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ACTS

OF THE PARLIAMENT

OF THE

DOMINION OF CANADA

RELATING TO

CRIMINAL LAW

AND TO

PROCEDURE IN CRIMINAL CASES;

Passed in the 2nd, 3rd and 4th Sessions of the Third Parliament of Canada.

32000



OTTAWA:

PRINTED BY BROWN CHAMBERLIN.

LAW PRINTER TO THE QUEEN'S MOST EXCELLENT MAJESTY, PROPERTY OF

ANNO DOMINI, 1877

LAKELAND COLLEGE
FORT ARTHUR. 1887

Robert Laird
Solicitor General
NOTE. Price Arthur Laird

This volume is a reprint of such Statutes of the Parliament of Canada, passed from 1875 to 1877, both inclusive, as have reference exclusively (or almost entirely so) to Criminal Law or Procedure.

Being reprints, no alterations have been made where sections have been amended or repealed. Any amending or repealing Acts will be found in the volume.

It must be noted also that very many of the General Statutes of Canada, passed during the same period, have penal clauses inserted in them. Such clauses are not to be found in this volume. For access to them, reference must be had to the volume of Statutes of each year, in which such Statutes appear at length



38 VICTORIA.

CHAP. 38.

An Act to amend the Acts for the better Preservation of the Peace in the vicinity of Public Works.

[Assented to 8th April, 1875.]

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

1. The operation of the Act passed in the Session held in the thirty-second and thirty-third years of Her Majesty's reign, and intituled "*An Act for the better Preservation of the Peace in the vicinity of Public Works,*" as the same is amended by the Act passed in the thirty-third year of Her Majesty's reign, intituled "*An Act to amend an Act for the better Preservation of the Peace in the vicinity of Public Works,*" is hereby extended to any place or places in Canada, within the limits or in the vicinity whereof any railway, canal, road, bridge or other work of any kind is in progress of construction, and to any place or places at or near which any mining operations are being carried on, and to which the Governor in Council may deem it expedient to apply the provisions of the said Acts—whether such work be constructed or carried on by the Government of Canada or of any Province of Canada, or by any incorporated company, or by any municipal corporation, or by private enterprise; and the expression "Public Work" in the said Acts or either of them shall hereafter be understood to include any such work as aforesaid, and the Governor in Council shall have the same powers with reference to any such work as with reference to works constructed by the Government of Canada.

Acts 32-33 V., c. 24; and 33 V., c. 28 cited.

And extended to certain other works.

Expression "Public Work," interpreted.

CHAP. 39.

An Act to amend the provisions of “An Act to amend the Criminal Law relating to Violence, Threats and Molestation.”

[Assented to 8th April, 1875.]

Preamble.
35 V., c. 31.

WHEREAS it is expedient to amend the provisions of the Act of the thirty-fifth year of Her Majesty's reign, chapter thirty-one, intituled “*An Act to amend the Criminal Law relating to violence, threats and molestation:*” Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Sect. 1 of the
said Act
repealed.

1. The first section of the Act of the thirty-fifth year of Her Majesty's reign, chapter thirty-one, intituled “*An Act to amend the Criminal Law relating to violence, threats and molestation,*” is hereby repealed, and instead thereof it is enacted as follows, that is to say:—

“Every person who does any of the following Acts with the view as hereinafter mentioned, that is to say, who—

“1. Uses violence to any other person, or to the property of any other person; or

“2. Threatens or intimidates any other person in such manner as would justify a Justice of the Peace (on complaint made to such Justice] in binding over to keep the peace the person so threatening or intimidating; or

“3. Molests or obstructs any other person—

“a. By persistently following him about from place to place; or

“b. By following him in or through any street or road, with two or more persons, in a disorderly manner; or

“c. By hiding or depriving him of, or hindering him in the use of any tools, clothes or property, owned or used by him—

“With a view, in the case of any such Act as aforesaid, thereby to coerce such other person,—

“(1.) Being a master, to dismiss or to cease to employ any workman, or being a workman to quit any employment, or to return work before it is finished; or—

“(2.)

“(2.) Being master, not to offer, or being a workman, not to accept, any employment or work ; or—

“(3.) Being a master or workman, to belong or not to belong to any temporary or permanent association or combination ; or—

“(4.) Being a master or workman, to pay any fine or penalty imposed by any temporary or permanent association or combination ; or—

“(5.) Being a master, to alter the mode of carrying on his business, or the number or description of any persons employed by him, with a view to coerce such master or other person,—

“Shall be liable to imprisonment, for a term not exceeding three months”

Punishable by imprisonment for three months.

2. A prosecution shall not be maintainable against a 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 indictable by Statute or is punishable under the provisions of this Act ; nor shall any person, who is convicted upon any such prosecution, be liable to any greater punishment than is provided by such Statute or by this Act for the of which he may have been convicted as aforesaid.

In what cases only prosecution shall be maintainable for trade combination ; Punishment limited.

3. For the purposes of this Act, “trade combination” means any combination between masters or workmen or other persons, for regulating or altering the relations between 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 word “act” includes a default, breach or omission.

Interpretation of “Trade combination.”

4. The Act hereby amended shall be construed as if the provisions of this Act were substituted for the first section of the said Act.

Amended Act how to be construed.

CHAP. 40.

An Act to amend the Act intituled "An Act respecting Larceny and other similar offences."

[Assented to 8th April, 1875.]

Preamble.

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

Sec. 111 of 32, 33 V., c. 21, repealed. Another substituted.

1. Section one hundred and eleven of the Act passed in the Session held in the thirty-second and thirty-third years of Her Majesty's reign, and intituled "*An Act respecting Larceny and other similar offences,*" is hereby repealed, and the following substituted to be read in lieu thereof:—

Appropriating timber, &c., found adrift, or defacing marks, &c., or refusing delivery to owner, a misdemeanor.

"III. Whosoever, without the consent of the owner thereof, takes, holds or keeps in his possession, or collects or conceals, or receives, or appropriates, or purchases, or sells or causes or procures or assists to be taken possession of, or collected, or concealed, or received, or appropriated, or 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 whosoever, 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 whosoever 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 whosoever 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 lumber, mast, spar, saw-log, or other description of lumber, is guilty of a misdemeanor, punishable in like manner as simple larceny; and in any prosecution, proceeding or trial for any offence under this section a timber-mark, duly registered under the provisions of the Act past in the thirty-third year of Her Majesty's reign, intituled '*An 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 or owners of such timber mark; and possession by any such offender, or by others in his employ, or on his behalf, of any such timber, mast, spar, saw-log, or other description of lumber 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

How punishable.

33 V., c. 36.

Evidence on trial of offence against this section.

“lawfully into his possession, or the possession of such
“others in his employ or on his behalf as aforesaid.”

(2.) “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 trademark
“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,—it shall be lawful for
“such constable or peace officer to enter into or upon the
“same, and search or examine, for the purpose of ascertain-
“ing whether such timber, mast, spar, saw-log or other
“description of lumber is detained therein without such
“knowledge and consent.”

Search for
timber un-
lawfully
detained.

CHAP. 41.

An Act for suppressing Gaming Houses, and to punish the
keepers thereof.

[Assented to 8th April, 1875.]

*and 40th &c
Chap 32, 33.*

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

1. If the Chief Constable, Deputy Chief Constable, or other
officer authorized to act in his absence, of any city or town
shall report 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 is kept or used as a common gaming house, it
shall be lawful for the said commissioners or commissioner,
or Mayor, or the said Police Magistrate, by order in writing,
to authorize the said Chief Constable, Deputy Chief Con-
stable or other officer as aforesaid, to enter any such house,
room or place with such constables as may be deemed requi-
site by the said Chief Constable, Deputy Chief Constable or
other officer as aforesaid, 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 shall be 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 magis-
trate, &c., on
report in
writing, may
authorize
constables to
enter or
break open
doors of com-
mon gaming
houses, and
seize all in-
struments of
gaming, mo-
neys, &c., and
take into cus-
tody all per-
sons found
therein.

Constables may search for instruments of gaming.

2. It shall be lawful for the Chief Constable, Deputy Chief Constable or other officer as aforesaid, making such entry as aforesaid, in obedience to any such order as aforesaid, with the assistance of any constable or constables accompanying him, to search all parts of the house, room or place which he shall have so entered, where he shall suspect that tables or instruments of gaming are concealed, and all persons whom he shall find therein, and to seize all tables and instruments of gaming which he shall so find.

What shall be deemed evidence of gaming.

3. When any cards, dice, balls, counters, tables or other instruments of gaming used in playing any unlawful game, shall be 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 be 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 have been found were playing therein, although no play was actually going on in the presence of the Chief Constable, Deputy Chief Constable or other officer as aforesaid, 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; and it shall be lawful for the Police Magistrate or other justice before whom any person is taken by virtue of such order or warrant as aforesaid, to direct all such tables and instruments of gaming to be forthwith destroyed.

Instruments of gaming may be destroyed.

Penalty on persons obstructing the entry of constables, &c., authorized to enter any house suspected to be a common gaminghouse.

4. Any person who wilfully prevents any constable or other officer authorized under either of the preceding sections of this Act 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 any person 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, on a summary conviction before the Police Magistrate, or Mayor, or other Justice of the Peace before whom he or they may be brought, be adjudged to pay any penalty not exceeding one hundred dollars, with such costs attending the conviction as to the said Police Magistrate or Mayor or Justice of the Peace appear reasonable, and on non-payment (or, in the first instance, if it seem fit to the said Police Magistrate or Justice of the Peace), may be committed with or without hard labour for a period not exceeding six months.

5. When 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 where 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 be made to appear, that such house, room or place is used as a common gaming house within the meaning of this Act, and of any former Acts relating to gaming, and that the persons found therein were unlawfully playing therein.

What shall be sufficient evidence that a house is a common gaming house.

6. It shall be lawful for the Police Magistrate or Mayor or justice before whom any persons are brought who have been found in any house, room, or place, entered in pursuance of any warrant or order issued under this Act, to require any of such persons 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, or Mayor, or justice as aforesaid, or from being so examined at any subsequent time by or before the Police Magistrate, or Mayor, or the same or any other 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 as aforesaid, 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.

Magistrate, &c., may require any of the persons apprehended to be sworn and give evidence.

Penalty for refusing to be sworn.

Every person so required to be examined as a witness as aforesaid, who upon such examination shall make true discovery to the best of his knowledge of all things as to which he is so examined, shall receive from the judge, justice,

Persons required to be examined as witnesses, and making a full

discovery, to be freed from all penalties, &c., on certificate.

Proviso: what the certificate must show.

justice, 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 may have become liable for anything done before that time in respect of the matters touching which he has so been examined; but such certificate shall not be effectual for the purpose aforesaid, unless it states that such witness made a true disclosure touching all things as to which he has been examined; and upon the production and proof of such certificate as aforesaid, any action, indictment, or proceedings pending or brought in any court against such witness in respect of any act of gaming touching which he was so examined, shall be stayed 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, to stay the proceedings aforesaid.

CHAP. 42.

