or county, united counties, or as the case may*
be), of :

Whereas on last past, information was laid (*or*
complaint was made) before a justice of the peace in
and for the said district (*or county, united counties, or as the*
case may be), of , for that (*&c., as in the order of dismis-*
sal) and afterwards, to wit, on at , both par-
ties appearing before , in order that (I) should hear
and determine the same, and the several proofs adduced to
(me) in that behalf, being by (me) duly heard and considered,
and it manifestly appearing to (me) that the said informa-
tion (*or complaint*) was not proved, (I) therefore dismissed
the same and adjudged that the said C.D. should pay to the
said A.B. the sum of , for his costs incurred by him in
his defence in that behalf; and (I) ordered that if the said
sum for costs was not paid (forthwith) the same should be
levied on the goods and chattels of the said C.D., and (I)
adjudged that in default of sufficient distress in that behalf
the said C.D. should be imprisoned in the common gaol of the
said district (*or county, united counties, or as the case may*
be), of , at , in the said district or county of
(and there kept at hard labor) for the space of , un-
less the said sum for costs, and all costs and charges of the
said distress, and of the commitment and conveying of the
said A.B. to the said common gaol, were sooner paid; *And
whereas the said C.D. being now required to pay to the said
A.B. the said sum for costs, has not paid the same, or any
part thereof, but therein has made default: These are, there-
fore, to command you, in Her Majesty's name, forthwith to
make distress of the goods and chattels of the said C.D.,
and if within the term of days next after the making
of such distress, the said last mentioned sum, together with
the reasonable charges of taking and keeping the said dis-
tress, shall not be paid, then to sell the said goods and
chattels so by you distrained, and to pay the money arising
from such sale to me (*the justice who made such order or dis-*
missal, as the case may be) that (I), may pay and apply the
same as by law directed, and may render the overplus (if

any) on demand to the said C.D., and if no distress can be found, then to certify the same unto me (*or to any other justice of the peace for the same district or county, united counties, or as the case may be*), that such proceedings may be had therein as to law appertain.

Given under my hand and seal, this day of
in the year , at , in the district (*or county, united counties, or as the case may be*), aforesaid.

J.S. [L.S.]

(P. 2.)

WARRANT OF COMMITMENT FOR WANT OF DISTRESS IN
THE LAST CASE.

Canada. }
Province of }
district (*or county,* }
united counties, *or* }
as the case may be), }
of } .

To all or any of the constables or other peace officers in the said district (*or county, united counties, or as the case may be*), of , and to the keeper of the common gaol of the said district (*or county, united counties, or as the case may be*), of , at , in the said district (*or county*) of .

Whereas (&c., *as in the last form, to the asterisk, * and then thus*) : And whereas afterwards, on the day of , in the year aforesaid, I, the said justice, issued a warrant to all or any of the constables or other peace officers of the said district (*or county, united counties, or as the case may be*), commanding them, or any one of them, to levy the said sum of , for costs, by distress and sale of the goods and chattels of the said C.D. : And whereas it appears to me, as well by the return to the said warrant of distress of the constable (*or peace officer*) charged with the execution of the same, as otherwise, that the said constable has made diligent search for the goods and chattels of the said C.D., but that no sufficient distress whereon to levy the sum above mentioned could be found : These are, therefore, to command you, the said constables and peace officers, or any one of you, to take the said C.D., and him safely convey to the common gaol of the said district (*or county, united counties, or as the case may be*), at aforesaid, and there deliver him to the keeper thereof, together with this precept ; And I hereby command you, the said keeper of the said common gaol, to receive the said C.D. into your custody in the said common gaol, there to imprison him (and

keep him at hard labor) for the term of _____, unless the said sum, and all the costs and charges of the said distress (and of the commitment and conveying of the said C.D. to the said common gaol, amounting to the further sum of _____), are sooner paid unto you the said keeper; and for your so doing, this shall be your sufficient warrant.

Given under my hand and seal, this _____ day of _____, in the year _____, at _____, in the district (or county, united counties, or as the case may be), aforesaid.

J. S. [L.S.]

(Q.)

CERTIFICATE OF NON-APPEARANCE TO BE INDORSED ON THE DEFENDANT'S RECOGNIZANCE.

I hereby certify that the said A.B. has not appeared at the time and place in the said condition mentioned, but therein has made default, by reason whereof the within written recognizance is forfeited.

J. S. [L. S.]

(R.)

NOTICE OF APPEAL AGAINST A CONVICTION OR ORDER

To C.D., of, &c., and———(the names and additions of the parties to whom the notice of appeal is required to be given).

Take notice, that I, the undersigned, A.B., of _____ intend to enter and prosecute an appeal at the next General Sessions of the Peace (or other court, as the case may be), to be holden at _____, in and for the district (or county, united counties, or as the case may be), of _____, against a certain conviction (or order) bearing date on or about the _____ day of _____, instant, and made by (you) C.D., Esquire, a justice of the peace in and for the said district (or county, united counties, or as the case may be), of _____, whereby the said A.B. was convicted of having (or was ordered) to pay _____, (here state the offence as in the conviction, information, or summons, or the amount adjudged to be paid, as in the order, as correctly as possible).

Dated this _____ day of _____, one thousand eight hundred and _____

A. B.

MEMORANDUM.—If this notice is given by several defendants, or by an attorney, it may be adapted to the case. 33 V., c. 27, s. 4.

(S.)

FORM OF RECOGNIZANCE TO TRY THE APPEAL.

Be it remembered, that on _____, A. B., of _____ (laborer), and L. M., of _____, (grocer), and N. O., of _____, (yeoman), personally came before the undersigned _____, a justice of the peace in and for the said district (or county, united counties, or as the case may be), of _____, and severally acknowledged themselves to owe to our Sovereign Lady the Queen, the several sums following, that is to say, the said A. B. the sum of _____, and the said L. M. and N. O. the sum of _____, each, of good and lawful money of Canada, to be made and levied of their several goods and chattels, lands and tenements respectively, to the use of our said Lady the Queen, her heirs and successors, if he the said A. B. fails in the condition indorsed (or hereunder written).

Taken and acknowledged the day and year first above mentioned at _____, before me.

J. S.

The condition of the within (or the above) written recognizance is such that if the said A. B. personally appears at the (next) General Sessions of the Peace (or other court discharging the functions of the court of General Sessions, as the case may be), to be holden at _____, on the day of _____ next, in and for the said district (or county, united counties, or as the case may be), of _____, and tries an appeal against a certain conviction, bearing date the day of _____ instant, and made by (me) the said justice, whereby he, the said A. B., was convicted, for that he, the said A. B., did, on the day of _____, at the township of _____, in the said district (or county, united counties, or as the case may be), of _____, (here set out the offence as stated in the conviction); and also abides by the judgment of the court upon such appeal and pays such costs as are by the court awarded, then the said recognizance to be void, otherwise to remain in full force and virtue.

FORM OF NOTICE OF SUCH RECOGNIZANCE TO BE GIVEN TO THE DEFENDANT (APPELLANT) AND HIS SURETIES.

Take notice, that you, A. B., are bound in the sum of _____, and you L. M. and N. O. in the sum of _____, each, that you the said A. B. will personally appear at the next General Sessions of the Peace to be holden at _____ in and for the said district (or county, united counties, or as the case may be), of _____, and try an appeal against a conviction (or order) dated the _____ day of _____

(instant) whereby you A. B. were convicted of (*or ordered, &c.*), (*stating offence or the subject of the order shortly*), and abide by the judgment of the court upon such appeal and pay such costs as are by the court awarded, and unless you the said A. B. personally appear and try such appeal and abide by such judgment and pay such costs accordingly, the recognizance entered into by you will forthwith be levied on you, and each of you.

Dated this day of , one thousand eight hundred and

Re-drafted in conformity with section 77.

— — —
(T.)

CERTIFICATE OF CLERK OF THE PEACE THAT THE COSTS OF AN APPEAL ARE NOT PAID.

Office of the clerk of the peace for the district (*or county united counties, or as the case may be*), of

TITLE OF THE APPEAL.

I hereby certify, that at a court of General Sessions of the Peace, (*or other court discharging the functions of the Court of General Sessions, as the case may be*), holden at , in and for the said district (*or county, united counties, or as the case may be*), on last past, an appeal by A. B. against a conviction (*or order*) of J. S., Esquire, a justice of the peace in and for the said district (*or county, united counties, or as the case may be*), came on to be tried, and was there heard and determined, and the said court of General Sessions (*or other court, as the case may be*), thereupon ordered that the said conviction (*or order*) should be confirmed (*or quashed*), and that the said (appellant) should pay to the said (respondent) the sum of , for his costs incurred by him, in the said appeal, and which sum was thereby ordered to be paid to the clerk of the peace for the said district (*or county, united counties, or as the case may be*), on or before the day of instant, to be by him handed over to the said (respondent), and I further certify that the said sum for costs has not, nor has any part thereof, been paid in obedience to the said order.

Dated this day of , one thousand eight hundred and

G. H.,
Clerk of the Peace.

(U. 1.)

WARRANT OF DISTRESS FOR COSTS OF AN APPEAL AGAINST
A CONVICTION OR ORDER.

Province of	Canada.	}
	district (or county,	
	united counties, or	
	as the case may be),	
	of	.

To all or any of the constables or other peace officers in the said district (or county, united counties, or as the case may be), of :

Whereas (&c., as in the warrants of distress, N 1, N 2, ante. and to the end of the statement of the conviction or order, and then thus): And whereas the said A. B. appealed to the court of General Sessions of the Peace (or other court discharging the functions of the Court of General Sessions, as the case may be), for the said district (or county, united counties, or as the case may be), against the said conviction or order, in which appeal the said A. B. was the appellant, and the said C. D. (or J. S., Esquire, the justice of the peace who made the said conviction or order) was the respondent, and which said appeal came on to be tried and was heard and determined at the last General Sessions of the Peace (or other court, as the case may be) for the said district (or county, united counties, or as the case may be), holden at , on ; and the said court thereupon ordered that the said conviction (or order) should be confirmed (or quashed) and that the said (appellant) should pay to the said (respondent) the sum of , for his costs incurred by him in the said appeal, which said sum was to be paid to the clerk of the peace for the said district (or county, united counties, or as the case may be), on or before the day of , one thousand eight hundred and , to be by him handed over to the said C. D.; and whereas the clerk of the peace of the said district (or county, united counties, or as the case may be), has, on the day of instant, duly certified that the said sum for costs had not been paid: * These are, therefore, to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said A. B., and if, within the term of days next after the making of such distress, the said last mentioned sum, together with the reasonable charges of taking and keeping the said distress, are not paid, then to sell the said goods and chattels so by you distrained, and to pay the money arising from such sale to the clerk of the peace for the said district (or county, united counties, or as the case

may be), of _____, that he may pay and apply the same as by law directed; and if no such distress can be found, then to certify the same unto me or any other justice of the peace for the same district (*or county, united counties, or as the case may be*), that such proceedings may be had therein as to law appertain.

Given under my hand and seal, this _____ day of _____, in the year _____, at _____, in the district (*or county, or as the case may be*), aforesaid.

O. K. [L.S.]

(U. 2.)

WARRANT OF COMMITMENT FOR WANT OF DISTRESS IN THE
LAST CASE.

Canada. Province of district (<i>or county,</i> united counties, <i>or</i> <i>as the case may be</i>), of	}	
--	---	--

To all or any of the constables or other peace officers in the said district (*or county, united counties, or as the case may be*), of _____, and to the keeper of the common gaol of the said district (*or county, united counties, or as the case may be*), of _____, at _____, in the said county of _____;

Whereas (&c., *as in the last form, to the asterisk,* and then thus*): And whereas, afterwards, on the _____ day of _____, in the year aforesaid, I, the undersigned, issued a warrant to all or any of the constables or other peace officers in the said district (*or county, united counties, or as the case may be*), of _____, commanding them, or any of them, to levy the said sum of _____, for costs, by distress and sale of the goods and chattels of the said A. B.; And whereas it appears to me, as well by the return to the said warrant of distress of the constable (*or peace officer*) who was charged with the execution of the same, as otherwise, that the said constable has made diligent search for the goods and chattels of the said A. B., but that no sufficient distress whereon to levy the said sum above mentioned could be found: These are, therefore, to command you, the said constables or peace officers, or any one of you, to take the said A. B., and him safely to convey to the common gaol of the said district, (*or county, united counties, or as the case may be*), of _____ at _____ aforesaid, and there deliver him to the said

keeper thereof, together with this precept ; And I do hereby command you, the said keeper of the said common gaol, to receive the said A. B. into your custody in the said common gaol, there to imprison him (and keep him at hard labor) for the term of _____, unless the said sum and all costs and charges of the said distress (and for the commitment and conveying of the said A. B. to the said common gaol, amounting to the further sum of _____), are sooner paid unto you, the said keeper, and for so doing this shall be your sufficient warrant.

Given under my hand and seal, this _____ day of _____, in the year _____, at _____, in the district (or county, united counties, or as the case may be), aforesaid.

J. N. [L.S.]

V.

RETURN of convictions made by me (or us, as the case may be), during the quarter ending _____ 18 _____.

Name of the Prosecutor.	Name of the Defendant.	Nature of the Charge.	Date of Conviction.	Name of Convicting Justice.	Amount of Penalty, Fine or Damage.	Time when paid or to be paid to said Justice.	To whom paid over by said Justice.	If not paid, why not, and general observations, if any.

A. B., Convicting Justice,

or

A. B. and C. D., Convicting Justices (as the case may be).

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
32-33 V., c. 18....	s 35.			
32-33 V., c 20..	ss. 43 (part), 44, 45, 46 and 80.			
32-33 V., c. 21....	ss. 118, 119 and 123.			
32-33 V., c. 22....	ss. 71, 72 and 75.			
32-33 V., c- 29....	s. 7.			
32-33 V., c. 31....	The whole except s. 15 (part), s. 97 and part of schedule.	s. 97.	Part of sche- dule.....	Punishments.
32-33 V., c 36....	ss. 4 (part), 6 & 7.			
33 V., c. 27..	The whole.			
33 V., c. 31..	ss.5(part), and 6.			
35 V., c. 31.....	ss. 2 (part), and 3.			
38 V., c. 42..	s. 11.			
40 V., c. 4	ss. 6 and 7.			
40 V., c. 27.....	ss. 2 and 3.....	s. 1.		
40 V., c 35.....	s. 5.			
42 V., c. 44..	s. 10.			
43 V., c. 25..	schedule, part.			
43 V., c. 38..	s. 4.			
44 V., c. 30..	s. 10 (part).			
47 V., c. 43..	The whole except s. 3.	s. 3.		

CHAPTER 174.

An Act respecting Punishments, Pardons and the Comutation of Sentences.

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

PUNISHMENTS.

Punishment after conviction only.

1. Whenever a person doing a certain act is declared to be guilty of any offence, and to be liable to punishment therefor, it shall be understood that such person shall only be deemed guilty of such offence and liable to such punishment after being duly convicted of such act. 32-33 V., c. 29, s. 1, *part.*

Degree of punishment in the discretion of the court.

2. Whenever it is provided that the offender shall be liable to different degrees or kinds of punishment, the punishment to be inflicted shall, subject to the limitations contained in the enactment, be in the discretion of the court or tribunal before which the conviction takes place. 32-33 V., c. 29, s. 1, *part.*

If offender is punishable under two or more Acts, &c.

3. Whenever any offender is punishable under two or more Acts or two or more sections of the same Act, he may be tried and punished under any of such Acts or sections, but no person shall be twice punished for the same offence. 32-33 V., c. 20, ss. 40, *part and 41, part, and c. 21, s. 90, part ;*—36 V., c. 55, s. 33 ;—40 V., c. 35, s. 6.

CAPITAL PUNISHMENT.

Conviction by verdict or on confession.

4. Every one who is indicted as principal or accessory for any offence made capital by any statute, shall be liable to the same punishment, whether he is convicted by verdict or on confession. 32-33 V., c. 29, s. 82.

Sentence on conviction for treason.

5. In all cases of treason, the sentence or judgment to be pronounced against any person convicted and adjudged guilty thereof shall be, that he be hanged by the neck until he is dead. 31 V., c. 69, s. 4.

Sentence on conviction for murder.

6. Upon every conviction for murder, the court shall pronounce sentence of death, and the same may be carried into execution, and all other proceedings upon such sentence and in respect thereof may be had and taken in the

same manner, and the court before which the conviction takes place shall have the same powers in all respects, as after a conviction for any other felony for which a prisoner may be sentenced to suffer death as a felon. 32-33 V., c. 20, s. 2.

7. Whenever any offender has been convicted before any court of criminal jurisdiction, of an offence for which such offender is liable to and receives sentence of death, the court shall order and direct execution to be done on the offender in the manner provided by law. 32-33 V., c. 29, s. 106. Court to direct execution of sentence of death.

8. In the case of any prisoner sentenced to the punishment of death, the judge before whom such prisoner has been convicted shall forthwith make a report of the case to the Secretary of State, for the information of the Governor General; and the day to be appointed for carrying the sentence into execution shall be such as, in the opinion of the judge, will allow sufficient time for the signification of the Governor's pleasure before such day, and if the judge thinks such prisoner ought to be recommended for the exercise of the Royal mercy, or if, from the non-decision of any point of law reserved in the case, or from any other cause, it becomes necessary to delay the execution, he, or any other judge of the same court, or who might have held or sat in such court, may, from time to time, either in term or in vacation, reprieve such offender for such period or periods beyond the time fixed for the execution of the sentence as are necessary for the consideration of the case by the Crown. 32-33 V., c. 29, s. 107;—36 V., c. 3, s. 1. Report to be made by the judge. Reprieve in certain cases.

9. Every one who is sentenced to suffer death shall, after judgment, be confined in some safe place within the prison, apart from all other prisoners; and no person except the gaoler and his servants, the medical officer or surgeon of the prison, a chaplain or a minister of religion, shall have access to any such convict, without the permission, in writing, of the court or judge before whom such convict has been tried, or of the sheriff. 32-33 V., c. 29, s. 108. Treatment of persons condemned to death.

10. Judgment of death to be executed on any prisoner shall be carried into effect within the walls of the prison in which the offender is confined at the time of execution. 32-33 V., c. 29, s. 109. Judgment to be executed within walls of prison.

11. The sheriff charged with the execution, and the gaoler and medical officer or surgeon of the prison, and such other officers of the prison and such persons as the sheriff requires, shall be present at the execution. 32-33 V., c. 29, s. 110. Sheriff, &c., to be present.

- Justices of the peace, &c., may be present. **12.** Any justice of the peace for the district, county or place to which the prison belongs, and such relatives of the prisoner or other persons as it seems to the sheriff proper to admit within the prison for the purpose, and any minister of religion who desires to attend, may also be present at the execution. 32-33 V., c. 29, s. 111.
- Surgeon to certify death. **13.** As soon as may be after judgment of death has been executed on the offender, the medical officer or surgeon of the prison shall examine the body of the offender, and shall ascertain the fact of death, and shall sign a certificate thereof, and deliver the same to the sheriff. 32-33 V., c. 29, s. 112.
- Declaration to be signed by sheriff, &c. **14.** The sheriff and the gaoler of the prison, and such justices and other persons present, if any, as the sheriff requires or allows, shall also sign a declaration to the effect that judgment of death has been executed on the offender. 32-33 V., c. 29, s. 113.
- Deputies may act. **15.** The duties imposed upon the sheriff, gaoler, medical officer or surgeon by the *four* sections next preceding, may and shall, in his absence, be performed by his lawful deputy or assistant, or other officer or person ordinarily acting for him, or conjointly with him, in the performance of his duties. 32-33 V., c. 29, s. 114.
- Coroner's inquest on the body. **16.** A coroner of the district, county or place to which the prison belongs, wherein judgment of death is executed on any offender, shall, within twenty-four hours after the execution, hold an inquest on the body of the offender; and the jury at the inquest shall inquire into and ascertain the identity of the body, and whether judgment of death was duly executed on the offender; and the inquisition shall be in duplicate, and one of the originals shall be delivered to the sheriff. 32-33 V., c. 29, s. 115.
- Officers and prisoners not to be jurors. **17.** No officer of the prison or prisoner confined therein shall, in any case, be a juror on the inquest. 32-33 V., c. 29, s. 116.
- Burial of the body. **18.** The body of every offender executed shall be buried within the walls of the prison within which judgment of death is executed on him, unless the Lieutenant Governor in Council, being satisfied that there is not, within the walls of any prison, sufficient space for the convenient burial of offenders executed therein, permits some other place to be used for the purpose. 32-33 V., c. 29, s. 117.
- Penalty for signing false certificate. **19.** Every one who knowingly and wilfully signs any false certificate or declaration required with respect to any execution, is guilty of a misdemeanor, and liable to im-
pri-

sonment for any term less than two years. 32-33 V., c. 29, s. 120.

20. Every certificate and declaration, and a duplicate of the inquest required by this Act, shall, in every case, be sent with all convenient speed by the sheriff to the Secretary of State, or to such other officer as is, from time to time, appointed for the purpose by the Governor in Council; and printed copies of such several instruments shall, as soon as possible, be exhibited, and shall, for twenty-four hours at least, be kept exhibited on or near the principal entrance of the prison within which judgment of death is executed. 32-33 V., c. 29, s. 121.

Certificate, &c., to be sent to Secretary of State, and exhibited at entrance to prison.

21. The omission to comply with any provision of the preceding sections of this Act shall not make the execution of judgment of death illegal in any case in which such execution would otherwise have been legal. 32-33 V., c. 29, s. 123.

Saving clause as to legality of execution.

22. Except in so far as is hereby otherwise provided, judgment of death shall be carried into effect in the same manner as if this Act had not been passed. 32-33 V., c. 29, s. 124.

As to other matters.

IMPRISONMENT.

23. Every one who is convicted of *any offence* not punishable with death shall be punished in the manner, if any, prescribed by the statute especially relating to such offence. 32-33 V., c. 29, s. 88, *part*.

Offence not punishable with death.

24. Every person convicted of any felony for which no punishment is specially provided, shall be liable to imprisonment for life:

Felony for which no special punishment is provided.

2. Every one who is convicted on indictment of any misdemeanor for which no punishment is specially provided, shall be liable to five years' imprisonment:

And misdemeanor on indictment.

3. Every one who is summarily convicted of any offence for which no punishment is specially provided, shall be liable to a penalty not exceeding fifty dollars, or to imprisonment, with or without hard labor, for a term not exceeding three months, or to both. 32-33 V., c. 29, s. 88, *part, and new.*

And on summary conviction.

25. Every one who is convicted of felony, not punishable with death, committed after a previous conviction for felony, is liable to imprisonment for life, unless some other punishment is directed by any statute for the particular offence,—in which case the offender shall be liable to the punishment thereby awarded, and not to any other. 32-33 V., c. 29, s. 83.

Second conviction for felony.

Term of imprisonment in the discretion of the court.

26. Every one who is liable to imprisonment for life, or for any term of years, or other term, may be sentenced to imprisonment for any shorter term: Provided, that no one shall be sentenced to any shorter term of imprisonment than the minimum term, if any, prescribed for the offence of which he is convicted. 32-33 V., c. 29, ss. 89 and 90, *part*.

Offender convicted of more offences than one, &c.

27. When an offender is convicted of more offences than one, before the same court or person at the same sitting, or when any offender, under sentence or undergoing punishment for one offence, is convicted of any other offence, the court or person passing sentence may, on the last conviction, direct that the sentences passed upon the offender for his several offences shall take effect one after another. 32-33 V., c. 29, s. 92.

Re-drafted.

Imprisonment in a penitentiary.

28. Every one who is sentenced to imprisonment for life, or for a term of years, not less than two, shall be sentenced to imprisonment in the penitentiary for the Province in which the conviction takes place:

In the common gaol.

2. Every one who is sentenced to imprisonment for a term less than two years shall, if no other place is expressly mentioned, be sentenced to imprisonment in the common gaol of the district, county or place in which the sentence is pronounced, or if there is no common gaol there, then in that common gaol which is nearest to such locality, or in some lawful prison or place of confinement, other than a penitentiary, in which the sentence of imprisonment may be lawfully executed:

Prisoners sentenced by court martial.

3. Provided, that any prisoner sentenced for any term by any military, naval or militia court martial, or by any military or naval authority under any Mutiny Act, may be sentenced to imprisonment in a penitentiary:

Hard labor in penitentiary, &c.

4. Imprisonment in a penitentiary, in the Central Prison for the Province of Ontario, in the Andrew Mercer Ontario Reformatory for females, and in any reformatory prison for females in the Province of Quebec, shall be with hard labor, whether so directed in the sentence or not:

And in other places of confinement.

5. Imprisonment in a common gaol, or a public prison, other than those last mentioned, shall be with or without hard labor, in the discretion of the court or person passing sentence, *if the offender is convicted on indictment, or under "The Speedy Trials Act,"—and, if convicted summarily, may be with hard labor, if hard labor is part of the punishment for the offence of which such offender is convicted,—and if such imprisonment is to be with hard labor, the sentence shall so direct:*

New in part.

6. The term of imprisonment, in pursuance of any sentence, shall commence on and from the day of passing such sentence, but no time during which the convict is out on bail shall be reckoned as part of the term of imprisonment to which he is sentenced: Commencement of term of imprisonment.

7. Every one who is sentenced to imprisonment in any penitentiary, *gaol or other public or reformatory prison*, shall be subject to the provisions of the statutes relating to such penitentiary, *gaol or prison*, and to all rules and regulations lawfully made with respect thereto. 32-33 V., c. 29, ss. 1, *part*, 91, 93, 94, *part*, 96, *part*, and 97;—34 V., c. 30, s. 3, *part*;—43 V., c. 39, s. 14, *part*;—43 V., c. 40, s. 9, *part*;—44 V., c. 32, s. 4;—46 V., c. 37, s. 4. Prisoners subject to regulations, &c.

REFORMATORIES.

29. The court or person before whom any offender whose age at the time of his trial does not, in the opinion of the court, exceed sixteen years, is convicted, whether summarily or otherwise, of any offence punishable by imprisonment, may sentence such offender to imprisonment in any reformatory prison in the Province in which such conviction takes place, subject to the provisions of any Act respecting imprisonment in such reformatory; and such imprisonment shall be substituted, in such case, for the imprisonment in the penitentiary or other place of confinement by which the offender would otherwise be punishable under any Act or law relating thereto: Provided, that in no case shall the sentence be less than two years' or more than five years' confinement in such reformatory prison; and in every case where the term of imprisonment is fixed by law to be more than five years, then such imprisonment shall be in the penitentiary: Certain offenders may be sentenced to imprisonment in a reformatory.

2. Every person imprisoned in a reformatory shall be liable to perform such labor as is required of such person. 38 V., c. 43;—43 V., c. 39, ss. 1, *part*, and 14, *part*, and c. 40, ss. 1, *part*, and 9, *part*. As to term of imprisonment.

WHIPPING.

30. Whenever whipping may be awarded for any offence, the court may sentence the offender to be once, twice or thrice whipped, within the limits of the prison, under the supervision of the medical officer of the prison; and the number of strokes and the instrument with which they shall be inflicted shall be specified by the court in the sentence; and, whenever practicable, every whipping shall take place not less than ten days before the expiration of any term of imprisonment to which the offender is sentenced for the offence: Whipping.

No female to be whipped. 2. Whipping shall not be inflicted on any female. 32-33 V., c. 20, ss. 20, 21, *parts*, and c. 29, s. 95;—40 V., c. 26, s. 6.

SURETIES FOR KEEPING THE PEACE, AND FINES.

Sureties may be required in cases of felony. **31.** Every one who is convicted of felony may be required to enter into his own recognizances, and to find sureties, both or either, for keeping the peace, in addition to any punishment otherwise authorized :

And in cases of misdemeanor. 2. Every one who is convicted of any misdemeanor may, in addition to or in lieu of any punishment otherwise authorized, be fined, and required to enter into his own recognizances, and to find sureties, both or either, for keeping the peace and being of good behavior :

Imprisonment in default limited. 3. No person shall be imprisoned for not finding sureties under this section, for any term exceeding one year. 31 V., c. 72, s. 5, *part*;—32-33 V., c. 18, s. 34, and c. 19, s. 58, and c. 20, s. 77, and c. 21, s. 122, and c. 22, s. 74.

Notice to be given to a judge when a person has been imprisoned for two weeks in default of sureties. **32.** Whenever any person who has been required to enter into a recognizance with sureties to keep the peace and be of good behavior has, on account of his default therein, remained imprisoned for two weeks, the sheriff, gaoler or warden shall give notice, in writing, of the facts to a judge of a superior court, or to a judge of the county court of the county or district in which such gaol or prison is situate, or, in the North-West Territories, to a stipendiary magistrate,—and such judge or magistrate may order the discharge of such person, thereupon or at a subsequent time, upon notice to the complainant or otherwise, or may make such other order, as he sees fit, respecting the number of sureties, the sum in which they are to be bound and the length of time for which such person may be bound. 41 V., c. 19.

Discharge may be ordered.

Amount of fine at the discretion of the court. **33.** Whenever a fine may be awarded or a penalty imposed for any offence, the amount of such fine or penalty shall, within such limits, if any, as are prescribed in that behalf, be in the discretion of the court or person passing sentence or convicting, as the case may be. 32-33 V., c. 29, s. 90.

SOLITARY CONFINEMENT.—PILLORY.

No solitary confinement or pillory. **34.** The punishment of *solitary confinement* or of the pillory shall not be awarded by any court. 32-33 V., c. 29, s. 81.

NOTE—Solitary confinement seldom if ever in practice forms part of the sentence. It is a convenient punishment for prison offences, and it is thought advisable to omit it from the punishment that may be imposed as part of the sentence.

DEODAND.

35. There shall be no forfeiture of any chattels, which have moved to or caused the death of any human being, in respect of such death. 32-33 V., c. 29, s. 54. No deodand.

ATTAINDER.

36. Except in cases of treason, or of abetting, procuring or counselling the same, no attainder shall extend to the disinheriting of any heir, or to the prejudice of the right or title of any person, other than the right or title of the offender during his natural life only. 32-33 V., c. 29, s. 55. Except for high treason attainder not to disinherit the heir.

37. Every one to whom, after the death of any such offender, the right or interest to or in any lands, tenements or hereditaments, should or would have appertained, if no such attainder had taken place, may, after the death of such offender, enter into the same. 32-33 V., c. 19, s. 56. The heir may enter after death of offender.

PARDONS.

38. The Crown may extend the Royal mercy to any person sentenced to imprisonment by virtue of any statute, although such person is imprisoned for non-payment of money to some person other than the Crown. 32-33 V., c. 29, s. 125. Pardon when the committal is for non-payment of moneys.

39. Whenever the Crown is pleased to extend the Royal mercy to any offender convicted of a felony punishable with death or otherwise, and grants to such offender either a free or a conditional pardon, by warrant under the Royal Sign Manual, countersigned by one of the principal Secretaries of State, or by warrant under the hand and seal-at-arms of the Governor General, the discharge of such offender out of custody, in case of a free pardon, and the performance of the condition in the case of a conditional pardon, shall have the effect of a pardon of such offender, under the Great Seal, as to the felony for which such pardon has been granted; but no free pardon, nor any discharge in consequence thereof, nor any conditional pardon, nor the performance of the condition thereof, in any of the cases aforesaid, shall prevent or mitigate the punishment to which the offender might otherwise be lawfully sentenced, on a subsequent conviction for any felony or offence other than that for which the pardon was granted. 32-33 V., c. 29, s. 126. Effect of pardon.

As to subsequent convictions.

COMMUTATION OF SENTENCE.

40. The Crown may commute the sentence of death passed upon any person convicted of a capital crime, to imprisonment in the penitentiary for life, or for any term of Crown may commute sentence of death.

Form and
effect of com-
mutation.

years not less than two years, or to imprisonment in any other gaol or place of confinement for any period less than two years, with or without hard labor; and an instrument under the hand and seal-at-arms of the Governor General, declaring such commutation of sentence, or a letter or other instrument under the hand of the Secretary of State or of the Under Secretary of State, shall be sufficient authority to any judge or justice, having jurisdiction in such case, or to any sheriff or officer to whom such letter or instrument is addressed, to give effect to such commutation, and to do all such things and to make such orders, and to give such directions, as are requisite for the change of custody of such convict, and for his conduct to and delivery at such gaol or place of confinement or penitentiary, and his detention therein, according to the terms on which his sentence has been commuted. 32-33 V., c. 29, s. 127.

UNDERGOING SENTENCE, EQUIVALENT TO A PARDON.

Undergoing
sentence
equivalent to
a pardon.

41. When any offender has been convicted of a felony not punishable with death, and has endured the punishment to which such offender was adjudged,—or if such felony is punishable with death and the sentence has been commuted, then if such offender has endured the punishment to which his sentence was commuted, the punishment so endured shall, as to the felony whereof the offender was so convicted, have the like effect and consequences as a pardon under the Great Seal; but nothing herein contained, nor the enduring of such punishment, shall prevent or mitigate any punishment to which the offender might otherwise be lawfully sentenced, on a subsequent conviction for any other felony. 32-33 V., c. 29., s. 128.

Proviso.

Undergoing
punishment,
&c., a bar to
further pro-
ceedings:

42. When any person convicted of any offence has paid the sum adjudged to be paid, together with costs, under such conviction, or has received a remission thereof from the Crown, or has suffered the imprisonment awarded for non-payment thereof, or the imprisonment awarded in the first instance, or has been discharged from his conviction by the justice of the peace in any case in which such justice of the peace may discharge such person, he shall be released from all further or other proceedings for the same cause. 32-33 V., c. 21, s. 120, and c. 22, s. 73.

Royal prero-
gative saved.

43. Nothing in this Act shall, in any manner, limit or affect Her Majesty's Royal prerogative of mercy. 32-33 V., c. 29, s. 129.

GENERAL PROVISIONS.

Governor in
Council to
make rules,

44. The Governor in Council may, from time to time, make such rules and regulations to be observed on the

execution of judgment of death in every prison, as he, from time to time, deems expedient for the purpose, as well of guarding against any abuse in such execution, as also of giving greater solemnity to the same, and of making known without the prison walls the fact that such execution is taking place. 32-33 V., c. 29, s. 118. &c., as to executions.

45. All such rules and regulations shall be laid upon the tables of both Houses of Parliament within six weeks after the making thereof, or, if Parliament is not then sitting, within fourteen days after the next meeting thereof. 32-33 V., c. 29, s. 119. Such rules to be laid before Parliament.

46. The forms set forth in the schedule to this Act, with such variations or additions as circumstances require, shall be used for the respective purposes indicated in the said schedule, and according to the directions contained therein. 32-33 V., c. 29, s. 122. Forms in schedule to be used.

47. Nothing in this Act shall alter or affect any laws relating to the government of Her Majesty's land or naval forces. 32-33 V., c. 29, s. 137. Laws as to army and navy not affected.

SCHEDULE.

CERTIFICATE OF SURGEON.

I, A. B., surgeon (*or as the case may be*) of the (*describe the prison*), hereby certify that I, this day, examined the body of C. D., on whom judgment of death was this day executed in the said prison; and that on such examination I found that the said C. D. was dead.

(Signed), A. B.

Dated this day of 18 .

DECLARATION OF SHERIFF AND OTHERS.

We, the undersigned, hereby declare that judgment of death was this day executed on C. D., in the (*describe the prison*) in our presence.

Dated this day of 18 .

E. F., Sheriff of—
L. M., Justice of the Peace for—
G. H., Gaoler of—

&c., &c.

SURETIES.

COMPLAINT BY THE PARTY THREATENED, FOR SURETIES FOR
THE PEACE.

Canada. }
Province of }
district (or county, }
united counties, or }
as the case may be), }
of }

The information (or complaint) of C. D., of the township of _____ in the said district (or county, united counties, or as the case may be), of _____ (laborer). (If preferred by an attorney or agent, say—by D. E., his duly authorised agent (or attorney), in this behalf), taken upon oath, before me, the undersigned, a justice of the peace, in and for the said district (or county, united counties, or as the case may be) of _____, at N., in the said district, (county, or as the case may be) of _____ this _____ day of _____, in the year one thousand eight hundred and _____, who says that A. B., of the (township) of _____, in the district (county, or as the case may be), of _____, did, on the _____ day of _____ (instant or last past, as the case may be), threaten the said C. D. in the words or to the effect following, that is to say, (set them out, with the circumstances under which they were used): and that from the above and other threats used by the said A. B. towards the said C. D., he, the said C. D., is afraid that the said A. B. will do him some bodily injury, and therefore prays that the said A. B. may be required to find sufficient sureties to keep the peace and be of good behavior towards him, the said C. D.; and the said C. D. also says that he does not make this complaint against nor require such sureties from the said A. B. from any malice or ill-will, but merely for the preservation of his person from injury.

FORM OF RECOGNIZANCE FOR THE SESSIONS.

Be it remembered that on the _____ day of _____, in the year _____, A. B. of _____ (laborer), L. M. of _____ (grocer), and N. O. of _____ (butcher), personally came before (us) the undersigned, (two) justices of the peace for the district (or county, united counties, or as the case may be), of _____, and severally acknowledged themselves to owe to our Lady the Queen the several sums following, that is to say: the said A. B. the sum of _____, and the said L. M. and N. O. the sum of _____, each, of good and lawful money of Canada, to be made and levied of their goods and chattels, lands and tenements respectively, to the use of our said Lady the Queen, her heirs and successors, if he, the said A. B., fails in the condition indorsed (or hereunder written).

Taken and acknowledged the day and year first above mentioned, at _____ before us.

J. S.
J. T.

The condition of the within (or above) written recognizance is such that if the within bound A. B. (of, &c.), appears at the next court of General Sessions of the Peace, (or other court discharging the functions of the court of General Sessions, or as the case may be), to be holden in and for the said district (or county, united counties, or as the case may be), of _____ to do and receive what is then and there enjoined him by the court, and in the meantime keeps the peace and is of good behavior towards Her Majesty and her liege people, and specially towards C. D. (of, &c.), for the term of now next ensuing, then the said recognizance to be void, otherwise to stand in full force and virtue.

FORM OF COMMITMENT IN DEFAULT OF SURETIES.

Canada. }
Province of }
district (or county, }
united counties, or }
as the case may be), }
of , }

To all or any of the constables or other peace officers in the district (or county, united counties, or as the case may be), of _____, and to the keeper of the common gaol of the said district (or county, united counties, or as the case may be), at _____, in the said district (or county, &c.)

Whereas on the _____ day of _____ instant, complaint on oath was made before the undersigned (or J. L., Esquire) a justice of the peace in and for the said district (or county, united counties, or as the case may be), of _____ by C. D., of the township of _____, in the said district (or county, or as the case may be) (laborer), that A. B., of (&c.), on the _____ day of _____, at the township of _____, aforesaid, did threaten (&c., follow to end of complaint, as in form above, in the past tense, then): And whereas the said A. B. was this day brought and appeared before the said justice (or J. L., Esquire), a justice of the peace in and for the said district (or county, united counties, or as the case may be), of _____, to answer unto the said complaint: and having been required by me to enter into his own recognizance in the sum of _____, with two sufficient sureties in the sum of _____ each, as well for his appearance at the

next General Sessions of the Peace (*or other court discharging the functions of the court of General Sessions, or as the case may be*), to be held in and for the said district (*or county, united counties, or as the case may be*), of
 to do what shall be then and there enjoined him by the court, as also in the meantime to keep the peace and be of good behavior towards Her Majesty and her liege people, and especially towards the said C. D., has refused and neglected, and still refuses and neglects, to find such sureties: These are therefore to command you, and each of you, to take the said A. B., and him safely to convey to the (common gaol) at _____ aforesaid, and there to deliver him to the keeper thereof, together with this precept; And I do hereby command you, the said keeper of the (common gaol), to receive the said A. B. into your custody in the said (common gaol), there to imprison him until the said next General Sessions of the Peace (*or the next term of sitting of the said court discharging the functions of the court of General Sessions, or as the case may be*), unless he, in the meantime, finds sufficient sureties as well for his appearance at the said sessions (*or court*) as in the meantime to keep the peace as aforesaid.

Given under my hand and seal, this _____ day of _____, in the year _____, at _____ in the district (*or county, or as the case may be*) aforesaid.

J. S. [L. S.]

32-33 V., c. 31, sch., *part.*

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
31 V., c. 69.....	s. 4.			s. 4.
31 V., c. 72.....	s. 5 (part).			
32-33 V., c. 18....	s. 34.			
c. 19.....	s. 58.			
c. 20....	ss. 2, 20 (part), 21 (part), 40 (part), 41 (part), and s. 77.			
c. 21....	ss. 90, (part), 120 and 122.			
c. 22....	ss. 73 and 74.			
c. 29....	ss. 1 (part), 54 to 56, 81 to 83, 88 to 93, 94 (part), 95 to 97, 106 to 129, 137 and schedule B.			
c. 31 ...	Schedule (part).			
34 V., c. 30.....	s. 3 (part).			
36 V., c. 3	s. 1.	s. 2.		
36 V., c. 55	s. 33.			
38 V., c. 43.....	The whole.			
40 V., c. 26	s. 6.			
c. 35	s. 6.			
41 V., c. 19.	The whole.			
43 V., c. 39	s. 1 (part), and s. 14			
c. 40... ..	s. 1 (part), and s. 9			
44 V., c. 32.....	s. 4			
46 V., c. 37.....	s. 4.			

CHAPTER 175.

An Act respecting Penitentiaries.

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 Penitentiary Act.*" 46 V., Short title. c. 37, s. 81.
2. All the penitentiaries in Canada and such other prisons, hospitals, asylums and other public institutions as are, from time to time, designated for that purpose by the Governor in Council, by proclamation in the *Canada Gazette*, and all prisoners and other persons confined therein and inmates thereof, shall be under the control of the Minister of Justice, who shall exercise over them complete administrative power. 46 V., c. 37, s. 1, *part.*

Penitentiaries, prisons, &c., to be under control of Minister of Justice.
3. The Minister of Justice shall submit to the Governor General an annual report upon all the penitentiaries, prisons and other institutions under his control, to be laid before both Houses of Parliament within the first twenty-one days of each session thereof, showing the state of each penitentiary, prison or other institution, and the amounts received and expended in respect thereof, with such further information as is requisite. 46 V., c. 37, s. 1, *part.*

Annual report thereon by the Minister.
4. The penitentiary situate near the city of Kingston, in the Province of Ontario, known as the Kingston Penitentiary,—the penitentiary situate at St. Vincent de Paul, in the Province of Quebec, known as the St. Vincent de Paul Penitentiary,—the penitentiary situate at Dorchester, in the Province of New Brunswick, known as the Dorchester Penitentiary,—the penitentiary situate in the county of Lisgar, in the Province of Manitoba, known as the Manitoba Penitentiary, and the penitentiary situate in the district of New Westminster, in the Province of British Columbia, known as the British Columbia Penitentiary, together with all the land appertaining to the same respectively, according to the respective metes and bounds thereof as now known and defined, and all the buildings and property thereon belonging to the same, are, all and each of them, hereby declared to be penitentiaries of Canada. 46 V., c. 37, s. 2.

Penitentiaries enumerated and described.
5. The Kingston Penitentiary, for the Province of Ontario,—the St. Vincent de Paul Penitentiary, for the Province of

Penitentiaries for the several Provinces.

Quebec,—the Dorchester Penitentiary, for the Provinces of Nova Scotia, New Brunswick and Prince Edward Island,—the Manitoba Penitentiary, for the Province of Manitoba, the North-West Territories and the District of Keewatin, and the British Columbia Penitentiary, for the Province of British Columbia, shall each be maintained as a prison for the confinement and reformation of persons lawfully convicted of crime before the courts of criminal jurisdiction of the Province, Territory or district for which it is the penitentiary, and sentenced to confinement for life, or for any term not less than two years. 32-33 V., c. 29, s. 96, *part*;—46 V., c. 37, s. 3.

Governor in Council may establish penitentiaries, and declare any lands established as such not to be so.

6. The Governor in Council may declare, from time to time, by proclamation, to be published in the *Canada Gazette*, that any tract of land within Canada, of which the boundaries shall be particularly defined in the proclamation, is a penitentiary, and is to be so held within the meaning of this Act, *and, by such proclamation, may declare for what part of Canada the same shall be a penitentiary*, and the Governor in Council, by any proclamation published as aforesaid, may declare that any tract of land established as a penitentiary by the *fourth* section of this Act, or by any other law, or by proclamation under this section, from and after a certain day to be named in such proclamation, shall cease to be a penitentiary, *or a penitentiary for a part of Canada named in such proclamation*; and such tract of land shall cease to be a penitentiary, *or a penitentiary for such part of Canada*, accordingly. 46 V., c. 37, s. 5.

What shall be included as part of a penitentiary.

7. Every penitentiary now established, or hereafter established by virtue of this Act, shall be held to include all carriages, wagons, sleighs and other vehicles for land carriage, and all boats, scows and other vessels for water carriage, being property belonging to such penitentiary, or employed by hire or otherwise in its service,—and also every wharf at or near the said penitentiary, which, although not within the limits mentioned in the proclamation establishing the same, is used for the accommodation of such boats, scows or other vessels, when so employed in or about any work or labor connected with such penitentiary. 46 V., c. 37, s. 6.

Streets, roads, &c., when to be part of a penitentiary.

Escapes.

8. Every street, highway or public thoroughfare of any kind, along or across which it is necessary that convicts should pass in going to and returning from their work, shall be considered, while so used, as a portion of the tract of land forming the penitentiary; and every escape, or attempt at escape, and every rescue, or aid in rescue, *which takes place on such street, highway or public thoroughfare, while so used, shall have the same effect* as if such escape, or attempt at escape, or such rescue, or aid in rescue, had taken place

within the prison walls or penitentiary limits. 46 V., c. 37, s. 7.

9. The inspector of penitentiaries, with the approval of the Minister of Justice, may authorize the warden of any penitentiary to construct rail or tram roads to communicate between any one part of the penitentiary and any other part, and to carry the same across, upon or along any public road or street intervening, in such manner as to cause the least possible inconvenience to passengers or carriages using such road or street: but the warden of such penitentiary shall not break ground upon any public road or street for the purpose of constructing such rail or tram roads, in virtue of such authority from the inspector, until after the lapse of one month after a copy of the writing giving such authority, certified by the warden, together with a plan showing the line which such rail or tram roads are to occupy, has been served upon the officer or person charged with the care or supervision of such public road. 46 V., c. 37, s. 8.

Tram roads
may be made.

Notice to
municipality.

10. The construction and repairs of buildings and other works in the penitentiaries shall be under the control of the Minister of Public Works. 46 V., c. 37, s. 9.

Construction
and repair of
buildings.

INSPECTOR.

11. The Governor in Council may appoint some fit and proper person to be inspector of all penitentiaries, and of such other prisons, hospitals, asylums and other public institutions as are, from time to time, designated by the Governor in Council; and the inspector shall hold office during pleasure, and shall be an officer of the Department of Justice, and, as such inspector, shall act as the representative of the Minister of Justice. 46 V., c. 37, s. 10.

Governor in
Council may
appoint in-
spector.

12. The inspector, under direction from the Minister of Justice, shall visit, examine and report to him, upon the state and management of all the penitentiaries, and all suggestions which the wardens thereof make for the improvement of such penitentiaries. 46 V., c. 37, s. 11.

Inspector to
visit peniten-
taries and
report.

13. The inspector shall keep an exact record of all minutes of inspection made by him in the inspection books of the said institutions, together with all his proceedings in connection therewith, and, after each visit of inspection, shall transmit a copy thereof, under his hand, to the Minister of Justice. 46 V., c. 37, s. 12.

To keep min-
utes and
transmit copy
to Minister.

14. The inspector, by virtue of his office, without any property qualification, shall be a justice of the peace for every district, county, city or town of Canada, but shall have power to act in matters connected with the criminal law of Canada only. 46 V., c. 37, s. 13.

To be a jus-
tice of the
peace.

To make rules and regulations, &c., subject to approval of the Governor in Council.

15. The inspector shall, subject to the approval of the Governor in Council, make rules and regulations for the management, discipline and police of the penitentiaries, and for the duties and conduct of the wardens thereof, and of every other officer or class of officers or servants employed therein, and for the diet, clothing, maintenance, employment, instruction, discipline, correction, punishment and reward of convicts imprisoned therein, and may, from time to time, with such approval, annul, alter or amend the same; and the wardens of the penitentiaries, and every other officer and servant employed in or about the same, shall be bound to obey such rules and regulations when so approved. 46 V., c. 37, s. 14, *part*.

To make an annual report.

16. The inspector shall make an annual report to the Minister of Justice on or before the first day of December in each year, which shall contain a full and accurate statement of the state, condition and management of the penitentiaries under his control and supervision, and inspected during the preceding fiscal year, together with such suggestions for the improvement of the same as he deems necessary and expedient, and accompanied by copies of the annual reports of the officers of the penitentiaries, and by such financial and statistical statements and tables as the books kept by them contain; and such report shall also comprise and embrace the following particulars, that is to say:—

What the report shall contain.

(a) Such statistical information in respect to each penitentiary as is embraced in the registers of such penitentiaries, together with any facts which have come to his knowledge with respect to the working of the criminal laws and penal system of Canada, or any injustice or hardship which, in his opinion, has arisen therefrom, and such suggestions for the improvement or amendment of the same, and for the prevention of crime or the reformation of criminals, as he deems expedient;

Statistics, facts and suggestions.

Inventory and valuation of property.

(b) An inventory and valuation of all the movable and immovable property belonging to the penitentiaries, respectively—distinguishing the estimated value of the several descriptions of property;

Receipts, expenditure and statement of debts.

(c) A detailed statement showing the money receipts of the penitentiaries, and the sources from which they have been derived; also, the expenditures, together with a statement of all debts due *on account of* the penitentiaries, showing the names of the persons to whom each is due, and showing also the debts, if any, due to the penitentiary, with the amount and nature of each debt;

Estimates for ensuing year.

(d) An estimate of the expense of the penitentiaries for the ensuing year—distinguishing the ordinary from the extraordinary:

2. The wardens and other officers shall furnish to the inspector all information necessary for the preparation of his report, on or before the first day of October in each year. 46 V., c. 37, s. 15. Officers to furnish information.

17. If the inspector at any time finds that any penitentiary is out of repair, or does not possess the proper and requisite sanitary arrangements, or has become unsafe or unfit for the confinement of prisoners, or that the same does not afford sufficient space or room for the number of prisoners confined therein, or the requisite amount of shop and yard space for the proper industrial employment of the prisoners, he shall forthwith report the same to the Minister of Justice, and at the same time shall furnish a copy of such report for the Minister of Public Works. 46 V., c. 37, s. 16. Special reports as to improvements and repairs. Copy to Minister of Public Works.

EXAMINATIONS AND INVESTIGATIONS.

18. The inspector may, at all times, enter into and remain within any penitentiary or other public institution placed under his control as aforesaid, and have access to every part of the same, and examine all papers, documents, vouchers, records and books of every kind belonging thereto. 46 V., c. 37, s. 17, *part*. Entry and examination of papers, &c.

19. The inspector may investigate the conduct of any officer or servant employed in or about any penitentiary, or other such public institution, as aforesaid, or of any person found within the precincts thereof; and, for that purpose, by *subpœna* issued by him, may summon before him any person, and examine such person upon oath,—which oath the inspector may administer, and may compel the production of papers and writings before 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 demanded of him, the inspector may cause the said person, by warrant under his hand, 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. 46 V., c. 37, s. 17, *part*. Inquiries into conduct of officers, &c. Summoning witnesses and administering oaths. Punishment for refusal to give evidence.

20. The Minister of Justice, at any time when he deems it necessary, may appoint one or more persons to make a special report on the state and management of any penitentiary, and in such case the person or persons so appointed, in order to enable him or them to make such special report, shall have the powers given to the inspector by the two sections next preceding. 46 V., c. 37, s. 18. Minister of Justice may cause special reports to be made by others than inspector.

ACCOUNTANT OF PENITENTIARIES.

Accountant
of peniten-
tiaries.
His duties.

21. The Governor in Council may appoint a fit and proper person to be the accountant of penitentiaries, who shall be an officer of the Department of Justice, and shall be charged generally with the direction, inspection and audit of the books, accounts, money transactions and financial affairs of the penitentiaries, and shall have such other powers as are assigned to him by the Governor in Council; and he shall perform such other duties as are required of him by the Minister of Justice :

To audit ac-
counts and
inquire into
money mat-
ters.

2. He shall audit the accounts of the penitentiaries and transmit the same, duly certified as to correctness, to the Minister of Justice; he shall also inquire into the money transactions and financial affairs of the penitentiaries, prisons, hospitals, asylums or other public institutions supported wholly or in part by Canada :

Powers.

3. He shall, *in the performance of his duties*, have all the powers given to the inspector by sections *eighteen* and *nineteen* of this Act. 46 V., c. 37, s. 19.

WARDENS AND OTHER OFFICERS.

Appointment
of officers for
each peni-
tentiary.

22. The Governor in Council may appoint, for any penitentiary, a warden, a deputy warden, a Protestant chaplain, an assistant Protestant chaplain when required, a Roman Catholic chaplain, an assistant Roman Catholic chaplain when required, a surgeon and an accountant, all of whom shall hold their offices during pleasure :

Inspector
may suspend
any officer.

2. The inspector may summarily suspend any of the above named officers for misconduct, until the circumstances of the case, of which the Minister of Justice shall be at once notified, have been decided upon by the minister, and the inspector may, until such decision has been so intimated, cause any officer so suspended to be removed beyond the precincts of the prison; and the inspector shall recommend the removal of any of the above named officers whom he deems incapable, inefficient or negligent in the execution of his duty, or whose presence in the penitentiary he considers detrimental to the interests thereof. 46 V., c. 37, s. 20, *part*.

Removal may
be recom-
mended.

Minister of
Justice may
appoint cer-
tain officers.

23. The Minister of Justice may appoint, for any penitentiary, a schoolmaster, a schoolmistress, a storekeeper, a steward, a chief keeper, an engineer, a matron, a deputy matron, and such trade instructors as are, from time to time, required, who shall hold their offices during pleasure :

Warden may
suspend any
of them.

2. The warden may, for misconduct, summarily suspend any of the officers named in this section until the next visit of

the inspector, when the warden shall submit to the inspector a report of the circumstances of the case, to be dealt with as to the inspector seems meet. 46 V., c. 37, s. 21, *part*.

24. The warden may appoint, for any penitentiary, an assistant deputy matron and a clerk, and such and so many keepers and guards and other servants, for the proper protection and care of the institution, as the *minister* authorizes, and may suspend any of them for neglect of duty, for such time as he sees fit, or dismiss them, without further charge than that, in his opinion, they are inefficient; and such suspension or dismissal shall be reported forthwith to the inspector. 46 V., c. 37, s. 22.

Warden may appoint certain officers, guards, &c., and suspend or dismiss them.

25. The pay of every officer so suspended by the inspector or by the warden shall cease during the period of his suspension; but the Minister of Justice may direct payment of the same. 46 V., c. 37, s. 23.

As to pay in case of suspension.

26. The warden may impose upon any officer or servant appointed by him or by the Minister of Justice, for any act of negligence or carelessness committed by him, a fine, payable in money, of such reasonable amount, not exceeding one month's pay, as the warden, under the circumstances of the case, thinks fit; and, under like circumstances, the Minister of Justice may impose a like fine on the deputy warden and accountant. 46 V., c. 37, s. 24.

Warden may impose fines¹ for neglect of duty.

27. The warden of a penitentiary shall be the chief executive officer of the same; and as such shall have the entire executive control and management of all its concerns, subject to the rules and regulations duly established, and the written instructions of the inspector authorized by the Minister of Justice; and, in all cases not provided for, and where the said inspector cannot readily be consulted, the warden shall act in such manner as he deems most advantageous for the penitentiary; he shall be responsible for the faithful and efficient administration of the affairs of every department of the penitentiary, shall reside in the penitentiary, and shall receive such allowance of fuel and light as the Governor in Council sees fit to make. 46 V., c. 37, s. 25.

Powers and duties of the warden.

Residence and allowances.

28. In the absence or during the incapacity of the warden the deputy warden shall exercise all the powers and perform all the duties of the warden; and in the absence or during the incapacity of the deputy warden the chief keeper shall exercise all the powers and perform all the duties of the deputy warden. 46 V., c. 37, s. 20, *part*, and s. 21, *part*.

Absence, &c., of the warden and deputy.

29. Every warden, accountant, storekeeper, steward, and every such other officer as is, from time to time, designated by the Governor in Council, shall give and enter into a

What officers to give bonds and sureties of office.

bond or bonds for the faithful performance of the duties of his office according to law, and in such sum, and with such sufficient surety or sureties, as the Governor in Council or the Minister of Justice approves of, and such bonds shall be filed in the office of the Secretary of State of Canada. 46 V., c. 37, s. 27.

Oaths of allegiance and office.

30. Every warden, and every other officer and servant employed permanently in a penitentiary, shall severally take and subscribe, in a book to be kept for that purpose by the accountant in his office, the oath of allegiance to Her Majesty, and an oath of office in the form following, that is to say:—

Form of oath of office.

“ I (A. B.) do promise and swear that I will faithfully, diligently and justly serve in the office and perform the duties of _____ in the _____ penitentiary, to the best of my abilities; and that I will carefully observe and carry out all the regulations of the prison. So help me God:”

Before whom.

2. The inspector or warden is hereby authorized to administer such oaths. 46 V., c. 37, s. 28.

Penalty if inspector, warden, &c., acts as contractor.

31. Every inspector, warden, or other officer or servant employed in a penitentiary, who, either in his own name or in the name of, or in connection with, any other person, provides, furnishes or supplies any materials, goods or provisions for the use of any penitentiary, or is concerned directly or indirectly in furnishing or supplying the same, or in any contract relating thereto, shall incur a penalty of five hundred dollars, recoverable, with costs, by any person who sues for the same in any court of competent jurisdiction. 46 V., c. 37, s. 29.

Warden, &c., not to exercise any other calling.

Nor to buy or sell from or to convicts, &c.

32. No warden, officer or servant, except the surgeon and chaplain, shall carry on any trade or calling of profit or emolument other than his office in the penitentiary; and, except in the case mentioned *in section sixty-four*, no officer shall buy from or sell to or for any convict anything whatsoever; or take or receive for his own use, or for that of any other person, any fee or gratuity or emolument from any convict or visitor or other person; or, without the consent of the minister, employ any convict in working for him. 46 V., c. 37, s. 30.

Governor in Council to fix pay of warden and officers.

33. The Governor in Council may, from time to time, fix the sums to be annually paid to the warden and the other officers and servants of any penitentiary established under the provisions of this Act, regard being had to the number of convicts confined therein, and the consequent responsibility attaching to their offices respectively, and to the length of service and amount of labor devolving upon them;

but such salaries shall not exceed the sums specified in the schedule to this Act. 46 V., c. 37, s. 31.

34. The warden shall be a corporation sole known by the name of "The Warden of the Penitentiary," (designating the place as named in this Act, or named in the proclamation establishing it as a penitentiary), and by that name he and his successors shall have perpetual succession, and may sue and be sued, and may plead and be pleaded unto, in any of Her Majesty's courts. 46 V., c. 37, s. 32.

Warden to be a corporation sole.

35. All dealings and transactions on account of any penitentiary, and all contracts for goods, wares or merchandise necessary for maintaining and carrying on the penitentiary, or for the sale of goods prepared or manufactured in the penitentiary, shall be entered into and carried out in the corporate name of the warden; and all personal property belonging to the penitentiary shall be held, in the corporate name of the warden, for Her Majesty. 46 V., c. 37, s. 33.

Contracts, dealings, personal property, &c., to be in his name.

36. The real property of every penitentiary, as well as all the other property thereto belonging, shall be vested in Her Majesty; but the warden and his successors in office shall have the custody and care thereof under the provisions of this Act. 46 V., c. 37, s. 34.

Real property, how vested and managed.

37. Whenever any difference arises, between the warden and any person having dealings with him on account of the penitentiary, such difference may, by order of the inspector, and with the consent of such person, be referred either to one arbitrator, selected by the warden and such person, or to three arbitrators,—one of whom shall be named by the warden, and another by such other person, and a third by the two so named as aforesaid; and, in the one case, the award of the arbitrator, and, in the other case, of any two of the arbitrators, shall be final. 46 V., c. 37, s. 35.

Arbitration in case of difference between warden and contractors, &c.

38. The warden of a penitentiary shall exercise due diligence in enforcing the payment of debts due to the penitentiary, and with as little expense as possible; and, on the report of the inspector approved by the Governor in Council, he may accept of such security from any debtor on granting time, or such composition in full settlement, as is thought conducive to the interests of the penitentiary. 46 V., c. 37, s. 36.

Warden to collect debts to penitentiary.

39. All books of account and other books, bills, registers, returns, receipts, bills of parcels and vouchers, and all other papers and documents of every kind relating to the affairs of the penitentiary, shall be the property of the penitentiary, and shall remain therein; and the warden shall preserve therein at least one set of copies of all official reports made

Books, documents, &c., to be property of penitentiary.

Copies of reports to be kept.

to Parliament respecting the penitentiary,—for which purpose, and for the purpose of enabling him to distribute such official reports in exchange for like documents from other similar institutions abroad, he shall, as soon as they are printed, be furnished by the clerk of the House of Commons with fifty copies of such reports as are printed by order of the House. 46 V., c. 37, s. 37.

By whom to be furnished.

Monthly statement by warden and accountant.

40. The warden and accountant shall transmit monthly, to the accountant of penitentiaries, a statement of the receipts and expenditures for the preceding month, verified under oath in the manner following:—

Oath of warden and accountant.

I, _____ warden, and I, _____ accountant, of the _____ penitentiary, make oath and say, that the foregoing statement of receipts and expenditures on account of the said penitentiary for the month of _____ 18 _____, is true and correct.

Sworn before me at _____ the _____ day of _____ A.D., 18 _____, _____ Inspector, or as the case may be.

Storekeeper's oath.

I, _____ storekeeper of the _____ penitentiary, make oath and say that the articles mentioned in the foregoing statement, as purchased for the said penitentiary for the month of _____ 18 _____, were duly received.

Sworn before me at _____ the _____ day of _____ A.D., 18 _____, _____ Inspector, or as the case may be.

By whom administered.

2. Such oaths may be administered by the inspector or the accountant of penitentiaries, or by any justice of the peace, notary public, or commissioner for taking affidavits. 46 V., c. 37, s. 38.

PRIVILEGED VISITORS.

Who shall have the right of visiting.

41. The following persons, other than the inspector or persons specially appointed by the Minister of Justice may visit any penitentiary at pleasure, that is to say,—the Governor General of Canada, the Lieutenant Governor of any Province of Canada, any member of the Queen's Privy Council for Canada, any member of the Executive Council of any of the said Provinces, any member of the Parliament of Canada or of any of the local Legislatures, any judge of any court of record in Canada or in any of the said Provinces, and any Queen's Counsel; but no other person shall be permitted to enter within the walls wherein the prisoners are confined, except by the special permission of the warden, and under such regulations as the inspector prescribes. 46 V., c. 37, s. 39.

CONVEYANCE, RECEIPT AND REMOVAL OF CONVICTS.

42. The sheriff or deputy sheriff of any county or district, or any bailiff, constable, or other officer, or other person, by his direction or by the direction of a court, or any officer appointed by the Governor in Council and attached to the staff of a penitentiary for that purpose, may convey to the penitentiary named in the sentence, any convict sentenced or liable to be imprisoned therein, and shall deliver him to the warden thereof, without any further warrant than a copy of the sentence taken from the minutes of the court before which the convict was tried, and certified by a judge or by the clerk or acting clerk of such court. 46 V., c. 37, s. 40.

What shall be sufficient authority for conveying convicts to penitentiary.

43. Whenever a prisoner is ordered, by competent authority, to be conveyed to any penitentiary from any other penitentiary, or from a reformatory prison, or from a common gaol, there shall be delivered to the warden of the penitentiary receiving such prisoner, together with all other necessary documents, a certificate signed by the medical officer of the institution from which such prisoner has been taken, and countersigned by the warden, if the prisoner has been taken from a penitentiary or a reformatory prison, or by the sheriff or his deputy if from a common gaol, declaring that such prisoner is free from any putrid, infectious or cutaneous disease, and that he is fit to be removed. 46 V., c. 37, s. 41.

When brought from any other penitentiary or gaol.

44. The warden shall receive into the penitentiary every convict legally certified to him as sentenced to imprisonment therein, and shall there detain him, subject to all the rules, regulations and discipline thereof, until the term for which he has been sentenced is completed, or until he is otherwise discharged in due course of law. 46 V., c. 37, s. 42.

Duty of warden as to receiving and detaining convicts.

45. The Governor General may, by warrant signed by the Secretary of State of Canada, or by such other officer as is, from time to time, authorized by the Governor in Council, direct the removal of any convict from any one penitentiary to another; and the warden of the penitentiary having the custody of any convict so ordered to be removed, when required so to do, shall deliver up the said convict to the constable or other officer or person who produces the said warrant, together with a copy, attested by the said warden, of the sentence and date of conviction of such convict as given to him on reception of such convict into his custody; and the constable or other officer or person shall give a receipt to the warden for the convict, and shall thereupon, with all convenient dispatch, convey and deliver up such convict, with the said attested copy, into the custody of the

Governor may authorize removal from o to any penitentiary.

Proceedings in such case.

Detention of convict.

warden of the penitentiary mentioned in the warrant, who shall give a receipt in writing for every convict so received into his custody, to such constable or other officer or person, as his discharge; and the convict shall be kept in custody in the penitentiary to which he is so removed, until his removal to another penitentiary, or until the termination of his sentence, or until his pardon or release, or discharge by law. 46 V., c. 37, s. 43.

Powers of sheriff or officer conveying convicts to a penitentiary.

46. The sheriff, or other officer or person employed by competent authority to convey any convict to any penitentiary to which such convict is ordered to be taken, either by sentence of a court or by order of the Secretary of State or other officer, as in the next preceding section mentioned, may secure and convey him through any county or district through which he has to pass in any of the Provinces of Canada; and until the convict has been delivered to the warden of such penitentiary, such sheriff, officer or person shall, in all territorial divisions or parts of Canada through which it may be necessary to convey such convict, have the same authority and power over and with regard to such convict, and to command the assistance of any person in preventing his escape, or in recapturing him in case of an escape, as the sheriff of the territorial division in which he was convicted would himself have, in conveying him from one part of that division to another. 46 V., c. 37, s. 44.

Assistance in case of escape.

Power to convey a convict whose sentence of death has been commuted, and effect of commutation.

47. If sentence of death has been passed upon any convict by any court in Canada, and the Governor General, on behalf of Her Majesty, has been pleased to commute such sentence to imprisonment for life, or for any term of years, such commutation shall have the same effect as the judgment of a competent court legally sentencing such convict to such imprisonment for life or other term, and the sheriff, or other officer, or other person having such convict in custody, on receipt of a letter from the Secretary of State or such other officer as aforesaid, notifying him of the fact of such commutation, and directing him to convey such convict to a penitentiary therein named, shall forthwith convey such convict thereto, and shall have the same rights and powers, in conveying such convict to such penitentiary, as if the conveyance took place by virtue of the sentence of a competent court. 46 V., c. 37, s. 45.

What shall be sufficient authority to the warden in such case.

48. A letter signed by the Secretary of State or such other officer as aforesaid, notifying the warden of the fact of the commutation of any sentence of death to imprisonment for life or for a term of years, and of the term of years or life term to which the sentence has been commuted, shall be sufficient authority to the warden to receive such convict into the penitentiary, and to deal with him as if he had been sentenced by a competent court to confinement therein

for the period or life term in the said letter mentioned; and it shall not be necessary, for the purpose of commuting such sentence, or of authorizing the conveyance of a prisoner to any penitentiary, or for his reception and detention therein for the term to which such sentence is commuted, that the warden should have in his possession a copy of any pardon. 46 V., c. 37, s. 46.

TRANSFER OF JUVENILE OFFENDERS FROM AND TO REFORMATORY PRISONS.

49. If a juvenile offender has been ordered by competent authority to be imprisoned in any reformatory prison, and after being imprisoned therein has become incorrigible, and is so certified by the warden and one of the chaplains, the Lieutenant Governor of the Province in which the reformatory prison is situate, by a warrant under his hand, addressed to the warden of such reformatory prison, setting forth the sentence or order under which the juvenile offender was imprisoned therein, and the fact that he is incorrigible, may direct that such juvenile offender be removed to any penitentiary named in the said warrant; and the warden, or any other officer of the prison, or any other person authorized by him, shall have the same powers in conveying such juvenile offender to such penitentiary as are hereinbefore given to a sheriff or other person in like cases :

Juvenile offenders found incorrigible may be removed from reformatory to penitentiary.

2. The warden of the penitentiary therein named shall receive such juvenile offender and deal with him for the unexpired term of the sentence or order under which he was ordered to be imprisoned in such reformatory prison, as if he had been sentenced to such penitentiary by a competent court : Provided, that together with the said offender, a copy of the said sentence or order, attested by the warden of the reformatory prison, and also an order from the Lieutenant Governor, directing the warden of such penitentiary to receive such juvenile offender, shall be delivered to the warden of the penitentiary. 46 V., c. 37, s. 47.

And dealt with as if sentenced to the penitentiary.

Copy of sentence or order to be delivered.

50. The Governor General may, at any time, in his discretion, by warrant under his hand, cause any convict in a penitentiary, whose sentence is for a term not less than two years, and who appears to the inspector to be under sixteen years of age, and susceptible of reformation, to be transferred, for the remainder of his term of imprisonment, to the reformatory prison, if there is one, of the Province where such convict was sentenced. 46 V., c. 37, s. 48.

Juvenile offenders in penitentiary may be transferred to reformatory prison.

TREATMENT OF CONVICTS.

51. The following general rules shall be observed in the treatment of convicts in a penitentiary :—

General rules.

- Clothing. (a) Every convict shall, during the term of his confinement, be clothed, at the expense of the penitentiary, in suitable prison garments ;
- Food. (b) He shall be fed on a sufficient quantity of wholesome food ;
- Bedding. (c) He shall be provided with a bed and pillow with sufficient covering, varied according to the season ; and—
- Solitary confinement. (d) He shall, except in case of sickness, be kept in a cell by himself at night, and during the day when not employed. 46 V., c. 37, s. 49.
- Convict labor. **52.** Convict labor may be of two descriptions,—
- Obligatory. (a) Obligatory, that is to say : every convict, except during sickness or other incapacity, shall be kept constantly at hard labor during at least ten hours, exclusive of hours for meals or schools, of every day, except Sunday, Good Friday, Christmas Day, and such other days as the Governor General sets apart for days of fasting or thanksgiving, and such days as are designated in the rules made by the inspector in that behalf ; and the warden shall determine the kind of such labor ; but no convict professing the Roman Catholic faith shall be compelled to labor on any of the obligatory holidays of his church,—that is to say, Circumcision, Epiphany, Annunciation, Corpus Christi, Saint Peter and Saint Paul, All Saints, Conception and Ascension, or other festival days of obligation ;
- Holidays.
- As to R. C. holidays.
- Voluntary. (b) Voluntary, that is to say : a convict of exemplary conduct may be allowed by the warden, if he sees fit, to work over hours at such work as may be conveniently done in the penitentiary, and at such rates as are fixed by the inspector, the value of which overwork, at such rates, may either be paid to the convict's family during his imprisonment, should he so desire it, or be credited to him in the books of the penitentiary, to be paid him on his discharge, subject, however, to any general rules which the inspector makes upon the subject :
- Over hours, and payment therefor.
- Labor of convicts not to be let out. 2. The convicts may be employed either in labor or at trades under the control of the Crown ; but no labor shall be let out to any company or private person. 46 V., c. 37, s. 50.

FEMALE PRISONERS.

- Female convicts to be kept separate **53.** The female convicts shall be kept separate and excluded from the male convicts, and shall be under the

charge of a matron, with such and so many female officers and under female officers as the inspector, from time to time, sees fit to order to be employed, reference being had to the number of such convicts and the kinds of work in which they are engaged. 46 V., c. 37, s. 51.

PENAL CELLS.