An Act to prevent Cruelty to animals while in transit by Railway or other means of conveyance within the Dominion of Canada.

[Assented to 8th April, 1875.]

Preamble.

WHEREAS the transportation of cattle, by railway or vessels, for long distances without rest, food, or water is liable to cause suffering from hunger, thirst and fatigue, and whereas it is expedient to make provisions for the regulation of the transportation or conveyance of live stock over the lines of railway, and by vessels, within the Dominion of Canada: Therefore 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 the term "Cattle" shall include any horse, mule, ass, swine, sheep, or goat, as well as any neat cattle or animal of the bovine species, and whatever be the age or sex of the animal, and by whatever technical or trivial name it may be known, and shall apply to one animal as well as many.

Cattle, &c., on Railways and Vessels not to be kept more than 28 hours

2. No railway company within the Dominion of 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

from any part of a Province to another part of the same, nor the 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. 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,—it being the intention of this Act to prevent their continuous confinement beyond a period of twenty-eight hours, except upon the contingencies hereinbefore stated.

without unloading them for food, rest, &c.

Exception.

Time, how reckoned.

3. 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 the 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.

To be properly fed, &c. during such rest.

At whose expense. Lien for expense.

4. Where cattle are unladen from cars for the purpose of receiving food, water and rest, it shall be the duty of the railway company then having charge of the cars in which they have been transported, to clear the floors of such cars, and to litter the same properly with clean saw-dust or sand before reloading them with live stock, except during a period of frost.

Cars to be cleaned out.

5. Any railway company, owner or master of a vessel, having cattle in transit as aforesaid, who shall knowingly and wilfully fail to comply with the provisions contained in the second section of this Act, shall for each and every such failure to comply with its provisions, forfeit and pay as a penalty a sum not exceeding one hundred dollars for each case in which such provisions are disregarded: Provided, however, that when cattle are carried in any car or vessel, in which they can and do have proper space and opportunity for rest and proper food and water, the foregoing provisions in the second section contained in regard to their being unladen shall not apply.

Penalty for contravention.

Proviso, when food and space are furnished.

Constable may enter premises to see if Act is complied with.

6. Any peace officer or constable may at all times enter on 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 requirements of this Act, 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; and if any person refuses admission to such peace officer or constable acting under this section, such person shall be deemed guilty of an offence against this Act.

Penalty for contravention of s. 6.

7. If any person is guilty of any offence against this Act, as in the last preceding section mentioned, he shall, for every such offence, forfeit and pay such a sum of money not exceeding twenty dollars, nor less than five dollars, with costs, as to any one Justice of the Peace, for the district, county or place in which the offence has been committed, may seem meet.

Imprisonment in default of payment.

8. The offender shall in default of payment be committed to the common jail or other place of confinement for the district, county or place in which the offence was committed, there to be imprisoned for any time not exceeding thirty days.

Right of suit for damages not affected.

9. Nothing in this Act contained shall prevent or abridge any remedy by action against the offender or his employer where the amount of the damage is not sought to be recovered by virtue of this Act.

Application of penalty and limitation of suits.

10. Every penalty recoverable under this Act shall belong to the Crown; and every proceeding for the recovery of such penalty shall be commenced within one month next after the committing of the offence.

Act 32-33 V., c. 31 to apply.

11. Every offence against the seventh section of this Act may be prosecuted in the manner directed by the "*Act respecting the duties of Justices of the Peace out of Sessions in relation to summary convictions and orders,*" so far as no provision is hereby made for any matter or thing which may be required to be done with respect to such prosecution; and all the provisions contained in the said Act shall be applicable to such prosecutions in the same manner as if they were incorporated in this Act.

CHAP. 43.

An Act to amend the Act respecting Procedure in Criminal Cases and other matters relating to Criminal Law.

[Assented to 8th April, 1875.]

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

I. Section ninety-eight of the Act passed in the Session held in the 32nd and 33rd years of the reign of Her Majesty, intituled "*An Act to amend the Act respecting Procedure in Criminal Cases and other matters relating to Criminal Law*," is hereby repealed, and the following substituted therefor:—

"98. Provided always that the Court before which 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, in its discretion, sentence such offender to imprisonment in the reformatory prison (if any) in the Province in which such conviction takes place; and such imprisonment shall in such case be substituted 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, which shall be construed subject to this provision: 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.

Preamble.

New Section substituted for Section 98 of 32 and 33 Vict., c. 29.

Juvenile offenders may be sent to Reformatory Prison.

Proviso, as to length of confinement.

CHAP. 44.

An Act respecting Penitentiaries and the Inspection thereof, and for other purposes.

[Assented to 8th April, 1875.]

WHEREAS "*The British North America Act, 1867*," places the penitentiaries of the Provinces forming the Dominion of Canada, under the control of the Government of Canada, and it is expedient to make better provision for the proper management and maintenance of the same: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Preamble.

Chap. 110
Con. Stat.
Can. and
Chap. 111,
Con. Stat.
Can. to
remain
repealed.

1. The Act passed by the legislature of the late Province of Canada, in the twenty-second year of Her Majesty's reign, being chapter one hundred and ten of the Consolidated Statutes of the said Province, intituled "*An Act respecting Inspectors of Public Asylums, Hospitals, the Provincial Penitentiary of Canada, and of all Common Gaols and other Prisons;*" and the Act passed by the said legislature in the same year of Her Majesty's reign, being chapter one hundred and eleven of the Consolidated Statutes of the said Province, intituled "*An Act respecting the Provincial Penitentiary of Canada,*"—shall remain repealed :

N.S., 27 V.,
c. 22, and
N.B., 17 V.,
c. 91 to
remain
repealed in
part as by 31
V., c. 75,
Canada.

And such parts of the Act passed by the legislature of the Province of Nova Scotia, in the twenty-seventh year of Her Majesty's reign, intituled "*An Act for revising and consolidating the Statutes and Laws of the Province,*" Part one, Title five, Chapter twenty-two,—and also such parts of the Act passed by the legislature of the Province of New Brunswick, in the seventeenth year of Her Majesty's reign, intituled "*An Act to revise and consolidate the Public Statutes of New Brunswick,*" Part one, Title sixteen, Chapter, ninety-one,—as relate to the Penitentiary in each of the said last mentioned Provinces, and are repealed by the Acts of the Parliament of Canada hereinafter repealed, shall remain repealed, and such other parts thereof as are inconsistent with the provisions of this Act, are hereby repealed :

And other
parts inconsis-
tent with
this Act.

Acts of
Canada, 31
V., c. 75, and
33 V., c. 30,
and 36 V., c.
52 repealed.

The Act passed by the Parliament of Canada in the thirty-first year of Her Majesty's reign, chapter seventy-five, and intituled "*An Act respecting Penitentiaries and the Directors thereof and for other purposes;*" and the Act passed by the said Parliament in the thirty-third year of Her Majesty's reign, chapter thirty, intituled "*An Act to amend 'The Penitentiary Act of 1868,'*" and the Act passed in the thirty-sixth year of Her Majesty's reign, chapter fifty-two, intituled "*An Act to extend the Act passed in the thirty-third year of Her Majesty's reign, intituled 'An Act to amend the Penitentiary Act of 1868,'*" are hereby repealed.

Effect of
repeal
limited.

2. The repeal of the Acts and parts of Acts above set forth, shall not operate so as to revive any former Act, or any part or portion of any former Act, of which the said Acts or parts of Acts may have been an amendment or amendments, nor shall such repeal affect anything heretofore done under the said Acts or parts of Acts, nor any claim, suit or action arising therefrom, and now pending in any court of law or equity in virtue of such repealed Acts or parts of Acts, or any of them; but such thing, claim, suit or action shall remain the same as if this Act had not been passed.

INSPECTOR.

3. All the penitentiaries in Canada and such other prisons, hospitals, asylums and other public institutions as may, from time to time, be 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.

Penitentiaries, prisons, &c., to be under control of Minister of Justice.

4. It shall be lawful for the Governor in Council to appoint some fit and proper person to be Inspector of all penitentiaries and of such other prisons, hospitals, asylums and other public institutions as may, from time to time, be designated by the Governor in Council,—and who shall, as such Inspector, act as the representative of the Minister of Justice, and hold office during pleasure.

Governor to appoint Inspector, &c., under the Minister.

The said Inspector shall be an officer of the Department of Justice, and shall receive a salary of two thousand dollars per annum, exclusive of his travelling expenses, which shall be determined by the Governor in Council.

Inspector to be an officer of Department of Justice. Salary, &c.

6. The said Inspector shall, at least twice a year, and oftener, if ordered by the Minister of Justice so to do, visit, examine and report to him upon the state and management of all the penitentiaries, and all suggestions which the Wardens thereof may have made for their improvement.

Inspector to visit Penitentiaries and report to Minister.

7. The said Inspector shall keep an exact record of all minutes of inspection made by him in the inspection books of the various institutions, together with all his proceedings in connection therewith, and shall transmit monthly a copy thereof under his hand to the Minister of Justice.

To keep and transmit minutes of his proceedings.

8. The said Inspector shall, by virtue of his office without any property qualification, be a Justice of the Peace for any and every district, county, city or town of Canada, but shall have power to act in matters connected with the criminal law of Canada only.

Inspector to be a justice of the peace.

9. The Inspector shall have power, and it shall be his duty to 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 to annul, alter or amend the same from time to time, subject to the approval of the Governor in Council,—which rules and regulations, so approved, the Wardens of the penitentiaries, and every other officer and

Inspector to make rules and regulations, &c., and may alter them subject to approval.

Existing rules continued, &c. servant employed in or about the same, shall be bound to obey: Provided always, that until such rules and regulations are made as aforesaid, the rules and regulations existing in each penitentiary at the passing of this Act shall remain in force. It shall also be the duty of the Inspector to audit the accounts of the penitentiaries monthly, and to transmit the same duly certified as to correctness to the Minister of Justice, and to administer to the Wardens and Accountants the following oath:—

Audit o accounts, &c. Oath of warden and accountant. I, _____, Warden. and I, _____, Accountant of the _____ Penitentiary, make oath and say, that the foregoing statement of receipts and expenditure on account of the _____ Penitentiary, for the month of _____ 18 _____, is true and correct.
Sworn before me, at the _____ Penitentiary, the _____ day of _____ Inspector.

To inquire into money transactions. It shall also be his duty to inquire into the money transactions and financial affairs of the penitentiaries, prisons, hospitals, asylums or other public institutions supported wholly or in part by the Dominion, and to exact a statement of their receipts and expenditures every year.

Minister of Justice to require from Inspector an annual report, &c., to be laid before Parliament, and comprising— **10.** It shall be the duty of the Minister of Justice to require and obtain from the Inspector an annual report on or before the first day of February in each year, to be laid before Parliament at the then next Session—which report shall contain a full and accurate report on the state, condition and management of the penitentiaries under his control and supervision, and inspected during the preceding year, together with such suggestions for the improvement of the same as he may deem 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 may supply,—and which report shall also comprise and embrace the following particulars, viz:—

Statistics of Penitentiaries, and facts as to working of penal system, &c.; 1 Such statistical information in respect to each penitentiary, and the whole in condensed form, as is embraced in the registers of such penitentiaries, together with any facts which may have come to his knowledge with respect to the working of the criminal laws and penal system of the Dominion, 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 may deem expedient;

Inventory of property; 2. An inventory and valuation of all the property belonging to the penitentiaries respectively, movable and immovable;

able ; distinguishing the estimated value of the several descriptions of property ;

3. 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 by the penitentiaries, showing the names of the parties to whom each is due, and showing also the debts, if any, due to the institution, with the amount and nature of each debt ;

Receipts, expenditure, and statement of debts ;

4. An estimate of the expense of the penitentiaries for the ensuing year, distinguishing the ordinary from the extraordinary.

Estimates for coming year.

11. In case the Inspector finds at any time that any penitentiary is out of repair, or does not possess the proper and requisite sanative 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 fact to the Minister of Justice, and shall, at the same time, furnish a copy of such report to the Minister of Public Works.

Special reports as to improvements, repairs, &c.

POWERS OF THE INSPECTOR.

12. For the better enabling the Inspector efficiently to discharge the duties herein set forth, or at any time assigned to him by the Minister of Justice, he shall have power—

Special powers of Inspector.

1. At all times to enter into, and remain within any penitentiary or other public institution placed under his control as aforesaid, and have access to every part and portion of the same, and to examine all papers, documents, vouchers, records and books of every kind belonging thereto ;

Entry, and examination of papers, &c.

2. To 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 the Inspector shall have power to summon before him any person by *subpœna* issued by him, and to examine such person upon oath—which oath the said Inspector shall have power to administer, whether the fact relate to a breach of the law of the land or of the rules of the prison, or to any matter affecting the interests of the institution—and to 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* upon him legally served, or refuses to give evidence or to produce the papers demanded of him,

Inquiries into conduct of officers, &c.

Summoning of witnesses, compelling attendance.

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.

Minister of Justice may cause special reports to be made by others than Inspector.

13. It shall be lawful for the Minister of Justice to appoint, at any time when he may deem it necessary, a person or persons to make a special report on the state and management of any penitentiary; and in such case the person or persons so appointed shall have, in order to enable him or them to make such special report, the powers given to the Inspector by the next preceding section.

ESTABLISHMENT OF PENITENTIARIES.

Penitentiaries enumerated and described.

14. The penitentiary situate near the City of Kingston, in the Province of Ontario, to be known as the Kingston Penitentiary; the penitentiary situate at St. Vincent de Paul, in the Province of Quebec, to be known as the St. Vincent de Paul Penitentiary; the penitentiary situate near the City of St. John, in the Province of New Brunswick, to be known as the St. John Penitentiary, and the penitentiary situate near the City of Halifax, in the Province of Nova Scotia, to be known as the Halifax 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.

Governor may annex tracts of land to penitentiaries as part thereof.

15. It shall be lawful for the Governor in Council, at any time hereafter, if he sees fit, to declare by proclamation, to be published in the *Canada Gazette*, that any tract of land within the Dominion, 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 it shall be lawful for the Governor in Council to annul the same by any subsequent proclamation, published as aforesaid, declaring that the tract of land so established as a penitentiary shall cease to be so held and considered, from and after a certain day to be named in such subsequent proclamation.

What shall be included as part of a penitentiary.

16. Every penitentiary now established, and every penitentiary hereafter to be established by virtue of this Act, shall be held to include all carriages, waggons, sleighs or other vehicles for land carriage, and all boats, scows or other vessels for water carriage, being property belonging to such penitentiary, or employed by hire or otherwise in its service; and likewise any wharf at or near the said penitentiary, although not within the limits mentioned in the proclamation establishing the same, but used for the accommodation of such craft when so employed in or about any work or labour connected with such penitentiary.

17. Every street, highway or public thoroughfare of any kind, along or across which it may be necessary that convicts should pass in going to and returning from their work, shall, while so used, be considered as a portion of the tract of land forming the penitentiary; and any escape, or attempt at escape, and any rescue, or aid in rescue, shall be held as if such escape or attempt at escape, and such rescue or aid in rescue had taken place within the prison walls or penitentiary limits.

Streets,
roads, &c.

Escapes.

18. It shall be lawful for the Inspector with the approval of the Minister of Justice, to authorize the Warden of any penitentiary, to construct rail or tram roads to communicate between any part of the penitentiary and another, and to carry the same across, upon or along any public road or street intervening, in such manner, however, as to cause the least possible inconvenience to passengers or carriages using such road or street: But it shall not be lawful for the Warden of such penitentiary to break ground upon any public road or street for the purpose of constructing such rail or tram roads, in virtue of such order by the Inspector, until after the lapse of one month after a copy of such order, certified by the said Warden, shall have been served upon the officer or person charged with the care or supervision of such public road, together with a plan showing the line which such road or tram roads are to occupy.

Inspector
under Minister's orders
may authorize the
construction
of tram roads.

Notice to
municipality.

CONVEYANCE OF CONVICTS.

19. 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 Government 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 has been tried, and certified by a judge or by the clerk or acting clerk of such court.

What shall
be sufficient
authority for
conveying
convicts.

20. In all cases where 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, along 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.

When
brought from
any other
penitentiary
or gaol.

CONVICTS

CONVICTS TO BE RECEIVED

Duty of
warden.

21. The Warden shall receive into the penitentiary every convict legally certified to him as sentenced to imprisonment therein, and shall there detain him, together with those already lawfully confined therein, subject to all the rules, regulations, and discipline thereof, until the term for which he has been sentenced be completed, or until he is otherwise discharged in due course of law.

REMOVAL FROM AND TO A PENITENTIARY.

Governor
may authorize
removal from
or to any
penitentiary.

Proceedings
in such cases.

22. It shall be lawful for the Governor, by warrant signed by the Secretary of State of Canada, or by such other officer as may be, from time to time, authorized by the Governor in Council, to 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, shall, when required so to do, deliver up the said convict to the constable or other officer or person who shall produce 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 despatch, convey and deliver up such convict, with the said attested copy, into the custody of the 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 has been 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.

Powers of
sheriff or
officer
conveying
convicts to a
penitentiary.

23. The Sheriff or other officer or other 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 may have 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 have, in all territorial divisions or parts of Canada through which it may be necessary to convey such convict, 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 to another of that locality.

24. In any case, in which sentence of death has been passed upon any convict, by any court in Canada, and the Governor, on behalf of Her Majesty, has been pleased to commute such sentence for 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 would have; 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.

Power to convey a convict whose sentence has been commuted, and effect of commutation.

25. In order to commute any sentence of death as aforesaid for imprisonment for life, or for a term of years, it shall not be held to be necessary, nor to have been at any time 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 commuted period, that a copy of any pardon should be or should have been in the possession of the Warden of such penitentiary; a letter, signed by the Secretary of State, or such other officer as aforesaid, notifying the Warden of the fact of such commutation, and of the term of years or life term for which the sentence has been commuted, shall be and shall have been sufficient authority for 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.

What shall be sufficient authority to the warden in such case.

26. Every prisoner who, being ordered to be detained in any penitentiary, escapes from the person or persons having the lawful custody of such prisoner, when being conveyed thereto, shall be guilty of felony, and being convicted thereof, shall have not less than two years added to the original term of his imprisonment: and any prisoner who at any time 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, shall, on conviction thereof, be punished by an addition not exceeding three years to the term of his imprisonment, besides forfeiting the whole of the period of remission of sentence hereinafter mentioned, which he may have earned; and he may also be again confined in the penal prison or solitary cells, if any, attached to such penitentiary as in the prison rules may be prescribed.

Escape during conveyance to be felony.

Punishment of prisoners escaping or attempting to escape, while at work, &c.

Punishment
for breaking
prison or out
of cell, &c.

27. Every prisoner in any penitentiary who, 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, shall, on conviction thereof, be punished by an addition not exceeding one year, to the term of his imprisonment, besides forfeiting the whole of the period of remission of sentence earned by him, and being again confined as in the next preceding section mentioned.

For assault-
ing any
officer.

28. If any convict, confined in any penitentiary, assaults any officer or servant employed therein, he shall be guilty of at least an aggravated assault, and shall also forfeit the whole of the period of remission of sentence which he may have previously earned, and shall be again confined, as in the twenty-sixth section mentioned.

Rescuing or
attempting to
rescue any
prisoner.

29. Every person who rescues or attempts to rescue any prisoner, while being conveyed to any penitentiary, or while being imprisoned therein, or while passing to or from work at or near any penitentiary, and every person who, by supplying arms, tools or instruments of disguise or otherwise, in any manner aids any such prisoner in any escape or attempt at escape, shall be guilty of felony.

Keepers, &c.,
allowing
prisoners to
escape ;

30. Every person 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, who carelessly allows any such convict to escape, shall be guilty of a misdemeanor, and, on conviction thereof, shall be liable to fine or imprisonment, or to both, at the discretion of the court : and every such person as aforesaid, who knowingly or willingly allows any such convict to escape shall be guilty of felony.

Felony.

Allowing
money,
spirits, let-
ters, &c., to
be brought
into the
penitentiary.

31. Every officer, guard or servant of any penitentiary, or any other person who brings in or carries out, or endeavours 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 said prison, shall, if an officer or servant of the prison, be guilty of a misdemeanor, and may, if thought fit by the Warden or Deputy Warden, be apprehended and carried before a Justice of the Peace,—who is hereby empowered to hear and determine any such offence in a summary way ; and every such officer, guard or servant or other person, upon conviction of such offence before a Justice of the Peace, shall be liable to pay a penalty not exceeding one hundred dollars, or, in the discretion of the Justice, to be imprisoned in the common gaol, there to be kept at hard labour for any term not exceeding three months.

Misdemeanor.

Punishment.

TRANSFER OF JUVENILE OFFENDERS FROM AND TO REFORMATORY PRISONS.

32. In any case where a juvenile offender has been ordered by competent authority to be imprisoned in any reformatory prison, and after his being imprisoned therein has become incorrigible, and is so certified by the Warden and one of the Chaplains, it shall be lawful for 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 by which the juvenile offender was imprisoned therein, and the fact that he is incorrigible, to direct that such juvenile offender be removed to any penitentiary named in the said warrant: and the said 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 prison to penitentiary.

And it shall be lawful for the Warden of the penitentiary therein named, to receive such juvenile offender and deal with him for the unexpired term of the sentence or order by 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 along with the said offender there be delivered to the Warden of the penitentiary a copy of the said sentence or order, attested by the Warden of the reformatory prison, and also an order from the Lieutenant-Governor aforesaid, directing the Warden of such penitentiary to receive such juvenile offender.

And dealt with as if sentenced to the penitentiary.

33. The Governor may, at any time, in his discretion, by warrant under his hand, cause any convict in a penitentiary, whose sentence is for not less than two years, and who may appear to the Inspector to be under sixteen years of age, and susceptible of reformation, to be transferred to the reformatory prison, if any there be, of the Province where such convict was sentenced, for the remainder of his term of imprisonment.