54. The Governor in Council, whenever he deems it expedient, may order such and so many penal cells to be constructed at any penitentiary, as he sees fit. 46 V., c. 37, s. 52. Penal cells may be constructed.

SHORTENING OF SENTENCE.

55. The inspector may, for the purpose of encouraging convicts to good behavior, diligence and industry, and of rewarding them for the same, make rules and regulations, under which a correct record may be kept of the daily conduct of every convict in any penitentiary, noting his industry, diligence and faithfulness in the performance of his work, and the strictness with which he observes the prison rules, with a view to permit such convict, under the prison rules, to earn a remission of a portion of the time for which he is sentenced to be confined, not exceeding five days for every month during which he is exemplary in industry, diligence and faithfulness in his work, and does not violate any of the prison rules: Rules as to rewards for good conduct and diligence.

2. When any convict has earned and has at his credit any of the several numbers of days of remission hereinafter respectively mentioned, he may be allowed, for every subsequent month during which his industry, diligence, faithfulness in his work and observance of the prison rules continue satisfactory, the following increased rates of remission, that is to say:— Remission of time within a certain limit.

(a) When he has thirty days' remission at his credit, seven days and one half day's remission may be allowed him for every month thereafter; Provision for increased rates of remission.

(b) When he has one hundred and twenty days' remission at his credit, ten days' remission may be allowed him for every month thereafter; When 30 days are earned.

3. If any convict, by reason of sickness or any other infirmity, not intentionally produced by himself, is unable to labor, he shall be entitled, by good conduct, to one-half the remission from his sentence every month to which he would otherwise be entitled: When 120 days are earned.

4. Every convict who escapes, attempts to escape, breaks prison, attempts to break prison, breaks out of his cell, or makes any breach therein with intent to escape, or assaults Remission in case of sickness.

Forfeiture for certain offences.

any officer or servant of the penitentiary, shall forfeit the whole of such remission which he has earned. 46 V., c. 37, ss. 54, 55 and 56, *parts*.

OFFENCES AND PENALTIES.

- 56.** Every convict confined in any penitentiary, who assaults any officer or servant employed therein, is guilty of an aggravated assault and liable to imprisonment in the said penitentiary *for a term not exceeding two years*. 46 V., c. 37, s. 56, *part*.
- 57.** The inspector shall draw up a list of prison offences, by way of general warning to the convicts as to their conduct in the prison, among which it shall specially be declared that no convict shall be permitted to speak to another convict upon any pretence whatsoever, nor to any officer or guard, or other servant of the institution, except with respect to the work at which he is employed, and then only in the fewest words possible and in a respectful manner: and such list shall be printed, and a copy of the same placed in every cell of the penitentiary. 46 V., c. 37, s. 60.
- 58.** The inspector may, subject to the approval of the Minister of Justice, make and, from time to time, alter rules for the discipline and correction of convicts confined in any penitentiary as hereinbefore provided; but in case any convict is accused of having committed any offence which, if proved, would be followed by the infliction of corporal punishment or a remand to the penal prison, where such penal prison is established, the warden shall investigate, under oath, the facts of the case, before awarding such punishment or remand, and make a minute of the evidence taken by him, which shall be forwarded forthwith to the inspector; and no such punishment shall be inflicted unless the surgeon of the penitentiary has certified that the prisoner is in a physical condition to bear such punishment, and unless the surgeon is present during its infliction; and not more than sixty lashes shall be inflicted upon any prisoner for any such offence. 46 V., c. 37, s. 61.
- 59.** Every officer, guard or servant of any penitentiary, or other person, who brings in or carries out, or endeavors to bring in or carry out, or knowingly allows to be brought in or carried out, to or from any convict, or carries to any convict while employed outside the prison walls, any money, clothing, provisions, tobacco, spirits, letters, papers or other articles whatsoever, not allowed by the rules of the penitentiary shall, on summary conviction, be liable to a penalty not exceeding one hundred dollars, or to imprisonment with hard labor, for a term not exceeding three months. 46 V., c. 37, s. 59.

Assaulting officers.

Inspector to make list of prison offences.

No talking allowed.

Posting up list.

Inspector to make rules for discipline and correction.

Corporal punishment.

Investigation.

Surgical certificate, &c.

Limited to 60 lashes.

Bringing money, spirits, letters, &c., to convicts.

Penalty.

TRESPASSES.

60. Every person who is found trespassing upon any grounds, buildings, yards, offices or other premises whatsoever, belonging or appertaining to any penitentiary, or who enters the same, not being an officer or servant of the penitentiary, or authorized by the warden, shall, on summary conviction for a first offence, be liable to a penalty not exceeding ten dollars, and in default of payment to imprisonment, with or without hard labor, for a term not exceeding one month; and for a subsequent offence to a penalty not exceeding fifty dollars, and in default of payment to imprisonment with or without hard labor, for a term not exceeding three months. 46 V., c. 37, s. 62.

Punishment of persons trespassing on penitentiary grounds.

Subsequent offence.

61. Every person who moors or anchors, or causes to be moored or anchored, any raft, boat, vessel or craft of any kind within three hundred feet of the shore or wharf bounding the lands of any penitentiary towards any lake, arm of the sea, bay or river, without the permission of the warden of such penitentiary, shall, on summary conviction, be liable to a penalty of twenty dollars, and in default of payment of such penalty and costs, to imprisonment with hard labor, for a term not exceeding two months, and the amount of such penalty may be levied upon such raft, boat, vessel or craft, in whomsoever the property thereof may be, as well as on the offender's own goods and chattels. 46 V., c. 37, s. 63.

Penalty if vessels are moored within 300 feet of shore or wharf bounding penitentiary.

LIQUORS.

62. No spirituous or fermented liquors shall be brought into the penitentiary for the use of any officer or person therein (except the warden or deputy warden, if the latter is resident therein), or for the use of any convict confined therein, except under the rules of the penitentiary; and any person who gives any spirituous or fermented liquor, tobacco, snuff or cigars, to any convict, except under the rules of the penitentiary, or conveys the same to any convict, shall incur a penalty of forty dollars, which shall be recoverable by the warden before any court of competent jurisdiction, and placed to the credit of the Minister of Finance and Receiver General. 46 V., c. 37, s. 64.

No spirits allowed in penitentiary except for warden, &c.

Giving liquor or tobacco, &c., to convicts.

Penalty.

DISCHARGE OF CONVICTS.

63. No convict shall be discharged from a penitentiary on the termination of his sentence, or otherwise, if he is laboring under any contagious or infectious disease; or, unless at his own request, during the months of November, December, January, February or March, or if he is laboring under any acute or dangerous disease; but such convict

Discharge of convicts at certain times and under certain circumstances.

may remain in the penitentiary until he recovers from such disease, or until the first day of April following the termination of his sentence: but a convict remaining from any cause in a penitentiary after the termination of his sentence, shall be under the same discipline and control as if his sentence were still unexpired:

Order of discharge of convicts in April. 2. On the first day of April a list shall be made of all the prisoners whose sentences have expired during the five preceding months, and who are still in prison, according to the dates when their sentences expired; and according to such order they shall be discharged, one convict on the said first day of April, and one on every day thereafter, until the whole are discharged:

Sentence expiring on Sunday. 3. Whenever the term of any prisoner's sentence expires on a Sunday, he shall be discharged on the Saturday preceding, unless he desires to remain until the Monday following:

Clothing and money to convicts discharged. 4. Every convict under sentence for life, or for a term not less than two years, shall, upon his discharge, either by expiration of sentence, or otherwise, be furnished, at the expense of the penitentiary, with a suit of clothing other than prison clothing, and with such sum of money as is sufficient to pay his travelling expenses to the place at which he received his sentence, and such other sum in addition, not exceeding twenty dollars, as the warden deems proper; and if any sum remains at his credit for earnings for overwork, such sum shall be paid to him at such times, and in such amounts, as the prison rules direct; but if the warden is of opinion that a convict, on being discharged, does not intend *bonâ fide* to return to the place at which he received his sentence, but intends to go to some other place nearer to the penitentiary, such convict shall be furnished with such less sum of money as is, in the warden's opinion, sufficient to pay his travelling expenses to such nearer place. 46 V., c. 37, s. 65.

Money for over work.

As to convict not returning to place of conviction.

PRISONERS' EFFECTS.

Articles found on convict on entry to be kept for him. 64. Every article found upon the person of a convict at the time of his reception into the penitentiary, which is considered worth preservation, shall be taken from him, and a description thereof entered in a book kept for that purpose; and if the convict does not see fit otherwise to dispose of it at the time, it shall be carefully put away until the day of his discharge, when it shall be delivered up to him again in the state in which it then is; but the warden shall not be liable for any deterioration which takes place in such article in the interval:

2. If, at the time of his reception, the convict desires to dispose of any such article, and it is so disposed of, a memorandum of the fact shall be noted in the said book, and signed by the proper officer who has charge thereof, and also by the convict; and any money received therefor shall be placed to his credit. 46 V., c. 37, s. 66.

May be sold if he desires to dispose of them.

CORONERS' INQUESTS.

65. If a convict dies in a penitentiary, and the inspector, warden, surgeon or chaplain has reason to believe that the death of such convict arose from any other than ordinary causes, he shall call upon a coroner having jurisdiction to hold an inquest upon the body of such deceased convict; and upon such requisition by one or more of the officers above named, the said coroner shall hold such inquest, and, for that purpose, he and the jury, and all other persons necessarily attending such inquest, shall have admittance to the prison. 46 V., c. 37, s. 67.

Coroner to hold inquest in certain cases.

Admittance of coroner and jury.

DECEASED CONVICTS.

66. The body of every convict who dies in a penitentiary shall, if claimed by his relatives, be given up to and shall be taken away by them; but if not so claimed, the body may be delivered to an inspector of anatomy, duly appointed under any Act authorizing such appointment, or to the professor of anatomy in any college wherein medical science is taught; or if not so delivered, shall be decently interred at the expense of the penitentiary. 46 V., c. 37, s. 68.

How the body of convict shall be disposed of.

INSANE CONVICTS.

67. The Governor in Council may direct the warden of the Kingston Penitentiary to set apart a portion thereof for the reception, confinement and treatment of insane convicts; and the portion so set apart shall be used for such purposes accordingly, and shall be known as the ward for the insane. 46 V., c. 37, s. 69.

Kingston penitentiary insane ward.

68. If at any time it appears to a surgeon of a penitentiary that any convict confined therein is insane and ought to be removed to the ward for the insane, he shall report the same in writing to the warden, and on such report the warden shall forthwith remove such convict to the ward for the insane. 46 V., c. 37, s. 70.

Surgeons to report cases of insanity among convicts.

69. If, at any time before the termination of the sentence of such convict, it is certified to the warden by the surgeon that such convict has recovered his reason, and is in a fit state to be removed from the ward for the insane, the warden shall remove such convict therefrom. 46 V., c. 37, s. 71.

If insane convict becomes sane.

If insane when his term expires.

70. If the term of imprisonment of any convict expires while detained as insane in the ward for the insane, he may continue to be detained therein pending the proceedings authorized by this Act; and in such case the surgeon shall forthwith certify to the warden whether the person is sane or insane. 46 V., c. 37, ss. 72 and 73.

Discharge, if sane.

71. If the surgeon certifies that such person is sane, he shall be forthwith discharged. 46 V., c. 37, s. 74.

Report in order to removal of insane convict.

72. If the surgeon certifies that the person is insane, the warden shall report the fact to the inspector; and the Secretary of State shall thereupon communicate the fact to the Lieutenant-Governor of the Province within which the person was sentenced, so that he may be removed to a place of safe keeping:

Lt. Governor may order removal.

2. The Lieutenant Governor may, thereupon, order the removal of the person to a place of safe keeping within the Province, and he shall, upon such order, be delivered to the person therein designated, for transport to such place, and he shall remain and be detained there or in such other place of safe keeping as the Lieutenant Governor, from time to time, orders, until it appears to the Lieutenant Governor that he is of sound mind, when the Lieutenant Governor may order him to be discharged; but if, at any time after his removal to such place of safe keeping, and before his complete recovery, the Lieutenant Governor thinks fit to order that he shall be given up to any person by him named, he shall be given up accordingly. 46 V., c. 37, ss. 75 and 76.

Further power of Lieutenant Governor.

Provision if arrangements have been made for safe keeping of convict in Ontario.

73. If the Lieutenant Governor of the Province within which any such person was sentenced has made arrangements with the Lieutenant Governor of the Province of Ontario for the safe keeping of any such person in Ontario, and such arrangements have been communicated to the Secretary of State by the Lieutenant Governors of the Provinces concerned, the Secretary of State shall, in the case of any such person, communicate, under the next preceding section, with the Lieutenant Governor of Ontario, who shall, in such cases, have all the powers thereby given:

Provision if Lt. Governor does not provide for removal.

2. If the Lieutenant Governor does not, within two months after the Secretary of State has communicated, as provided by the next preceding section, cause the person to be removed under the provisions thereof, the Secretary of State may, on the recommendation of the Minister of Justice, direct the convict to be removed for safe keeping to the gaol in which he was last confined previous to his transfer to the penitentiary, or to any other gaol in the Province within which he was sentenced; and, after such

removal, all the provisions of the next preceding section shall apply to his case. 46 V., c. 37, ss. 77 and 78.

74. If any question arises as to the sanity of any convict, the Minister of Justice may order an inquiry and report to be made by one or more medical men, in conjunction with the surgeon, and may, upon such report, direct such action as is necessary to carry out the provisions of this Act. 46 V., c. 37, s. 79.

Question of
sanity, how
decided.

SCHEDULE.

Warden, not exceeding.....	\$3,000
and not less than.....	\$1,000
Deputy Warden, not exceeding.....	1,400
and not less than.....	600
Chief Keeper, not exceeding.....	900
and not less than.....	500
Chaplain, not exceeding.....	1,200
and not less than.....	400
Assistant Chaplain, not exceeding.....	500
and not less than.....	300
Surgeon, not exceeding.....	1,800
and not less than.....	400
Accountant, not exceeding.....	1,000
and not less than.....	500
Schoolmaster, not exceeding.....	600
and not less than.....	250
Storekeeper, not exceeding.....	900
and not less than.....	400
Steward, not exceeding.....	700
and not less than.....	400

(If the offices of Steward and Storekeeper are combined, the salary may be that of the Storekeeper).

Chief Trade Instructor, not exceeding.....	1,100
and not less than.....	700
Trade Instructor, not exceeding.....	750
and not less than.....	500
Hospital Keeper, not exceeding.....	750
and not less than.....	500
Engineer, not exceeding.....	900
and not less than.....	500
Farmer and Gardener, not exceeding.....	650
and not less than.....	500
Keeper, not exceeding.....	600
and not less than.....	400

Guard, not exceeding.....	\$600
and not less than.....	\$350
Messenger, not exceeding.....	600
and not less than.....	400
Teamster, not exceeding.....	400
and not less than.....	300
Other male servants, not exceeding per day.....	1
Matron, not exceeding.....	550
and not less than.....	250
Deputy Matron, not exceeding.....	350
and not less than.....	200
Assistant Deputy Matron, not exceeding.....	250
and not less than.....	175
Schoolmistress, not exceeding.....	250
and not less than.....	120
46 V., c. 37, Schedule A.	

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
32-33 V., c. 29 ... 46 V., c. 37.....	s. 96 (part). The whole, except ss. 4, 14 (part), 26, 54 (part), 55 (part), 57, 58 and 80.	ss. 14 (part), and 80.	s. 4 ss 54, 55 (parts), 57 and 58. s. 26.....	Punishments. Escapes. The Militia Act.

CHAPTER 176.

An Act respecting Public and Reformatory Prisons.

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 "Lieutenant Governor" means the Lieutenant Governor in Council.

Interpretation.
"Lieutenant Governor."

New.

PART I.

INSECURE PRISONS.

2. The Lieutenant Governor of any Province of Canada may, by proclamation published in the official Gazette of the Province, and in the *Canada Gazette*, declare that the common gaol of any district, county or place in such Province is insecure, and may name the gaol of any adjoining district, county or place as the gaol to which offenders within such first mentioned district, county or place, may, from and after a time stated, be committed or sentenced. 40 V., c. 37 s. 1.

Lt.-Governor may substitute a neighboring gaol for an insecure one.

3. The Lieutenant Governor may, after the issue of such proclamation, from time to time, direct the sheriff to transfer such of the prisoners then confined in such insecure gaol, as the Lieutenant Governor thinks proper, to the gaol so named as aforesaid; and such order shall be a sufficient authority to the respective sheriffs and officers to deliver and receive, and to the keeper of such last mentioned gaol to detain therein, any such prisoner, according to the exigency of the warrant or sentence under which he was confined in such insecure gaol. 40 V., c. 37, s. 4.

Transfer of prisoners to substituted gaol.

4. During the continuance of such proclamation, any person who would otherwise be committed to or sentenced to imprisonment in the common gaol so declared insecure, shall be committed to or sentenced to imprisonment in the gaol named in the proclamation for the purpose, and the respective sheriffs and officers shall have authority to deliver and receive such person; and a warrant directed to the gaoler of the insecure gaol shall be a sufficient authority for the gaoler of the gaol so named as aforesaid to detain in such gaol the person named in such warrant, according

Effect of such proclamation as to persons who would otherwise be imprisoned in the insecure gaol.

to the exigency of the warrant, or until he is removed, as is hereinafter provided. 40 V., c. 37, s. 2.

As to place of trial of prisoners in substituted gaol, &c.

5. Every person so confined in the gaol named in such proclamation, may be tried in the district, county or place in the gaol whereof he is confined, unless the judge, or other person presiding at the court at which it is proposed to try such person, or a judge of a court having jurisdiction to try the offence, otherwise directs; and the court of general gaol delivery or General Sessions of the Peace, or other court having like powers, held in such district, county or place, and every judge presiding thereat, shall have jurisdiction to make, in reference to any person committed in default of sureties for good behavior, or to keep the peace, the like order as such court or judge might make if the court was being held in the district, county or place in which such person was committed. 40 V., c. 37, s. 3.

Powers of court and judges.

Proclamation superseding that first issued.

6. The Lieutenant Governor may, at any time, by his proclamation published in the official Gazette of the Province, and in the *Canada Gazette*, declare that any proclamation issued under the *second* section of this Act, shall, from and after a time stated, cease to have effect; and such proclamation shall cease to have effect accordingly. 40 V., c. 37, s. 5.

Re-transfer of prisoners in consequence.

7. The Lieutenant Governor may, after the issue of such last mentioned proclamation, direct the sheriff to transfer so many of the prisoners then confined in the gaol so named as aforesaid, as the Lieutenant Governor thinks proper, to the gaol of the district, county or place in which, but for the operation of the preceding sections, such prisoners would have been confined; and such order shall be sufficient authority to the respective sheriffs and officers to deliver and receive, and to the keeper of such last mentioned gaol to detain therein, any such prisoners, according to the exigency of the warrant or sentence under which they were originally confined. 40 V., c. 37, s. 6.

EMPLOYMENT OF PRISONERS.

Lt.-Governor in Council may make regulations.

8. The Lieutenant Governor of any Province may, from time to time, make regulations for the purpose of preventing escapes and preserving discipline in the case of prisoners in any common gaol, employed beyond the limits thereof. 40 V., c. 36, s. 1.

And may then authorize employment of prisoners outside of gaols.

9. After such regulations are made, the Lieutenant Governor may, from time to time, direct or authorize the employment, upon any specific work or duty, beyond the limits of any common gaol, of any prisoner who, after a prior sentence of imprisonment for any violation of any

law of Canada or of any Province, is sentenced to be imprisoned with hard labor in such gaol, for any offence against any law of Canada. 40 V., c. 36, s. 2.

10. Every such prisoner shall, during such employment, be subject to such regulations and to all the rules, regulations and discipline of the gaol, so far as applicable. 40 V., c. 36, s. 3. Discipline of gaol to be observed.

11. No such prisoner shall be so employed, except under the strictest care and supervision of officers appointed to that duty. 40 V., c. 36, s. 4. Supervision.

12. Every street, highway or public thoroughfare of any kind, along or across which prisoners pass in going to or returning from their work, and every place where they are so employed, shall, while so used, be considered as a portion of the gaol; and any escape or attempt at escape, and any rescue or attempt at rescue, made on such street, highway or thoroughfare, shall be held to have been made within or from such gaol. 40 V., c. 36, s. 5. Place of work, &c., to be deemed part of gaol.

IMPROVEMENT OF PRISON DISCIPLINE.

13. If, in any Province, there is at any time a prison of such a character as to render practicable the application of the three sections next following to such Province, and if the Lieutenant Governor makes rules for keeping a correct record of the daily conduct of every prisoner in such prison, noting his behavior, industry, diligence and faithfulness, and the strictness with which he observes the prison regulations, and if such prison, and the rules so made, are, by the Governor in Council, declared adequate, the Governor in Council may, by proclamation published in the *Canada Gazette*, reciting the premises, and describing the prison, declare such sections in force within such Province from and after a day named in such proclamation. 40 V., c. 39, ss. 1 and 5. On certain conditions the three sections next following may be declared in force in any Province.

NOTE—The special provisions with respect to the Central Prison are omitted, as sufficiently provided for by the general provision.

14. Any judge sentencing any prisoner to imprisonment in any prison named in the proclamation in the next preceding section mentioned, may sentence such prisoner for a term not more than one sixth longer than the maximum term at present prescribed by law for the offence; and any such sentence may be carried out in such prison, although it is for any term not exceeding two years and four months. 40 V., c. 39, s. 2. Power to judge sentencing a prisoner in certain cases.

15. Every prisoner sentenced to such prison shall be entitled to earn a remission of a portion of the time for which he is sentenced, not exceeding five days for every month Prisoner may earn a remission of part of sentence.

during which he is exemplary in behavior, industry and faithfulness, and does not violate any of the prison rules ; and if prevented from labor by sickness, not intentionally produced by himself, he shall be entitled to earn, by good conduct, a remission not exceeding two and one half days for every such month. 40 V., c. 39, s. 3.

Forfeiture of remission in certain cases.

16. Every such prisoner who commits any breach of the laws or of the prison regulations shall, besides any other penalty to which he is liable, be liable to forfeit the whole or any part of any remission which he has so earned. 40 V., c. 39, s. 4.

PART II.

ONTARIO.

Provisions applicable to Ontario.

17. The provisions of sections *eighteen to forty-eight* both inclusive, being Part two of this Act apply only to the Province of Ontario. 43 V., c. 39, s. 16, *part*, and c. 40, s. 10, *part*.

Interpretation.
"Court."

18. In this part of this Act, the expression "court" includes a police or stipendiary magistrate, but does not include one or more justices of the peace. 43 V., c. 39, s. 2, and c. 40, s. 2;—44 V., c. 32, s. 1, *part*, and s. 6, *part*.

The Central Prison for the Province of Ontario.

Imprisonment in the Central Prison.

19. Every court in the Province of Ontario, before which any person is convicted for an offence against the laws of Canada, punishable by imprisonment in the common gaol, for the term of two months, or for any longer time, may sentence such person to imprisonment in the central prison for the Province of Ontario, instead of the common gaol of the county or judicial district where the offence was committed, or was tried. 44 V., c. 32, s. 6, *part*.

Transfer of prisoners to the Central Prison.

20. Every person confined in any one of the common gaols of the said Province, under sentence of imprisonment for any offence, may, by direction of the Provincial Secretary, be transferred from such common gaol to such central prison, there to be imprisoned for the unexpired portion of the term of imprisonment to which such person was originally sentenced or committed to such common gaol; and such person shall thereupon be imprisoned in such central prison for the residue of such term, unless in the meantime he is lawfully discharged or removed, and shall be subject to all the rules and regulations of such central prison. 36 V., c. 69, s. 2.

21. Such person may be removed to the central prison, notwithstanding such imprisonment, or any part thereof, is imposed in default of the payment of a fine or penalty in money, and that such person is entitled to be discharged upon payment of such fine or penalty :

Transfer although imprisonment is for non-payment of fine.

2. If the fine or penalty is paid after the removal of the offender, the same shall be paid to the proper officer of such prison, to defray the expenses of the removal of the said offender to such prison, and otherwise for the uses of such prison ; but nothing herein contained shall affect the right of any private person to such fine or penalty, or any part thereof. 44 V., c. 32, s. 5.

If fine is paid subsequently.

22. The warden of the central prison shall receive into the said prison every offender legally certified to him as sentenced to imprisonment therein ; and shall detain him, subject to all the rules, regulations and discipline thereof, until the term for which he has been sentenced is completed, or until he is otherwise discharged in due course of law. 36 V., c. 69, s. 3.

Warden to receive and detain offenders.

23. The Lieutenant Governor may, from time to time, authorize, direct or sanction the employment upon any specific work or duty, without or beyond the walls or limits of such central prison, of any of the prisoners confined or sentenced to be imprisoned therein ; and all such prisoners shall, during such last mentioned employment, be subject to all the rules, regulations and discipline of such prison, so far as the same are applicable, and to such other regulations, for the purpose of preventing escapes, and otherwise, as are approved by the Lieutenant Governor in that behalf : Provided, that when prisoners are so employed without the walls or limits of such prison, it shall only be done under the strictest care and supervision of officers appointed to that duty. 36 V., c. 69, s. 4.

Employment of prisoners on works without the prison.

24. The Lieutenant Governor may, from time to time, by warrant signed by the Provincial Secretary, or by such other officer as is authorized by the Lieutenant Governor in that behalf, direct the removal of any offender from the central prison to the Ontario reformatory for boys, or from the central prison back to the common gaol, or to any other gaol, or from the said reformatory to the central prison. 36 V., c. 69, s. 5.

Transfer of prisoners to common gaol.

Ontario Reformatory for Boys.

25. If any boy, who, at the time of his trial, appears to the court to be under the age of sixteen years, is convicted of any offence for which a sentence of imprisonment for a period of three months or longer, but less than five years,

What offenders may be sentenced to the Ontario Reformatory for boys.

may be imposed upon an adult convicted of the like offence, and the court before which such boy is convicted is satisfied that a due regard for the material and moral welfare of the boy manifestly requires that he should be committed to the Ontario reformatory for boys, then such court may sentence the boy to be imprisoned in such reformatory for such term as the court thinks fit, not being greater than the term of imprisonment which could be imposed upon an adult for the like offence; and may further sentence such boy to be kept in such reformatory for an indefinite time after the expiration of such fixed term: Provided, that the whole period of confinement in such reformatory shall not exceed five years from the commencement of his imprisonment. 43 V., c. 39, s. 1, *part*.

As to term of imprisonment.

In certain cases offenders summarily convicted may be sentenced to such reformatory.

26. If any boy, apparently under the age of sixteen years, is convicted of any offence punishable by law on summary conviction, and thereupon is sentenced and committed to prison in any common gaol for a period of fourteen days at the least, any judge of any one of the superior courts, or any judge of a county court, in any case occurring within his county, may examine and inquire into the circumstances of such case and conviction, and when he considers the material and moral welfare of the boy requires such sentence, he may, as an additional sentence for such offence, sentence such boy to be sent either forthwith or at the expiration of his imprisonment in such gaol, to such reformatory, to be there detained for the purpose of his industrial and moral education, for an indefinite period, not exceeding in the whole five years, from the commencement of his imprisonment in the common gaol. 43 V., c. 39, s. 3.

Detention for purposes of reform.

27. Every boy so sentenced shall be detained in such reformatory until the expiration of the fixed term, if any, of his sentence, unless sooner discharged by lawful authority, and thereafter shall, subject to the provisions hereof and to any regulations made, as hereinafter provided, be detained in such reformatory for a period not to exceed five years from the commencement of his imprisonment, for the purpose of his industrial and moral education. 43 V., c. 39, s. 4.

Commitment of boy to gaol until conveyed to reformatory.

28. A copy of the sentence of the court, duly certified by the proper officer, or the warrant or order of the judge or other magistrate by whom any boy is sentenced to confinement in such reformatory, shall be a sufficient authority to the sheriff, constable or other officer who is directed, verbally or otherwise, so to do, to convey such boy to the common gaol of the county where such sentence is pronounced, and for the gaoler of such gaol to receive and detain such boy, until some person, lawfully authorized, requires the

delivery of such boy for removal to the reformatory. 43 V., c. 39, s. 6.

29. If any boy sentenced to be confined in such reformatory is in such a weak state of health that he cannot safely or conveniently be removed to the reformatory, he may be detained in the common gaol or other place of confinement in which he is, until he is sufficiently recovered to be safely and conveniently removed to the reformatory. 43 V., c. 39, s. 7.

If the boy is in bad health.

30. No boy shall be discharged from such reformatory at the termination of his term of confinement, if then laboring under any contagious or infectious disease, or under any acute or dangerous illness, but he shall be permitted to remain in such reformatory until he recovers from such disease or illness : Provided, that any boy remaining in such reformatory for any such cause shall be under the same discipline and control as if his term was still unexpired. 43 V., c. 39, s. 13.

As to discharge when boy is in bad health.
Proviso.

The Andrew Mercer (Ontario) Reformatory for Females.

31. Every court in the Province of Ontario, before which any female is convicted of an offence against the laws of Canada, punishable by imprisonment in the common gaol for the term of two months, or for any longer time, may sentence such female to imprisonment in the Andrew Mercer (Ontario) reformatory for females, instead of the common gaol of the county or judicial district where the offence was committed or was tried. 44 V., c. 32, s. 1, *part.*

When females may be sentenced to Andrew Mercer Reformatory.

32. Any female, from time to time, confined in any common gaol in the said Province, under sentence of imprisonment for any offence against the laws of Canada, may, by direction of the Provincial Secretary, be transferred from such common gaol to such reformatory, to be imprisoned for the unexpired portion of the term of imprisonment to which such female was originally sentenced or committed to the common gaol ; and such female shall thereupon be imprisoned in such reformatory for the residue of the said term, and shall be subject to all the rules and regulations of the reformatory. 44 V., c. 32, s. 2.

Transfer of prisoners to such reformatory.

33. Any female so sentenced to imprisonment may be removed to such reformatory, notwithstanding such imprisonment, or any part thereof, is imposed in default of the payment of a fine or penalty in money, and that such offender is entitled to be discharged upon payment of such fine or penalty :

Transfer although imprisonment is for non-payment of a fine.

If fine is paid subsequently.

2. If the fine or penalty is paid after the removal of the offender, the same shall be paid to the proper officer of such reformatory, to defray the expense of the removal of the said offender to such reformatory, and otherwise for the uses of such reformatory; but nothing herein contained shall affect the right of any private person to such fine or penalty, or any part thereof. 42 V., c. 43, s. 3.

Term of imprisonment in certain cases.

34. Whenever any female is convicted under the *fifth* section of the "*Act respecting Offences against Public Morals and Convenience*," or, under "*The Summary Trials Act*," she may be sentenced to the said reformatory for any term less than two years; but if any term exceeding six months is inflicted, no fine shall be imposed in addition. 44 V., c. 32, s. 3.

Conveyance of prisoners.

35. Any officer appointed by the Lieutenant Governor, or other officer or person, by his direction or by direction of the court or other lawful authority, may convey to such reformatory any convict sentenced, or liable to be imprisoned therein, and deliver her to the superintendent or keeper thereof, without any further warrant than a copy of the sentence, taken from the minutes of the court before which the offender was tried, and certified by a judge or the clerk or acting clerk of such court. 42 V., c. 43, s. 7.

Superintendent to receive and detain offenders.

36. The superintendent of the reformatory shall receive into the same every offender legally certified to her as sentenced to imprisonment therein, and shall there detain her, subject to all the rules, regulations and discipline thereof, until the term for which she has been sentenced is completed, or until she is otherwise discharged in due course of law. 42 V., c. 43, s. 8.

Transfer of prisoners to common gaol.

37. The Lieutenant Governor may, from time to time, by warrant signed by the Provincial Secretary, or by such other officer as is authorized by the Lieutenant Governor in that behalf, direct the removal from such reformatory back to the common gaol, or to any other gaol in Ontario, of any person removed to such reformatory under this Act. 42 V., c. 43, s. 9.

Delivery of offender to the proper officer.

38. The superintendent of such reformatory, or the keeper of any common gaol, having the custody of any offender ordered to be removed, shall, when required so to do, deliver up to the constable or other officer or person who produces the said warrant, such offender, together with a copy, attested by the said superintendent or gaoler, of the sentence and date of conviction of such offender, as given on the reception of the offender into the custody of such superintendent or keeper. 42 V., c. 43, s. 10.

The Industrial Refuge for Girls.

39. If any girl who at the time of her trial appears to the court to be under the age of fourteen years, is convicted of any offence for which a sentence of imprisonment for a term of one month or longer, but less than five years, may be imposed upon an adult convicted of the like offence, and the court before which the girl is convicted is satisfied that a due regard for her material and moral welfare manifestly requires that she should be committed to the Industrial Refuge for Girls of Ontario, such court may sentence such girl to be imprisoned in the Andrew Mercer (Ontario) reformatory for females, for such fixed term as the court thinks fit, not being greater than the term of imprisonment which could be imposed upon an adult for the like offence, and may further sentence the said girl to be kept in such industrial refuge for girls for an indefinite time after the expiration of such fixed term: Provided, that the whole term of confinement in such reformatory and industrial refuge shall not exceed five years from the commencement of her imprisonment. 43 V., c. 40, s. 1, *part.*

On conviction for certain offences girls may be sentenced to Industrial Refuge.

As to term of imprisonment.

40. If any girl apparently under the age of fourteen years, is convicted of any offence punishable by law on summary conviction, and thereupon is sentenced and committed to prison in any common gaol for a term of fourteen days at the least, any judge of one of the superior courts, or any judge of a county court, in any case occurring within his county, may examine and inquire into the circumstances of such case and conviction, and if he considers the material and moral welfare of the girl requires it, he may, as an additional sentence for such offence, sentence such girl to be sent either forthwith, or at the expiration of her imprisonment in such gaol, to such industrial refuge for girls, to be there detained for the purpose of her industrial and moral education for an indefinite period, not exceeding in the whole five years from the commencement of her imprisonment in the common gaol. 43 V., c. 40, s. 3.

In certain cases offenders summarily convicted may be sentenced to such refuge.

41. Every girl so sentenced shall be detained in such reformatory until the expiration of the fixed term of her sentence, unless sooner discharged by lawful authority; and such girl thereafter shall, and every girl sentenced under the next preceding section shall, subject, in both cases, to the provisions hereof, and to any regulations made as hereinafter provided, be detained in such industrial refuge for girls for a term not to exceed five years from the commencement of her imprisonment, for the purpose of her industrial and moral education. 43 V., c. 40, s. 4.

Detention for purposes of reform.

General Provisions.

42. Any sheriff or other person having the custody of any offender sentenced to imprisonment in the said central

Detention in gaol until demanded by

proper authority.

prison or either of the said reformatories, may detain the offender in the common gaol of the county or district in which such offender is sentenced, or other place of confinement in which such offender is, until some person lawfully authorized in that behalf requires such offender's delivery for the purpose of being conveyed to such prison or either of such reformatories. 38 V., c. 46, s. 1;—42 V., c. 43, s. 4;—43 V., c. 39, s. 5.

If offender is certified to be in weak health.

43. If the gaol surgeon, or other medical practitioner acting in that behalf, certifies that any offender sentenced to the central prison or to the Andrew Mercer (Ontario) reformatory for females, is in such a weak state of health that such offender is unable to perform hard labor, such offender may be detained in the common gaol or other place of confinement in which such offender is, until such offender is sufficiently recovered to be employed at hard labor. 38 V., c. 46, s. 2;—42 V., c. 43, s. 5.

Computation of time in such cases.

44. The time for which any person, sentenced to imprisonment in the central prison or in the Andrew Mercer (Ontario) reformatory for females, is held in custody under the provisions of the two sections next preceding, shall be reckoned in computing the time served by such person in such prison or reformatory. 38 V., c. 46, s. 3;—42 V., c. 43, s. 6.

If term expires on Sunday.

45. Whenever the time of any offender's sentence in such prison, reformatories or refuge, under any law within the legislative authority of the Parliament of Canada, expires on a Sunday, such offender shall be discharged on the previous Saturday, unless such offender desires to remain until the Monday following. 36 V., c. 69, s. 6;—42 V., c. 43, s. 11;—43 V., c. 39, s. 12.

Apprenticeship of juvenile offenders.