Juvenile convicts may be transferred to reformatory prison.

TREATMENT OF CONVICTS.

34. In the treatment of convicts in a penitentiary, the following general rules shall be observed:—

Treatment of convicts.

1. Every convict shall, during the term of his confinement, be clothed at the expense of the penitentiary, in suitable prison garments:

Clothing.

2. He shall be fed on a sufficient quantity of wholesome food:

Food.

Bedding. 3. He shall be provided with a bed and pillow with sufficient covering, varied according to the season :

Solitary confinement when not employed. 4. Every convict shall be kept in a cell by himself at night and during the day when not employed, except in case of sickness.

Two kinds. 35. Convict labour may be of two categories:—

Labour. 1. Obligatory, viz : Every convict, except during sickness or other incapacity, shall be kept constantly at hard labour, the kind of which shall be determined by the Warden, every day not exceeding ten hours, exclusive of hours for meals, except Sunday, Good Friday and Christmas Day, and such other days as the Governor may set apart for days of fasting or thanksgiving, and such days as may be designated in the rules made by the Inspector in that behalf : Provided that no Roman Catholic convict shall be compelled to labour on any of the obligatory holidays of his Church ; that is to say, Circumcision, Epiphany, Anunciation, Corpus Christi, Saint Peter and St. Paul, All Saints, Conception and Ascension, or other festival days of obligation.

Holidays.

Voluntary labour ; over hours and payment therefor. 2. Voluntary, viz : A convict of exemplary conduct, may be allowed by the Warden, if he see fit, to work over hours at such work as can be conveniently done in the institution, and at such rates as shall be 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 Institution, to be paid him on his discharge, subject, however, to any general rules which the Inspector may make upon the subject :

Letting out labour of convicts. The convicts may be employed either in labour or at trades under the control of the Government, or their labour may be let out to a company or private person offering the requisite guarantees.

PRISON OFFENCES.

Prison rules. 36. 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 whatever, 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 and in a respectful manner. Such list of offences shall be printed, and a copy of the same placed in every cell of the penitentiary.

No talking allowed.

Posting up rules.

PUNISHMENTS.

PUNISHMENTS.

37. It shall be lawful for the Inspector, subject to the approval of the Minister of Justice, to make, and from time to time, to 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, it shall be the duty of the Warden to make investigation upon oath into the facts of the case, before awarding such punishment or remand, and to make a minute of the evidence taken by him, to be forwarded forthwith to the Inspector: Provided also that the Surgeon of the penitentiary shall have certified that the prisoner is in a physical condition to bear such punishment, and that the Surgeon shall be present during its infliction, and that no more than sixty lashes shall be inflicted upon any prisoner for any such offence.

Inspector, with approval, to make rules for discipline correction.

Proviso.

Investigation in certain cases.

Proviso.

OFFICERS.

38. It shall be lawful for the Governor to appoint for any penitentiary a Warden, a Deputy Warden (who in the absence or incapacity of the Warden shall exercise all the functions of the 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; but the Inspector shall have power summarily to 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 him; 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 generally the Inspector shall have power and it shall be his duty to recommend the removal of any of the above-named officers whom he may deem incapable, inefficient or negligent in the execution of his duty, or whose presence in the Penitentiary he considers detrimental to the interests thereof.

What officers the Governor may appoint for each penitentiary.

Power of Inspector to suspend any officer.

General powers.

39. It shall be lawful for the Minister of Justice to appoint for any penitentiary, a Schoolmaster, a Schoolmistress, a Storekeeper, a Steward, a Chief Keeper, who in the absence or incapacity of the Deputy Warden, shall exercise all the functions of the such Deputy Warden, a Matron, a Deputy Matron, and such and so many trade instructors as may, from time to time, be required, to hold their offices during pleasure; but the Warden shall have power summarily to suspend for misconduct any of the officers named in this section, until the next visit of the Inspector, when he shall

Minister of Justice to appoint certain officers.

Power of Warden to suspend any of them.

shall submit to him a report of the circumstances of the case, to be dealt with as to him may seem meet.

Warden may appoint certain officers, guards, &c., and suspend or dismiss them.

40. It shall be lawful for the Warden to appoint for any penitentiary, an Assistant Deputy Matron and a clerk, and such and so many keepers and guards and other servants as by order of the Inspector may be authorized, for the proper protection and care of the Institution, and to suspend any of them for neglect of duty, for such time as he shall see fit, or dismiss them, without further charge than that of inefficiency in his opinion, but such suspension or dismissal shall be reported forthwith to the Inspector.

As to pay in case of suspension.

41. 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 shall nevertheless have power to direct payment of the same, if he sees fit.

Fines for neglect of duty.

42. It shall be lawful for the Warden to impose a fine payable in money, upon any officer or servant appointed by him or the Minister of Justice, for any act of negligence or carelessness by him committed, of such reasonable amount, not exceeding one month's pay, as the said Warden under the circumstances of the case may think fit.

Warden to be the chief executive officer; his power.

43. 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 a manner as he shall deem most advantageous for the penitentiary; and he may be held responsible for the faithful and efficient administration of the affairs of every department of the institution: he shall reside in the penitentiary; and shall receive such allowance of fuel and light as the Governor in Council may see fit to make.

To reside in penitentiary and have fuel and light.

DISCHARGE OF CONVICTS.

Convicts not to be discharged at certain times, except by their request.

44. No convict shall be discharged from a penitentiary on the termination of his sentence, or otherwise, if labouring under any contagious or infectious disease; nor, unless at his own request, during the months of November, December, January, February, or March, nor if labouring under any acute or dangerous disease; but he shall be permitted to remain in the Penitentiary until he recovers from such disease, or until the first day of April following the termination of his sentence: Provided always that 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:

Proviso.

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 may be 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 shall have been discharged:

Order of discharge of convicts in April.

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:

Sentence expiring on Sunday.

4. Every convict under sentence for life or for not less than two years, upon his discharge, either by expiration of sentence, or otherwise, shall be furnished, at the expense of the penitentiary, with a suit of clothing other than prison clothing, and with such sum of money as shall be 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 may deem proper: should any sum remain at his credit for earnings for over-work, such sum shall be paid to him at such times, and in such amounts, as the prison rules may direct.

Clothing and money to convicts discharged.
Money for over-work.

PRISONERS' EFFECTS.

45. Every article found upon the person of a convict at the time of his reception into the penitentiary, which may be considered worthy of preservation, shall be taken from him and a description thereof entered in a book to be 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 may then be; but the Warden shall not be liable for any deterioration which may have taken place in such article in the interval. 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 having charge of the said book, and also by the convict; and any money received therefor shall be placed to his credit.

Articles found on convict on entry to be kept for him.
if he desires to dispose of any.

PRIVILEGED VISITORS.

The following persons, other than the Inspector or person or persons specially appointed by the Minister of Justice, may visit any Penitentiary at pleasure, namely,--- the Governor General of Canada, the Lieutenant Governor of any of the Provinces composing the Dominion of Canada, any Member of the Privy Council of Canada, any Member of the Executive Council of any of the said Provinces, any

Who shall have the right of visiting.

Member

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 where the prisoners are confined, except by the special permission of the Warden, and under such regulations as the Inspector may prescribe.

Punishment
of persons
trespassing
on Peniten-
tiary grounds.

47. Any person who is found trespassing upon any grounds, buildings, yards, offices or other premises whatsoever belonging or pertaining to any penitentiary, or who enters the same, not being an officer or servant of the said prison, or authorized by leave of the Warden, shall, upon conviction thereof before a Justice of the Peace for the city, county or district in which such penitentiary may be situate, be adjudged to pay a fine not exceeding for the first offence ten dollars,—to be recovered in the usual way; or in default of payment, the offender may be sent to the common gaol, with or without hard labour, for any period not exceeding one month; and for a second or subsequent offence, the offender may be fined in any sum not exceeding fifty dollars, to be recovered in the same usual way, or in default shall be liable to imprisonment, with or without hard labour, for a period not exceeding three calendar months.

CORONER'S INQUESTS.

Inquests on
convicts
dying in a
penitentiary.

48. Whenever a convict dies in a penitentiary, and the Inspector or the Warden, or the Surgeon, or a Chaplain, have or any one of them has reason to believe, that the death of such convict arose from any other than ordinary causes, it shall be their or his duty to 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 end, he and the jury and all other persons necessarily attending such inquest, shall have admittance to the prison for that purpose.

DECEASED CONVICTS.

How the body
shall be
disposed of.

49. The body of every convict who dies in a penitentiary shall, if claimed by the relatives of the deceased, be given up to and shall be taken away by them; but, if not so claimed, the body may be delivered up 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 institution.

FEMALE PRISON AND PRISONERS.

50. The female convicts shall be kept distinct and secluded from the male convicts, and shall be under the charge of a matron, with such and so many female officers as the Inspector may, from time to time, see fit to order to be employed,—reference being had to the number of such convicts, and the kinds of work in which they may be engaged.

Female convicts.

MISCELLANEOUS PROVISIONS.

51. The Warden and every officer and servant employed permanently in a penitentiary shall, during his continuance in office, be exempt from serving as a militiaman, except within the bounds of the penitentiary.

Exemption of officers, &c., from certain services.

52. Every Warden, every Accountant, every Storekeeper, and every Steward, shall severally execute bonds to Her Majesty, with sufficient sureties, that is to say, the Warden in the penal sum of eight thousand dollars, the Accountant in the penal sum of four thousand dollars, the Storekeeper in the penal sum of two thousand dollars, and the Steward in the penal sum of one thousand dollars, conditioned for the faithful performance of the duties of their respective offices, according to law,—which bond shall be filed in the office of the Secretary of State of Canada.

Security to be given by officers, &c.

53. 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 the following oath of office, viz :—

Oath of allegiance to be taken by them.

“ I [A. B.] do promise and swear that I will faithfully, diligently and justly serve and perform the office and 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 :”

Form.

Which oaths the Inspector is hereby authorized to administer.

Before whom.

54. No Inspector, Warden, or other officer or servant employed in a penitentiary, shall either in his own name or in the name of, or in connection with any other person, provide, furnish or supply any materials, goods or provisions for the use of any penitentiary, nor shall be concerned directly or indirectly in furnishing or supplying the same, or in any contract relating thereto, under pain of forfeiting the sum of five hundred dollars, with full costs of suit, to any person who may sue for the same in any of Her Majesty's

Inspector, warden, &c., not to be contractors.

Penalty.

Majesty's Courts in the Province in which such penitentiary is situated.

Warden, &c.,
not to exer-
cise any other
calling

55. No Warden, officer, or servant, excepting the Surgeon, shall be allowed to carry on any trade or calling of profit or emolument other than his office in the penitentiary; nor shall any officer buy from or sell to or for any convict, (except under section forty-five) any thing whatever; or take or receive for his or her own use, or for that of any other person, any fee or gratuity or emolument from any convict or visitor or any other person; nor shall he employ any convict in working for him.