46. If any respectable and trustworthy person is willing to undertake the charge of any boy committed to the Ontario Reformatory for Boys, when such boy is over the age of twelve years, or of any girl committed to the Industrial Refuge for Girls, as an apprentice to the trade or calling of such person, or for the purpose of domestic service, and such boy or girl is confined to the reformatory or refuge by virtue of a sentence or order pronounced under the authority of any Act of the Parliament of Canada, the superintendent of the reformatory or refuge may, with the consent and in the name of the inspector of prisons and public charities of Ontario, bind the said boy or girl to such person for any term not to extend, without his or her consent, beyond a term of five years, from the commencement of his or her imprisonment; and the inspector shall thereupon order that such boy or girl shall be discharged from the said reformatory or refuge on probation,

Discharge on probation in such case.

to remain so discharged, provided his or her conduct during the residue of the term of five years, from the commencement of his or her imprisonment, continues good, and such boy or girl shall be discharged accordingly : As to wages. Provided, that any wages reserved in any indenture of apprenticeship made under this section shall be payable to such boy or girl, or to some other person for his or her benefit :

2. No boy or girl shall be discharged under this section until after the fixed term of his or her sentence has elapsed, unless by the authority of the Governor General. Sanction of Governor General. 43 V., c. 39, ss. 8 and 9 ;—43 V., c. 40, ss. 5 and 6.

47. The Governor in Council may make such regulations as he considers advisable for the discharge, after the expiration of the fixed term of sentence, of prisoners confined in such reformatory or refuge under any Act of the Parliament of Canada ; and such discharge may be either absolute or upon probation, subject to such conditions as are imposed under the authority of the said regulations. Regulations as to discharge. 43 V., c. 39, s. 10 ;—43 V., c. 40, s. 7.

48. The judge of any county court or any police magistrate may, upon satisfactory proof that any boy or girl who was sentenced under the provisions of any Act of the Parliament of Canada, and who has been discharged on probation, has violated the conditions of his or her discharge, order such boy or girl to be recommitted to such reformatory or refuge, and thereupon such boy or girl shall be detained therein under his or her original sentence, as if such boy or girl had never been discharged. Re-commitment for violation of conditions of discharge. 43 V., c. 39, s. 11, and c. 40, s. 8.

PART III.

QUEBEC.

Reformatory Schools for Boys.

49. The provisions of sections *fifty* to *sixty*, both inclusive, being Part three of this Act, apply only to the Province of Quebec. Provisions applicable to Quebec. 32-33 V., c. 34, s. 10, *part*.

50. Every person apparently under the age of sixteen years, who is convicted before any court of criminal jurisdiction or before any judge of the Sessions of the Peace, recorder, district or police magistrate, of any offence for which he would be liable to imprisonment, may be sentenced, on such conviction, to be detained in a certified reformatory school for any term not less than two years Offenders under 16 years may be sent to Reformatory Schools.

nor more than five years, or he may be sentenced to be first imprisoned in the common gaol for a term not in any case exceeding three months, and at the expiration of his sentence, to be sent to a certified reformatory school, and to be there detained for a term of not less than two years and not more than five years. 32-33 V., c. 34, s. 2.

Power to discharge.

51. The Lieutenant Governor may, at any time, in his discretion, order that any offender detained in such reformatory school, under a summary conviction, be discharged. 32-33 V., c. 34, s. 3.

Removal of incorrigibles.

52. The Lieutenant Governor may, at any time, on the report of one of the inspectors of prisons for the Province of Quebec, order any offender undergoing sentence in any certified reformatory school, on a conviction for felony, to be removed as incorrigible; and in any such case, the offender shall be imprisoned in the penitentiary for the remainder of the term of his sentence. 32-33 V., c. 34, s. 4.

Detention of offenders under 16 years previous to trial.

53. A person apparently under the age of sixteen years, arrested on a charge of having committed any offence not capital, shall not, while awaiting trial for such offence, be detained in any common gaol, if there is a certified reformatory school within three miles of such gaol, but shall be detained in such reformatory school while awaiting trial; and if there is more than one such school within such distance, the person so charged shall be detained in that one of them which is conducted nearest in accordance with the religious belief to which his parents belong, or in which he has been educated. 32-33 V., c. 34, s. 5.

Punishment of persons breaking the rules of reformatory schools.

54. Every offender detained in a certified reformatory school, who wilfully neglects or refuses to conform to the rules thereof, shall, on summary conviction before a justice of the peace having jurisdiction in the place or district in which the school is situate, be imprisoned with hard labor, for any term not exceeding three months; and at the expiration of the term of his imprisonment, he shall, by and at the expense of the managers of the school, be brought back to the school from which he was taken, there to be detained during a period equal to so much of his period of detention as remained unexpired at the time of his being sent to the prison. 32-33 V., c. 34, s. 6.

Reformatory Prisons for Females.

When Reformatory Prisons are established certain female convicts may be sentenced

55. Whenever the Lieutenant Governor of the Province of Quebec has declared, by proclamation published in the *Official Gazette* of that Province, that suitable arrangements have been made in any district in that Province, for the detention and proper government and discipline of

female convicts in any separate building or separate portion of the common gaol in such district, as a reformatory prison for such convicts, and that such separate building or portion of a common gaol shall be a reformatory prison for the purposes hereof,—then if any female person is convicted in the said Province of any felony, not capital, and for which she would, without this Act, otherwise be punishable by imprisonment for any term not less than two years, but not exceeding seven years, such female convict shall be punishable by imprisonment in the female reformatory prison for any term less than seven, but not less than five years, and she may be sentenced to such imprisonment accordingly, although otherwise she would not be liable to imprisonment in the penitentiary for so long a term as that for which she may be so sentenced to imprisonment in the female reformatory prison. 34 V., c. 30, s. 1.

to be detained therein.

56. If, after such proclamation, any female is convicted of any felony or misdemeanor otherwise punishable by imprisonment, but not for any term so long as two years, or of any offence under the *fifth* section of the "*Act respecting Offences against Public Morals and Convenience*," then, unless it is proved that she has been previously convicted and imprisoned twice or oftener, each of such convictions being for some such felony, misdemeanor or offence, as aforesaid, such convict shall be asked, by the judge, recorder, judge of the Sessions of the Peace, commissioner of police, district police or stipendiary magistrate, mayor, warden or the two justices of the peace, or other functionary before whom the conviction is had, whether she consents, instead of the imprisonment to which she is otherwise liable, to be sentenced to imprisonment for a term of five years, in the female reformatory prison; and if she refuses to give such consent, sentence shall be passed upon her as if this Act had not been passed, but if she gives such consent, or it is proved that she has been twice convicted as aforesaid, the fact shall be duly recorded or entered on the proceedings in the case, and she shall be sentenced accordingly to imprisonment in the female reformatory prison for a term of five years. 34 V., c. 30, s. 2.

And certain others after two convictions or with their own consent.

57. If, at the time of the passing of any such sentence, there is more than one female reformatory prison in such Province, the imprisonment under such sentence shall be in that one of such reformatory prisons which is in the same district as the place at which the sentence is passed, or if there is no reformatory prison in such district, then in the reformatory prison nearest to such place; but if there is not more than one such reformatory prison in the Province, then such imprisonment shall be in it; and in any case the sheriff of the district in which the sentence is passed, or any person thereunto by him deputed, shall

In what prison such sentence shall be carried out.

Power to convey prisoner to it.

have the like powers for conveying the convict to the reformatory prison in which she is to be imprisoned, as any sheriff has to convey any convict to the penitentiary. 34 V., c. 30, s. 3, *part.*

Every such prison to be a house of correction, &c.

58. Each such female reformatory prison as aforesaid, shall be a house of correction and a public reformatory prison, within the meaning of the sixth sub-section of the ninety-second section of "*The British North America Act, 1867,*" and subject to such laws as the Legislature of such Province makes with respect to the establishment, maintenance and management thereof. 34 V., c. 30, s. 4.

Employment of Prisoners.

Convicts in common gaols may be employed outside the same.

Powers for preventing escapes, &c.

Sentence to include such employment.

59. Every sheriff or gaoler in the Province of Quebec, being thereunto authorized by the Lieutenant Governor, or in such manner as any Act of the Legislature of the Province provides, and under such regulations as the said Legislature makes or authorizes to be made in that behalf, may employ any male convict sentenced to hard labor in such prison, at hard labor outside the walls or precincts of such prison, and may exercise the same powers of restraint and discipline, and for preventing escape, while such convict is so outside of the walls or precincts, as if he was inside the same, and whether his labor is so employed directly by the Government of the said Province or by any contractor to whom such labor is let or hired out by the said Government, or by any competent authority; and the sentence of any such male convict, whether pronounced before or after the passing of this Act, shall be understood to include such employment as aforesaid, and any time during which a convict is so employed, shall be reckoned as part of the term for which he was sentenced to be confined in such prison. 34 V., c. 30, s. 5.

Common Gaols.

Gaols to be houses of correction.

60. Every common gaol in such Province shall be a house of correction, reformatory prison and place of detention. 34 V., c. 30, s. 6.

PART IV.

NOVA SCOTIA.

The Halifax Industrial School.

Certain offenders may be sentenced to

61. Whenever any boy, who is a Protestant and a minor, apparently under the age of sixteen years, is convicted be-

fore the police court in the city of Halifax, or before the stipendiary magistrate for the city of Halifax, of any offence for which, by law, he is liable to imprisonment, the police court or stipendiary magistrate may sentence such boy to be detained in the Halifax Industrial School for any term not exceeding five years, and not less than two years, as to the said police court or stipendiary magistrate appears proper. 33 V., c. 32, s. 1.

Halifax Industrial School.

62. No such sentence shall be pronounced unless, until, provision has been made by the city of Halifax, out of its funds, for the support of boys so sentenced, at the rate of not less than forty dollars per annum for each boy. 33 V., c. 32, s. 2.

As to support of such boys.

63. The said industrial school shall, at all times, be open to inspection by the mayor and aldermen of the city of Halifax, and the stipendiary magistrate for the city of Halifax, or any of them. 33 V., c. 32, s. 3.

School to be open to inspection.

64. The committee of the said industrial school shall be bound to teach and instruct each boy so sentenced and detained as aforesaid, in reading and writing, and in arithmetic as far as the rule of three, and also to teach each such boy such one of the trades or occupations which is, from time to time, taught in the said school, as the committee deems most adapted to his capabilities. 33 V., c. 32, s. 4.

Boys to be educated and taught trades.

Halifax Reformatory School for Boys of the Roman Catholic Faith.

65. As soon as a proclamation has been issued by the Lieutenant Governor of Nova Scotia, declaring that a reformatory, orphanage, industrial school or home for boys of the Roman Catholic faith has been established in the county of Halifax, and made ready for the confinement of prisoners, any boy, who is a Roman Catholic and apparently under the age of sixteen years, who is convicted before the police court of the city of Halifax, or before the stipendiary magistrate for such city, of any offence for which by law he is liable to imprisonment, with or without hard labor, may be sentenced by such police court or stipendiary magistrate to be detained in such home, whether situate in such city or elsewhere in such county, for any term not exceeding five years, as to such police court or stipendiary magistrate appears proper. 47 V., c. 45, s. 1.

Certain offenders may be sentenced to Halifax Roman Catholic Reformatory.

66. The governing body or head of such home may, at any time, notify the mayor of the city of Halifax that no prisoners, beyond those already under sentence in such home, will be received therein; and after the receipt of

Number of such prisoners may be limited by the governing body.

such notice by such mayor, no such sentence shall be pronounced until notice has been received by the mayor from such governing body or head that prisoners will be received in such home. 47 V., c. 45, s. 2.

Reformatory to be open to inspection.

67. Such home shall, at all times, be open to inspection by any officer appointed by the Governor in Council to inspect the same, and, when and so long as any pecuniary aid is received from the city of Halifax, shall be open to inspection by the mayor, aldermen and stipendiary magistrate of such city, or any of them. 47 V., c. 45, s. 3.

Boys to be educated and taught trades.

68. The governing body of such home shall be bound to teach and instruct each boy so sentenced and detained as aforesaid in reading and writing, and in arithmetic to the end of simple proportion, and also to teach each such boy such one of the trades or occupations which are, from time to time, taught in such home, as such governing body deems most adapted to his capabilities. 47 V., c. 45, s. 4.

Removal of incorrigibles.

69. If any offender detained in such home becomes incorrigible, he may, on a certificate from the officer in charge of such home, be removed to a penitentiary, as provided in "*The Penitentiary Act.*" 47 V., c. 45, s. 5.

Jurisdiction of police court, &c., extended.

70. The jurisdiction of the police court and of the stipendiary magistrate of Halifax, and of the policemen and other officers of such court or magistrate, shall, for the purposes hereof, extend to every boy so convicted and sentenced as aforesaid, although he is in any place in the county of Halifax beyond the limits of the city of Halifax. 47 V., c. 45, s. 7.

PART V.

PRINCE EDWARD ISLAND.

Reformatory Prison.

Certain offenders may be sentenced to P. E. I. Reformatory.

71. As soon as a proclamation has been issued by the Lieutenant Governor of the Province of Prince Edward Island, declaring that a reformatory for juvenile offenders has been established and made ready for the confinement of prisoners, any person, apparently under the age of sixteen, who is convicted in that Province, before the Supreme Court or stipendiary magistrate, of any offence for which, by law, he is liable to imprisonment, may, by the said court or stipendiary magistrate, be sentenced to be detained in the said reformatory for any term not exceeding five years and not

less than two years, as to the said court or magistrate appears proper. 43 V., c. 41, s. 1.

72. Any person, apparently under the age of sixteen years, thereafter arrested on a charge of having committed any offence within the said Province, not capital, shall not, while awaiting trial for such offence, be detained in any common gaol, but shall be detained in such reformatory. 43 V., c. 41, s. 2. Offenders awaiting trial.

73. If any offender, detained in such reformatory, wilfully neglects to conform to the rules thereof, he may, upon summary conviction, be imprisoned in the common gaol, with hard labor, for any term not exceeding three months; and at the expiration of his term of imprisonment, he shall be brought back to the reformatory, there to be detained during a term equal to so much of his term of imprisonment as remained unexpired at the time of his being sent to the prison. 43 V., c. 41, s. 3. Punishment of offenders violating rules.

Removal of Prisoners to the Gaol of Queen's County.

74. The Supreme Court of Judicature of the Province of Prince Edward Island, or any judge thereof, may, on the application of the Attorney General or other Crown officer of such Province, whenever any prisoner is sentenced to any term of imprisonment, with hard labor, in either of the counties of Prince County or King's County, make an order or give directions for the transfer and removal of such prisoner from the gaol of the county in which the conviction of such prisoner takes place, to the gaol of the county of Queen's County, and such order may be made or directions given at the time of passing sentence. 17 V. (P.E.I.), c. 13, s. 1, *part*. Removal of prisoners to gaol of Queen's County may be ordered.

75. Whenever such order is made or directions given, the sheriff of the county in which the conviction takes place shall cause such prisoner to be removed with all convenient despatch to the gaol of the county of Queen's County, pursuant to such order or direction. 17 V. (P.E.I.), c. 13, s. 1, *part*. Sheriff to carry out such order.

76. Upon such removal, such prisoner shall be subject to the same authority and jurisdiction as if he had been convicted in the county of Queen's County. 17 V. (P.E.I.), c. 13, s. 1, *part*. To what authority such prisoners shall be subject.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
32-33 V., c. 34.....	The whole, except ss. 1, 7, 8, 9 and 10 (part).	ss. 1, 9 and 10 (part)	ss. 7 and 8.....	Escapes and rescues.
33 V., c. 32.....	The whole, except s. 5.	.....	s. 5.....	Escapes and rescues.
34 V., c. 30.....	The whole, except s. 3 (part) and s. 7.	s. 7.....	s. 3 (part).....	Punishments.
36 V., c. 69.....	The whole.			
38 V., c. 46.....	The whole.			
40 V., c. 36.....	The whole.			
40 V., c. 37.....	The whole, except s. 7.	s. 7.		
40 V., c. 39.....	The whole.			
42 V., c. 43.....	The whole.			
43 V., c. 39.....	The whole, except s. 1 (part), ss. 14 and 15 (part) and 16 (part).	ss. 15 (part) and 16 (part)	s. 1 (part) and s. 14. s. 15 (part).....	Punishments. Juvenile offenders.
43 V., c. 40.....	The whole, except ss. 1 (part), 9 and 10 (part).	s. 10 (part).	s. 1 (part) and s. 9.	Punishments.
43 V., c. 41.....	The whole, except s. 4.	.....	s. 4.....	Escapes and rescues.
44 V., c. 32.....	The whole, except s. 4.	.....	s. 4.....	Punishments.
47 V., c. 45.....	The whole, except s. 6.	.....	s. 6.....	Escapes and rescues.
17 V. (P.E.I.), c. 13.....	The whole.			

CHAPTER 177.

An Act respecting the Police of Canada.

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, from time to time, appoint, by commission under the Great Seal, one or more fit and proper persons to be a commissioner or commissioners of police within Canada, or within one or more of the Provinces, Territories or Districts of Canada, or within any one or more of the districts or counties in any Province, Territory or District, or within any temporary judicial district, or any provisional judicial district in Ontario. 42 V., c. 37, s. 1.

Governor may appoint commissioners of police.

2. The Governor in Council may, from time to time, direct and authorize any commissioner of police, under this Act to appoint any fit and proper persons to serve as police constables under and within the jurisdiction of such commissioner of police, and such commissioner may, at his pleasure, remove any such police constable; and every such police constable shall obey all lawful directions and be subject to the government of such commissioner of police, and shall be charged with all the powers, rights and responsibilities which belong, by law, to constables duly appointed in the Province, District or county of the Province or Territory for which they are appointed, but for the purpose of carrying out the criminal laws and other laws of Canada only. 31 V., c. 73, s. 2.

Appointment of police constables.

Their duties and powers.

3. Every such commissioner of police shall, for the purpose of carrying out the criminal laws and other laws of Canada only, have and exercise, within the limits of his jurisdiction, all the powers and authority, rights and privileges, by law appertaining to justices of the peace generally, and shall, within the limits of his jurisdiction within any Province have and exercise, for the purpose aforesaid, all the powers and authority, rights and privileges by law appertaining to police magistrates of cities in the same Province; and shall, within the limits of his jurisdiction in any of the Territories or Districts of Canada, have and exercise, for the purpose aforesaid, all the powers and authority, rights and privileges by law appertaining to stipendiary magistrates in the same District or Territory, and shall be subject in all respects, except as

Powers of the commissioners in carrying out the laws of Canada.

No property qualification, &c., required.

otherwise provided by this Act, to the regulations of the law of the Province, District or Territory, in which he is acting, respecting police magistrates and the office of justice of the peace ; but it shall not be necessary for any commissioner of police appointed under this Act to possess any property qualification, or to be actually resident within the Province, District or Territory for which, or part of which, he is appointed. 42 V., c. 37, s. 2.

Duties of commissioners.

4. Every such commissioner of police shall keep minutes of every proceeding had by and before him, and shall keep such accounts, make such returns and collect such information within his jurisdiction, and perform such other duties as the Governor in Council, from time to time, prescribes and requires. 31 V., c. 73, s. 5.

Regulations, pay and annual account to parliament.

5. Every such commissioner of police and every such police constable, shall be subject to such regulations in respect to the order, management and disposition of the police, and shall receive such rates of pay or allowance as are, from time to time, prescribed by the Governor in Council ; and an account shall be laid before Parliament, within the first fourteen days after the meeting of each session, of the average number of men employed during each month of the year, and of their pay and travelling expenses. 31 V., c. 73, s. 6.

Penalty for misconduct by police constables.

6. Every such police constable, who is guilty of any disobedience of orders, neglect of duty, or any misconduct as such police constable, shall, on summary conviction before any commissioner of police, police magistrate or justice of the peace, be liable to a penalty not exceeding forty dollars and costs, and in default of immediate payment thereof, to imprisonment for any term not exceeding three months, unless such penalty and costs are sooner paid ; and any such person may be proceeded against by indictment for any offence committed by him as such constable, but not both by indictment and under this Act for the same offence. 31 V., c. 73, s. 3.

Application of penalties.

7. All moneys arising from penalties, forfeitures and fines imposed by any commissioner of police, if not directed by law to be otherwise appropriated, shall be, from time to time, paid to such commissioner of police, who shall account for the same and pay over or disburse the moneys arising therefrom at such times and in such manner and to such persons as the Governor in Council, from time to time, directs. 31 V., c. 73, s. 7.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
31 V., c. 73.....	The whole.			
42 V., c. 37.....	The whole.			

CHAPTER 178.

An Act respecting actions against Justices and other persons administering the Criminal Law.

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

Limitation of actions and prosecutions.

1. Every action and prosecution against any justice of the peace, constable, peace officer or other person, for anything purporting to be done in pursuance of any Act of the Parliament of Canada relating to criminal law, shall, unless otherwise provided, be laid and tried in the district, county or other judicial division, where the act was committed, and not elsewhere, and shall not be commenced except within six months next after the act committed. 31 V., c. 15, s. 7, *part*;—32-33 V., c. 29, s. 130.

Notice to defendant.

2. Notice in writing of such action and of the cause thereof, shall be given to the defendant, one month at least before the commencement of the action. 32-33 V., c. 29, s. 131.

General issue.

3. In any such action the defendant may plead the general issue, and give this Act and the special matter in evidence at any trial had thereupon. 31 V., c. 15, s. 7, *part*;—32-33 V., c. 29, s. 132.

In case of tender of sufficient amends.

4. No plaintiff shall recover in any such action, if tender of sufficient amends is made, before such action brought, or if a sufficient sum of money is paid into court by or on behalf of the defendant, after such action brought. 32-33 V., c. 29, s. 133.

Verdict or judgment for defendant in certain cases, and recovery of costs.

5. If such action is commenced after the time hereby limited for bringing the same, or is brought or the venue laid in any other place than as aforesaid, a verdict shall be found or judgment shall be given for the defendant; or if the plaintiff becomes non-suit, or discontinues any such action after issue joined, or if upon demurrer or otherwise, judgment is given against the plaintiff, the defendant shall recover his full costs as between solicitor and client, and shall have the like remedy for the same as any defendant has by law in other cases; and although a verdict or judgment is given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless

the judge, before whom the trial is had, certifies his approval of the action. 31 V., c. 15, s. 7, *part*;—32-33 V., c. 29, s. 134.

6. Nothing herein shall prevent the effect of any Act in force in any Province of Canada, for the protection of justices of the peace or other officers from vexatious actions for things purporting to be done in the performance of their duty. 32-33 V., c. 29, s. 135. Protection of justices of the peace, &c.

Proposed to be Consolidated	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
31 V., c. 15..... 32-33 V., c. 29...	s. 7 (part) ss. 130 to 135.	s. 7 (part)		

ERRATA.

- Page 70. Section 107, line 10. Leave out "fine" and insert "penalty."
- " 120. Section 1, line 1. Leave out "When" and insert "Whenever."
- " 144. Section 4. At end insert "*part.*"
- " 548. Section 8, line 8. Leave out "43 V., c. 28, s. 9."
- " 607. Table at end. Reference to 44 V., c. 14, should be:—Part consolidated—ss. 1 and 3 and part of s. 2;—Left for repeal,—Part of s. 2 and s. 4.
- " 627. Section 64, line 9. After "therein" insert "So help me, God."
- " 725. Section 1, line penult. After "s. 2" insert "*part.*"
- " 738. Table at end. Reference to C. S. C., c. 24, should be:—Part consolidated,—The whole, except part of s. 2;—Left for repeal,—Part of s. 2.
- " 785. Section 24, line 6. After "thereof" insert "together with the letters Rd."
- " 1075. Section 13, line penult. After "Act" insert "once or;" and in the last line, after "year" insert "as the case requires."
- " 1099. Section 8, sub-section 5, line 8. After "Minister" insert "of Marine and Fisheries."
- " " Section 8, sub-section 9, line 2. After "space" insert "than two hundred and fifty yards."
- " 1102. Section 13, line 2. After "Minister" insert "of Marine and Fisheries."
- " 1104. Section 14, sub-section 8, line 5. After "Minister" insert "of Marine and Fisheries."
- " 1106. Section 15, sub-section 2, line 8. " After "Minister" insert "of Marine and Fisheries."
- " 1109. Section 18, sub-section 6, line 2. After "Minister" insert "of Marine and Fisheries."
- " 1110. Section 21, line 1. After "Minister" insert "of Marine and Fisheries."
- " 1594. Section 27, sub-section 2, lines 2 and 3. Leave out "under the third sub-section of section five of the said Act."
- " " Section 27, sub-section 3, lines 2 and 3. Leave out "under the said sub-section of section twenty-five of the said Act."

SCHEDULE A.

ACTS AND PARTS OF ACTS TO BE REPEALED, from the day upon which the Consolidated Statutes of Canada take effect, so far as the said Acts and parts of Acts relate to matters within the legislative authority of the Parliament of Canada.

Chap.	Title of Act.	Extent of Repeal.
CONSOLIDATED STATUTES OF CANADA.		
2.....	An Act respecting the Representation of the People in the Legislative Assembly	The whole.
3.....	An Act containing special provisions respecting both Houses of the Provincial Parliament.....	do
5.....	An Act respecting the Provincial Statutes.....	do
6.....	An Act respecting Elections of Members of the Legislature.....	do
7.....	An Act respecting Controverted Parliamentary Elections	do
8.....	An Act respecting the Naturalization of Aliens	Section 9.
10.....	An Act respecting the Governor, Civil List, and Salaries of certain Public Officers	The whole.
11.....	An Act respecting the Civil Service generally.	do
12.....	An Act respecting the Commissions of Public Officers, and the Oaths of Office and Security to be taken and given by them	do
13.....	An Act respecting Inquiries concerning Public Matters, and Official Notices	do
14.....	An Act respecting the Public Moneys, Debt and Accounts.....	do
16.....	An Act respecting the Collection and Management of the Revenue, the Auditing of Public Accounts, and the liability of Public Accountants	do
18.....	An Act respecting Reciprocity with the United States, as to Customs Duties	do
20.....	An Act respecting the Provincial Duty on Tavern Keepers.....	do
21.....	An Act respecting the Duty on Bank-Notes	do
23.....	An Act respecting the sale and management of Timber on Public Lands	All after "seized" in line four of section 9, sub-sec. 1 of sec. 10 and sec. 13.
24.....	An Act respecting the Ordnance and Admiralty Lands transferred to the Province.....	The whole.
28.....	An Act respecting the Public Works	do
29 ..	An Act respecting Riots near Public Works.....	do
32.....	An Act respecting the Bureau of Agriculture and Agricultural Societies.	do
33.....	An Act respecting the Board of Registration and Statistics, and the Census and Statistical information.....	Section 37.
34.....	An Act respecting Patents for Inventions.	The whole.
36.....	An Act respecting Lands and Real Property, held or required by the Imperial Government for the Military defence of this Province.	do
37.....	An Act respecting Lands and Real Property held by the Imperial Authorities for the Naval Defence of the Province.....	do
46.....	An Act respecting the Culling and Measuring of Lumber.....	do
54.....	An Act respecting Incorporated Banks	do
57.....	An Act respecting Promissory Notes and Bills of Exchange.	Sections 1 to 5, inclusive.
58.....	An Act respecting Interest.	The whole.
59.....	An Act respecting the protection of Persons who receive Assignments and enter into Contracts in relation to Goods intrusted to Agents	Sections 15, 16, 17 and 19.
61.....	An Act respecting Pawnbrokers and Pawnbroking.	Sections 6 and 10 to 14, inclusive, and 24 to 27, inclusive.
64.....	An Act respecting Mining Companies.	The whole.
67.....	An Act respecting Electric Telegraph Companies	do

SCHEDULE A—Continued.

Chap.	Title of Act.	Extent of Repeal.
CONSOLIDATED STATUTES OF CANADA—Continued.		
68.....	An Act respecting Joint Stock Companies to construct works to facilitate the transmission of Timber down Rivers and Streams.	Section 67.
71.....	An Act respecting Charitable, Philanthropic and Provident Associations	The whole.
77.....	An Act respecting Land Surveyors and the Survey of Lands	Sections 104 and 107.
80.....	An Act respecting the admission of evidence of foreign judgments, and certain official and other documents.	Section 7.
82.....	An Act respecting the calling and orderly holding of Public Meetings.	Sections 15, 16, 17, 18, 19, 20 and 21.
87.....	An Act to exempt Firemen from certain Local Duties and Services...	So much of sections 1 and 4 as exempts firemen from militia service.
95.....	An Act respecting Lotteries	The whole.
99.....	An Act respecting the Procedure in Criminal cases	Sections 97, 120 and 121.
100.....	An Act respecting the qualification of Justices of the Peace	Section 14.
101.....	An Act respecting the appointment of Magistrates for the more remote parts of this Province.....	The whole.
104.....	An Act respecting the appointment of Special Constables.....	Section 13.
107.....	An Act respecting Prisons for Young Offenders.. ..	The whole.
109.....	An Act respecting the confinement of Lunatics whose being at large may be dangerous to the public.....	Sections 1 to 6, inclusive.
CONSOLIDATED STATUTES FOR UPPER CANADA.		
2.....	An Act respecting the interpretation of certain words and terms therein mentioned	The whole.
6.....	An Act respecting the maintenance of persons disabled, and the Widows and Children of persons killed in the Military Service of the Crown.	do
8.....	An Act respecting Light Houses	do
10.....	An Act respecting the Superior Courts of Civil and Criminal jurisdiction	Sections 11 to 13, inclusive, and 14 and 17.
12.....	An Act respecting the Court of Chancery.....	Sections 5, 6 and 7.
15.....	An Act respecting County Courts	Sections 3, 10, 11 and 12.
16.....	An Act respecting the Surrogate Courts.....	Sections 15 and 16.
17.....	An Act relating to the Court of General Quarter Sessions of the Peace	Section 8.
19.....	An Act respecting the Division Courts	Sections 105, 181 and 184.
24.....	An Act respecting Arrest and Imprisonment for Debt.....	Section 6.
26.....	An Act respecting relief of Insolvent Debtors	Sections 14, 19 and 20.
31.....	An Act respecting Jurors and Juries	Sections 139 and 166.
32.....	An Act respecting Witnesses and Evidence.....	Sections 8 and 18.
39.....	An Act respecting the appointment of Commissioners to take Affidavits and Bail.....	Section 2.
42.....	An Act respecting Bills of Exchange and Promissory Notes.....	Sections 1 to 13 and 15 to 22, inclusive.
43.....	An Act respecting Interest.....	Section 4.
49.....	An Act respecting Joint Stock Companies for the construction of Roads and other Works in Upper Canada	Section 103.
54.....	An Act respecting the Municipal Institutions of Upper Canada.....	The whole.
67.....	An Act respecting Companies for the establishment of Cemeteries in Upper Canada	Section 29.
78.....	An Act respecting Remedies for and against executors and administrators and respecting the Limitation of certain actions.....	Section 7.
93.....	An Act respecting the Survey of Lands in Upper Canada.....	Sections 4 and 52.
94.....	An Act respecting the Criminal Law of Upper Canada.....	The whole.
95.....	An Act respecting the apprehension of Criminals, escaping from any of Her Majesty's Provinces and Governments in North America, into Upper Canada.....	do
98.....	An Act to protect the Inhabitants of Upper Canada against lawless aggressions from Subjects of Foreign Countries at peace with Her Majesty.....	do

SCHEDULE A—*Continued.*

Chap.	Title of Act.	Extent of Repeal.
<i>CONSOLIDATED STATUTES FOR UPPER CANADA—Continued.</i>		
99.....	An Act to prevent the unlawful training of persons in Military evolutions, and the use of Fire Arms; and to authorize the seizure of Fire Arms collected for purposes dangerous to the public peace.....	Section 3.
101.....	An Act respecting Forgery and Perjury in certain cases.....	Section 2.
102.....	An Act respecting the punishment of Persons illegally solemnizing Marriage in Upper Canada.....	The whole.
103.....	An Act respecting Slander and Libel.....	do
104.....	An Act to prevent the Profanation of the Lord's Day in Upper Canada.	do
107.....	An Act respecting proceedings to Outlawry in Criminal Cases.....	do
108.....	An Act respecting Prosecutions in cases of Misdemeanor.....	do
109.....	An Act to facilitate the despatch of business before Grand Juries.....	do
112.....	An Act respecting the reservation of Points of Law in Criminal Cases	do
113.....	An Act respecting new Trials and Appeals and Writs of Error in Criminal Cases in Upper Canada.....	do
114.....	An Act respecting Appeals in cases of Summary Conviction.....	do
117.....	An Act respecting Estreats.....	do
118.....	An Act respecting the appropriation of Fines in certain cases.....	do
119.....	An Act respecting the Fees of Counsel and other Ministers of Justice.	Section 4.
124.....	An Act respecting the return of Convictions and Fines by Justices of the Peace and of Fines levied by Sheriffs.....	The whole.
126.....	An Act to protect Justices of the Peace and other Officers from Vexatious Actions.....	do
128.....	An Act respecting the administration of Justice in the unorganized tracts.....	Sections 9, 29, 100, 101, 104 and 105.
<i>CONSOLIDATED STATUTES FOR LOWER CANADA.</i>		
6.....	An Act respecting Tavern-Keepers and the sale of Intoxicating Liquors.....	The whole.
9.....	An Act respecting certain Ferries over the River St. Lawrence.....	do
11.....	An Act respecting Newspapers, and other like Publications.....	Section 8.
14.....	An Act respecting Indians and Indian Lands.....	The whole.
20.....	An Act respecting Registers of Marriages, Baptisms and Burials.....	Proviso to section 13 and section 14.
23.....	An Act respecting the sale of goods on Sundays.....	The whole.
24.....	An Act respecting Municipalities and Roads in Lower Canada.....	Section 54.
37.....	An Act respecting the Registration of Titles to or Charges upon Real Estate,—the Law of Hypothecs,—the Dower and Property of Married Women,—and the Conveyance of Soccage Lands.....	Sections 112, 113 and 114.
46.....	An Act respecting fraudulent seizures of township lands.....	The whole.
58.....	An Act respecting Voyageurs.....	Section 4.
60.....	An Act respecting the discharging of the Cargoes of Vessels.....	The whole.
61.....	An Act respecting the Inspection of Butter.....	do
63.....	An Act respecting the Measurement of Coals and the Weight of Hay and Straw.....	do
64.....	An Act respecting Bills of Exchange and Promissory Notes.....	do
68.....	An Act respecting Mutual Insurance Companies.....	Section 17.
70.....	An Act respecting Joint Stock Companies for the Construction of Roads and certain other Works.....	Sub-section 2 of section 36, section 41 and section 50.
73.....	An Act respecting the Notarial Profession.....	Section 34.
75.....	An Act respecting the division of Lower Canada into Counties,—and the boundaries of certain Cities and Towns for the purpose of Representation in the Legislature.....	The whole.
77.....	An Act respecting the Court of Queen's Bench.....	Sections 56 to 62, inclusive, and section 64.
78.....	An Act respecting the Superior Court.....	Section 10.
80.....	An Act respecting the Court of Queen's Bench, and the Superior and Circuit Courts in the District of Gaspé.....	Section 6.
81.....	An Act respecting the Independence of the Judges of the Court of Queen's Bench and Superior Court, and their Recusation in certain cases.....	Sections 1 and 2.

SCHEDULE A—Continued.

Chap.	Title of Act.	Extent of Repeal.
CONSOLIDATED STATUTES FOR LOWER CANADA—Continued.		
82	An Act respecting certain matters relating to the Administration of Justice generally,—and certain special actions and matters of Procedure.....	Sub-section 3 of section 1.
92	An Act respecting the Offices of Sheriff and Coroner.....	Section 17.
96	An Act respecting Courts of Oyer and Terminer.....	Sections 2, 3 and 4.
97.....	An Act respecting the Courts of General or Quarter Sessions of the Peace, Justices of the Peace, and Special Sessions of the Peace..	Section 16.
98.....	An Act respecting Appeals from the decisions of Justices of the Peace in Summary Convictions.....	Section 3.
99.....	An Act respecting the Registers to be kept by Justices of the Peace..	The whole.
102.....	An Act respecting the Police in Quebec and Montreal, and certain regulations of Police in other Towns and Villages.....	Sections 7 and 8 and 10 to 19, inclusive, and sections 22 and 23.
103.....	An Act respecting officers of Militia as Peace Officers and inquests to be held by them in certain cases.....	The whole.
105.....	An Act respecting certain matters connected with the Administration of Justice in Criminal matters.....	Sections 2 and 6.
106.....	An Act respecting proceedings on Recognizances.....	The whole.
108.....	An Act concerning the limitation in general of penal actions.....	do
109.....	An Act respecting Houses of Correction, Court Houses and Gaols....	Section 3.
110.....	An Act respecting Court Houses and Gaols in the New Districts....	Section 13.
111.....	An Act respecting Annual Statistical Returns of Judicial Matters....	Sub-section 6 of section 1, and section 6.
STATUTES OF THE LATE PROVINCE OF CANADA.		
23 Victoria (1860).		
1.....	An Act to amend the Act respecting the Representation of the People in the Legislative Assembly.....	The whole.
2.....	An Act respecting the sale and management of the Public Lands....	Sections 9, 28 and 33.
3.....	An Act to provide for the election of the Speaker of the Legislative Council.....	The whole
4.....	An Act relating to the Sinking Fund for the redemption of the Imperial Guaranteed Loan	do
5.....	An Act to grant additional aid to the Canadian Line of Steamers, and for the extension of the Line of Telegraph to Belle-Isle....	do
6.....	An Act to prevent the unlicensed sale of Intoxicating Liquors in the Unorganized Tracts in this Province.....	do
14.....	An Act continue for a limited time the several Acts and Ordinances therein mentioned, and for other purposes.....	do
15	An Act cefor granting to Her Majesty certain sums of money required for defraying certain expenses of the Civil Government for the year 1860, and for certain other expenses connected with the Public Service, and also for raising a Loan on the credit of the Consolidated Revenue Fund.....	do
22.....	An Act respecting certain Ordnance Land Reserves in Upper Canada	Section 1.
34.....	An Act to amend chapter fifty-eight of the Consolidated Statutes of Canada, as regards the investment of money by Insurance Companies	The whole.
36.....	An Act to amend chapter ninety-five of the Consolidated Statutes of Canada, intituled "An Act respecting Lotteries."	do
39.....	An Act to amend "An Act respecting the Territorial Division of Upper Canada."	do
40.....	An Act to amend the Act respecting the representation of the People in the Legislative Assembly, and the Act respecting the Territorial Division of Upper Canada.....	do
41.....	An Act respecting the ninety-sixth chapter of the Consolidated Statutes for Upper Canada, respecting the apprehension of fugitive offenders in Foreign Countries.....	do
49.....	An Act to amend the Upper Canada Common School Act.....	Sections 1, 3 and 8.
151.....	An Act respecting the management of Indian Lands and Property..	The whole.

SCHEDULE A—Continued.

Chap.	Title of Act.	Extent of Repeal.
STATUTES OF THE LATE PROVINCE OF CANADA—Continued.		
24 Victoria (1861).		
1.....	An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the Civil Government for the year 1861, and for certain other expenses connected with the Public Service, and also for raising a Loan on the credit of the Consolidated Revenue Fund.....	The whole.
4.....	An Act to amend the twenty-eighth chapter of the Consolidated Statutes of Canada, intituled "An Act respecting the Public Works," in so far as respects the powers of Official Arbitrators.	do
5.....	An Act to continue for a limited time the several Acts therein mentioned, and for other purposes.....	do
8.....	An Act to amend and extend the law in respect to persons injured in this Province and dying abroad	do
9.....	An Act to abolish the mode of procedure in criminal cases called Recording Sentence of death	do
23.....	An Act to amend chapter fifty-four of the Consolidated Statutes of Canada, intituled "An Act respecting Incorporated Banks."	So much as relates to Banks and Criminal Law.
26.....	An Act to amend and consolidate the laws respecting the Recorder's Court of the City of Quebec	Sub-section 3 of section 14.
25 Victoria (1862).		
2.....	An Act to extend the provisions of an Act respecting lands and real property held or required by the Imperial Government for the Military defence of this Province, to the construction of Lines of Telegraph connected with such defence.....	The whole.
3.....	An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the Civil Government and other purposes, for the year 1862, and for making good certain sums expended for the Public Service in the year 1861	do
6.....	An Act to amend the Act respecting the Provincial Duty on Tavern Licenses	do
9.....	An Act to continue for a limited time the several Acts therein mentioned, and for other purposes.	do
23.....	An Act to amend the Act respecting the Municipal Institutions of Upper Canada, as to the issue of Shop and Tavern Licenses in Cities.....	do
26 Victoria (1863, 1st Session).		
7.....	An Act to amend chapter seventy-five of the Consolidated Statutes for Lower Canada, concerning the division of Lower Canada into Counties.....	do
41.....	An Act respecting affidavits, declarations and affirmations made out of this Province, for use therein	Section 7.
27 Victoria (1863, 2nd Session).		
1.....	An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the Civil Government and other purposes, for the year 1863, for making good certain sums expended for the Public Service in 1862, and for raising a Loan on the credit of the Consolidated Revenue Fund.....	The whole.
2.....	An Act respecting the Militia.....	do
3.....	An Act respecting the Volunteer Militia Force.....	do
5.....	An Act to revive and continue, for a limited time, the several Acts therein mentioned.	do
6.....	An Act to amend the Act of 1841, relating to Savings Banks.....	do

SCHEDULE A—Continued.

Chap.	Title of Act.	Extent of Repeal.
STATUTES OF THE LATE PROVINCE OF CANADA—Continued.		
27 Victoria (1863, 2nd Session)—Continued.		
17.....	An Act to enable Municipal Corporations in Upper Canada to invest their surplus Clergy Reserve money for Educational purposes in certain securities, and to legalize such investments already made, and for other purposes.....	Section 6.
27-28 Victoria (1864).		
1.....	An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the Civil Government, and for certain other purposes connected with the Civil Service, from the end of the year 1863 to the thirtieth day of June, 1865.	The whole.
4.....	An Act to impose duties on Promissory Notes and Bills of Exchange.	do
5.....	An Act for the collection, by means of Stamps, of fees of office, dues and duties payable to the Crown upon Law Proceedings and Registrations.....	Section 32.
6.....	An Act to amend the law respecting the Public Accounts, and the Board of Audit.....	The whole.
7.....	An Act to authorize the acceptance of certain Incorporated Companies as Sureties for Public Officers.....	do
8.....	An Act to revive and continue for a limited time the provision for the Geological Survey of this Province.....	do
10.....	An Act to amend the Acts respecting the Militia, and the Volunteer Militia Force.....	do
11.....	An Act respecting the Ocean Mail Service.....	do
20.....	An Act to amend the one hundred and first chapter of the Consolidated Statutes of Canada, respecting the appointment of Magistrates in remote parts of the Province.....	do
24.....	An Act to continue, for a limited time, the several Acts therein mentioned.....	do
28.....	An Act to repeal chapter thirty-eight of the Consolidated Statutes for Upper Canada, intituled "An Act respecting the office of Sheriff, and to make further provisions respecting the said office in Upper Canada".....	Sections 31 and 52.
30.....	An Act to afford a more expeditious remedy as regards Tenants overholding wrongfully in Upper Canada.....	Section 7.
34.....	An Act to extend the jurisdiction of Police Magistrates in Towns in Upper Canada.....	The whole.
41.....	An Act respecting Jurors and Juries.....	Sub-sections 8 and 9 of section 7, and section 8.
43.....	An Act to amend the Law in <i>qui tam</i> actions in Lower Canada..	Section 2.
48.....	An Act to amend the Act respecting Tavern Keepers and the sale of Intoxicating Liquors, chapter six of the Consolidated Statutes for Lower Canada.....	The whole.
54.....	An Act respecting the representation of the people in the Legislative Assembly as regards the Counties of L'Assomption, Joliette and Montcalm, and for other purposes.....	Section 1.
28 Victoria (1865, 1st Session).		
1.....	An Act for the prevention and repression of outrages in violation of the Peace on the Frontier of this Province, and for other purposes.....	The whole.
2.....	An Act to facilitate the conviction and punishment of persons enticing Her Majesty's subjects to enter any Foreign Service, contrary to the provisions of the Foreign Enlistment Act.....	do
3.....	An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the Civil Government for the year 1865, and for certain other purposes connected with the Public Service.....	do
4.....	An Act to continue, for a limited time, the several Acts therein mentioned.....	do

SCHEDULE A—*Continued.*

Chap.	Title of Act.	Extent of Repeal.
STATUTES OF THE LATE PROVINCE OF CANADA— <i>Continued.</i>		
28 <i>Victoria</i> (1865, 1st Session)— <i>Continued.</i>		
5.....	An Act respecting Ocean Mail Service.....	The whole.
9.....	An Act to remove doubts as to the limits of certain Counties in Lower Canada	do
10.....	10. An Act to explain chapter seventy-five of the Consolidated Statutes for Lower Canada and to declare certain Islands to be in the County of Verchères for all purposes.....	do
20.....	An Act respecting Police Magistrates.....	do
22.....	An Act for the punishment of persons selling Liquor without License, and for other purposes therein mentioned.....	do
29 <i>Victoria</i> (1865, 2nd Session).		
1.....	An Act to amend the Act intituled "An Act containing special provisions respecting both Houses of the Provincial Parliament"	The whole.
2.....	An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the Civil Government for the financial year ending thirtieth June, 1866, and for other purposes connected with the Public Service	do
4.....	An Act to extend the Act to impose Duties on Promissory Notes and Bills of Exchange to all Notes and Bills of whatever amount, and otherwise to amend the said Act.	do
6.....	An Act further to amend the Act respecting the Militia	do
7.....	An Act to extend and amend the Acts respecting Public Works, to and with respect to Works connected with the Defence of the Province.....	do
8.....	An Act for the prevention of contagious diseases at certain Military and Naval Stations in this Province.....	do
16.....	An Act to enable aliens to transmit and take Real Property in this Province by descent.....	do
19.....	An Act granting additional facilities in Commercial transactions.....	Sections 5 and 6, so far as relates to Banks.
22.....	An Act to authorize the formation of Companies or Co-operative Associations, for the purpose of carrying on, in common, any trade or business	Section 18.
24.....	An Act respecting Registrars, Registry Offices, and the Registration of Instruments relating to Lands in Upper Canada	Sections 24, 80 and 81.
25.....	An Act for quieting Titles to Real Estate in Upper Canada.....	Section 49.
28.....	An Act to amend the Law of Property and Trusts in Upper Canada.....	Section 20.
34.....	An Act to regulate the Qualifications of Practitioners in Medicine and Surgery in Upper Canada.....	Sections 30 and 31.
54.....	An Act to facilitate Prosecutions under the Act respecting Tavern-keepers and the Sale of Intoxicating Liquors.....	he whole.
55.....	An Act to amend chapter seventy-five of the Consolidated Statutes for Lower Canada, respecting the division of Lower Canada into Counties, in so far as it relates to the Counties of Rimouski and Gaspé	do
29-30 <i>Victoria</i> (1866).		
1.....	An Act to authorize the apprehension and detention, until the eighth day of June, 1867, of such persons as shall be suspected of committing acts of hostility or conspiring against Her Majesty's Person and Government.....	do
2.....	An Act to protect the inhabitants of Lower Canada against lawless aggressions from subjects of Foreign Countries at peace with Her Majesty.....	do
3.....	An Act to amend the Act of the present Session, intituled "An Act to protect the inhabitants of Lower Canada against lawless aggressions from subjects of Foreign Countries at peace with Her Majesty"	do

SCHEDULE A—Continued.

Chap.	Title of Act.	Extent of Repeal.
STATUTES OF THE LATE PROVINCE OF CANADA—Continued.		
29-30 Victoria (1866)—Continued.		
4.....	An Act to amend the ninety-eighth chapter of the Consolidated Statutes for Upper Canada.....	The whole.
8.....	An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the Civil Government for the financial year ending on the thirtieth of June, 1867, and for other purposes connected with the Public Service.....	do
10.....	An Act to provide for the issue of Provincial Notes.....	do
12.....	An Act to amend "An Act respecting the Volunteer Militia Force".....	do
14.....	An Act to continue, for a limited time, the several Acts therein mentioned.....	do
19.....	An Act to amend chapter thirty-four of the Consolidated Statutes of Canada relating to Patents of Invention.....	do
21.....	An Act to amend the Act twenty-ninth Victoria, chapter seven, respecting Works connected with the Defence of the Province.....	do
35.....	An Act to amend section nine of chapter six of the Consolidated Statutes for Lower Canada, respecting Tavern-keepers and the sale of Intoxicating Liquors.....	do
40.....	An Act to amend an Act respecting the Superior Courts of Civil and Criminal Jurisdiction in Upper Canada.....	Section 1.
46.....	An Act to amend the Law in respect of View by Jurors in Upper Canada.....	The whole.
47.....	An Act to amend the Law respecting the appointment of Recorders in Upper Canada.....	do
51.....	An Act respecting the Municipal Institutions of Upper Canada.....	The whole, except section 409.
53.....	An Act to amend and consolidate the several Acts respecting the assessment of Property in Upper Canada.....	Sub-section 12 of section 61 and sections 178 and 180.
177.....	An Act to postpone for a limited time the issuing of writs for the next election of Members of the Legislative Council.....	The whole.
REVISED STATUTES, NOVA SCOTIA, 2ND SERIES.		
82.....	Of Interest.....	The whole.
REVISED STATUTES, NOVA SCOTIA, 3RD SERIES.		
4.....	Of the prevention of corrupt practices at Elections.....	Sec. 3, sub-sec. 5; sec. 4, sub-sec. 2; secs. 5, 8 and 9.
10.....	Of the Board of Revenue.....	The whole.
11.....	Of the appointment and duties of Officers of the Customs.....	do
17.....	Of Distilleries.....	do
19.....	Of Licenses for the sale of Intoxicating Liquors.....	do
22.....	Of the Penitentiary.....	do
23.....	Of Sable, Saint Paul and Scattered Islands, and of Lighthouses.....	Secs. 3, 5 and 6.
30.....	Of billeting the Troops and Militia.....	The whole.
31.....	Of Public Fortifications.....	do
34.....	Of the privileges and naturalization of Aliens.....	do
36.....	Of the Salaries of certain Public Officers and certain Pensions.....	do
37.....	Of the qualifications, appointment and tenure of office of the principal Judicial Officers.....	do
39.....	Of Treasury Notes, the Savings Bank and Provincial Loan.....	The whole, except secs. 9 to 12 inclusive.
44.....	Of General and Special Sessions.....	Secs. 5, 6 and 7.
53.....	Of Boards of Health and Infectious Disease.....	Sec. 6.
68.....	Bridges and Public Landings.....	The whole.
70.....	Of Provincial Government Railroads.....	Secs. 66, 73, 74, 75 and the 1st line 76.
71.....	Of Railroads other than Provincial Government Railroads.....	Secs. 5 and 9.

SCHEDULE A—Continued.

Chap.	Title of Act.	Extent of Repeal.
REVISED STATUTES, NOVA SCOTIA, 3RD SERIES—Continued.		
79.....	Of Pilotage, Harbors and Harbor-masters	Secs. 17 to 31 inclusive ; Secs. 33, 35 and 36, and Schedule B.
80.....	Of Partnerships	Secs. 22 and 24.
81.....	Of Factors and Agents	Secs. 11, 12, 13 and 14.
82.....	Of Bills of Exchange and Promissory Notes.....	The whole.
83.....	Of Currency.....	Secs. 8 to 14 inclusive.
85.....	Of the Regulation and Inspection of Provisions, Lumber, Fuel and other Merchandise.....	Secs. 95 to 114 inclusive.
94.....	Of the Coast and Deep-sea Fisheries.....	The whole.
117.....	Of Patents for useful Inventions.....	The whole.
125.....	Of an Equity Judge, his office and duties.....	Sec. 1.
134.....	Of pleadings and practice in the Supreme Court, part 2.....	Sec. 6, proviso.
135.....	Of Witnesses and Evidence and the proof of written Documents.....	Secs. 32, 33, 55 and 57.
147.....	Of Petty Offences and Trespasses, and Assaults.....	Secs. 17 to 20 inclusive, 23 and 28.
152.....	Of Madmen and Vagrants, and of the custody and estates of Lunatics.	Secs. 2, 10, 11, 13 and 30.
158.....	Of Illegal Enlistment.....	The whole.
159.....	Of Offences against Religion.....	Secs. 2, 4 and 5.
160.....	Of Offences against Public Morals	The whole.
161.....	Of Offences against the Law of Marriage.....	do
162.....	Of Offences against the Public Peace.....	Secs. 5 to 9 inclusive.
165.....	Of Combinations of Workmen.....	The whole.
171.....	Of the administration of Criminal Justice in the Supreme Court.....	do
ACTS SUBSEQUENT TO THE REVISED STATUTES OF N.S., 3RD SERIES.		
25 <i>Victoria</i> —1862.		
2.....	An Act for the incorporation and winding up of Joint Stock Companies	Sec. 19.
26 <i>Victoria</i> —1863.		
28.....	An Act to regulate the election of Members to serve in the General Assembly.....	Sec. 78.
28 <i>Victoria</i> —1865.		
1.....	An Act to amend certain chapters of the Revised Statutes, 3rd Series, and to revise certain Acts.....	Sec. 13.
4.....	An Act to alter and amend chapter 117 of the Revised Statutes: "Of Patents for useful Inventions"	The whole.
5.....	An Act to amend chapter 128 of the Revised Statutes: "Of the jurisdiction of Justices of the Peace in civil cases".....	do
10.....	An Act to amend the Laws affecting Trade and Commerce	Sec. 5.
11.....	An Act to amend chapter 19 of the Revised Statutes: "Of Licenses for the sale of Intoxicating Liquors"	The whole.
15.....	An Act to amend the Act to provide for the construction of the St. Peter's Canal	do
16.....	An Act in reference to the Militia	do
29 <i>Victoria</i> —1866.		
3.....	An Act to continue and amend chapter 9 of the Revised Statutes: "Of Excise Duties"	do
17.....	An Act to enforce the taking of the Oath of Allegiance.....	do
24.....	An Act to amend chapter 15 of the Revised Statutes: "Of the Exportation of Goods and of Drawbacks"	do
28.....	An Act to amend chapter 120 of the Revised Statutes: "Of the Solemnization of Marriage, and the Registration of Marriages Births and Deaths"	Secs. 33 and 37.
29.....	An Act to provide against the introduction of Diseases among Horses and Cattle.....	Last 3 lines of sec. 3.

SCHEDULE A—Continued.

Chap.	Title of Act.	Extent of Repeal.
ACTS SUBSEQUENT TO THE REVISED STATUTES OF N.S., 3RD SERIES— <i>Con.</i>		
29 <i>Victoria</i> —1866—Continued.		
34.....	An Act to amend the Act in reference to the Militia.....	The whole.
35.....	An Act to amend chapter 94 of the Revised Statutes: "Of the Coast and Deep-sea Fisheries"	do
30 <i>Victoria</i> —1867.		
12.....	An Act further to amend chapter 15 of the Revised Statutes: "Of the Exportation of Goods and of Drawbacks"	do
14.....	An Act relating to the Refining of Sugar and the Manufacture of Tobacco	do
16.....	An Act to amend chapter 25 of the Revised Statutes: "Of Mines and Minerals"	do
17.....	An Act to repeal chapter 19 of the Acts of 1859, and to substitute other provisions in lieu thereof.....	do
25.....	An Act to amend the Act in reference to the Militia and the Act in amendment thereof.....	do
REVISED STATUTES, N.B.		
4.....	Of Lands for Military purposes.....	The whole.
12.....	Of Trespasses to Lands and other Property of the Crown.....	Sec. 4.
16.....	Of Sales by Auction.....	Sec. 7.
17.....	Of Pawnbrokers.....	Sec. 4.
20.....	Of the Regulation of Lighthouses.....	Secs. 7, 8, 9, 10 and 16.
25.....	Of the Importation of Books and the protection of the British Author.....	The whole.
30.....	Of certain Salaries.....	Secs. 1, 2 and 3.
37.....	Of old Soldiers of the Revolutionary War.....	The whole.
41.....	Of auditing the Public Accounts	do
47.....	Of Penalties and Forfeitures.....	Secs. 1 and 2.
52.....	Of Parish and County Officers.....	The whole.
60.....	Of Harbors	do
63.....	Of Dams, Sluiceways and Fishways	Secs. 5, 6 and 7.
64.....	Of Rules and Regulations	The whole.
99.....	Of the Free Navigation of the Internal Waters.....	do
116.....	Of Bills, Notes and Choses in Action	Secs. 2 and 4.
118.....	Of Letters Patent for Useful Inventions.....	The whole.
119.....	Of Corporations	Sec. 3.
125.....	Of Absconding, Concealed and Absent Debtors.....	Sec. 23.
133.....	Of Trespasses on Lands, Private Property and Lumber.....	Secs. 1, 2, 3, 4, 5 and 8.
138.....	Of Summary Convictions	Sec. 22.
144.....	Of Offences against Religion	The whole.
145.....	Of Offences against Public Morals and Decency.....	do
146.....	Of Offences against the Law of Marriage.....	Secs. 2 and 3.
147.....	Of Offences against the Public Peace.....	Secs. 6, 7, 8, 9 and 10.
153.....	Of Malicious Injuries to Property.....	Sec. 16.
156.....	Of Proceedings before Indictment.....	Secs. 18, 20 and 22.
157.....	Of Recognizance in Criminal Cases.....	The whole.
158.....	Of Proceedings in Indictment	Secs. 3 and 23.
159.....	Of Trial.....	Secs. 10, 22, 23, 24, 25, 26 and 27.
160.....	Of Error Punishment and Expenses	Secs. 1, 8, 9 and 10.
161.....	Of Terms, Explanations and General Provisions	The whole.
162.....	Of the Promulgation and Repeal of Statutes.....	do
PUBLIC STATUTES OF N.B., VOL. II.		
32 <i>George III.</i>		
9.....	An Act to restrain all persons that may be concerned in the collection of Impost Duties from owning any Vessel, or trading or dealing in Dutiable Articles	do

SCHEDULE A—Continued.

Chap.	Title of Act.	Extent of Repeal.
PUBLIC STATUTES OF N.B., VOL. II—Continued.		
15 <i>Victoria</i> .		
45.....	An Act to reduce the Fees on Militia Commissions	The whole.
6 <i>George IV</i> .		
4.....	An Act to encourage the establishment of Banks for Savings in this Province.....	do
6 <i>William IV</i> .		
52.....	An Act to make provision for carrying on the affairs of the Savings Bank at Saint John.....	do
4 <i>Victoria</i> .		
20.....	An Act to extend the provisions of an Act intituled "An Act to encourage the establishment of Banks for Savings in this Province	do
30.....	An Act further to amend the Act to encourage the establishment of Banks of Savings in this Province.....	do
9 <i>Victoria</i> .		
61.....	An Act further to extend the provisions of An Act intituled "An Act to encourage the establishment of Banks for Savings in the Province.....	do
10 <i>Victoria</i> .		
43.....	An Act relating to Banks for Savings.....	do
15 <i>Victoria</i> .		
58.....	An Act further to extend the provisions of the Bank for Savings at Saint John.....	do
26 <i>George III</i> .		
20.....	An Act for admitting depositions <i>de bene esse</i> of Witnesses aged, infirm and otherwise unable to travel, and of Witnesses departing from the Province.....	Sec. 6.
LOCAL AND PRIVATE STATUTES, N.B., VOL. III.		
3 <i>William IV</i> .		
21.....	An Act to prevent the importation and spreading of Infectious Distempers in the City of Saint John.....	The whole.
4 <i>William IV</i> .		
8.....	An Act to explain the Act for preventing the importation and spreading of Infectious Distempers in the City of Saint John...	do
7 <i>Victoria</i> .		
37.....	An Act for more effectually securing the Navigation of the River and Harbor of Saint John, in the City and County of Saint John.	do

SCHEDULE A—Continued.

Chap.	Title of Act.	Extent of Repeal.
LOCAL AND PRIVATE STATUTES, N.B., VOL. III—Continued.		
12 Victoria.		
52.....	An Act in addition to, and in amendment of, the Act relating to the Navigation of the River and Harbor of Saint John.....	The whole.
14 Victoria.		
11.....	An Act relating to the Navigation of the River and Harbor of Saint John	do
16 Victoria.		
39.....	An Act to revive and amend an Act to regulate the Herring Fishery in the Parishes of Grand Manan, West Isles, Campo Bello, Pennfield and Saint George, in the County of Charlotte.....	do
17 Victoria.		
9.....	An Act to authorize the erection of a Marine Hospital at the Port of Bathurst.....	do
ACTS (N.B.) SINCE REVISED STATUTES.		
18 Victoria—1854.		
2.....	An Act to relieve certain articles from the payment of Duty.....	do
18 Victoria—1855.		
22.....	An Act in addition to and amendment of certain chapters of Titles VIII and X, and of Titles XXX, XXXI and XXXIV of the Revised Statutes	Sec. 6.
26.....	An Act relating to Trespasses on Lands and Lumber.....	The whole.
37.....	An Act to regulate the Election of Members to serve in the General Assembly	Secs. 49 and 53.
40.....	An Act to establish a Board of Health in the City and County of St. John	Sec. 5, as to Quarantine.
19 Victoria—1856.		
21.....	An Act to amend Chapter 118, Title XXX, of the Revised Statutes "Of Letters Patent for Useful Inventions"	The whole.
35.....	An Act relating to the Collection of the Revenue	do
36.....	An Act relating to the exportation of Saltpetre, Nitrate of Soda and other Chemical Salts used in the manufacture of Military and Naval Stores	do
41.....	An Act in further amendment of the Law	Secs. 2, 9, 11 and 13.
57.....	An Act to amend Chapter 138, Title XXXVII, of the Revised Statutes, "Of Summary Convictions," so far as the same may apply to the Parish of Portland	Sec. 2.
21 Victoria—1858.		
15.....	An Act to prevent the use of Poisons in the destruction of Foxes and other Animals.....	The whole.
18.....	An Act for the regulation of Railways	do
22.....	An Act in amendment of the Criminal Law.....	Sec. 5.

SCHEDULE A—Continued.

Chap.	Title of Act.	Extent of Repeal.
ACTS (N.B.) SINCE REVISED STATUTES—Continued.		
22 Victoria—1859.		
1.....	An Act imposing Duties for raising a Revenue.....	The whole.
20.....	An Act relating to the Law of Evidence.....	do
21.....	An Act to modify the Laws relating to Interest and Usury.....	do
22.....	An Act in amendment of Chapter 116, Title XXX, of the Revised Statutes "Of Bills, Notes and Choses in Action".....	do
29.....	An Act to place certain Provincial Buildings under the control of the Board of Works.....	do
23 Victoria—1860.		
19.....	An Act in addition to, and in amendment of, an Act passed in the twenty-second year of the reign of Her present Majesty Queen Victoria, intituled "An Act imposing Duties for raising a Revenue".....	do
21.....	An Act relating to the Protection of the Revenue.....	do
22.....	An Act further to amend the Law relating to the Protection of the Revenue.....	do
32.....	An Act relating to procedure in Criminal Cases.....	Secs. 1 and 2.
35.....	An Act respecting the apprehension of Criminals escaping from any of Her Majesty's Provinces and Governments in North America into New Brunswick.....	The whole.
41.....	An Act in further amendment of Chapter 118, Title XXX, of the Revised Statutes "Of Letters Patent for Useful Inventions".....	do
48.....	An Act relating to the mode of Accounting and Currency.....	do
49.....	An Act to provide for taking a Census.....	do
53.....	An Act to authorize Investigation in cases of Fire in the City of Fredericton.....	Sec. 4.
65.....	An Act relating to the Inspection and Testing of Gas and Gas Meters in the City of St. John.....	The whole.
24 Victoria—1861.		
3.....	An Act relating to Savings Banks.....	do
23.....	An Act relating to the Sale of Spirituous Liquors in the City and County of St. John.....	do
25 Victoria—1862.		
9.....	An Act in addition to, and in amendment of, the Acts imposing Duties for raising a Revenue, and in amendment of an Act passed in the nineteenth year of Her present Majesty's Reign, intituled "An Act to levy an Impost for Railway purposes".....	do
12.....	An Act to explain an Act passed at the present Session, intituled: "An Act in addition to, and in amendment of, the Acts imposing Duties for raising a Revenue, and in amendment of an Act passed in the nineteenth year of Her Majesty's Reign, intituled 'An Act to levy an Impost for Railway purposes'".....	do
22.....	An Act to authorize Investigation in cases of Fire in the several Counties in this Province.....	Sec. 4.
33.....	An Act to repeal part of Chapter 163 of the Revised Statutes, "Of Fees," so far as the same relates to Fees on Patents, and to make other provisions in lieu thereof.....	The whole.
80.....	An Act relating to the office of Commander-in-Chief.....	do
26 Victoria—1863.		
1.....	An Act to continue and amend an Act imposing Duties for raising a Revenue, and the several Acts in amendment thereof, and to make further provision for raising a Revenue.....	do

SCHEDULE A—Continued.

Chap.	Title of Act.	Extent of Repeal.
ACTS (N.B.) SINCE REVISED STATUTES—Continued.		
27 Victoria—1864.		
8.....	An Act relating to the issue of Warrants by Justices of the Peace, and in aid of Police Officers and Constables in the execution of their duties.....	Sec. 2.
40.....	An Act relating to Affidavits, Declarations and Affirmations made out of this Province for use therein.....	Sec. 7.
44.....	An Act to facilitate the winding up of the affairs of Incorporated Companies.....	The whole.
28 Victoria—1865.		
1.....	An Act relating to the Militia.....	do
30 Victoria—1866.		
1.....	An Act relating to the imposition of Duties for raising a Revenue....	do
6.....	An Act in amendment of an Act relating to the Militia.....	do
30 Victoria—1867.		
1.....	An Act to amend the Law relating to the imposition of Duties for raising a Revenue.....	do
10.....	An Act to establish County Courts.....	So far as it provides for the appointment and salaries of Judges.
11.....	An Act in addition to an Act thirtieth Victoria, intituled "An Act to amend the Law relating to the imposition of Duties for raising a Revenue....."	The whole.
34.....	An Act to amend Chapter 116, Title XXX, of the Revised Statutes "Of Bills, Notes and Choses in Action;" also, twelfth Victoria, chapter 39, relating thereto.....	do
37.....	An Act to prevent non-resident Peddlers travelling and selling within this Province without License.....	Sec. 7.
REVISED STATUTES OF BRITISH COLUMBIA.		
<i>Laws of the formerly separate Colony of Vancouver Island.</i>		
10.....	An Act to authorize the Governor of Vancouver Island to borrow the sum of Forty Thousand Pounds on the security of the General Revenue of the said Colony.....	Sec. 18.
16.....	An Act to grant the right to construct a Telegraph Line connecting Victoria with the Telegraph system of the United States, and for other purposes.....	Sec. 11, as to indictable offences.
21.....	An Act for the Regulation of Electric Telegraphs within the Colony of Vancouver Island and to secure secrecy and fidelity in the transmission of Telegraphic Messages.....	Sec. 8, as to indictable offences, and sec. 10, as to exemption from Militia duty.
24.....	An Act to enable the Governor of Vancouver Island to borrow the sum of Ninety Thousand Dollars upon the security of the General Revenue of the Colony.....	Sec. 7.
<i>Laws of the formerly separate Colony of British Columbia.</i>		
33.....	Proclamation imposing Duties, Tolls and Fines on goods, wares, animals and merchandise imported into British Columbia, which shall not have been entered at New Westminster.....	The whole.

SCHEDULE A—Continued.

Chap.	Title of Act.	Extent of Repeal.
<i>REVISED STATUTES OF BRITISH COLUMBIA—Continued.</i>		
<i>Laws of the formerly separate Colony of British Columbia—Con.</i>		
39.....	Proclamation for raising by Loan, funds for the construction and maintenance of Roads, and to make provision for the redemption of such Loan, and to repeal the British Columbia Roads Loan Act, 1861, and the British Columbia Roads Loan Act, 1862, and the Temporary Loan Act, 1862.....	Sec. 18.
45.....	Proclamation for raising Funds by Loan secured on the General Revenue, for the prosecution and maintenance of Roads, and to make provision for the redemption of such Loan, and for the repeal of certain powers conferred by the Road Bonds Act, 1863	Sec. 18.
46.....	Proclamation for removing doubts as to whether the Proclamation of the 19th November, 1858, imports into British Columbia the Laws in force in England for the proper observance of the Lord's Day	The whole.
50.....	Proclamation enabling Her Majesty, Her heirs and successors to pay to certain Crown Officers out of the General Revenue, the Salaries therein mentioned	As to salaries of Governor, Judge and Collector of Customs.
52.....	An Ordinance to authorize a Loan of one hundred thousand pounds.	Sec. 16.
53.....	An Ordinance to encourage the construction of a Telegraph Line connecting British Columbia with the Telegraph Lines of the United States, and for other purposes.....	Sec. 9, as to indictable offences.
54.....	An Ordinance to encourage the construction of a Line of Telegraph connecting the Line of Telegraphs of British Columbia with the Telegraph Line of Russia and other Countries, and for other purposes.....	Sec. 14, as to indictable offences, and secs. 15 and 16.
56.....	An Ordinance to amend the Dues leviable at the Port of New Westminster	The whole.
62.....	An Ordinance respecting the Salary of the Office of Governor.....	do
65.....	An Ordinance to amend the Law relating to Joint Stock Companies.	As to the winding up of Insolvent Companies.
<i>Laws of British Columbia after the Union of Vancouver Island and British Columbia.</i>		
69.....	An Ordinance to prevent the violation of Indian Graves	The whole.
70.....	An Ordinance to assimilate the general application of English Law.	As to the Criminal Law.
71.....	An Ordinance to declare the Law relating to Interest	The whole.
74.....	An Ordinance to provide for the taking of Oaths and admission of Evidence in certain cases	Sec. 9, as to perjury.
75.....	An Ordinance for the protection of Inventions.....	The whole.
76.....	An Ordinance to assimilate and amend the Laws relating to Licenses and direct Taxes on Persons	Sec. 6.
77.....	An Ordinance to assimilate the Law exempting the Homestead and other Property from forced Seizure and Sale in certain cases, in all parts of the Colony of British Columbia.....	As to exemption from seizure in bankruptcy matters.
78.....	An Ordinance to declare the application of the existing Laws of Customs	The whole.
79.....	An Ordinance to amend the Duties of Customs.....	do
80.....	An Ordinance to authorize the issue of Debentures for short temporary Loans.....	Sec. 10.
82.....	An Ordinance to render uniform the Laws establishing a Decimal System of Accounts and regulating the Currency of the Colony	The whole.
83.....	An Ordinance to assimilate the Law empowering the Governor to create Ports of Entry in British Columbia	do

SCHEDULE A—Continued.