Governor to
fix remunera-
tion, not
exceeding
sums in the
schedule;

56. It shall be lawful for the Governor in Council, from time to time, to 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 labour devolved upon them; but such salaries shall not exceed the sums specified in the schedule hereto annexed.

Warden to be
a corporation
sole, &c.

57. 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 any proclamation establishing it as a penitentiary), and by that name he and his successors shall have perpetual succession, and may sue and be surd, may plead and be pleaded unto in any of Her Majesty's Courts.

Contracts,
&c., to be in
his name.

58. All dealings and transactions on account of any penitentiary, and all contracts for goods, wares, or merchandise necessary for maintaining and carrying on the institution, or for the sale of goods prepared or manufactured in or by the institution, shall be entered into and carried out in the corporate name of the Warden; and all personal property belonging to the same shall be held in the corporate name of the Warden for behoof of Her Majesty.

Real property
how vested
and managed.

59. The real property of every penitentiary, as well as all the other property thereto belonging shall remain 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; and all such property, real and personal, shall be exempt from all taxes.

Construction
and repairs of
buildings to
be Public
Works.

60. From the time this Act takes effect the construction and repairs of buildings and other works in the penitentiaries shall take place under the control of the Department of Public Works.

ARBITRATORS.

61. Whenever any difference may arise between the Warden and any person having dealings with him on account of the penitentiary, such difference may, by order of the Inspector and the consent of the party in difference, be referred either to one arbitrator, selected by the Warden and the party in difference, whose decision shall be final; 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 the award of any two of them shall be final.

Arbitration
in case of
difference
between war-
den and con-
tractors, &c.

62. 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 to the institution; but he may, on the report of the Inspector, sanctioned by the Governor in Council, accept of such security from any debtor on granting time, or such composition in full settlement, as may be thought conducive to the interests of the institution.

Warden to
collect debts
&c.

63. 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 considered the property of the institution, and shall remain therein; and the Warden shall preserve therein at least one set of copies of all official reports made to the Parliament respecting the same, 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 be furnished by the Clerk of the House of Commons with fifty copies of such reports as printed by order of the House, and so soon as they are printed.

Books, ac-
counts, &c., to
be property.

Reports.

64. No raft, boat, vessel or craft of any kind shall moor or anchor 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 thereof being first had and obtained; and any person violating the provisions of this section shall, upon conviction thereof before a Justice of the Peace, be subject to a penalty of twenty dollars, to be levied in the usual manner 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; and in default of payment of the same with the costs of suit, he shall be imprisoned at hard labour for a period not exceeding two months.

Penalty on
vessels moor-
ing, &c., on
penitentiary
wharves, &c.

LIQUORS.

No spirits or tobacco allowed.

Penalty.

65. No spirituous or fermented liquors shall, on any pretence whatever, be brought into the penitentiary for the use of any officer or person in the institution (except the Warden or Deputy Warden if the latter shall be resident therein) or for the use of any convict confined therein, except under the rules of the institution; and any person giving any spirituous or fermented liquor or tobacco or snuff or cigars to any convict, except under the rules of the institution, or conveying the same to any convict, shall forfeit and pay the sum of forty dollars to the Warden to be by him recovered for the use of the prison, in any court of competent jurisdiction.

PENAL CELLS.

Recital.

66. Whereas no system of discipline in a penitentiary can be effectual for punishment, or for reformation of the criminal, unless it be combined with strict separate confinement during some period of the time for which the court has sentenced him to be imprisoned, and it is therefore expedient that provision should be made in all the penitentiaries named in this Act, and in all others hereafter to be established by virtue of this Act, for the separate confinement of every convict for a certain period of the time mentioned in the sentence of the court by which he has been tried; therefore---

Penal cells may be constructed.

It shall be lawful for the Governor, whenever he shall deem it expedient, to order that such and so many penal cells shall be constructed from time to time at any penitentiary, as he may see fit.

SHORTENING OF SENTENCE.

Notes of behaviour of convicts to be kept, and for what purpose.

67. In order to encourage convicts to good behaviour, diligence and industry, and to reward them for the same, it shall and may be lawful for the Inspector of Penitentiaries to 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 shall have been exemplary in industry, diligence and faithfulness in his work, and shall not have violated any of the prison rules:

If

If any convict be prevented from labour by sickness or any other infirmity, not intentionally produced by himself, he shall be entitled, by good conduct, to two and a half days remission from his sentence every month.

Case of sickness provided for.

68. For and notwithstanding anything to the contrary contained in the Act made and passed by the Parliament of Canada, in the session held in the thirty-second and thirty-third years of Her Majesty's reign, chaptered twenty-nine, and intituled "*An Act respecting Procedure in Criminal Cases and other cases relating to the Criminal Law,*" or in any other Act of the Parliament of Canada, no person sentenced in New Brunswick or Nova Scotia to imprisonment with hard labour for less than one year, shall be received or imprisoned in the penitentiary from and after the first day of May, which will be in the year one thousand eight hundred and seventy-eight; nor, after the first day of May, which will be in the year one thousand eight hundred and seventy-eight, shall any one sentenced in either of the said Provinces to imprisonment with hard labour for less than two years, be received or imprisoned in the penitentiary.

Period for reception of short term convicts, in N.S. and N.B. limited, under 32-33 V., c. 29, s. 96, extended.

ROCKWOOD LUNATIC ASYLUM.

69. It is hereby declared, that the lunatic asylum situate at Rockwood, near Kingston, in the County of Frontenac, in the Province of Ontario, together with all the tract and parcel of land belonging thereto, as now known to be measured and bounded, and all buildings on the said piece of land erected, or hereafter to be erected, shall be, and form part of the Kingston Penitentiary, but not subject to the control or authority of the Warden, and be called "Rockwood Asylum."

Rockwood Asylum to be part of the penitentiary. Proviso.

70. Every piece or parcel of land hereafter to be acquired by Her Majesty for the uses and purposes of Rockwood Asylum, upon proclamation by the Governor, published in manner hereinafter set forth, defining the limits and boundaries thereof, shall also form part of the Kingston Penitentiary.

And any further ground acquired for it.

71. It shall be lawful for the Inspector to have, use and exercise all the privileges and powers granted to him by this Act, and he shall perform all the duties made incumbent upon him hereby, with respect to the government, management and maintenance of Rockwood Asylum, and of the lunatics confined therein, as are conferred or rendered obligatory upon him with respect to the penitentiaries, subject to such instructions as shall be, from time to time, from him received from the Minister of Justice.

Duties and powers of Inspector as to asylum.

Removal of insane convicts to the asylum; how to be determined and effected.

72. Should it at any time appear to the Surgeon of the Kingston Penitentiary, that any convict confined therein, is insane, and that it is desirable that such convict should be removed to Rockwood Asylum, he shall report the fact to the Warden of the penitentiary, who, upon receipt of such report, shall immediately desire the Medical Superintendent of Rockwood Asylum to meet the said Surgeon of the penitentiary, at the said penitentiary, at an early day by the Warden fixed for the purpose, and the Surgeon and the Medical Superintendent shall consult together, and determine as to the sanity or insanity of such convict, either at their first or at any subsequent consultation as they may see fit; and should they be jointly of opinion that such convict is of unsound mind and ought to be removed to Rockwood Asylum, they shall report the same in writing to the Warden of the Penitentiary, on which report the said Warden shall forthwith remove such convict to Rockwood Asylum, and shall report the whole proceedings taken in the case to the Inspector without delay; and such convict shall be received into Rockwood Asylum, and be there safely kept, until he is remanded back to the penitentiary, or until the expiration of his sentence, or until he is otherwise discharged, as herein-after provided.

Case of recovery of convict before the expiration of his sentence.

73. If at any time before the termination of the sentence of such convict, it be certified to the said Warden by the Medical Superintendent of Rockwood Asylum, that such convict has recovered his reason, and is in a fit state to be sent back to the penitentiary, the said Warden shall desire the Surgeon of the penitentiary to meet the said Medical Superintendent at Rockwood Asylum; and after examination of such convict by the said Surgeon and Medical Superintendent, if they are jointly of opinion that such convict has again become of sound mind, they shall make report of the same to the Warden, who thereupon shall convey such convict back to the penitentiary, therein to be detained until the expiration of his sentence.

Expiration thereof while still in the asylum.

74. If the term of imprisonment of any convict expires while such convict is detained in Rockwood Asylum as insane, he may nevertheless continue to be detained therein, but the fact of and reason for his detention shall be notified in writing by the Medical Superintendent to the Secretary of State, and to the Warden.

Convict becoming sane after expiration of his sentence.

75. Should the said convict at any time after the termination of his sentence become of sound mind, it shall be the duty of the Medical Superintendent, thereupon, to discharge him, and to report the fact to the Secretary of State; or if at any time after the termination of his sentence, and before his recovery, it seems fit to the Governor to order his being given up to any person or persons named in a warrant signed

signed by the Secretary of State, the Medical Superintendent shall, upon receipt thereof, deliver the said convict to such person or persons; and the receipt of such person or persons for the body of such convict, shall be sufficient discharge to the said Medical Superintendent.

76. It shall be lawful for the Governor, by Order in Council, to direct that the Rockwood Asylum may be used as the asylum or place for the safe keeping and treatment of any lunatic or class of lunatics (in addition to the insane convicts from the Kingston Penitentiary), to be named or specially designated in such Order in Council, and upon such terms and conditions as shall be therein set forth; and a certified copy of such Order in Council shall be communicated by the Secretary of State to the Medical Superintendent of the Asylum, and to the Minister of Justice.

Governor may authorize the use of asylum for insane persons other than convicts.

77. It shall be lawful for the Governor in Council to appoint the following officers of Rockwood Asylum, to wit:

Governor may appoint:

The Medical Superintendent, the Assistant Medical Superintendent (whenever there shall be a sufficient number of lunatic patients in the asylum to render, in the opinion of the Governor, the services of such an officer necessary), and an Accountant; and it shall be lawful for the Inspector to suspend from office any one of the officers named in this section for misconduct, incapacity or inefficiency, but he shall make immediate report of such suspension and the cause thereof to the Secretary of State, for the information of the Governor in Council; and such officer shall be and remain so suspended until the pleasure of the Governor shall be made known to the Minister of Justice.

Officers of Rockwood Asylum.
Medical.

78. It shall be lawful for the Inspector to appoint a Steward for the said asylum, who may, for cause, be suspended from office by the Medical Superintendent, by whom a report of the facts of the case shall be made to the Inspector for his consideration and decision.

Steward.

79. It shall be lawful for the Medical Superintendent to appoint a Matron and such and so many other male and female officers, with the consent in writing of the Inspector, as the Inspector may consider necessary for the service of the institution, any of whom may be removed by the Medical Superintendent at pleasure, or by the Inspector for cause.

Matron, &c.

80. The salary of the Medical Superintendent shall be as set forth in the Schedule to this Act annexed, and he shall receive such allowance for fuel and light as to the Governor in Council may seem fit.

Salary of medical superintendent.

Other salaries, &c.

Proviso in certain events.

A certain building now being constructed in N.S. and N.B. to be a Penitentiary.