Chap.	Title of Act.	Extent of Repeal.
REVISED STATUTES OF BRITISH COLUMBIA—Continued.		
<i>Laws of British Columbia, &c.—Continued.</i>		
85.....	An Ordinance to assimilate and amend the Law prohibiting the sale or gift of Intoxicating Liquor to Indians	The whole, except sec. 11.
88.....	An Ordinance respecting Practitioners in Medicine and Surgery.....	Sec. 9.
89.....	An Ordinance to regulate the Solemnization of Marriages	Sec. 14.
90.....	An Ordinance to amend the Laws relating to Gold Mining	Secs. 153 and 154.
91.....	An Ordinance to regulate Excise in all parts of the Colony.....	The whole.
92.....	An Ordinance to assimilate the Laws for the regulation of Harbors in all parts of the Colony of British Columbia.....	do
93.....	An Ordinance to assimilate the Law regarding Aliens in all parts of the Colony of British Columbia.....	Secs. 10 and 11.
95.....	An Ordinance to amend and assimilate the procedure of the County Courts in all parts of the Colony of British Columbia.....	Sec. 3.
98.....	An Ordinance for the more effectual protection of Her Majesty's Naval and Victualling Stores.....	The whole.
105.....	An Ordinance to amend "The Shipping Ordinance, 1867"	do
107.....	An Ordinance to establish Banks for Savings within the Colony of British Columbia	do
110.....	An Ordinance respecting the appointment of Commissioners to take Affidavits and Bail and for the making of Statutory Declarations	Sec. 2, as to perjury.
114.....	An Ordinance for the better protection of Cattle, and the better prevention of Cattle Stealing	Secs. 1 and 2.
117.....	An Ordinance to establish a Volunteer Force	The whole.
125.....	An Ordinance respecting Indian Reserves	do
134.....	An Ordinance to create a further Duty of Customs for the Public Service	do
138.....	An Act to authorize a loan of £75,000	Sec. 18.
141.....	An Act to make general regulations for the establishment and management of Cemeteries in the Colony of British Columbia.	Sec. 11, as to malicious injuries.
143.....	An Ordinance to assimilate the Law relating to the Transfer of Real Estate, and to provide for the registration of Titles to Land throughout the Colony of British Columbia.....	Secs. 81, 82, 83, 84 and 85, as to indictable offences.
150.....	An Act respecting Literary Societies and Mechanic Institutes.....	Sec. 22.
153.....	An Act to repeal "The Customs Amendment Ordinance, 1870"	The whole.
156.....	An Act to amend the Law as to the qualification of Electors, and of Elective Members for the Legislature, and to provide for the registration of persons entitled to vote at elections of such Members	Sec. 40, as to perjury.
157.....	An Act to regulate Elections of Members of the Legislature of this Colony	Secs. 99 and 100, and sec. 106, as to perjury.
162.....	An Act to Incorporate Charitable, Philanthropic and Providential Associations	Sec. 9.
168.....	An Act to exempt (in certain cases) Cattle farmed on shares, and their increase, from the operation of any Bankruptcy or Insolvency Laws.....	Sec. 3, as to perjury.
REVISED STATUTES OF PRINCE EDWARD ISLAND.		
13 <i>George III.</i>		
5.....	An Act for ascertaining damages on protested Bills of Exchange.....	The whole.
20 <i>George III.</i>		
1.....	An Act for the establishing and regulating a Militia	do
3.....	An Act for the due observance of the Lord's Day.....	do

SCHEDULE A—Continued.

Chap.	Title of Act.	Extent of Repeal.
REVISED STATUTES OF PRINCE EDWARD ISLAND—Continued.		
25 <i>George III.</i>		
10.....	An Act for permitting persons of the profession of the people called Quakers to make an Affirmation instead of taking an Oath.....	The whole.
26 <i>George III.</i>		
13.....	An Act for the trial of Actions in a summary way	Sec. 8.
31 <i>George III.</i>		
5.....	An Act for regulating the fees of Magistrates and Constables in certain cases, and for amending an Act made and passed in the sixteenth year of Her Majesty's reign, intituled "An Act in addition to and amendment of an Act made and passed in the thirteenth year of His present Majesty's reign, intituled 'An Act for the more easy and speedy recovery of small Debts'"	The whole.
5 <i>George IV.</i>		
12.....	An Act to regulate the Fisheries of this Island.....	do
18.....	An Act to empower His Excellency the Lieutenant Governor or Commander-in-Chief for the time being to appoint Commissioners to issue Treasury Notes.....	Sec. 4.
6 <i>George IV.</i>		
12.....	An Act to authorize the Commissioners named and appointed under an Act made and passed in the fifth year of the reign of His present Majesty, intituled "An Act to empower His Excellency the Lieutenant Governor or Commander-in-Chief for the time being to appoint Commissioners to issue Treasury Notes" to issue notes of the value of ten shillings each	Sec. 2.
10 <i>George IV.</i>		
11.....	An Act for the security of Navigation, and for preserving all ships, vessels and goods which may be found on shore, wrecked or stranded, upon the coasts of this Island, and for punishing persons who shall steal shipwrecked goods, and for the relief of persons suffering loss thereby.....	The whole.
11 <i>George IV.</i>		
9.....	An Act for the further security and recovery of monies due to His Majesty upon Duties of Impost and Excise, and for regulating the offices of Treasurer and Collector of Impost.....	Sec. 1, and so much of sec. 2 as relates to Collectors of Impost and Excise.
1 <i>William IV.</i>		
15.....	An Act to authorize a further issue of Treasury Notes	Sec. 4.
2 <i>William IV.</i>		
2.....	An Act to prevent the destruction of Oysters by burning the same for the purpose of converting the shells thereof into Lime	The whole.

SCHEDULE A—Continued.

Chap.	Title of Act.	Extent of Repeal.
REVISED STATUTES OF PRINCE EDWARD ISLAND—Continued.		
2 <i>William IV</i> —Continued.		
11.....	An Act to prevent Tavern-keepers, Inn-keepers or other persons from harboring or entertaining Soldiers at improper hours.....	The whole.
13.....	An Act to prevent the importation and spreading of Infectious Diseases within this Island.....	do
<i>William IV.</i>		
10.....	An Act to regulate the registry of Deeds and Instruments relating to the title to Land, and to repeal the Laws heretofore passed for that purpose.....	Sec. 7.
4 <i>William IV.</i>		
18.....	An Act for the better conveyance of the Mails in the Winter Season.	The whole.
6 <i>William IV.</i>		
3.....	An Act to restrain the issue of certain Promissory Notes	do
12.....	An Act for the appointment of a Commissioner to ascertain and determine the amount to be paid by this Island towards the support and maintenance of Lighthouses	do
21.....	An Act to improve the administration of Justice in Criminal Cases..	The whole, except sec. 6.
22.....	An Act to provide for the punishment of Offences against the Person and Property, and to repeal the Act relating to "Treasons and Felonies"	do
7 <i>William IV.</i>		
21.....	An Act for granting Patents for useful Inventions	do
3 <i>Victoria.</i>		
15.....	An Act to authorize the sale, in certain cases, of vessels, boats, goods, wares and merchandise and other things seized as forfeited under any Revenue Law of this Colony.....	do
16.....	An Act to prevent the bringing persons convicted of felonies and misdemeanors to this Island from the Island of Newfoundland or elsewhere in America.....	do
6 <i>Victoria.</i>		
14.....	An Act relating to Fisheries, and for the prevention of illicit trade in Prince Edward Island, and the Coasts and Harbors thereof.	do
8 <i>Victoria.</i>		
3.....	An Act to make New Provisions for the support of Lighthouses, Buoys and Beacons.....	do
9 <i>Victoria.</i>		
14.....	An Act for enabling Courts to abstain from pronouncing sentence of death in certain cases.....	do
16.....	An Act for authorizing the Apprehension of Persons in any County or place upon Warrants granted by Justices of the Peace of any other County.....	do

SCHEDULE A—*Continued.*

Chap.	Title of Act.	Extent of Repeal.
REVISED STATUTES OF PRINCE EDWARD ISLAND— <i>Continued.</i>		
10 <i>Victoria.</i>		
10.....	An Act to abolish Deodands	The whole.
17.....	An Act to prevent the failure of justice by reason of variances between Records and the evidence produced in support thereof.	Sec. 1.
11 <i>Victoria.</i>		
14.....	An Act for the Punishment of Drunkenness	The whole.
28.....	An Act to regulate the Importation of Books and to Protect the British Author.....	do
12 <i>Victoria.</i>		
3.....	An Act to authorize Free Trade with the United States of America in certain enumerated articles.....	do
12.....	An Act to consolidate and amend the several Acts relating to Prison Discipline and Hard Labor, and to repeal certain Acts therein mentioned	Sec. 2.
18.....	An Act relating to Harbor and Ballast Masters	The whole.
20.....	An Act to prevent Peddlers travelling and selling within this Island without License.....	Sec. 5.
22.....	An Act relating to Lighthouses and Buoys and Beacons	The whole.
14 <i>Victoria.</i>		
3.....	An Act to commute the Crown Revenues of Prince Edward Island, and to provide for the Civil List thereof as well as for certain compensations therein mentioned.....	do
26.....	An Act to reduce the Salary of the Collector of Impost and Excise for the District of Charlottetown.....	do
32.....	An Act to provide Salaries for the Controllers of Customs and Navigation Laws, appointed or to be appointed at the various Outports in this Island, and to repeal a certain Act therein mentioned.....	do
15 <i>Victoria.</i>		
11.....	An Act to prevent the Stealing of Dogs	do
32.....	An Act to facilitate the Proving of Wills and Testamentary Dispositions within this Island	Sec. 2.
16 <i>Victoria.</i>		
8.....	An Act for further improving the Administration of Criminal Justice.	The whole.
13.....	An Act to enable the Government of this Island to take possession of Lands when required to erect Lighthouses, and for other purposes connected with Lights and Beacons, and to pay compensation to the Owners or Occupiers thereof.....	do
15.....	An Act relating to the Packet Service between Bedeque and Shediac	do
17 <i>Victoria.</i>		
13.....	An Act relating to Prisoners under sentence of imprisonment with hard labor in Prince and King's Counties	do

SCHEDULE A—Continued.

Chap.	Title of Act.	Extent of Repeal.
REVISED STATUTES OF PRINCE EDWARD ISLAND—Continued.		
19 Victoria.		
1.....	An Act for raising a Revenue, and to consolidate and amend the several Acts therein mentioned.....	The whole.
10.....	An Act relating to the Indians of Prince Edward Island.....	do
22.....	An Act to facilitate the performance of the duties of Justices of the Peace in this Island, with respect to persons charged with Indictable Offences.....	All, except sec. 16 and Scale of Fees in Schedule.
23.....	An Act to facilitate the performance of the duties of Justices of the Peace with respect to Summary Convictions and Orders.....	All, except sec. 24 and Scale of Fees in Schedule.
21 Victoria.		
9.....	An Act subjecting the Militia to the Mutiny Act and Articles of War.	The whole.
14.....	An Act for the safe custody of Insane Persons charged with offences, and otherwise to amend the Law with respect to offenders convicted of crimes punishable with death.....	The whole, except sec. 3.
15.....	An Act to continue, for certain purposes, the Seduction Act, and to make other provisions in lieu thereof as regards all future actions.....	Sec. 10.
23 Victoria.		
16.....	An Act relating to the recovery of small Debts, and to repeal certain Acts therein mentioned.....	Sec. 84.
20.....	An Act to enable the Controller of Navigation Laws in this Island to grant an issue of Fishery Licences to citizens of the United States for Vessels built in Prince Edward Island, and owned by them.....	The whole.
24 Victoria.		
16.....	An Act to repeal a certain Act therein mentioned relating to the prevention of Smuggling.....	do
22.....	An Act for the punishment of persons who shall be guilty of Trespasses therein mentioned.....	do
27.....	An Act relating to the punishment of certain cases of Felony and Misdemeanor.....	do
28.....	An Act to exempt certain Bills of Exchange, Promissory Notes, Contracts and Agreements from the operation of the Laws relating to Usury.....	do
29.....	An Act for the Protection of Copyright.....	do
31.....	An Act to give summary protection to persons employed in the publication of Parliamentary Papers.....	do
34.....	An Act to repeal certain parts of the Act consolidating the Election Laws, and to make other provisions in lieu thereof.....	Secs. 18 and 24.
25 Victoria.		
2.....	An Act to consolidate and amend the Laws relating to Statute Labor and the expenditure of Public Moneys on the Highways.	Sec. 31.
11.....	An Act to authorize the Government to prohibit the exportation of Military or Naval Stores and Provisions.....	The whole.
19.....	An Act to authorize Grants on the Shores of this Island.....	do
22.....	An Act to promote Vaccination.....	Sec. 9.
24.....	An Act for the naturalization of Aliens.....	The whole.
26 Victoria.		
3.....	An Act relating to Steam Navigation in this Island.....	do
14.....	An Act for the naturalization of Aliens.....	do

SCHEDULE A—Continued.

Chap.	Title of Act.	Extent of Repeal.
REVISED STATUTES OF PRINCE EDWARD ISLAND—Continued.		
27 Victoria.		
5.....	An Act to regulate the Inspection of Flour and Meal	The whole.
6.....	An Act to amend the Law relating to Bills of Exchange and Promis- sory Notes	Secs. 1 and 2.
8.....	An Act relating to the office of Commander-in-Chief	The whole.
23.....	An Act to provide for the establishment of a Marine Court of Inquiry	do
36.....	An Act relating to the fraudulent marking of Merchandize	do
28 Victoria.		
11.....	An Act to regulate the salaries of the Collectors of Impost and Excise, for the districts of Bedeque and Georgetown.....	do
19.....	An Act for regulating the Inspection of Pickled Fish for exportation from this Island.....	do
20.....	An Act in amendment of the Act regulating the Inspection of Pickled Fish for exportation from this Island.....	do
25.....	An Act to amend the Law respecting defamatory Words and Libel..	Secs. 3 to 9 (inclusive) and sec. 11.
29 Victoria.		
2.....	An Act for the regulation of the Militia and Volunteer Forces	The whole.
3.....	An Act to prevent the concealment of Arms or Munitions of War intended for unlawful purposes.....	do
8.....	An Act to prevent the clandestine training of persons to the use of Arms, and to the practice of Military.....	do
29.....	An Act to consolidate and amend the Laws relating to the convey- ance and transfer of real and personal Property vested in Mortgages and Trustees	Sec. 59.
30 Victoria.		
6.....	An Act to add to and amend the Act for the regulation of the Militia and Volunteer Forces	The whole.
13.....	An Act to repeal two certain Acts, compelling masters of vessels to exhibit a Light while in Harbor at night time, and to make other provisions in lieu thereof.....	do
31 Victoria.		
8.....	An Act to repeal the Acts now in force, establishing and regulating the rate of Interest, and to make some provisions on the same subject	do
12.....	An Act for the better security of the Crown and Government of the United Kingdom within this Island.....	do
14.....	An Act to amend the Act for the due observance of the Lord's Day..	do
24.....	An Act to consolidate and amend the several Acts therein men- tioned relating to the Savings Bank	do
32 Victoria.		
13.....	An Act to authorize the increase of the amount of Deposits to be received in the Savings Bank	do
17.....	An Act further to amend the Acts for the regulation of the Militia and Volunteer Forces	do
18.....	An Act to provide for carrying out of Capital Punishment within Prisons	do
19.....	An Act in amendment of the Act to provide for the punishment of Offences against the Person and Property, and to repeal the Act relating to Treasons and Felonies	do
20.....	An Act to add to and amend the Act relating to Patents for useful Inventions	do
27.....	An Act for the better protection of the Salmon Fisheries, and to repeal a certain Act therein mentioned.....	do

SCHEDULE A—Continued.

Chap.	Title of Act.	Extent of Repeal.
REVISED STATUTES OF PRINCE EDWARD ISLAND—Continued.		
33 Victoria.		
2.....	An Act relating to Public Wharves and Bridges, and to repeal a certain Act therein mentioned	The whole.
6.....	An Act for taking the Census of Prince Edward Island	do
17.....	An Act to repeal certain sections of an Act to regulate the Specie Currency of Prince Edward Island	do
19.....	An Act to amend the Act relating to Patents for useful Inventions..	do
20.....	An Act for the better government of certain rising Towns and Villages in this Island.....	Sec. 14.
34 Victoria.		
2.....	An Act to explain and amend the Acts relating to the terms of and proceedings in the Supreme Court of this Island	The whole.
3.....	An Act to increase the amount of Deposits to be received in the Savings Bank	do
5.....	An Act to establish a Decimal System of Currency on this Island	Secs. 1, 2, 4, 5, 7, and schedule.
10.....	An Act to consolidate and amend the several Acts regulating the sale by license of Spirituous Liquors.....	The whole.
20.....	An Act relating to the Island Fisheries, and to repeal certain Acts therein mentioned.....	do
21.....	An Act to amend the Act relating to Public Wharves and Bridges...	do
35.....	An Act to define the Fees on Naturalization under the Imperial Acts therein mentioned.....	do
43.....	An Act to authorize the Government to prohibit the exportation of Arms.....	do
35 and 36 Victoria.		
2.....	An Act relating to the Treaty of Washington, 1871	do
7.....	An Act to regulate the time of opening and closing Public Offices in Charlottetown	Proviso, sec. 1.
12.....	An Act to amend the Act to establish a Decimal System of Currency on this Island.....	The whole.
20.....	An Act to amend an Act relating to the Inland Fisheries, and to repeal certain Acts therein mentioned	do
29.....	An Act to revive and continue certain Acts therein mentioned.....	do
36 Victoria.		
3.....	An Act to establish County Courts of Judicature in this Island	Sec. 7.
4.....	An Act for the Regulation of Railways.....	Secs. 7 and 9.
11.....	An Act to provide for the collection in this Island of the Cape Race Lighthouse Toll.....	The whole.
ACTS OF THE PARLIAMENT OF CANADA.		
31 Victoria—1867-68.		
1.....	An Act respecting the Statutes of Canada.....	do
2.....	An Act respecting the Office of Speaker of the House of Commons of the Dominion of Canada	do
3.....	An Act relating to the Indemnity to Members and the Salaries of the Speakers of both Houses of Parliament.....	do
4.....	An Act for granting to Her Majesty a certain sum of money required for defraying the expenses of the Public Service not otherwise provided for, for the period therein mentioned, for certain purposes respecting the Public Debt; and for raising money on the credit of the Consolidated Revenue Fund.....	do

SCHEDULE A—Continued.

Chap.	Title of Act.	Extent of Repeal.
ACTS OF THE PARLIAMENT OF CANADA—Continued.		
31 Victoria—1867-68—Continued.		
7.....	An Act imposing Duties of Customs with the Tariff of Duties payable under it.....	The whole.
12.....	An Act respecting the Public Works of Canada.....	do
14.....	An Act to protect the Inhabitants of Canada against lawless aggressions from Subjects of Foreign Countries at peace with Her Majesty.....	do
15.....	An Act to prevent the unlawful training of persons to the use of arms, and the practice of Military evolutions; and to authorize Justices of the Peace to seize and detain arms collected or kept for purposes dangerous to the public peace.....	do
16.....	An Act to authorize the apprehension and detention of such persons as shall be suspected of committing acts of hostility or conspiring against Her Majesty's person and Government.....	do
22.....	An Act for continuing the Parliament of Canada in case of the demise of the Crown.....	do
23.....	An Act to define the privileges, immunities and powers of the Senate and House of Commons, and to give summary protection to persons employed in the publication of Parliamentary Papers.....	do
24.....	An Act to provide for Oaths to Witnesses being administered in certain cases for the purposes of either House of Parliament.....	do
27.....	An Act respecting the Internal Economy of the House of Commons, and for other purposes.....	do
28.....	An Act to amend An Act intituled "An Act respecting the Statutes of Canada".....	do
29.....	An Act to continue for a limited time the several Acts therein mentioned.....	do
30.....	An Act respecting the commencement of certain Acts of this Session therein mentioned.....	do
31.....	An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the Public Service, for the financial years ending respectively the 30th day of June, 1868, and the 30th day of June, 1869; and for other purposes relating to the Public Service.....	do
32.....	An Act respecting the Consolidated Revenue Fund.....	do
33.....	An Act respecting the Governor General, the Civil List, and the Salaries of certain Public Functionaries.....	do
35.....	An Act to regulate and restrict the contingent charges of the Departments of the Public Service, and to establish a Stationery Office.....	do
36.....	An Act respecting Commissions and Oaths of Allegiance and of Office.....	do
37.....	An Act respecting the Security to be given by Officers of Canada.....	do
38.....	An Act respecting Inquiries concerning Public Matters.....	do
39.....	An Act respecting the Department of Justice.....	do
41.....	An Act to make provision for defraying the expense of certain Works of Fortification required for the Defence of the Dominion.....	do
42.....	An Act providing for the Organization of the Department of the Secretary of State of Canada and for the Management of Indian and Ordnance Lands.....	do
43.....	An Act constituting the Department of Customs.....	do
44.....	An Act to amend the Act of the present Session, intituled "An Act imposing duties of Customs with the Tariff of Duties payable under it".....	do
45.....	An Act respecting the Currency.....	do
46.....	An Act to enable Banks in any part of Canada to use Notes of the Dominion instead of issuing Notes of their own.....	do
47.....	An Act respecting the manufacture or importation of Copper Coins or Tokens.....	do
49.....	An Act constituting the Department of Inland Revenue.....	do
52.....	An Act respecting certain penalties in respect of Stamp Duties.....	do
53.....	An Act for the organization of the Department of Agriculture.....	do
57.....	An Act for the organization of the Department of Marine and Fisheries of Canada.....	do

SCHEDULE A—Continued.

Chap.	Title of Act.	Extent of Repeal.
ACTS OF THE PARLIAMENT OF CANADA—Continued.		
31 Victoria—1867-68—Continued.		
59.....	An Act relating to Lighthouses, Buoys and Beacons.....	The whole.
60.....	An Act for the regulation of Fishing and protection of Fisheries ...	do
61.....	An Act respecting Fishing by Foreign Vessels	do
64.....	An Act respecting the treatment and relief of Sick and Distressed Mariners.....	do
66.....	An Act respecting Aliens and Naturalization	do
69.....	An Act for the better security of the Crown and of the Government.	do
70.....	An Act respecting Riots and Riotous Assemblies	do
71.....	An Act respecting Forgery, Perjury and Intimidation in connection with the Provincial Legislatures and their Acts.....	do
72.....	An Act respecting Accessories to, and Abettors of, Indictable Offences	do
73.....	An Act respecting Police of Canada	do
74.....	An Act respecting persons in custody charged with High Treason or Felony.....	do
76.....	An Act to provide for taking Evidence in Canada in relation to Civil and Commercial Matters pending before Courts of Justice in any other of Her Majesty's Dominions or before Foreign Tribunals.....	do
78.....	An Act to annex a portion of the Seignior of Béclair to the County of Quebec, and another portion thereof to the County of Portneuf.....	do
32-33 Victoria—1869.		
1.....	An Act for granting to Her Majesty certain sums of money required to defray certain expenses of the Public Service, for the financial years ending respectively the 30th June, 1869, and the 30th June, 1870; and for other purposes relating to the Public Service	do
2.....	An Act respecting Nova Scotia.....	do
3.....	An Act for the temporary Government of Rupert's Land and the North-Western Territory when united with Canada.....	do
4.....	An Act respecting the Department of Finance	do
5.....	An Act respecting the Ocean Mail Service	do
7.....	An Act respecting the Office of Queen's Printer and the Public Printing	do
8.....	An Act to amend the Act thirty-first Victoria, chapter thirty-three, and to make further provision with respect to the Salaries and Travelling Allowances of the Judges.....	do
9.....	An Act respecting certain Fee Funds in the Province of Ontario.....	do
10.....	An Act respecting Immigration and Immigrants	do
12.....	The Canada Joint Stock Companies' Clauses Act.....	do
14.....	An Act to amend chapter sixty-seven of the Consolidated Statutes of Canada, intitled "An Act respecting Electric Telegraph Companies"	do
15.....	An Act to avoid the necessity of having Documents engrossed on Parchment	do
17.....	An Act to remove doubts as to Legislation in Canada regarding offences not wholly committed within its limits.....	do
18.....	An Act respecting offences relating to the Coin.....	do
19.....	An Act respecting Forgery	do
20.....	An Act respecting offences against the Person	do
21.....	An Act respecting Larceny and other similar offences.....	do
22.....	An Act respecting Malicious Injuries to Property.....	do
23.....	An Act respecting Perjury	do
24.....	An Act for the better preservation of the Peace in the vicinity of Public Works	do
25.....	An Act respecting certain offences relative to Her Majesty's Army and Navy	do
26.....	An Act for the better protection of Her Majesty's Military and Naval Stores	do
27.....	An Act respecting Cruelty to Animals	do

SCHEDULE A—Continued.

Chap.	Title of Act.	Extent of Repeal.
ACTS OF THE PARLIAMENT OF CANADA—Continued.		
32-38 Victoria—1869—Continued.		
28.....	An Act respecting Vagrants.....	The whole.
29.....	An Act respecting Procedure in Criminal Cases, and other matters relating to Criminal Law	do
30.....	An Act respecting the duties of Justices of the Peace out of Sessions in relation to persons charged with Indictable Offences	do
31.....	An Act respecting the duties of Justices of the Peace out of Sessions in relation to Summary Convictions and Orders.....	do
32.....	An Act respecting the prompt and summary administration of Criminal Justice in certain cases	do
33.....	An Act respecting the trial and punishment of Juvenile Offenders ...	do
34.....	An Act respecting Juvenile Offenders within the Province of Quebec	do
35.....	An Act for the more speedy trial, in certain cases, of persons charged with Felonies and Misdemeanors, in the Provinces of Ontario and Quebec	do
36.....	An Act respecting the Criminal Law, and to repeal certain enactments therein mentioned.....	do
38.....	An Act respecting inquiries and investigations into Shipwrecks and other matters.....	do
45.....	An Act to alter the limits of the Counties of Joliette and Berthier, for Electoral purposes	do
46.....	An Act to detach the Township of Doncaster from the County of Montcalm, and to attach it to the County of Terrebonne, for Electoral purposes	do
49.....	An Act to continue, for a limited time, the Charters of certain Banks	do
74.....	An Act respecting the Salary of the Governor General	do
33 Victoria—1870.		
1.....	An Act to authorize the apprehension and detention of such persons as shall be suspected of committing Acts of Hostility or Conspiring against Her Majesty's Person and Government.....	do
2.....	An Act for granting to Her Majesty certain sums of money required to defray certain expenses of the Public Service, for the financial years ending respectively the 30th June, 1870, and the 30th June, 1871	do
3.....	An Act to amend and continue the Act 32 and 33 Victoria, chapter 3, and to establish and provide for the Government of the Province of Manitoba	Secs. 1, 3, 4, 5, 25, 27, 28, 29, 30, 31, 32, 33, 34 and 36.
6.....	An Act to amend the Act respecting the Office of Queen's Printer...	The whole.
7.....	An Act to amend the Law respecting the Department of Finance.....	do
9.....	An Act to amend the Acts respecting Customs and Inland Revenue; and to make certain provisions respecting Vessels navigating the Inland Waters of Canada above Montreal.....	do
10.....	An Act to amend the Act 31 Victoria, chapter 46, and to regulate the issue of Dominion Notes.....	do
12.....	An Act to remove certain restrictions with respect to the issue of Bank Notes in Nova Scotia.....	do
14.....	An Act respecting the Coasting Trade of Canada.....	do
15.....	An Act to amend the Act respecting Fishing by Foreign Vessels	do
16.....	An Act to make provision for discipline on board of Canadian Government Vessels.....	do
17.....	An Act respecting Certificates to Masters and Mates of Ships	do
18.....	An Act to amend the Act relating to Lighthouses, Buoys and Beacons	do
19.....	An Act to amend the Act respecting the treatment and relief of Sick and Distressed Mariners	do
23.....	An Act to extend the powers of the Official Arbitrators to certain cases therein mentioned.....	do
26.....	An Act to amend the Act respecting Perjury.....	do
27.....	An Act to amend the Act respecting the Duties of Justices of the Peace out of Sessions in relation to Summary Convictions and Orders	do

SCHEDULE A—Continued.

Chap.	Title of Act.	Extent of Repeal.
ACTS OF THE PARLIAMENT OF CANADA—Continued.		
33 Victoria—1870—Continued.		
28.....	An Act to amend An Act for the better preservation of the peace in the vicinity of Public Works.....	The whole.
31.....	An Act for the better protection of the Clothing and Property of Seamen in Her Majesty's Navy	do
32.....	An Act to empower the Police Court in the City of Halifax to sentence Juvenile Offenders to be detained in the Halifax Industrial School	do
35.....	An Act respecting Ferries.....	do
36.....	An Act respecting the Marking of Timber.....	do
39.....	An Act to continue, for a limited time, the Act therein mentioned...	do
34 Victoria—1871.		
1.....	An Act for granting to Her Majesty certain sums of money required to defray certain expenses of the Public Service, for the financial years ending respectively the 30th June, 1871, and the 30th June, 1872	do
3.....	An Act respecting the Loan authorized by the Act 32 and 33 Victoria, chapter 1, for the purpose of paying a certain sum to the Hudson's Bay Company	Third clause of sec 1.
4.....	An Act to establish one uniform Currency for the Dominion of Canada	The whole.
5.....	An Act relating to Banks and Banking.....	do
6.....	An Act to provide additional facilities for depositing savings at interest with the security of the Government, and for the issue and redemption of Dominion Notes.....	do
7.....	An Act respecting certain Savings Banks in the Provinces of Ontario and Quebec	do
10.....	An Act to amend the Acts relating to Duties of Customs.....	do
12.....	An Act to make provision for validating certain Premium Notes taken or held by Mutual Fire Insurance Companies	do
13.....	An Act respecting the force and effect of the Acts of the Parliament of Canada, in and in relation to the Province of Manitoba, and the Colony of British Columbia when it becomes a Province of the Dominion	do
14.....	An Act to extend to the Province of Manitoba certain of the Criminal Laws now in force in the other Provinces of the Dominion.....	do
15.....	An Act to amend the Inland Revenue Act, 1868, and to alter the duties of Excise chargeable in the Province of Manitoba	do
20.....	An Act to make temporary provision for the Election of Members to serve in the House of Commons of Canada	do
21.....	An Act in relation to the Library of Parliament.....	do
22.....	An Act to amend the Act 31st Victoria, chapter 66, respecting Aliens and Naturalization	do
23.....	An Act further to amend the Act respecting Fishing by Foreign Vessels	do
29.....	An Act to continue for a limited time the Acts therein mentioned...	do
30.....	An Act to make provision for the detention of Female Convicts in Reformatory Prisons in the Province of Quebec, and for other purposes relating to Prisons in that Province.....	do
35 Victoria—1872.		
1.....	An Act to amend the Act respecting the Statutes of Canada.....	do
2.....	An Act relating to the Treaty of Washington, 1871.....	do
3.....	An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the Public Service, for the financial years ending respectively the 30th June, 1872, and the 30th June, 1873, and for other purposes relating to the Public Service	do
5.....	An Act to amend the Act 34 Victoria, chapter 3, respecting the Loan for paying a certain sum to the Hudson's Bay Company	The first eight lines of sec. 1.

SCHEDULE A—Continued.

Chap.	Title of Act.	Extent of Repeal.
ACTS OF THE PARLIAMENT OF CANADA—Continued.		
35 Victoria—1872—Continued.		
6.....	An Act respecting the Public Debt and the raising of Loans authorized by Parliament	The whole.
7.....	An Act to amend the Act regulating the issue of Dominion Notes...	do
8.....	An Act to amend the Act relating to Banks and Banking	do
9.....	An Act to amend the chapters six and seven of the Statutes of 1871, relating to Savings Banks	do
10.....	An Act relating to Bills of Exchange and Promissory Notes	do
13.....	An Act to readjust the Representation in the House of Commons.....	do
14.....	An Act to amend the Interim Parliamentary Elections Act, 1871.....	do
15.....	An Act to compel Members of the Local Legislature in any Province where dual representation is not allowed, to resign their seats before becoming candidates for seats in the Dominion Parliament	do
16.....	An Act to provide for the Revisal of Voters' Lists for Elections to the House of Commons, in a certain Revisal District of the County of Victoria, Nova Scotia	do
17.....	An Act to divide certain Polling Districts in the County of Inverness, in the Province of Nova Scotia, and to provide for Voters' Lists therefor	do
19.....	An Act further to amend An Act respecting the security to be given by Officers of Canada	do
20.....	An Act further to amend the Act 31 Victoria, chapter 33	do
21.....	An Act to amend the Act 32 and 33 Victoria, chapter 8	do
24.....	An Act to remove doubts under the Act respecting the Public Works of Canada	do
25.....	An Act respecting Bridges.....	do
26.....	An Act respecting Patents of Invention	do
27.....	An Act relating to Quarantine.....	do
28.....	An Act to amend the Immigration Act of 1869	do
29.....	An Act to provide for the Incorporation of Immigration Aid Societies	do
30.....	An Act respecting Trade Unions	do
31.....	An Act to amend the Criminal Law relating to Violence, Threats and Molestation	do
32.....	An Act to amend the Law relating to the fraudulent marking of Merchandise	do
33.....	An Act for the avoidance of doubts respecting Larceny of Stamps...	do
34.....	An Act to correct a clerical error in the Act respecting Malicious Injuries to Property	do
35.....	An Act to amend the Law relating to Advertisements respecting Stolen Goods	do
37.....	An Act to extend the Canadian Tariff of Duties of Customs and Excise, and certain Acts relating to Customs and the Revenue, to the Province of British Columbia	do
38.....	An Act to extend certain Laws relating to matters connected with Navigation, to the Province of British Columbia	do
36 Victoria—1873.		
2.....	An Act to render Members of the Legislative Councils and Legislative Assemblies of the Provinces now included, or which may hereafter be included within the Dominion of Canada, ineligible for sitting or voting in the House of Commons of Canada	do
3.....	An Act to amend the Act respecting procedure in Criminal Cases....	do
4.....	An Act to provide for the establishment of the Department of the Interior.....	do
8.....	An Act with respect to the Carriage of Dangerous Goods in Ships...	do
9.....	An Act to provide for the appointment of Harbor Masters for certain ports in the Provinces of Nova Scotia and New Brunswick.....	do
26.....	An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the Public Service for the financial years ending respectively the 30th June, 1873, and the 30th June, 1874, and for other purposes relating to the Public Service.....	do

SCHEDULE A—Continued.

Chap.	Title of Act.	Extent of Repeal.
<i>ACTS OF THE PARLIAMENT OF CANADA—Continued.</i>		
<i>36 Victoria—1873—Continued.</i>		
29.....	An Act to change the limits of the Counties of Montcalm and Joliette, for Electoral purposes.....	The whole.
30.....	An Act to re-adjust the amounts payable to, and chargeable against, the several Provinces of Canada by the Dominion Government, so far as they depend on the debt with which they respectively entered the Union	do
31.....	An Act for the re-adjustment of the salaries and allowances of the Judges and other Public Functionaries and Officers, and of the indemnity to the Members of the Senate and House of Commons.	do
35.....	An Act respecting the Administration of Justice, and for the establishment of a Police Force in the North-West Territories.....	do
36.....	An Act respecting Aliens and Naturalization in the Provinces of British Columbia and Manitoba.....	do
38.....	An Act to remove doubts as to the construction of section 31 of the Act 33 Victoria, chapter 3, and to amend section 108 of the Dominion Lands Act	do
39.....	An Act to make further provision as to Duties of Customs in Manitoba and the North-West Territories.....	do
40.....	An Act respecting the admission of the Colony of Prince Edward Island as a Province of the Dominion.....	do
41.....	An Act respecting the Export Duties imposed on Lumber by the Legislature of the Province of New Brunswick.....	do
42.....	An Act to continue for a limited time "The Insolvent Act of 1869," and the Acts amending the same.....	do
43.....	An Act further to amend the Act relating to Banks and Banking.....	do
44.....	An Act to amend the Patent Act of 1872	do
48.....	An Act to provide for the Inspection of Gas and Gas Meters	do
50.....	An Act to amend the Act respecting offences against the person.....	do
51.....	An Act further to amend the law respecting certain matters of procedure in Criminal Cases.....	do
54.....	An Act respecting Pilotage.....	do
55.....	An Act respecting Wreck and Salvage.....	The whole, except secs. 38 and 39.
56.....	An Act respecting Deck Loads.....	The whole.
57.....	An Act to provide for keeping order on board Passenger Steamers...	do
58.....	An Act to amend the Acts for more effectually preventing the Desertion of Seamen; and for other purposes	do
59.....	An Act to repeal the Law of British Columbia, intituled "An Ordinance respecting Harbor and Tonnage Dues, and to regulate the Licenses on the Vessels engaged in the coasting and inland navigation trade	do
65.....	An Act for the better protection of Navigable Streams and Rivers....	do
69.....	An Act respecting the Central Prison for the Province of Ontario....	do
70.....	An Act to amend chapter 58 of the Consolidated Statutes of the late Province of Canada.....	do
71.....	An Act respecting Interest and Usury in the Province of Nova Scotia.	do
72.....	An Act to amend the Act respecting certain Savings Banks in the Provinces of Ontario and Quebec.....	do
128.....	An Act relating to Shipping, and for the registration, inspection and classification thereof.....	do
129.....	An Act respecting the Shipping of Seamen.....	do
<i>37 Victoria—1874.</i>		
1.....	An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the Public Service for the financial years ending respectively the 30th June, 1874, and the 30th June, 1875; and for other purposes relating to the Public Service	do
3.....	An Act to declare the intention of the Act 36 Victoria, chapter 30, as regards the subsidy to be allowed to Nova Scotia.....	do

SCHEDULE A—Continued.