Short title.

§1. It shall be lawful for the Governor in Council to fix such salaries and allowances to the officers of the Rockwood Asylum other than the Medical Superintendent, as the Governor may, from time to time, think reasonable,—regard being had to the number of insane persons confined in the asylum, and to the officer's length of service: and in the event of the Dominion dispossessing itself of Rockwood Asylum it shall be lawful to provide suitable and sufficient accommodation for insane convicts within the walls of the Kingston Penitentiary.

And whenever the building, to be constructed for a joint penitentiary for the Provinces of Nova Scotia, New Brunswick and Prince Edward Island shall be completed, and the Governor in Council shall have declared by proclamation, to be published in the *Canada Gazette*, that such building and any tract of land within either of the said Provinces shall, upon, from and after a day named in such proclamation be a penitentiary, the same shall be a penitentiary, and shall be so held within the meaning of any Act then in force relating to the penitentiaries.

§2. This Act may be cited as "*The Penitentiary Act of 1875.*"

SCHEDULE.

| | |
|---|---------|
| Warden, not exceeding..... | \$2,600 |
| and not less than..... | \$1,000 |
| Deputy Warden, not exceeding..... | 1,400 |
| and not less than..... | 600 |
| Chief Keeper, not exceeding..... | 800 |
| and not less than..... | 500 |
| Chaplains, each, not exceeding..... | 1,200 |
| and not less than..... | 400 |
| Assistant Chaplains, not exceeding..... | 500 |
| and not less than..... | 300 |
| Surgeon, not exceeding..... | 1,200 |
| 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..... | 700 |
| and not less than..... | 400 |
| Steward, not exceeding..... | 650 |
| and not less than..... | 400 |

(If the above two offices be combined, the salary may be that of the Storekeeper.)

| | |
|---|-----|
| <i>Trade Instructor</i> , not exceeding | 700 |
| and not less than..... | 500 |
| <i>Keeper</i> , not exceeding..... | 500 |
| and not less than..... | 400 |
| <i>Guard</i> , not exceeding..... | 450 |
| and not less than..... | 350 |
| <i>Other Male Servants</i> , not exceeding per day..... | 1 |
| <i>Matron</i> , not exceeding..... | 500 |
| and not less than..... | 250 |
| <i>Deputy Matron</i> , not exceeding..... | 300 |
| and not less than..... | 200 |
| <i>Assistant Deputy Matron</i> , not exceeding..... | 250 |
| and not less than..... | 175 |
| <i>School Mistress</i> , not exceeding..... | 250 |
| and not less than..... | 120 |

Officers of Rockwood Asylum.

| | |
|--|-------|
| <i>The Medical Superintendent</i> , not exceeding..... | 2,000 |
| and not less than..... | 1,600 |

CHAP. 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.

[Assented to 8th April, 1875.]

IN amendment of the Act cited in the title to this Act, Preamble.
 passed in the Session held in the thirty-second and 32,33 V., c. 35
 thirty-third years of Her Majesty's reign and chaptered thirty-
 five; Her Majesty, by and with the advice and consent of
 the Senate and House of Commons of Canada, enacts as
 follows:—

1. Any judge, junior judge or deputy judge trying any Judge trying
case under
the said Act
in Ontario,
may reserve
questions of
law for Court
of Queen's
Bench or
Common
Pleas.
 person under the said Act, in the Province of Ontario, may
 in his discretion reserve any question of law arising on such
 trial, for the consideration of the Justices of one of Her
 Majesty's Superior Courts of Common Law of the said Pro-
 vince, in the same manner and to the same extent as may
 be done by the Court of General Sessions of the Peace under
 chapter one hundred and twelve of the Consolidated Statutes
 for Upper Canada, and the said last named Act shall form
 and be taken and read as part of the said Act, in the title to
 this Act mentioned.

Powers of Judge exercisable though Court be sitting.

2. The powers conferred and imposed upon the judge, to be exercised and performed under the Act cited in the title to this Act, with and after the consent of the person charged, may be exercised and performed, notwithstanding that the court before which, but for such consent, the said person would be triable for the offence charged, or the grand jury thereof, may then be in session.

As to several prisoners charged with same offence.

3. 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 prisoner to gaol to await trial, in all respects as if the Act cited in the title had not been passed.

CHAP. 46.

An Act to make further provisions respecting the Central Prison for Ontario.

[Assented to 8th April, 1875.]

Preamble.

36 V., c. 69.

IN amendment of an Act passed in the thirty-sixth year of Her Majesty's reign, intituled "An Act respecting the Central Prison for the Province of Ontario," Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Temporary detention of convict in a common gaol provided for.

1. Any sheriff or other person having the custody of an offender sentenced to imprisonment in the said Central Prison, may detain the offender in the common gaol of the county or district in which he is sentenced, or other place of confinement in which he may be, until a Central Prison bailiff or other person lawfully authorized in that behalf requires his delivery for the purpose of being conveyed to the Central Prison.

Convict too ill to be able to perform labour may be so detained.

2. In case the gaol surgeon, or other medical practitioner acting in this behalf, shall certify that any offender sentenced as aforesaid is in such a weak state of health that he is unable to perform hard labour, such offender may be detained in the common gaol or other place of confinement in which he may be, until he is sufficiently recovered to be employed at hard labour.

Time of any such detention to be reckoned as time served.

3. The time for which any person sentenced to imprisonment in the Central Prison is held in custody, under the provisions of this Act, shall be reckoned in computing the time served by such person in the said central prison.

32-33 & 24-

*Sessions have power to try all felonies, trespasses, unless by Statute
except treason murder & capital. See Col. 11. Page 350
In addition Capt Stoney & Ferguson*

CHAP. 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.

[Assented to 8th April, 1875.]

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

1. In case any person is charged in Ontario before a Police Trial before
Magistrate or before a Stipendiary Magistrate in any county, Magistrate
district or provisional county in Ontario, with having com- instead of
mitted any offence for which he may be tried at a Court of Court of
General Sessions of the Peace, or in case any person is com- General
mitted to a gaol in the county, district or provisional county, Sessions, by
under the warrant of any Justice of the Peace for trial on a consent of
charge of being guilty of any such offence, such person may, accused.
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.

2. The proceedings upon and subsequent to such trial Proceedings
shall be, as nearly as may be, the same as upon a trial under as under 32
the Act of the Parliament of Canada passed in the Session and 33 V.,
held in the thirty-second and thirty-third years of Her c. 32.
Majesty's reign, intituled "*An Act respecting the prompt and
summary administration of Criminal Justice in certain cases.*"

3. Every conviction under this Act shall have the same Effect of
effect as a conviction upon indictment for the same offence conviction.
would have had, save that no conviction under this Act
shall be attended with forfeiture beyond the penalty (if any)
imposed in the case.

4. Every person who obtains a certificate of a dismissal, or Certificate of
is convicted under this Act, shall be released from all further dismissal or
or other criminal proceedings for the same cause. conviction.

5. No conviction, sentence or proceeding under this Act Conviction,
shall be quashed for want of form; and no warrant of com- &c., not to be
mitment upon a conviction shall be held void by reason of quashed for
any defect therein if it be therein alleged that the offender want of form.
has been convicted, and there be a good and valid convic-
tion to sustain the same.

6. If any person has, under this Act or under the said Act Effect of
passed in the session held in the thirty-second and thirty- election of
third trial before a

jury, under
32 and 33 V.,
c. 32.

third years of Her Majesty's reign, chaptered thirty-two, or under any other Act giving such election, been asked to elect whether he should be tried by the Magistrate or before a jury, and has elected to be tried before a jury, then in case such election is stated in the warrant of committal for trial or upon the depositions, the Sheriff or the County Judge, or Junior or Deputy Judge, shall not be required to take the proceedings directed by the Act passed in the said Session, and chaptered thirty-five, intituled "*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 in all such cases it shall be the duty of the committing Magistrate to state in the warrant the fact of such election having been made.

32-33 V., c. 35.

Magistrate
not bound to
adjudicate
summarily.

7. If the Magistrate is of opinion, from any circumstances appearing in the case, that the charge cannot be properly disposed of before him, he may, at any time before the person charged has made his defence, decide not to adjudicate summarily thereon; and may thereupon deal with the same as if this Act had not been passed: and in such case such prisoner may be afterwards tried summarily by his own consent at the County Judge's Criminal Court.

If he does not,
County Judge
may try.

CHAP. 48.

An Act to repeal certain provisions of an Act of the Legislature of Nova Scotia respecting petty offences, trespasses and assaults.

[Assented to 8th April, 1875.]

Preamble.
Chap. 147 of
Rev. Statutes
of Nova
Scotia.

WHEREAS the sections hereinafter mentioned, of chapter one hundred and forty-seven of the Revised Statutes of Nova Scotia, third series, intituled "*Of petty offences, trespasses and assaults*," contain provisions which are inconsistent with the Acts of the Parliament of Canada, passed in the session held in the thirty-second and thirty-third years of Her Majesty's reign, respecting the criminal law, or have become unnecessary and inconvenient since the passing of the said Acts: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

First 10 sects.
repealed.
Proviso.

1. The first ten sections of the first Act mentioned in the preamble of this Act, are hereby repealed: Provided that the express repeal of the said sections by this Act shall not be construed as declaring that the said sections were, or were not, virtually repealed by the passing of the Acts mentioned in the preamble.

EXTRACTS

EXTRACTS FROM
CHAP. 49.

An Act to amend and consolidate the laws respecting the
North-West Territories.

[Assented to 8th April, 1875.]

* * * * *

59. A Court or Courts of Civil and Criminal Jurisdiction shall be held in the said Territories, and in every judicial district thereof when formed, under such names, at such periods and at such places as the Lieutenant-Governor may from time to time order. Courts of civil and criminal jurisdiction.

60. For every such court there shall be a clerk, who may be appointed by the Governor, who shall hold office during pleasure, and be paid an annual salary, not exceeding five hundred dollars. Clerk.

61. The Governor may, from time to time, appoint, by commission under the great seal, one or more fit and proper person or persons, not exceeding three, to be and act as a Stipendiary Magistrate or Stipendiary Magistrates within the North-West Territories, who shall hold office during pleasure, and who shall reside at such place or places as may, from time to time, be ordered by the Governor in Council. Stipendiary Magistrates.

62. Each Stipendiary Magistrate shall have jurisdiction throughout the North-West Territories, as hereinafter mentioned, and shall also have jurisdiction and may exercise within the North-West Territories, the magisterial, judicial and other functions appertaining to any Justice of the Peace, or any two Justices of the Peace, under any laws or ordinances which may, from time to time, be in force in the North-West Territories. Functions.

63. Each Stipendiary Magistrate shall preside over such courts in the North-West Territories as shall, from time to time, be assigned to him by the Lieutenant-Governor, and to qualify him to do so, he shall take the following oath before the Lieutenant-Governor or any Stipendiary Magistrate, that is to say:— Jurisdiction and oath of office.