Chap.	Title of Act.	Extent of Repeal.
ACTS OF THE PARLIAMENT OF CANADA—Continued.		
37 Victoria—1874—Continued.		
4.....	An Act to amend the Act 36 Victoria, chapter 31, for the re-adjustment of the salaries of Judges, and other purposes	The whole.
5.....	An Act to continue for a limited time certain temporary provisions in the Act respecting the admission of Prince Edward Island into the Dominion.....	do
6.....	An Act to amend the Act 31 Victoria, chapter 44, and other Acts amending the same, and the Tariff of Duties of Customs imposed by the said Acts, and to alter certain Duties of Excise.	do
7.....	An Act to amend an Act to make further provisions as to Duties of Customs in Manitoba and the North-West Territories, and further to restrain the importation or manufacture of intoxicating liquors into or in the North-West Territories.....	do
9.....	An Act respecting the Elections of Members of the House of Commons.	do
10.....	An Act to make better provision for the Trial of Controverted Elections of the Members of the House of Commons, and respecting matters connected therewith	do
12.....	An Act to attach the Village of Richmond Hill to the Electoral District of the West Riding of the County of York.....	do
13.....	An Act to amend an Act respecting the Public Works of Canada.....	do
17.....	An Act to authorize the advance of a certain sum to the Province of British Columbia, for the construction of a Graving Dock at Esquimaux, and for other purposes	Sec. 2.
20.....	An Act respecting the appropriation of certain Dominion Lands in Manitoba	The whole.
23.....	An Act to amend an Act for the organization of the Department of Marine and Fisheries of Canada	do
24.....	An Act to exempt Transports from Port and Harbor Dues	do
25.....	An Act respecting Carriers by water	do
26.....	An Act to amend the Pilotage Act, 1873	do
27.....	An Act to extend certain Acts therein mentioned to the Province of Prince Edward Island	do
28.....	An Act respecting the extension and application of the Fisheries Act to and in the Provinces of British Columbia, Prince Edward Island and Manitoba.....	do
29.....	An Act for the removal of obstructions by Wreck and like causes in navigable waters of Canada, and other purposes relative to Wrecks	do
32.....	An Act to provide for the appointment of Port Wardens at certain Ports of the Dominion.....	do
34.....	An Act to provide for the appointment of Harbor Masters for certain Ports in the Provinces of Quebec, Ontario, British Columbia and Prince Edward Island.....	do
36.....	An Act to establish a Military College in one of the Garrison Towns of Canada.....	do
37.....	An Act for the suppression of Voluntary and Extra-judicial Oaths...	do
38.....	An Act respecting the Crime of Libel.....	do
39.....	An Act to extend certain Acts relating to the prompt administration of Justice in Criminal Matters to the Province of Manitoba.....	do
40.....	An Act to amend the Act respecting the prompt and summary administration of Criminal Justice in certain cases as respects the Provinces of Nova Scotia and New Brunswick.....	do
41.....	An Act for avoiding doubts as to the application of the Act 32 and 33 Victoria, chapter 35, to the District of Algoma.....	do
42.....	An Act to extend to the Province of British Columbia certain of the Criminal Laws now in force in other Provinces of the Dominion	do
43.....	An Act to amend an Act respecting Vagrants	do
44.....	An Act further to amend the Patent Act of 1872	do
45.....	An Act to make better provision, extending to the whole Dominion of Canada, respecting the Inspection of certain Staple Articles of Canadian Produce	do
47.....	An Act to amend the Law relating to Bills of Exchange and Promissory Notes	do

SCHEDULE A—Continued.

Chap.	Title of Act.	Extent of Repeal.
ACTS OF THE PARLIAMENT OF CANADA—Continued.		
37 <i>Victoria</i> —1874—Continued.		
49.....	An Act to authorize Corporations and Institutions incorporated without the limits of Canada to lend and invest Moneys therein	The whole.
51.....	An Act to authorize the Incorporation of Boards of Trade in the Dominion	do
38 <i>Victoria</i> —1875.		
1.....	An Act to amend the Interpretation Act, as respects the printing and distribution of the Statutes, and the territorial application of Acts amending previous Acts	do
2.....	An Act to continue for a limited time the Acts therein mentioned....	do
3.....	An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the Public Service, for the financial years ending respectively the 30th June, 1875, and the 30th June, 1876, and for other purposes relating to the Public Service	do
4.....	An Act to amend the Act respecting the Public Debt, and the raising of Loans authorized by Parliament	do
6.....	An Act to amend the Act providing for the organization of the Department of the Secretary of State of Canada.....	do
7.....	An Act to amend and consolidate the Statute Law for the regulation of the Postal Service	do
10.....	An Act to amend the Acts respecting Controverted Elections	do
11.....	An Act to establish a Supreme Court and a Court of Exchequer for the Dominion of Canada.....	do
13.....	An Act respecting defective Letters Patent, and the discharge of Securities to the Crown	do
14.....	An Act still further to amend the Patent Act of 1872, and to extend the same, as amended, to Prince Edward Island.....	do
15.....	An Act to amend the Immigration Act of 1872	do
17.....	An Act to amend the Act therein mentioned, respecting Banks and Banking	do
18.....	An Act relating to Interest and Usury in the Province of New Brunswick	do
19.....	An Act to amend the Law relating to Bills of Exchange.....	do
20.....	An Act to amend and consolidate the several Acts respecting Insurance, in so far as regards Fire and Inland Marine Business.....	do
26.....	An Act to regulate the construction and maintenance of Marine Electric Telegraphs	do
27.....	An Act to amend an Act respecting the Coasting Trade of Canada..	do
28.....	An Act further to amend the Pilotage Act, 1873.....	do
29.....	An Act to extend certain provisions of the Seamen's Act, 1873, to Vessels employed in navigating the Inland Waters of Canada..	do
30.....	An Act to amend the Acts thirty-sixth <i>Victoria</i> , chapter nine, and thirty-seventh <i>Victoria</i> , chapter thirty-four, respecting the appointment of Harbor Masters	do
31.....	An Act further to amend the Act respecting the treatment and relief of Sick and Distressed Mariners	do
32.....	An Act to repeal an Act of the Legislature of Prince Edward Island, for the collection of the Cape Race Lighthouse Toll.....	do
33.....	An Act to amend the Fisheries Act.....	do
34.....	An Act to amend the Act chapter forty-six of the Consolidated Statutes of Canada, intituled "An Act respecting the Culling and Measuring of Timber"	do
35.....	An Act to repeal the Export Duty on Stave Bolts and Oak Logs.....	do
36.....	An Act to compel persons delivering certain Merchantable Liquids in Casks to mark on such Casks the capacity thereof	do
37.....	An Act to amend the Gas Inspection Act, 1873.....	do
38.....	An Act to amend the Acts for the better preservation of the Peace in the vicinity of Public Works	do

SCHEDULE A—Continued.

Chap.	Title of Act.	Extent of Repeal.
ACTS OF THE PARLIAMENT OF CANADA—Continued.		
38 Victoria—1874—Continued.		
40.....	An Act to amend the Act intituled "An Act respecting Larceny and other similar offences"	The whole.
41.....	An Act for suppressing Gaming Houses, and to punish the Keepers thereof	do
42.....	An Act to prevent Cruelty to Animals while in transit by Railway or other means of conveyance within the Dominion of Canada.	do
43.....	An Act to amend the Act respecting Procedure in Criminal Cases and other matters relating to Criminal Law.....	do
45.....	An Act to amend the Act for the more speedy trial, in certain cases, of persons charged with Felonies and Misdemeanors in the Provinces of Ontario and Quebec.....	do
46.....	An Act to make further provisions respecting the Central Prison for Ontario.....	do
47.....	An Act for the more speedy trial before Police and Stipendiary Magistrates in the Province of Ontario of persons charged with Felonies or Misdemeanors	do
48.....	An Act to repeal certain provisions of an Act of the Legislature of Nova Scotia respecting Petty Offences, Trespasses and Assaults	do
49.....	An Act to amend and consolidate the Laws respecting the North-West Territories.....	do
52.....	An Act to amend an Act respecting the appropriation of certain Lands in Manitoba	do
53.....	An Act respecting conflicting claims to Lands of Occupants in Manitoba	do
54.....	An Act to extend to the Province of Manitoba the Act for the more speedy trial, in certain cases, of persons charged with Felonies and Misdemeanors in the Provinces of Ontario and Quebec.....	do
55.....	An Act respecting the Trinity House and Harbor Commissioners of Quebec	Secs. 4 and 15.
88.....	An Act respecting Copyrights	The whole.
39 Victoria—1876.		
1.....	An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the Public Service for the financial years ending respectively the 30th June, 1876, and the 30th June, 1877, and for other purposes relating to the Public Service	do
3.....	An Act to provide for the payment of a temporary Grant to the Province of Manitoba	do
4.....	An Act to extend the Acts respecting Dominion Notes to the Provinces of Prince Edward Island, British Columbia and Manitoba	do
7.....	An Act to provide for the examination of Witnesses on Oath by Committees of the Senate and House of Commons, in certain cases	do
8.....	An Act to amend the Act thirty-first Victoria, chapter 3, respecting the Indemnity to Members of both Houses of Parliament.....	do
9.....	An Act to make more effectual provision for the administration of the Law relating to Corrupt Practices at Elections of Members of the House of Commons	do
10.....	An Act to provide for the more effectual Inquiry into the existence of Corrupt Practices at Elections of Members of the House of Commons.....	do
11.....	An Act to detach a certain portion of the County of Lotbinière and to attach it to the County of Beauce.....	do
12.....	An Act to amend the Acts therein mentioned, respecting the Militia and the Defence of the Dominion of Canada.....	do
13.....	An Act to make provision for the Collection and Registration of the Criminal Statistics of Canada	do
20.....	An Act respecting Roads and Road Allowances in Manitoba	do

SCHEDULE A—Continued.

Chap.	Title of Act.	Extent of Repeal.
<i>ACTS OF THE PARLIAMENT OF CANADA—Continued.</i>		
<i>39 Victoria—1876—Continued.</i>		
21.....	An Act respecting the North-West Territories, and to create a separate Territory out of part thereof	The whole.
25.....	An Act to extend the Acts therein mentioned, respecting Weights and Measures, and the Inspection of Gas and Gas Meters, to Prince Edward Island.....	do
26.....	An Act to make further provision in regard to the Supreme Court and the Exchequer Court of Canada	do
27.....	An Act to make further provision for the institution of Suits against the Crown by Petition of Right	do
28.....	An Act to extend the provisions of the Act thirty-first Victoria, chapter 33, respecting the Retiring Allowance of Judges, to the Chief Justice and Justices of the Court of Error and Appeal for the Province of Ontario	do
29.....	An Act to provide for the Salaries of County Court Judges in the Province of Nova Scotia, and for other purposes.....	do
31.....	An Act to make provision for the winding up of Insolvent Incorporated Banks.....	do
33.....	An Act to amend the Act to make better provision, extending to the whole Dominion of Canada, respecting the Inspection of certain Staple Articles of Canadian Produce.....	do
34.....	An Act to amend the Act thirty-seventh Victoria, chapter 51, intitled "An Act to authorize the Incorporation of Boards of Trade in the Dominion"	do
36.....	An Act respecting the attendance of Witnesses on Criminal Trials...	do
37.....	An Act to amend the Criminal Law relating to Violence, Threats and Molestation	do
<i>40 Victoria—1877.</i>		
1.....	An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the Public Service, for the financial years ending respectively the 30th June, 1877, and the 30th June, 1878, and for other purposes relating to the Public Service.....	do
4.....	An Act to extend to the Province of Prince Edward Island certain Criminal Laws now in force in other Provinces of Canada.....	do
6.....	An Act respecting the Boundaries of the Province of Manitoba	do
7.....	An Act to amend the "North-West Territories Act, 1875"	do
8.....	An Act respecting certain Ordnance and Admiralty Lands in the Provinces of Ontario and Quebec	do
9.....	An Act to make better provision respecting the Geological and Natural History Survey of Canada, and for the maintenance of the Museum in connection therewith.....	do
16.....	An Act to Amend the Act respecting the Culling and Measuring of Timber.....	do
17.....	An Act to transfer the management of certain Harbors, Piers and Breakwaters from the Department of Public Works to the Department of Marine and Fisheries.....	do
19.....	An Act respecting the Measurement of Steamships registered under the repealed Act of the late Province of Canada.....	do
20.....	An Act to amend the Pilotage Acts of 1873 and of 1875.....	do
21.....	An Act to establish a Court of Maritime Jurisdiction in the Province of Ontario.....	do
22.....	An Act to amend the Act to make further provision in regard to the Supreme and Exchequer Courts	do
23.....	An Act to amend the Act respecting the Salaries of certain Judges.	do
24.....	An Act to provide for the payment of travelling allowances to the District or County Court Judges in the Province of British Columbia.....	do
25.....	An Act to make provision for the extradition of Fugitive Criminals..	do
26.....	An Act respecting Procedure and Evidence in Criminal Cases.....	do

SCHEDULE A—Continued.

Chap.	Title of Act.	Extent of Repeal.
ACTS OF THE PARLIAMENT OF CANADA—Continued.		
40 <i>Victoria</i> —1877—Continued.		
27.....	An Act to amend the Law respecting appeals from convictions before, or orders by, Justices of the Peace.....	The whole.
28.....	An Act to amend the Act respecting Offences against the person.....	do
29.....	An Act to amend the Act respecting Larceny and other similar offences.....	do
30.....	An Act to make provision against the improper use of Fire-arms.....	do
31.....	An Act for the repression of Betting and Pool Selling.....	do
32.....	An Act for the prevention of Gambling Practices in certain Public Conveyances.....	do
33.....	An Act to amend the Act for the suppression of Gaming Houses.....	do
34.....	An Act to amend the Post Office Act, 1875.....	do
35.....	An Act to repeal certain laws making Breaches of Contract of service criminal, and to provide for the punishment of certain Breaches of Contract.....	do
36.....	An Act to provide for the employment without the walls of Common Gaols of prisoners sentenced to imprisonment therein.....	do
37.....	An Act to provide for the safe custody of prisoners in places where the Common Gaols become temporarily insecure.....	do
38.....	An Act respecting the transfer of Rockwood Asylum to the Province of Ontario, and to amend "The Penitentiary Act of 1875".....	do
39.....	An Act to make provision for improvement in Prison Discipline.....	do
42.....	An Act to amend and consolidate certain Acts respecting Insurance.	do
43.....	An Act to amend the Law respecting the Incorporation of Joint Stock Companies by Letters Patent.....	do
44.....	An Act to remove doubts as to the right to vote of Shareholders in certain Banks.....	do
51.....	An Act further to amend the Acts to provide for the management of the Harbor of Quebec and "The Pilotage Act of 1873".....	Sections 6 and 7.
41 <i>Victoria</i> —1878.		
1.....	An Act respecting the Maritime Court of Ontario.....	The whole.
2.....	An Act to amend the Post Office Act, 1875.....	do
4.....	An Act for granting to Her Majesty certain sums of Money required for defraying certain expenses of the Public Service, for the financial years ending respectively the 30th June, 1878, and the 30th June, 1879, and for other purposes relating to the Public Service.....	do
5.....	An Act further securing the Independence of Parliament.....	do
6.....	An Act to amend the Act respecting the Elections of Members of the House of Commons.....	do
7.....	An Act to provide for the better Auditing of the Public Accounts.....	do
8.....	An Act further to amend the Act intituled "An Act respecting the Public Works of Canada....."	do
12.....	An Act to amend the Law respecting Deck Loads.....	do
13.....	An Act to authorize the advance of certain sums to the Province of Manitoba, in aid of the Public Schools therein.....	do
14.....	An Act to amend an Act respecting conflicting Claims to Lands of Occupants in Manitoba.....	do
15.....	An Act to provide for the creation and registration of Homestead Exemption Estates in the Territories of Canada.....	do
16.....	An Act respecting the Traffic in Intoxicating Liquors.....	The whole, except sec. 124
17.....	An Act for the prevention of Crimes of Violence in certain parts of Canada, until the end of the next Session of Parliament.....	The whole.
19.....	An Act respecting Persons Imprisoned in default of giving Sureties to keep the Peace.....	do
21.....	An Act to make provision for the winding up of Insolvent Incorporated Fire or Marine Insurance Companies.....	do

SCHEDULE A—Continued.

Chap.	Title of Act.	Extent of Repeal.
ACTS OF THE PARLIAMENT OF CANADA—Continued.		
42 Victoria—1879.		
1.....	An Act for granting to Her Majesty certain sums of Money required for defraying certain expenses of the Public Service, for the financial years ending respectively the 30th June, 1879, and the 30th June, 1880, and for other purposes relating to the Public Service	The whole.
2.....	An Act to provide for the payment of an additional Temporary Grant to the Province of Manitoba	do
3.....	An Act to provide for the Salary of one additional Judge of the Supreme Court of New Brunswick, and for the Salary of any future Judge in Equity of the Supreme Court of Nova Scotia ..	do
4.....	An Act respecting the salaries of the County Court Judges of Prince Edward Island	do
6.....	An Act to amend an Act to provide for more effectual inquiry into the existence of Corrupt Practices at Elections of Members of the House of Commons	do
7.....	An Act respecting the offices of Receiver General and Minister of Public Works	do
8.....	An Act respecting the Official Arbitrators	do
9.....	An Act to amend and consolidate the Railway Act, 1868, and the Acts amending it	do
15.....	An Act to alter the Duties of Customs and Excise	do
16.....	An Act to amend and consolidate the Laws relating to Weights and Measures	do
20.....	An Act to amend the Post Office Act, 1875	do
21.....	An Act respecting Census and Statistics	do
22.....	An Act respecting Trade Marks and Industrial Designs	do
23.....	An Act to provide against Infectious or Contagious Diseases affecting Animals	do
24.....	An Act respecting Tonnage Dues levied in Canadian Ports under Canadian Law	do
25.....	An Act to amend the Pilotage Act, 1873	do
26.....	An Act to extend an Act respecting Certificates to Masters and Mates of Ships	do
27.....	An Act to amend the Seamen's Act, 1873	do
32.....	An Act to explain and amend the Act respecting the appropriation of certain Dominion Lands in Manitoba	do
33.....	An Act respecting certain Ordnance and Admiralty Lands in the Provinces of New Brunswick and Nova Scotia	do
36.....	An Act to amend and consolidate, as amended, the several enactments respecting the North-West Mounted Police Force	do
37.....	An Act to amend an Act respecting Police of Canada	do
38.....	An Act respecting the safe keeping of dangerous Lunatics in the North-West Territories	do
39.....	An Act further to amend the Supreme and Exchequer Court Act	do
40.....	An Act to amend the Maritime Jurisdiction Act, 1877	do
41.....	An Act to continue in force for a limited time "The better Prevention of Crime Act, 1878"	do
43.....	An Act respecting the "Andrew Mercer Ontario Reformatory for Females"	do
44.....	An Act to amend "An Act for the more speedy trial, in certain cases, of persons charged with felonies and misdemeanors, in the Provinces of Ontario and Quebec," and the Act respecting summary convictions before Justices of the Peace	do
45.....	An Act to amend the Act relating to Banks and Banking, and the Acts amending the same	do
46.....	An Act relating to the protest of Inland Bills of Exchange and Promissory Notes, in Nova Scotia	do
47.....	An Act to make the first day of July a Public Holiday, by the name of Dominion Day	do
50.....	An Act to remove doubts as to the true intent and meaning of certain provisions of, "The Canada Temperance Act, 1878," and to make certain amendments thereto in so far as the said Act relates to Manitoba	do

SCHEDULE A—Continued.

Chap.	Title of Act.	Extent of Repeal.
ACTS OF THE PARLIAMENT OF CANADA—Continued.		
43 Victoria—1880.		
1.....	An Act to repeal the Acts respecting Insolvency now in force in Canada.....	The whole.
3.....	An Act further to amend "An Act respecting the Security to be given by Officers of Canada".....	do
4.....	An Act to provide for the salaries of two additional Judges of the Supreme Court of British Columbia.....	do
5.....	An Act further to continue in force for a limited time "The better Prevention of Crime Act, 1878".....	do
7.....	An Act for the final settlement of claims to lands in Manitoba by occupancy, under the Act thirty-third Victoria, chapter 3.....	do
10.....	An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the Public Service, for the financial years ending respectively the 30th June, 1880, and the 30th June, 1881; and for other purposes relating to the Public Service.....	do
11.....	An Act for the appointment of a Resident Representative Agent for Canada in the United Kingdom.....	do
12.....	An Act to authorize making certain investigations under oath.....	do
13.....	An Act further to amend the Acts respecting Dominion Notes.....	do
14.....	An Act to repeal the Act forty-second Victoria, chapter 5, for granting an annual subsidy towards certain telegraphic communication.....	do
18.....	An Act to amend the Act forty-second Victoria, chapter 15, intituled "An Act to alter the Duties of Customs and Excise.".....	do
20.....	An Act to amend "The General Inspection Act, 1874," and the Act amending it.....	do
21.....	An Act to amend the Act respecting the Inspection of Petroleum.....	do
22.....	An Act to amend "An Act relating to Banks and Banking," and to continue for a limited time the charters of certain Banks to which the said Act applies.....	do
23.....	An Act respecting certain Savings Banks in the Provinces of Ontario and Quebec.....	do
24.....	An Act for extending the Consolidated Act of 1879, respecting duties imposed on promissory notes and bills of exchange, to the whole Dominion.....	do
25.....	An Act to amend and consolidate the several Acts relating to the North-West Territories.....	do
28.....	An Act to amend and consolidate the laws respecting Indians.....	do
29.....	An Act to make better provision respecting the navigation of Canadian waters.....	do
30.....	An Act to amend the law respecting the removal of obstructions in navigable waters, by wrecks.....	do
34.....	An Act further to amend "The Supreme and Exchequer Court Act.".....	do
35.....	An Act to amend the law of evidence in Criminal Cases, as respects the taking and use of depositions of persons who may be unable to attend at the trial.....	do
36.....	An Act respecting the administration of criminal justice in the territory in dispute between the Governments of the Province of Ontario and of the Dominion of Canada.....	do
37.....	An Act to amend the Act intituled "An Act respecting offences against the person," and to repeal the Act intituled "An Act to provide that persons charged with common assault shall be competent as witnesses.".....	do
38.....	An Act further to amend the Act respecting Cruelty to Animals.....	do
39.....	An Act respecting the Ontario Reformatory for Boys.....	do
40.....	An Act respecting "The Industrial Refuge for Girls," of Ontario.....	do
41.....	An Act respecting the Reformatory for Juvenile Offenders in Prince Edward Island.....	do
42.....	An Act relating to Interest on moneys secured by Mortgage of Real Estate.....	do

SCHEDULE A—Continued.

Chap.	Title of Act.	Extent of Repeal.
ACTS OF THE PARLIAMENT OF CANADA—Continued.		
44 Victoria—1880-81.		
2.....	An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the Public Service, for the financial years ending respectively the 30th June, 1881, and the 30th June, 1882; and for other purposes relating to the Public Service.....	The whole.
4.....	An Act to extend the Act establishing one uniform currency for the Dominion of Canada to the Provinces of British Columbia and Prince Edward Island.....	do
5.....	An Act to provide for the salaries of an additional Judge of the Court of Queen's Bench and an additional Judge of the Superior Court, in the Province of Quebec.....	do
6.....	An Act to increase the salaries of the Judges of the Supreme Court of Prince Edward Island.....	do
8.....	An Act further to amend an Act respecting certain Savings Banks in the Provinces of Ontario and Quebec, and to continue for a limited time the charters of certain banks to which the said Act applies.....	do
9.....	An Act to correct a clerical error in Schedule B, to the Act forty-third Victoria, chapter 22, amending the Bank Act and continuing the charters of certain Banks.....	do
10.....	An Act further to amend the Acts forty-second Victoria, chapter 15, and forty-third Victoria, chapter 18, as respects Duties of Customs.....	do
13.....	An Act respecting Naturalization and Aliens.....	do
14.....	An Act to provide for the extension of the boundaries of the Province of Manitoba.....	do
15.....	An Act to continue in force for a limited time the Act forty-third Victoria, chapter 36.....	do
17.....	An Act to amend the Indian Act, 1880.....	do
20.....	An Act to provide for the correspondence of certain provisions of the Act respecting the navigation of Canadian waters with the provisions for like purposes in force in the United Kingdom...	do
21.....	An Act in amendment of the Acts respecting Steamboats.....	do
22.....	An Act to amend the General Inspection Act, 1874, and the Acts amending it.....	do
23.....	An Act to amend the Petroleum Inspection Act, 1880.....	do
24.....	An Act to amend the Consolidated Railway Act.....	do
25.....	An Act to amend and consolidate the Laws relating to Government Railways.....	do
26.....	An Act to prescribe a Declaration to be taken by Employees on Telegraph Lines under the control of the Government, and to provide for the punishment of Telegraph Operators and Employees who divulge the contents of certain Telegrams.....	do
27.....	An Act to amend the Insolvent Act of 1875, and amending Acts.....	do
28.....	An Act to amend the Law respecting Documentary Evidence in certain cases.....	do
29.....	An Act further to continue in force for a limited time the better Prevention of Crime Act, 1878.....	do
30.....	An Act respecting Prize Fighting.....	do
31.....	An Act to remove doubts as to the power to Imprison with Hard Labor under the Acts respecting Vagrants.....	do
32.....	An Act with reference to the Andrew Mercer Ontario Reformatory for Females, and the Central Prison for the Province of Ontario.....	do
45 Victoria—1882.		
1.....	An Act to repeal the Duty on Promissory Notes, Drafts, and Bills of Exchange.....	do
2.....	An Act for granting to Her Majesty certain sums of Money required for defraying certain expenses of the Public Service, for the financial years ending respectively the 30th June, 1882, and the 30th June, 1883, and for other purposes relating to the Public Service.....	do

SCHEDULE A—Continued.

Chap.	Title of Act.	Extent of Repeal.
ACTS OF THE PARLIAMENT OF CANADA—Continued.		
45 Victoria—1882—Continued.		
3.....	An Act to readjust the Representation in the House of Commons, and for other purposes.....	The whole.
4.....	An Act respecting the Civil Service of Canada	do
5.....	An Act for increasing, during a certain time, the yearly Subsidy to the Province of Manitoba	do
6.....	An Act further to amend the several Acts imposing Duties of Customs, now in force.....	do
9.....	An Act to provide for the free transmission of Canadian Newspapers by Mail within the Dominion.....	do
11.....	An Act to fix and provide for the payment of the Salaries of the Judges of the Supreme Court of Judicature of Ontario, and of certain Judges and County Judges in Manitoba and New Brunswick	do
12.....	An Act respecting County Court Judges	do
18.....	An Act to authorize an annual Grant for the development of the Sea Fisheries and the encouraging of the building of Fishing Vessels	do
19.....	An Act to exempt vessels employed in Fishing from the payment of Duties for the relief of Sick and Distressed Mariners.....	do
20.....	An Act to amend the Extradition Act, 1877.....	do
21.....	An Act respecting Fugitive Offenders in Canada from other parts of Her Majesty's Dominions	do
22.....	An Act to further amend the Patent Act of 1872.....	do
23.....	An Act respecting Insolvent Banks, Insurance Companies, Loan Companies, Building Societies and Trading Corporations	do
25.....	An Act to repeal certain provisions of the General Inspection Act, 1874	do
26.....	An Act further to amend the Petroleum Inspection Act, 1880	do
27.....	An Act to correct certain errors in the French versions of the Dominion Lands Act, and the Dominion Lands Act, 1879	do
28.....	An Act to remove certain doubts as to the effect of the North-West Territories Act, 1880, and to amend the same	do
29.....	An Act to amend an Act to amend and consolidate as amended the several enactments respecting the North-West Mounted Police Force.....	do
30.....	An Act to further amend the Indian Act, 1880.....	do
31.....	An Act to amend and further to continue in force, for a limited time, the Act forty-third Victoria, chapter 36.....	do
32.....	An Act further to amend the Pilotage Act, 1873, and the other Acts therein mentioned.....	do
33.....	An Act to further amend the Seamen's Act, 1873	do
34.....	An Act to amend the Act forty-second Victoria, chapter 40, intituled "An Act to amend the Maritime Jurisdiction Act, 1877," and to make further provision for the recovery of the wages of seamen employed on vessels navigating the inland waters of Canada..	do
35.....	An Act to amend and consolidate the Acts respecting the inspection of Steamboats, and the examination and licensing of Engineers employed on them.....	do
36.....	An Act to make further provision respecting Lighthouses, Buoys and Beacons.....	do
37.....	An Act respecting Bridges over navigable waters, constructed under the authority of Provincial Acts.....	do
38.....	An Act further to continue in force for a limited time the better Prevention of Crime Act, 1878.....	do
39.....	An Act to amend the Act fortieth Victoria, chapter 30, intituled "An Act to make provision against the improper use of Firearms"	do
40.....	An Act declaratory of the meaning of the word Telegraph in certain cases.....	do
41.....	An Act respecting the sale of Railway Passenger Tickets.....	do
46.....	An Act to amend the General Port Warden's Act, 1874.....	do
48.....	An Act respecting the Harbor and River Police of the Province of Quebec	do

SCHEDULE A—Continued.

Chap.	Title of Act.	Extent of Repeal.
ACTS OF THE PARLIAMENT OF CANADA—Continued.		
46 Victoria—1883.		
1.....	An Act further to amend the Interpretation Act.....	The whole.
2.....	An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the Public Service for the financial years ending respectively the 30th June, 1883, and the 30th June, 1884; and for other purposes relating to the Public Service.....	do
4.....	An Act to amend the Dominion Elections Act, 1874.....	do
5.....	An Act to amend an Act respecting the offices of Receiver General and Minister of Public Works, as to the powers of the Minister of Railways and Canals.....	do
6.....	An Act to amend the Act thirty-sixth Victoria, chapter four, intitled "An Act to provide for the establishment of the Department of the Interior, and to amend the Indian Act, 1880.....	do
7.....	An Act to amend the Canada Civil Service Act, 1882.....	do
8.....	An Act to amend and consolidate the Acts relating to the Superannuation of persons employed in the Civil Service of Canada.....	do
9.....	An Act to provide for the salaries, and superannuation and travelling allowances of certain Judges of certain Provincial Courts.....	do
10.....	An Act respecting the High Court of Justice.....	do
11.....	An Act consolidating and amending the several Acts relating to the Militia and Defence of the Dominion of Canada.....	do
12.....	An Act to amend and consolidate the Acts respecting the Customs.....	do
13.....	An Act further to amend the Tariff of Duties of Customs.....	do
15.....	An Act to consolidate and amend the several Acts respecting the Inland Revenue.....	do
16.....	An Act to make further provision respecting the Regulation and Collection of Tolls on Government Timber Slides and other Works constructed to facilitate the transmission of Timber, Lumber and Saw-logs.....	do
17.....	An Act further to amend and to consolidate, as so amended, the several Acts respecting the Public Lands of the Dominion therein mentioned.....	do
18.....	An Act to amend the Post Office Act, 1875.....	do
19.....	An Act to amend the Patent Act of 1872.....	do
20.....	An Act further to amend an Act intitled "An Act relating to Banks and Banking," and the several Acts amending the same.....	do
22.....	An Act relating to Bills of Exchange and Promissory Notes in the Province of Prince Edward Island.....	do
23.....	An Act to amend an Act respecting Insolvent Banks, Insurance Companies, Loan Companies, Building Societies and Trading Corporations.....	do
24.....	An Act further to amend the Consolidated Railway Act, 1879, and to declare certain Lines of Railway to be works for the general advantage of Canada.....	do
27.....	An Act to extend to British Columbia the Act relating to Fishing by Foreign Vessels.....	do
28.....	An Act respecting Certificates to Masters and Mates of Inland and Coasting Ships.....	do
29.....	An Act further to amend the General Inspection Act, 1874.....	do
30.....	An Act respecting the sale of Intoxicating Liquors, and the issue of licenses therefor.....	do
32.....	An Act for the better prevention of Fraud in relation to Contracts involving the expenditure of Public Moneys.....	do
33.....	An Act to continue for a limited time the Acts therein mentioned.....	do
34.....	An Act to amend the Acts respecting procedure in Criminal Cases, and other matters relating to Criminal Law.....	do
35.....	An Act to make provision for the taking of Evidence in relation to Criminal matters pending in Courts of Justice in any other of Her Majesty's Dominions or before Foreign Tribunals.....	do
36.....	An Act to amend the Law respecting Lotteries.....	do
37.....	An Act to amend and consolidate the Laws relating to Penitentiaries.....	do

SCHEDULE A—Continued.

Chap.	Title of Act.	Extent of Repeal.
ACTS OF THE PARLIAMENT OF CANADA—Continued.		
46 Victoria—1883—Continued.		
43.....	An Act respecting Booms and other works constructed in Navigable Waters, whether under the authority of Provincial Acts or otherwise	The whole.
44.....	An Act to amend an Act of the present Session respecting Booms and other works constructed in Navigable Waters, whether under the authority of Provincial Acts or otherwise	do
47 Victoria—1884.		
4.....	An Act to readjust the yearly Subsidies to be allowed by Canada to the several Provinces now included in the Dominion	do
6.....	An Act respecting the Vancouver Island Railway, the Esquimalt Graving Dock, and certain Railway Lands of the Province of British Columbia granted to the Dominion	Secs. 11 and 12.
11.....	An Act further to amend the Consolidated Railway Act, 1879, and the Acts amending it	The whole.
12.....	An Act to provide for the Salary and Travelling Allowances of the Judge of the County Court of Cariboo, in the Province of British Columbia	do
13.....	An Act to provide for the Salary and Travelling Allowances of an additional Puisne Judge of the Court of Queen's Bench, in the Province of Manitoba	do
14.....	An Act respecting the Independence of Parliament Act, 1878, forty-first Victoria, chapter 5	Sec. 1, and first paragraph of sec. 4.
15.....	An Act to amend the Civil Service Acts of 1882 and 1883	The whole.
16.....	An Act further to amend the Act thirty-first Victoria, chapter 12, intituled "An Act respecting the Public Works of Canada"	do
17.....	An Act respecting Fortifications and Military Buildings and their maintenance and repair	do
18.....	An Act respecting the Department of Marine and Fisheries	do
19.....	An Act to amend an Act respecting Certificates to Masters and Mates of Ships, and the Seamen's Act, 1873.....	do
20.....	An Act to amend the Steamboat Inspection Act, 1882, by reducing the Fees payable on renewal of Engineers' Licenses.....	do
21.....	An Act in further amendment of an Act respecting the treatment and relief of Sick and Distressed Mariners	do
22.....	An Act to amend an Act respecting Inquiries and Investigation into Shipwrecks, and other matters, as to the powers of the Minister of Marine and Fisheries in certain cases reported to him under it	do
23.....	An Act to amend the North-West Territories Act, 1880	do
25.....	An Act to amend the Dominion Lands Act, 1883	do
26.....	An Act to extend the limitation of time under the Act forty-third Victoria, chapter 7, intituled "An Act for the final settlement of Claims to Lands in Manitoba by Occupancy, under the Act thirty-third Victoria, chapter 3"	do
27.....	An Act further to amend the Indian Act, 1880	do
28.....	An Act for conferring certain privileges on the more advanced Bands of the Indians of Canada, with the view of training them for the exercise of Municipal Powers.....	do
29.....	An Act to amend the Customs Act, 1883	do
30.....	An Act further to amend the present Tariff of Duties of Customs.....	do
31.....	An Act to amend the Canada Temperance Act, 1878.....	do
32.....	An Act to amend the Liquor License Act, 1883	The whole, except sec. 26.
33.....	An Act further to amend the General Inspection Act, 1874.....	The whole.
34.....	An Act to amend and to consolidate as amended the several Acts respecting the Adulteration of Food and Drugs	do
35.....	An Act to amend the Acts respecting the Inspection of Gas and Gas Meters	do
36.....	An Act to amend the Weights and Measures Act of 1879.....	do

SCHEDULE A—*Continued.*

Chap.	Title of Act.	Extent of Repeal.
ACTS OF THE PARLIAMENT OF CANADA— <i>Continued.</i>		
47 <i>Victoria</i> —1884— <i>Continued.</i>		
37.....	An Act to prevent Fraud in the manufacture and sale of Agricultural Fertilizers	The whole.
38.....	An Act for the better prevention of Fraud in connection with the Sale of Patent Rights	do
39.....	An Act further to amend the Act forty-fifth <i>Victoria</i> , chapter 23, intituled "An Act respecting Insolvent Banks, Insurance Companies, Loan Companies, Building Societies and Trading Corporations"	do
41.....	An Act to amend the Act thirty-eighth <i>Victoria</i> , chapter 54, intituled "An Act to extend to the Province of Manitoba the Act for the more speedy trial, in certain cases, of persons charged with Felonies and Misdemeanors, in the Provinces of Ontario and Quebec	do
42.....	An Act to amend the Act thirty-seventh <i>Victoria</i> , chapter 42, intituled "An Act to extend to the Province of British Columbia certain of the Criminal Laws now in force in other Provinces of the Dominion"	do
43.....	An Act to further amend an Act respecting the duties of Justices of the Peace out of Sessions, in relation to Summary Convictions and Orders	do
44.....	An Act to authorize the transfer of Prisoners from one gaol to another, in certain cases.....	do
45.....	An Act respecting a Reformatory for certain Juvenile Offenders in the County of Halifax, in the Province of Nova Scotia	do

SCHEDULE B.