“ I do swear that I will truly and faithfully execute the several powers, duties and trusts committed to me by or under ‘*The North-West Territories Act, 1875,*’ without fear, without favor, and without malice. So help me God.”

Court for trial of certain offences, how to be held.

64. The Chief Justice or any Judge of the Court of Queen's Bench of the Province of Manitoba, with any one of the Stipendiary Magistrates as an associate, shall have power and authority to hold a court under section fifty-nine, and therein to hear and determine as hereinafter mentioned, any charge preferred against any person for any offence alleged to have been committed within the North-West Territories, viz :—

Without a jury.

1. In any case in which the maximum punishment for such offence does not exceed five years imprisonment,—in a summary way, and without the intervention of a jury ;

With a jury of six.

2. In any case in which the maximum punishment for such offence exceeds five years imprisonment but is not punishable with death,—then either in a summary way and without the intervention of a jury, if the accused assents thereto ; or, if the accused demands a jury, then with the intervention of a jury not exceeding six in number, who shall be then and there, or as soon thereafter as can be, chosen and sworn by the Judge or Stipendiary Magistrate, as a jury in such case ;

With a jury of eight.

3. In any case in which the punishment for such offence is death,—then with the intervention of a jury not exceeding eight in number, who shall be then and there, or as soon thereafter as can be, chosen and sworn by the Judge as a jury in such case ;

To be of record. Imprisonment for two years or more.

4. And every such court shall be a court of record ; and if imprisonment in gaol for not less than two years or in a penitentiary, be awarded in any case, the court may order the convict to be imprisoned in the North-West Territories, or to be conveyed to the penitentiary in the Province of Manitoba, and he shall, in any such case, undergo such punishment therein, as if convicted in the Province of Manitoba ;

Ordinance respecting juries.

5. The Lieutenant-Governor and Council or Assembly, as the case may be, may, from time to time, make any ordinance in respect to the mode of calling juries, and when and by whom and how they may be summoned or taken, and in respect of all matters relating to the same ; but no grand jury shall be called in the North-West Territories ;

No Grand Jury.

Returns by Judges, &c.

6. On the first day of January and June in each year, each Justice of the Peace, Stipendiary Magistrate, and other Judge residing in the North-West Territories, or who has presided at any court therein, shall send in to the Lieutenant-Governor, in such form as he may prescribe, a return shewing all trials and proceedings, civil and criminal, had before him during the preceding six months.

65. A person convicted of any offence punishable by death may appeal to the Court of Queen's Bench of Manitoba, which shall have jurisdiction to confirm the conviction or to order a new trial; and the mode of such appeal and all particulars relating thereto shall be determined, from time to time, by ordinance of the Lieutenant-Governor and Council or Assembly, as the case may be.

Appeal to Queen's Bench, Manitoba.

66. Any Stipendiary Magistrate of the said Territories, or the Chief Justice or any Judge of the Court of Queen's Bench of the Province of Manitoba, shall have power and authority to commit and cause to be conveyed to gaol in the Province of Manitoba, for trial by the Court of Queen's Bench according to the laws of criminal procedure in force in the said Province, any person or persons at any time charged with the commission of any offence against any of the laws or ordinances in force in the North-West Territories punishable by death or imprisonment in the penitentiary; and the said Court of Queen's Bench, or any Judge thereof, shall have power and authority to have any person arraigned before the said court on any such charge; and the jury laws and laws of criminal procedure of the said Province shall apply to any such trial, except that the punishment to be awarded upon conviction of any such person shall be according to the laws in force in the North-West Territories; and the sentence may be carried into effect in a penitentiary or other place of confinement in the North-West Territories or in the said Province, as if the same were in the North-West Territories.

Persons charged with certain offences may be committed to and tried in Manitoba.

N. W. T. laws to govern as to punishment.

67. Whenever any convict or accused person is ordered to be conveyed to gaol or to the penitentiary in Manitoba, any constable or other person in whose charge he is to be so conveyed, shall have the same power to hold and convey him, or to re-take him in case of an escape, and the gaoler or Warden of the penitentiary in Manitoba shall have the same power to detain and deal with him in the said Province as if it were within the North-West Territories, or as if the said convict or accused person had been ordered to be conveyed to such gaol or penitentiary by some competent court or authority in the said Province.

Conveyance of prisoners.

68. Where it is impossible or inconvenient, in the absence or remoteness of any gaol or other place of confinement, to carry out any sentence of imprisonment, any Justice of the Peace, or Stipendiary Magistrate, or the Chief Justice or any Judge of the Court of Queen's Bench of Manitoba, may, according to their several powers and jurisdictions, sentence such person so convicted before him or them, and sentenced, as aforesaid, to such imprisonment, to be placed and kept in the custody of the police force of the North-West Territories, with or without hard labour,

the

Imprisonment at a distance from a gaol.

the nature and extent of which shall be determined by the Justice of the Peace or Stipendiary Magistrate or Judge by or before whom such person was convicted.

Gaols and
lock-ups.

69. The Governor in Council may cause to be erected, in any part or parts of the North-West Territories, any building or buildings, or enclosure or enclosures, for the purpose of a gaol or lock-up, for the confinement of prisoners charged with the commission of any offence, or sentenced to any punishment therein; and confinement or imprisonment therein shall be held lawful and valid, whether under sentence of imprisonment in a penitentiary, gaol or other place of confinement.

Lieutenant
Governor
may supply
absence of
officers re-
quired to
carry out
Acts of
Canada.

70. Whenever in any Act of the Parliament of Canada in force in the North-West Territories, any officer is designated for carrying on any duty therein mentioned, and there shall be no such officer in the North-West Territories, the Lieutenant-Governor and Council may order by what other person or officer, such duty shall be performed; and anything done by such person or officer, under such order, shall be valid and legal in the premises; or if it be in any such Act ordered that any document or thing shall be transmitted to any officer, court, territorial division or place, and there is then in the said North-West Territories no such officer, court or territorial division or place, then the Lieutenant-Governor and Council may order to what officer, court or place such transmission shall be made, or may dispense with the transmission thereof.

* * * * *

PROHIBITION OF INTOXICANTS.

Manufacture
of intoxicants
prohibited, or
importation
without
special
permission.

74. Intoxicating liquors and other intoxicants are prohibited to be manufactured or made in the said North-West Territories, except by special permission of the Governor in Council, or to be imported or brought into the same from any Province of Canada, or elsewhere, or to be sold, exchanged, traded or bartered, except by special permission in writing of the Lieutenant-Governor of the said Territories: and if any such intoxicating liquor or intoxicant is imported or manufactured or made in the said Territories, or brought into the same, or is sold, exchanged, traded or bartered, in contravention of this Act, it shall be absolutely forfeited, and may be seized by any officer of the customs or excise, or by any constable or other duly qualified person wheresoever found; and on complaint made before him, any Judge, Stipendiary Magistrate, or Justice of the Peace, may, on the evidence of one credible witness that this Act has been contravened in respect thereof, order the said intoxicating liquor or intoxicant so seized, to be forthwith destroyed; or
in

in case of the same not having been seized, then on complaint as aforesaid, such Judge, Stipendiary Magistrate, or Justice of the Peace, may issue a search warrant, as in cases of stolen goods under the Acts in force respecting the duties of Justices of the Peace out of Sessions in relation to persons charged with indictable offences, and upon the same being found, may cause them to be forthwith destroyed and the still, machinery, keg, barrel, case, box, package or receptacle whence or in which any intoxicating liquor or intoxicant has been manufactured, imported or made, sold, exchanged, traded or bartered, and as well that in which the original supply was contained as the vessel wherein any portion of such original supply was supplied as aforesaid, and the balance of the contents thereof, if such still, machinery, barrel, keg, case, box, package, receptacle or vessel aforesaid, respectively, can be identified, may be seized by any officer of the customs or excise, or by any constable or other duly qualified person, wheresoever found within the said Territories; and on complaint before any Judge, Stipendiary Magistrate or Justice of the Peace, he may on the evidence of any credible witness, that this Act has been contravened in respect thereof, declare such intoxicating liquor or intoxicant, still, machinery, vessel, or receptacle forfeited, and cause the same to be forthwith destroyed; and the person in whose possession any of them were found may be condemned to pay a penalty not exceeding one hundred dollars, nor less than fifty dollars and the costs of prosecution; and one-half of such penalty shall belong to the prosecutor, and the other half to Her Majesty.

Search for, seizure and forfeiture thereof, and of stills, packages, &c., used for making or importation.

Penalty and costs.

1. Any person who manufactures, makes, imports, sells, exchanges, trades or barterers any intoxicating liquor or intoxicant, except by special permission as aforesaid, or in whose possession, or on whose premises such intoxicating liquor or intoxicant of any kind may be or may have been found, shall be liable to a penalty not exceeding two hundred dollars, nor less than fifty dollars,---one-half of which shall go to the informer.

Penalty for manufacturing or importing.

2. Any person who knowingly has in his possession any article, chattel, commodity or thing purchased, acquired, exchanged, traded or bartered, either wholly or in part, for any intoxicating liquor or intoxicant, shall forfeit and pay for each offence a penalty not exceeding two hundred dollars, nor less than fifty dollars,---one-half of which shall go to the informer.

Penalty for having the same in possession.

3. Every article, chattel, commodity or thing, in the purchase, acquisition, exchange, trade or barter of which, the consideration either wholly or in part may be any intoxicating liquor or intoxicant, shall be forfeited to Her Majesty,

Forfeiture of accessories to offence.

Majesty, and shall be seized as hereinbefore mentioned, in respect to any receptacle of any intoxicating liquor or intoxicant.

Penalty for refusing to assist constable, &c.

4. Every person who refuses or neglects to aid any constable, sub-constable, or other duly authorized person, in the execution of any act or duty required by this section, or who knowingly refuses to give information, or gives false information in respect to any matter arising therefrom, shall be subject to a penalty not exceeding two hundred dollars, nor less than fifty dollars,---one-half of which shall go to the informer.

Intoxicating liquor defined.

5. The expression "intoxicating liquor" shall mean and include all spirits, strong waters, spirituous liquors, wines, fermented or compounded liquors, or intoxicating fluids; and the expression "intoxicant" shall include opium, or any preparation thereof, and any other intoxicating drug or substance, and tobacco or tea mixed, compounded or impregnated with opium, or with any other intoxicating drug, spirit or substance, and whether the same or any of them be liquid or solid.

Recovery of penalties.

6. Any penalty incurred under this section shall be recoverable, with costs of prosecution, by summary conviction on the evidence of one credible witness, before any Judge, Stipendiary Magistrate or Justice of the Peace having jurisdiction in the North-West Territories,—who shall, on payment of the same, pay the informer his share thereof; and in case of non-payment of the penalty and costs immediately after conviction, the convicting judge, magistrate or justice may, in his discretion, levy the same by distress and sale, or commit the person so convicted and making default in payment of the said penalty and costs, to any common gaol or house of correction or lock-up house within the North-West Territories for a period not exceeding six months, unless the said penalty and costs be sooner paid.

Second offence.