ACTS AND PARTS OF ACTS of a public general nature, which affect Canada, and have relation to matters not within the legislative authority of Parliament, or in respect to which the power of legislation is doubtful or has been doubted, and which have in consequence not been consolidated; and also, Acts of a public general nature in force in Canada which have not, for other reasons, been considered proper Acts to be consolidated.

Chap.	Subject of the Act.	Portions which may be in Force.
CONSOLIDATED STATUTES OF CANADA.		
23.....	An Act respecting the sale and management of Timber on Public Lands.....	Sec. 4.
52.....	An Act respecting the Inspection of Hops.....	The whole.
60.....	An Act respecting Limited Partnerships.....	Secs. 17, 19, 20, 21 and 22.
66.....	An Act respecting Railways.....	The whole.
68.....	An Act respecting Joint Stock Companies to construct works to facilitate the transmission of Timber down Rivers and Streams.	The whole, except sec. 67.
69.....	An Act respecting payment of dividends by Insurance Companies...	The whole.
79.....	An Act respecting the Appointment of Commissioners for taking Affidavits and the Attendance of Witnesses in the Courts of Upper and Lower Canada reciprocally.....	Secs. 4 to 13 inclusive.
85.....	An Act respecting certain Roads and Bridges.....	Sec. 3.
CONSOLIDATED STATUTES FOR UPPER CANADA.		
18.....	An Act respecting Insolvent Debtors' Courts.....	The whole.
19.....	An Act respecting the Division Courts.....	Sec. 172.
21.....	An Act respecting the practice and procedure in Suits instituted on behalf of the Crown, in matters relating to the Revenue and the repeal of Letters Patent.....	The whole.
26.....	An Act respecting relief of Insolvent Debtors.....	The whole, except secs. 14, 19 and 20.
47.....	An Act respecting Rivers and Streams.....	The whole.
48.....	An Act respecting Mills and Mill-dams.....	do
50.....	An Act respecting Joint Stock Companies for the construction of Piers, Wharves, Dry Docks and Harbors.....	do
53.....	An Act respecting Building Societies.....	do
79.....	An Act to prevent Accidents from Machinery.....	do
CONSOLIDATED STATUTES FOR LOWER CANADA.		
10.....	An Act respecting Seditious and Unlawful Associations and Oaths..	The whole.
24.....	An Act respecting Municipalities and Roads in Lower Canada.....	Sub-secs. 10 to 15, inclusive, of sec. 26; sub-secs. 16, 17 and 18, of sec. 27.
69.....	An Act respecting Building Societies.....	The whole.
87.....	An Act respecting Arrest and Imprisonment for Debt, and the relief of Insolvent Debtors.....	Secs. 12 to 24 inclusive.
95.....	An Act respecting the Writ of <i>Habeas Corpus</i> , Bail and other provisions of Law for securing the liberty of the Subject.....	The whole.

SCHEDULE B—Continued.

Chap.	Subject of the Act.	Portions which may be in Force.
STATUTES OF THE LATE PROVINCE OF CANADA.		
23 <i>Victoria</i> —1860.		
21.....	An Act respecting the Line of Division between Upper and Lower Canada.....	The whole.
29.....	An Act in amendment of the Railway Act.....	do
82.....	An Act respecting the Indian Lands in the Township of Durham, in the County of Drummond.....	do
24 <i>Victoria</i> —1861.		
17.....	An Act to explain and amend the Railway Act.....	do
27 and 28 <i>Victoria</i> —1864.		
12.....	An Act to replace the improvements in the Navigation of the River St. Lawrence, between the Harbors of Quebec and Montreal, under the control of the Commissioner of Public Works.....	do
18.....	An Act to amend the Laws in force respecting the sale of Intoxicating Liquors and the issue of Licenses therefor, and otherwise for repression of abuses resulting from such sale.....	do
58.....	An Act to amend the Act passed in the twelfth year of Her Majesty's Reign, relating to the Trinity House at Montreal.....	do
68.....	An Act to change the tenure of the Indian Lands in the Township of Dundee, in the County of Huntingdon.....	do
69.....	An Act to enable the Huron Indians of La Jeune Lorette, to regulate the cutting of wood in their Reserve.....	do
28 <i>Victoria</i> (1865) 1st Session.		
6.....	An Act respecting the Weighing, Measuring and Gauging of certain Articles of General Consumption.....	do
14.....	An Act to regulate the business of Stevedores and Liners in the Harbor of Montreal.....	do
29 <i>Victoria</i> (1865) 2nd Session.		
38.....	An Act to make further provisions for the management of Permanent Building Societies in Upper Canada.....	do
41.....	An Act respecting the Civil Code of Lower Canada.....	do
46.....	An Act to amend the tenth chapter of the Consolidated Statutes for Lower Canada, respecting Seditious and Unlawful Associations and Oaths.....	do
56.....	An Act further to provide for the deepening of the Ship Channel between Montreal and Quebec.....	do
29 and 30 <i>Victoria</i> —1866.		
20.....	An Act to confirm the Title to Lands held in trust for certain of the Indians resident in this Province.....	do
32.....	An Act to amend the Municipal Act of Lower Canada.....	do
43.....	An Act to amend the Law of Upper Canada relating to Crown Debtors.....	do
45.....	An Act for more effectually securing the Liberty of the Subject.....	do
51.....	An Act respecting the Municipal Institutions of Upper Canada.....	Sec. 409.
58.....	An Act to extend the powers of the Trinity House of Quebec.....	The whole.
REVISED STATUTES, NOVA SCOTIA, 3RD SERIES.		
32.....	Of an Electric Telegraph for Military purposes.....	do
103.....	Of the conveying of Timber and Lumber on Rivers, and the removal of obstructions therefrom.....	do
126.....	Of the Court of Marriage and Divorce.....	do
137.....	Of the relief of Insolvent Debtors.....	do
153.....	Of the Liberty of the Subject.....	do

SCHEDULE B—Continued.

Chap.	Subject of the Act.	Portions which may be in Force.
<i>29 Victoria (N.S.)—1866.</i>		
13.....	An Act to amend the Laws relating to Divorce and Matrimonial Causes.....	The whole.
<i>30 Victoria (N.S.)—1867.</i>		
28.....	An Act to vest in the Crown certain Public Lands in the Town of Lunenburg	do
REVISED STATUTES, N.B.		
92.....	Regulation of sales of Lime	do
93.....	Measurement of Firewood and Bark	do
96.....	Survey and Exportation of Lumber.....	do
120.....	Of Banking	do
122.....	Of Damaged Goods.....	do
124.....	Of Insolvent confined Debtors	The whole, except secs. 9, 13, 14 and 17.
127.....	Of <i>Habeas Corpus</i>	The whole, so far as within the legislative authority of Parliament.
PUBLIC STATUTES, N.B., VOL. 2.		
<i>16 Victoria.</i>		
69.....	An Act relating to the Coast Fisheries, and for the prevention of Illicit Trade.....	Suspended by 35 Vic., c. 2, s. 1, D. See 31 Vic., c. 60.
<i>31 George III.</i>		
5.....	An Act for regulating Marriage and Divorce, and for preventing and punishing Incest, Adultery and Fornication	Secs. 9 and 10.
LOCAL AND PRIVATE STATUTES, N.B., VOL. 3.		
<i>10 Victoria.</i>		
83.....	An Act for the regulation of Benefit Building Societies.....	The whole.
ACTS (N.B.) SINCE THE REVISED STATUTES.		
<i>19 Victoria—1856.</i>		
42.....	<i>Habeas Corpus</i>	So far as it is within legislative authority of Parliament.
47.....	Banking.....	The whole.
<i>23 Victoria—1860.</i>		
28.....	Insolvent confined Debtors	do
<i>25 Victoria—1862.</i>		
18.....	Survey of Lumber.....	do
19.....	Measurement of Firewood and Bark	do

SCHEDULE B—Continued.

Chap.	Subject of the Act.	Portions which may be in Force.
ACTS (N.B.) SINCE THE REVISED STATUTES—Continued.		
26 Victoria—1863.		
10.....	Insolvent confined Debtors	The whole.
29 Victoria—1866.		
22.....	Benefit Building Societies	do
REVISED STATUTES BRITISH COLUMBIA.		
<i>Laws of the formerly separate Colony of Vancouver Island.</i>		
18.....	Issue of Bank Notes and Paper Currency.....	do
19.....	Periodical publication of the Liabilities and Assets of Banks in Vancouver Island and its Dependencies, and the Registration of the names of the Proprietors thereof.....	do
21.....	Electric Telegraphs, Vancouver Island.....	Except as repealed by 44 Vic., c. 26, D. See Table of Repeals.
<i>Laws of British Columbia after the Union of Vancouver Island and British Columbia.</i>		
85.....	Sale of Intoxicating Liquors to Indians.....	Sec. 11.
168.....	Exemption of Cattle in certain cases from Bankruptcy Laws.....	The whole.
REVISED STATUTES, PRINCE EDWARD ISLAND.		
5 George IV.		
18.....	An Act to empower His Excellency the Lieutenant Governor or Commander-in-Chief for the time being to appoint Commissioners to issue Treasury Notes	The whole, except sec. 4.
6 George IV.		
12.....	An Act to authorize the Commissioners named and appointed under an Act made and passed in the fifth year of the reign of His present Majesty, intituled "An Act to empower His Excellency the Lieutenant Governor or Commander-in-Chief for the time being to appoint Commissioners to issue Treasury Notes," to issue Notes of the value of ten shillings each	The whole, except sec. 2.
11 George IV.		
16.....	An Act to authorize a further issue of Treasury Notes, and to continue an Act intituled "An Act to revive and continue two certain Acts therein mentioned	The whole.
1 William IV.		
15.....	An Act to authorize a further issue of Treasury Notes	The whole, except sec. 4.
5 William IV.		
10.....	An Act for establishing a Court of Divorce in this Island, and for repealing a certain Act therein mentioned	do
11.....	An Act to amend and render perpetual certain Laws now in force respecting Treasury Notes.....	do

SCHEDULE B—*Continued.*

Chap.	Subject of the Act.	Portions which may be in Force.
REVISED STATUTES, PRINCE EDWARD ISLAND— <i>Continued.</i>		
7 <i>William IV.</i>		
29.....	An Act for investing all Estates and Property in this Island belonging to, or occupied for, the Ordnance Service in the principal Officers of His Majesty's Ordnance, and for granting certain powers to the said principal Officers.....	The whole.
10 <i>Victoria</i> —1847.		
12.....	An Act to authorize the calling in of all Treasury Notes now in circulation, and the re-issue of the amount thereof from plates of a new design, and to explain and amend the Acts therein mentioned	do
14 <i>Victoria</i> —1851.		
2.....	An Act to consolidate and amend the Laws now in force for the relief of Insolvent Debtors	do
17 <i>Victoria</i> —1854.		
6.....	An Act relating to certain Lease and Monetary Obligations entered into before the passing of the Currency Act.....	do
18 <i>Victoria</i> —1855.		
13.....	An Act to consolidate and amend the Acts now in force relating to the Public Wharf at Georgetown, and other Wharves.....	do
19 <i>Victoria</i> —1856.		
19.....	An Act for transferring to one of Her Majesty's principal Secretaries of State the Powers and Estates vested in the principal Officers of the Ordnance	do
20 <i>Victoria</i> —1858.		
10.....	An Act for better securing the Liberty of the Subject.....	do
22 <i>Victoria</i> —1859.		
3.....	An Act to extend the Criminal Jurisdiction of the Police Court of the City of Charlottetown	do
23 <i>Victoria</i> —1860.		
23.....	An Act to amend the Laws relating to Bills of Lading.....	do
25 <i>Victoria</i> —1862.		
13.....	An Act relating to Limited Partnerships	Sec. 9.
27 <i>Victoria</i> —1864.		
9.....	An Act to amend the Act now in force for the Relief of Insolvent Debtors.....	The whole.

SCHEDULE B—Continued.

Chap.	Subject of the Act.	Portions which may be in Force.
REVISED STATUTES, PRINCE EDWARD ISLAND—Continued.		
29 Victoria—1866.		
11.....	An Act to amend the Act intituled "An Act for establishing a Court of Divorce in this Island, and for repealing a certain Act therein mentioned"	The whole.
37.....	An Act for the regulation of Benefit Building Societies	do
32 Victoria—1869.		
11.....	An Act to provide for the Service of Divorce Process on absent parties	do
34.....	An Act to enable the Government to secure Telegraphic Communication	do
ACTS OF THE PARLIAMENT OF CANADA.		
31 Victoria—1867-68.		
13.....	An Act respecting the construction of "The Intercolonial Railway"	do
17.....	An Act for the settlement of the affairs of the Bank of Upper Canada	do
26.....	An Act to declare certain persons therein mentioned indemnified for having sat and voted as Members of the House of Commons while holding certain offices under the Crown	do
77.....	An Act to enable Her Majesty to provide for the Widow and Children of the late Honorable Thomas D'Arcy McGee	do
79.....	An Act to amend "An Act to provide for the improvement and management of the Harbor of Quebec," and the Act amending the same	do
32-33 Victoria—1869.		
40.....	An Act to provide means for improving the Harbors and Channels at certain Ports in the Provinces of the Dominion	do
42.....	An Act to amend the Act of the late Province of Canada, twelfth Victoria, chapter 114, to consolidate the Laws relative to the powers and duties of the Trinity House of Quebec, and for other purposes	do
43.....	An Act to amend the Act twenty-third Victoria, chapter 123, being an Act incorporating the Corporation of Pilots for and below the Harbor of Quebec	do
44.....	An Act to amend the Act respecting the improvement and management of the Harbor of Quebec	do
33 Victoria—1870.		
3.....	An Act to amend and continue the Act thirty-two and thirty-three Victoria, chapter 3, and to establish and provide for the Government of the Province of Manitoba	Secs. 2, 6 to 24, both inclusive, and sec. 26.
20.....	An Act to amend and extend the Act to provide means for improving the Harbors and Channels at certain Ports in the Provinces of the Dominion	The whole.
24.....	An Act respecting certain Works on the Ottawa River	do
33.....	An Act to continue and make permanent certain Acts and parts of Acts of the Province of New Brunswick relative to the Police Force in the Parish of Portland, in the City and County of St. John	do
34.....	An Act to remedy the inconvenience which would arise from the expiration of the Acts and parts of Acts herein mentioned, before the passing of the Act of this Session to continue the same	do

SCHEDULE B—Continued.

Chap.	Subject of the Act.	Portions which may be in Force.
ACTS OF THE PARLIAMENT OF CANADA—Continued.		
33 Victoria—1870—Continued.		
44.....	An Act further to amend the Acts respecting the improvement and management of the Harbor of Quebec	The whole.
45.....	An Act to authorize the Corporation of the Township of Collingwood, in the County of Grey, to impose and collect Tolls or Harbor Dues at the mouth of Beaver River, and for other purposes	do
46.....	An Act to authorize the Town of Belleville to impose and collect Harbor Dues, and for other purposes	do
34 Victoria—1871.		
2.....	An Act to indemnify the Members of the Executive Government, and others, for the unavoidable expenditure of Public Money, in excess of the Parliamentary Grant, incurred in repelling the threatened invasion of the Fenians in 1870	do
3.....	An Act respecting the Loan authorized by the Act thirty-two and thirty-three Victoria, chapter 1, for the purpose of paying a certain sum to the Hudson's Bay Company	The whole, except the third clause of sec. 1.
8.....	An Act to amend the Act thirty-third Victoria, chapter 40, respecting the settlement of the affairs of the Bank of Upper Canada.....	The whole.
26.....	An Act to authorize the sale or lease of the Rockwood Asylum to the Province of Ontario.....	do
27.....	An Act to prolong, for a certain time, the term allowed for the redemption of Rents reserved on certain Indian Lands in the Township of Dundee	do
28.....	An Act to authorize the Sale of the Oakville Harbor	do
31.....	An Act respecting certain Officers of the Trinity House of Quebec...	do
33.....	An Act to provide for the appointment of a Port Warden for the Harbor of Quebec	do
34.....	An Act further to amend the Acts respecting the improvement and management of the Harbor of Quebec	do
35.....	An Act to extend the provisions of the Act authorizing the imposition and collection of Harbor Dues by the Corporation of the Town of Owen Sound.....	do
36.....	An Act to authorize the incorporated Village of Trenton to impose and collect Harbor Dues, and for other purposes	do
35 Victoria—1872.		
4.....	An Act to indemnify the Members of the Executive Government, and others, for the unavoidable expenditure of Public Money, without Parliamentary Grant, occasioned by the sending of an Expeditionary Force to Manitoba in 1871.....	do
5.....	An Act to amend the Act thirty-fourth Victoria, chapter 3, respecting the Loan for paying a certain sum to the Hudson's Bay Company	The whole, except the first eight lines of sec. 1.
36.....	An Act to amend the Act, chapter 47 of the Consolidated Statutes for Upper Canada, intituled "An Act respecting Rivers and Streams"	The whole.
40.....	An Act for imposing Tonnage Dues and Wharfage Rates, to meet the cost of improving the navigation of the St. Lawrence between Montreal and Quebec	do
41.....	An Act to extend the Acts thirty-second and thirty-third Victoria, chapter 40, and thirty-third Victoria, chapter 20, to the Port of Collingwood.....	do
42.....	An Act to provide for the appointment of a Harbor Master for the Port of Halifax	do

SCHEDULE B—Continued.

Chap.	Subject of the Act.	Portions which may be in Force.
ACTS OF THE PARLIAMENT OF CANADA—Continued.		
36 Victoria—1873.		
10.....	An Act to add to the number of the Members of the Corporation of the Trinity House of Quebec, and to increase the powers thereof.....	The whole.
11.....	An Act to amend the Acts relating to Port Wardens at Montreal and Quebec.....	do
12.....	An Act to amend the Act to provide for the appointment of a Harbor Master for the Port of Halifax.....	do
33.....	An Act respecting the Ocean Mail Service.....	do
45.....	An Act to amend the Act respecting the construction of the Inter-colonial Railway.....	do
55.....	An Act respecting Wreck and Salvage.....	Secs. 38 and 39.
60.....	An Act to make further provision for the improvement of the River St. Lawrence between Montreal and Quebec.....	The whole.
61.....	An Act respecting the Trinity House and Harbor Commissioners of Montreal.....	do
62.....	An Act further to amend the Acts to provide for the management and improvement of the Harbor of Quebec.....	do
63.....	An Act respecting the Harbor of Pictou, in Nova Scotia.....	do
64.....	An Act to amend the Act respecting Joint Stock Companies to construct Works to facilitate the transmission of Timber down Rivers and Streams.....	do
37 Victoria—1874.		
2.....	An Act to authorize the raising of a Loan for the construction of certain public works, with the benefit of the Imperial Guarantee for a portion thereof.....	do
11.....	An Act to indemnify Stanislaus Francis Perry for having sat and voted as a Member of the House of Commons, under the circumstances therein mentioned.....	do
14.....	An Act to provide for the construction of the Canadian Pacific Railway.....	do
15.....	An Act to amend the Act respecting the construction of the Inter-colonial Railway.....	do
16.....	An Act to authorize the transfer of the Windsor Branch of the Nova Scotia Railway to the Western Counties Railway Company...	do
17.....	An Act to authorize the advance of a certain sum to the Province of British Columbia for the construction of a Graving Dock at Esquimalt, and for other purposes.....	Sec. 1.
18.....	An Act to authorize the purchase of the Pier or Breakwater at Cow Bay, Nova Scotia, and to provide for its maintenance.....	The whole.
31.....	An Act to amend the Act respecting the Trinity House and Harbor Commissioners of Montreal.....	do
50.....	An Act to make further provision for the management of Permanent Building Societies carrying on business in the Province of Ontario.....	do
38 Victoria—1875.		
22.....	An Act respecting the Intercolonial Railway.....	do
23.....	An Act respecting the Lien of the Dominion on the Northern Railway of Canada.....	do
55.....	An Act respecting the Trinity House and Harbor Commissioners of Quebec.....	The whole, except secs. 4 and 15.
56.....	An Act respecting the Graving Dock in the Harbor of Quebec, and authorizing the raising of a Loan in respect thereof.....	The whole.

SCHEDULE B—Continued.

Chap.	Subject of the Act.	Portions which may be in Force.
ACTS OF THE PARLIAMENT OF CANADA—Continued.		
39 Victoria—1876.		
6.....	An Act to amend the Act thirty-eight Victoria, chapter 23, respecting the Northern Railway of Canada	The whole.
16.....	An Act respecting the Intercolonial Railway.....	do
17.....	An Act respecting the Desjardins Canal.....	do
38.....	An Act to remove doubts under the Acts therein mentioned respecting the Harbor Commissioners of Montreal, and to amend the same	do
39.....	An Act to remove doubts under the Acts therein mentioned respecting the Corporation of the Quebec Harbor Commissioners	do
40 Victoria—1877.		
2.....	An Act respecting the Act further securing the Independence of Parliament.....	do
3.....	An Act respecting the Great Seals of the Provinces of Canada, other than Ontario and Quebec	do
46.....	An Act to authorize the transfer of the Truro and Pictou Branch of the Intercolonial Railway, to the person or company constructing a line of railway from New Glasgow to the Strait of Canso, and providing a proper ferry across the Strait	do
47.....	An Act respecting the claim of the Dominion on the Northern Railway Company of Canada.....	do
48.....	An Act to amend the Act thirty-seventh Victoria, chapter 50, respecting Permanent Building Societies in Ontario	do
49.....	An Act to amend the "Act to make further provision for the management of Permanent Building Societies carrying on business in the Province of Ontario".....	do
50.....	An Act to make further provision respecting the constituting and management of Building Societies in the Province of Quebec.....	do
51.....	An Act further to amend the Acts to provide for the management of the Harbor of Quebec, and the "Pilotage Act, 1873".....	The whole, except secs. 6 and 7.
52.....	An Act to authorize the Town of Kincardine, in the County of Bruce, to impose and collect certain Tolls at the Harbor in the said Town.....	The whole.
53.....	An Act respecting Tolls in the Harbor of Montreal.....	do
41 Victoria—1878.		
16.....	An Act respecting the traffic in Intoxicating Liquors	Sec. 124.
22.....	An Act to amend the Law respecting Building Societies carrying on business in the Province of Ontario	The whole.
42 Victoria—1879.		
10.....	An Act to amend an Act intituled "An Act respecting the Intercolonial Railway," passed in the thirty-ninth year of the reign of Her Majesty Queen Victoria	do
11.....	An Act for the acquisition by the Dominion of a certain portion of the Grand Trunk Railway, to be made part of the Intercolonial Railway	do
12.....	An Act to amend "The Truro and Pictou Railway Transfer Act, 1877"	do
13.....	An Act to amend "The Canadian Pacific Railway Act, 1874"	do
14.....	An Act further to amend "The Canadian Pacific Railway Act, 1874"	do
28.....	An Act to amend the Acts respecting the Trinity House and Harbor Commissioners of Montreal.....	do
29.....	An Act to amend the "Act respecting the Harbor of Pictou, in Nova Scotia".....	do
30.....	An Act respecting the Harbor of North Sydney, in Nova Scotia.....	do

SCHEDULE B—Continued.

Chap.	Subject of the Act.	Portions which may be in Force.
ACTS OF THE PARLIAMENT OF CANADA—Continued.		
42 Victoria—1879—Continued.		
48.....	An Act to provide for the Liquidation of the affairs of Building Societies in the Province of Quebec	The whole.
49.....	An Act respecting Building Societies carrying on business in the Province of Ontario	do
51.....	An Act to amend so much of the Act thirty-third Victoria, chapter 46, as relates to the imposition and collection of Dues and Tolls upon Logs, Timber, Pine, Cedar and Railway Ties passing down the River Moira, through the Port of Belleville.....	do
43 Victoria—1880.		
8.....	An Act to confirm the purchase, by the Dominion, of a portion of the Grand Trunk Railway, and the agreement made with the Grand Trunk Railway Company of Canada with respect thereto	do
9.....	An Act to amend the Act respecting Joint Stock Companies to construct works to facilitate the transmission of Timber down Rivers and Streams.....	do
15.....	An Act to confirm a certain Order of the Governor in Council respecting the Graving Dock at Esquimalt.....	do
16.....	An Act to ratify and confirm a certain agreement therein mentioned between the Government of Canada and the Canada Central Railway Company.....	do
17.....	An Act to authorize the raising of a further sum to enable the Quebec Harbor Commissioners to complete their Tidal Dock.....	do
31.....	An Act to amend the Acts respecting the Trinity House and Harbor Commissioners of Montreal.....	do
32.....	An Act to enable the Harbor Commissioners of Montreal to pay a life annuity to the Widow of the late Honorable John Young..	do
33.....	An Act further to amend "An Act respecting the Harbor of Pictou, in Nova Scotia.....	do
43.....	An Act for the relief of Permanent Building Societies and Loan Companies	do
44 Victoria—1881.		
1.....	An Act respecting the Canadian Pacific Railway.....	do
3.....	An Act to authorize the raising by way of Loan of certain sums of Money required for the Public Service	do
7.....	An Act to amend the Act thirty-sixth Victoria, chapter 60, respecting the Montreal Harbor Commissioners.....	do
18.....	An Act relating to the Canada Military Asylum at Quebec.....	do
33.....	An Act to provide for the incorporation of a Company to establish a Marine Telegraph between the Pacific Coast of Canada and Asia	do
45 Victoria—1882.		
7.....	An Act to provide for the allowance of drawback on certain articles manufactured in Canada, for use in the construction of the Canadian Pacific Railway.....	do
13.....	An Act to increase the amount placed at the disposal of the Governor in Council by the Act thirty-four Victoria, chapter 8, for paying off claims on the Bank of Upper Canada.....	do
14.....	An Act to provide for the granting of subsidies for the construction of certain Lines of Railway therein mentioned.....	do
15.....	An Act to provide for building certain Branch Lines of Railway from points on the Intercolonial Railway and Prince Edward Island Railway respectively.....	do
16.....	An Act respecting the Windsor Branch of the Intercolonial Railway.	do

SCHEDULE B—Continued.

Chap.	Subject of the Act.	Portions which may be in Force.
ACTS OF THE PARLIAMENT OF CANADA—Continued.		
45 Victoria—1882—Continued.		
17.....	An Act to encourage the construction of Dry Docks by granting assistance on certain conditions to Companies constructing them.....	The whole.
24.....	An Act to further amend the law respecting Building Societies and Loan and Savings Companies carrying on business in the Province of Ontario.....	
42.....	An Act concerning Marriage with a Deceased Wife's Sister.....	do
43.....	An Act further to amend the Act respecting the Trinity House and Harbor Commissioners of Montreal.....	do
44.....	An Act to make further provision for the improvement of the River St. Lawrence, between Montreal and Quebec.....	do
45.....	An Act to amend and consolidate the Acts relating to the Office of Port Warden for the Harbor of Montreal.....	do
47.....	An Act further to amend the Acts to provide for the improvement and management of the Harbor of Quebec.....	do
49.....	An Act to amend the Act thirty-fifth Victoria, chapter 42, respecting the appointment of a Harbor Master for the Port of Halifax.....	do
50.....	An Act to amend the Act respecting the Harbor of North Sydney, in Nova Scotia.....	do
51.....	An Act relating to the Harbor of St. John, in the Province of New Brunswick.....	do
52.....	An Act to provide for the improvement and management of the Harbor of Three Rivers.....	do
53.....	An Act to authorize the construction, on certain conditions, of the Canadian Pacific Railway through some Pass other than the Yellow Head Pass.....	do
54.....	An Act to make further provision respecting the incorporation of a Company to establish a Marine Telegraph between the Pacific Coast of Canada and Asia.....	do
55.....	An Act to provide for the granting of a subsidy to the Chignecto Marine Transport Railway Company (limited).....	do
46 Victoria—1883.		
3.....	An Act to authorize the raising by way of loan of certain sums of money required for the Public Service.....	do
10.....	An Act respecting the High Court of Justice of Ontario.....	do
14.....	An Act to encourage the manufacture of Pig Iron in Canada from Canadian Ore.....	do
21.....	An Act to amend the Act passed in the forty-fifth year of the reign of Her present Majesty, intituled "An Act to repeal the duty on Promissory Notes, Drafts and Bills of Exchange".....	do
25.....	An Act for authorizing Subsidies for the construction of the Lines of Railway therein mentioned.....	do
26.....	An Act to provide for advances to be made by the Government of Canada to "The Saint John Bridge and Railway Extension Company".....	do
31.....	An Act to legalize proceedings taken for the Naturalization of certain Aliens in the Province of Manitoba.....	do
38.....	An Act to make further provision for deepening the Ship Channel of the River St. Lawrence, between Montreal and Quebec.....	do
39.....	An Act to amend the Act thirty-sixth Victoria, chapter 62, and the Act forty-third Victoria, chapter seventeen, respecting the Quebec Harbor Commissioners.....	do
40.....	An Act to amend the Act thirty-eighth Victoria, chapter 56, intituled "An Act respecting the Graving Dock in the Harbor of Quebec, and authorizing the raising of a Loan in respect thereof".....	do
41.....	An Act respecting the Harbor Master of the Harbor of Three Rivers.....	do
42.....	An Act further to amend the Act respecting the Harbor of Pictou.....	do
45.....	An Act further to amend the Act respecting the incorporation of a Company to establish a Marine Telegraph between the Pacific Coast of Canada and Asia.....	do

SCHEDULE B—*Continued.*

Chap.	Subject of the Act.	Portions which may be in Force.
ACTS OF THE PARLIAMENT OF CANADA— <i>Continued.</i>		
47 <i>Victoria</i> —1884.		
1.....	An Act to amend the Act intituled " An Act respecting the Canadian Pacific Railway, and for other purposes.....	The whole.
2.....	An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the Public Service, for the financial years ending respectively the 30th June, 1884, and the 30th June, 1885, and for other purposes relating to the Public Service.....	do
3.....	An Act to authorize the raising, by way of loan, of certain moneys required for the Public Service.....	do
5.....	An Act for giving effect to an agreement therein mentioned between the Government of the Dominion and that of Nova Scotia.....	do
6.....	An Act respecting the Vancouver Island Railway, the Esquimalt Graving Dock, and certain Railway Lands of the Province of British Columbia, granted to the Dominion.....	The whole, except secs. 11 and 12.
7.....	An Act to authorize a further advance to the Province of Manitoba in aid of the Public Schools therein.....	The whole.
8.....	An Act to authorize certain subsidies and grants for and in respect of the construction of the Lines of Railway therein mentioned.	do
9.....	An Act to make further provision towards the completion of the Tidal Dock in the Harbor of Quebec.....	do
10.....	An Act to authorize the advance of a further sum for completing the Graving Dock in the Harbor of Quebec.....	do
14.....	An Act respecting the Independence of Parliament Act, 1878, forty-first <i>Victoria</i> , chapter 5.....	Secs. 2, 3 and last paragraph of 4.
24.....	An Act respecting the Territory in dispute between the Dominion of Canada and the Province of Ontario.....	The whole.
32.....	An Act to amend " The Liquor License Act, 1883 ".....	Sec. 26.
40.....	An Act to amend the Acts fortieth <i>Victoria</i> , chapter 49 and forty-fifth <i>Victoria</i> , chapter 24, being Acts relating to Permanent Building Societies and Loan and Savings Companies carrying on business in Ontario.....	The whole.

SCHEDULE C.

ACTS AND PARTS OF ACTS to be repealed so far as they constitute indictable offences 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."

Chap.	Subject of the Act.	Portions which may be in Force.
CONSOLIDATED STATUTES OF CANADA.		
39.....	An Act respecting Inoculation and Vaccination	Sec. 1.
73.....	An Act respecting Private Lunatic Asylums.....	Secs. 17, 26, 30, 43, 46, 48, 49, 50, 52, 54 and 56; sub-sec. 4 of sec. 60, and secs. 64 and 66.
77.....	An Act respecting Land Surveyors and the Survey of Lands	Sec. 31.
82.....	An Act respecting the calling and orderly holding of Public Meetings	Sec. 14.
CONSOLIDATED STATUTES FOR UPPER CANADA.		
19.....	An Act respecting the Division Courts.....	Sec. 48.
64.....	An Act respecting Common Schools in Upper Canada.....	Sec. 18.
125.....	An Act respecting Inquests by Coroners	Sec. 9.
128.....	An Act respecting the administration of Justice in the unorganized Tracts	Sec. 17.
CONSOLIDATED STATUTES FOR LOWER CANADA.		
109.....	An Act respecting Houses of Correction, Court Houses and Gaols.....	The last paragraph of sec. 17.
STATUTES OF THE LATE PROVINCE OF CANADA.		
<i>24 Victoria—1861.</i>		
18.....	The Joint Stock Companies' General Clauses Consolidation Act.....	Sec. 28.
<i>28 Victoria (1865), 1st Session.</i>		
8.....	An Act to define the right of property in Swarms of Bees, and to exempt them from seizure in certain cases.....	Sec. 5.
<i>29 Victoria (1865), 2nd Session.</i>		
25.....	An Act for quieting Titles to Real Estate in Upper Canada.....	Secs. 48 and 50.
REVISED STATUTES, BRITISH COLUMBIA.		
<i>Laws of the formerly separate Colony of British Columbia.</i>		
41.....	Proclamation for giving authority to the Municipal Council of New Westminster to raise a Loan or Loans upon the security of the Revenues of the said City	Sec. 6.

SCHEDULE C—Continued.

Chap.	Title of Act.	Portions which may be in Force.
REVISED STATUTES, BRITISH COLUMBIA—Continued.		
<i>Laws of British Columbia after the Union of Vancouver Island and British Columbia.</i>		
77.....	An Ordinance to assimilate the Law exempting the Homestead and other Property from forced seizure and sale in certain cases in all parts of the Colony of British Columbia.....	Sec. 4.
88.....	An Ordinance respecting Practitioners in Medicine and Surgery.....	Sec. 10.
89.....	An Ordinance to regulate the Solemnization of Marriages.....	Sec. 13.
90.....	An Ordinance to amend the Laws relating to Gold Mining.....	Sec. 152.
141.....	An Ordinance to make general regulations for the establishment and management of Cemeteries in the Colony of British Columbia.....	Sec. 10.
143.....	An Ordinance to assimilate the Law relating to the Transfer of Real Estate, and to provide for the Registration of Title to land throughout the Colony of British Columbia.....	Sec. 80.
156.....	An Act to amend the Law as to the Qualification of Electors, and of Elective Members for the Legislature, and to provide for the Registration of Persons entitled to Vote at Elections of such Members.....	Sec. 18.
157.....	An Act to regulate Elections of Members of the Legislature of this Colony.....	Secs. 30, 67, 68, 69, 96, 97 and 106.
158.....	An Act to prevent Bribery, Treating and Undue Influence at Elections of Members of the Legislature.....	So much as relates to indictable offences.

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