7. And upon conviction for a second offence, the offender shall be liable to a penalty, not less than two hundred and not exceeding four hundred dollars, and in the discretion of the convicting judge, magistrate or justice, to imprisonment for a period not exceeding six months.

Want of form not to invalidate.

8. No seizure, prosecution, conviction or commitment under this Act shall be invalid on account of want of form so long as the same is according to the true intent and meaning of this Act.

* * * * *

CHAP. 50.

An Act further to amend “ An Act respecting the Administration of Justice, and for the establishment of a Police Force in the North-West Territories.”

[Assented to 8th April, 1875.]

IN amendment of the Act cited in the title to this Act Preamble. (thirty-sixth Victoria, chapter thirty-five) as the same is amended by an Act passed in the thirty-seventh year of Her Majesty's reign, chaptered twenty-two, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

1. The section substituted by the last mentioned Act, in lieu of section twenty-two of the first mentioned Act, is hereby repealed, and the following section is substituted in lieu thereof, and shall be read as if originally enacted as section twenty-two of the Act first above mentioned :—

“**22.** Any member of the force convicted of—

New section, substituted for section 22, of 36 V., c. 35.
Offences by members of the force.

Disobeying the lawful command of, or striking his superior, or—

Oppressive or tyrannical conduct towards his inferior, or—

Intoxication, however slight, or—

Having intoxicating liquor in his possession, or concealed, or—

Directly or indirectly receiving any gratuity without the Commissioner's sanction, or any bribe, or—

Wearing any party emblem, or—

Otherwise manifesting political partizanship, or—

Overholding any complaint, or—

Mutinous or insubordinate conduct, or—

Unduly overholding any allowances or any other public money entrusted to him, or—

Misapplying any money or goods levied under any warrant or taken from any prisoner, or—

Divulging any matter or thing which it may be his duty to keep secret, or——

Making any anonymous complaint to the Government or the Commissioner, or——

Communicating without the Commissioner's authority, either directly or indirectly, to the public press, any matter or thing touching the force, or——

Wilfully or through negligence or connivance allowing any prisoner to escape, or——

Using any cruel, harsh or unnecessary violence towards any prisoner or other person, or——

Leaving any post on which he has been placed as a sentry or on other duty, or——

Deserting or absenting himself from his duties or quarters without leave, or——

Scandalous or infamous behaviour, or——

Disgraceful, profane or grossly immoral conduct, or——

Violating any standing order, rule or regulation, or any order, rule or regulation hereafter to be made, or——

Any disorder or neglect to the prejudice of morality or discipline, though not specified in this Act, or in any lawful rules or regulations——

To be
breaches of
discipline.

Shall be held to have committed a breach of discipline, and——

Trial and
punishment
for the same.

The Commissioner, Assistant Commissioner, or the Inspector commanding at any post, or a Stipendiary Magistrate, shall, forthwith, on a charge in writing of any one or more of the foregoing offences being preferred against any member of the force, other than a commissioned officer, cause the party so charged to be brought before him; and he shall then and there, in a summary way, investigate the said charge or charges on oath, and if proved to his satisfaction, shall thereof convict the offender, who shall suffer such punishment, either by fine not exceeding one month's pay, or imprisonment for a term not exceeding six months in any gaol at hard labour, or both, as the convicting officer or magistrate shall in his discretion order, in addition to and besides any punishment to which the offender may be liable under any law in force in the North-West Territories, or in any Province in which the offence may be committed, in respect of such offence."

2. Section 25 of the Act firstly above mentioned is hereby repealed, and the following substituted therefor :—

New section substituted for section 25 of the said act. Refusing to deliver arms, &c.

“25. If any person unlawfully disposes of, receives, buys or sells, or has in his possession without lawful cause, or refuses to deliver up when thereunto lawfully required, any horse, vehicle, harness, arms, accoutrements, clothing, or other thing used for police purposes, such person shall thereby incur a penalty of double the value thereof, and be subject to a further fine not exceeding twenty-five dollars, and in default of payment forthwith, to imprisonment for any period not exceeding three months.

“2. If any constable or sub-constable during his engagement in the said force, having deserted, absented himself from his duties without leave, or refused to do duty therein, be found in any part of Canada other than the North-West Territories, and on being served with a notice signed by any commissioned officer of the force, requiring him to return to his duty, or being orally so required by such officer, neglects or refuses to return to his duty; such offender shall, on conviction thereof, be liable to forfeit and pay for every such offence, any sum not exceeding one hundred dollars, or to be imprisoned and kept to hard labour for any period not exceeding twelve months, or both; and upon the trial of any offender under this section it shall not be necessary to produce or give in evidence the original engagement or agreement to serve in the force, signed by such offender, but such engagement may be proved by parol evidence, or by a certificate purporting to be signed by the Commissioner, Assistant Commissioner, or any Inspector of the force, giving the date and period of such engagement; and it shall not be necessary *prima facie* to prove the signature to such certificate, which shall be held to be genuine, unless it be expressly alleged by the offender not to be so.

Deserting or refusing to do duty.

Punishment for such offence.

“3. Offenders under this section may be prosecuted before the Commissioner, or a Stipendiary Magistrate, or any Justice of the Peace, in any part of Canada; and the several provisions of the laws in force respecting the duties of Justices of the Peace, out of session, in relation to summary convictions and orders shall apply to such prosecutions.”

Prosecution under 32-33 V., c 31.

3. Any constable or sub-constable refusing to obey an order distinctly given by, or resisting the authority of a superior officer of the force, may be forthwith and without altercation, placed under arrest and detained, to be dealt with under the provisions of this Act.

Constable or sub-constable resisting authority of officer.

CHAP. 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.”

[Assented to 8th April, 1875.]

Preamble.

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

Act 32 and 33,
 V., c. 35,
 extended to
 Manitoba.

1 The Act passed in the session held in the thirty-second and thirty-third years of Her Majesty's reign, intituled “ *An Act for the more speedy trial, in certain cases, of persons charged with felonies and misdemeanors in the Provinces of Ontario and Quebec,*” is hereby extended and shall apply to the Province of Manitoba.

Interpreta-
 tion clause.

2. As respects the Province of Manitoba; the expression “ a Court of General Sessions of the Peace ” in the said Act shall mean and include the Court of Queen's Bench of that Province, and the expression “ the Judge ” shall mean “ the Chief Justice ” or “ a Puisné Judge ” of the said Court of Queen's Bench, and the expression “ County Attorney or Clerk of the Peace ” shall mean the Prothonotary of the said Court of Queen's Bench.



39 VICTORIA.

CHAP. 13.

An Act to make provision for the Collection and Registration of the Criminal Statistics of Canada.

[Assented to 12th April, 1876.]

WHEREAS it is expedient to make provision by law for the collection and registration of the criminal statistics of Canada: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Preamble.

1. The clerk, and where there is no clerk, the officer performing like duties, and where there is no such officer, the judge of every court administering criminal justice, and the warden of every penitentiary or reformatory, and the sheriff of every district, shall, before the end of October in each year, fill up and transmit to the Minister of Agriculture, or in case this branch of the subject of statistics and the registration thereof be, by the Governor in Council, assigned to any other Minister, then to such other Minister, such schedules for the year ending the thirtieth day of September preceding, relative, in the case of the clerk, officer or judge to the criminal business transacted in the court, and in the cases of the warden or sheriff to the prisoners committed to his penitentiary, reformatory or gaol, as he shall receive from time to time from the said Minister.

Schedules of criminal statistics to be filled up and transmitted yearly by certain functionaries to the proper Minister, in forms furnished by him.

Every officer required by the "*Act respecting the duties of Justices of the Peace out of sessions, in relation to summary convictions and orders*" (being thirty-second and thirty-third Victoria, chapter thirty-one) to transmit to the Minister of Finance true copies of returns made by Justices of the Peace under the said Act, shall, before the end of October in each year, transmit to the Minister of Agriculture, or such other Minister as aforesaid, true copies of all such returns for the year ending the thirtieth day of September preceding, instead of transmitting the same at the times required by the eighty-first section of the said Act.

Returns under 32 and 33, Vict., c. 31, s. 81, to be transmitted to the proper Minister yearly.

Records to be kept for filling up schedules under section 1.

3. It shall be the duty of every person required under the first section hereof to transmit any schedules, to make from day to day and to keep entries and records of the particulars to be comprised in such schedules.

Remuneration of persons filling up and transmitting schedules.

4. The Minister of Agriculture, or such other Minister as aforesaid, shall cause to be paid out of any moneys which may be provided by Parliament for that purpose, to any clerk, officer, warden of a reformatory or sheriff, filling up and transmitting the schedules required under the first section of this Act, the sum of one dollar, and the further sum of five cents for each case comprised in such schedules; and to any officer transmitting the returns required under the second section of this Act the sum of one dollar: Provided that—

Proviso as to provincial gaols and reformatories.

(1.) Whenever in any Province a system of collecting statistics relative to the prisoners committed to the provincial gaols or reformatories is established, the Governor in Council may arrange with the Government of such Province for the collection and transmission through such Government of any part of the information to be embraced in the schedules authorized under this Act; and that—

Payment in such case.

(2.) In case of such arrangements, the Minister of Agriculture, or such other Minister, as aforesaid, may cause to be paid out of any moneys which may be provided by Parliament for that purpose, to the Government of such Province instead of to the sheriffs or wardens, such sum as may be agreed on, not exceeding the amounts which would otherwise be payable for like services, to the sheriffs or wardens.

Penalty on persons neglecting to comply with the requirements of this Act.

5. Any person neglecting or refusing to fill up and transmit any schedule, or transmit any return required under the first or second section hereof, or wilfully making a false, partial or incorrect schedule or return under either of the said sections, shall forfeit and pay the sum of eighty dollars together with full costs of suit, to be recovered by any person suing 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 made or is made, or in the Exchequer Court of Canada,—one moiety whereof shall be paid to the party suing, and the other moiety into the hands of Her Majesty's Receiver General, to and for the public uses of Canada.

Application of penalty.

Duty of Secretary of State respecting exercise of prerogative of mercy.

6. The Secretary of State shall, before the end of October in each year, cause to be filled up and transmitted to the Minister of Agriculture, or such other Minister as aforesaid, such schedules for the year ending the thirtieth day of September preceding, relative to the cases in which the prerogative of mercy has been exercised, as he shall, from time to time, receive from the Minister of Agriculture, or such other Minister as aforesaid.

7. All schedules transmitted under this Act shall be according to forms from time to time approved by the Governor in Council, and published in the *Canada Gazette*.

Forms to be approved by Governor in Council and published.

8. The statistics collected by the Minister of Agriculture, or such other Minister as aforesaid, under this Act shall be abstracted and registered, and the results thereof shall be printed and published in an annual report.

Statistics to be abstracted and printed yearly.

9. The word "Judge" in the first section of this Act includes any Recorder, District, Stipendiary, or other Magistrate, or other functionary presiding over any court or tribunal administering criminal justice.

Interpretation.

CHAP. 18.

An Act to amend and consolidate the laws respecting Indians.

[Assented to 12th April, 1876.]

WHEREAS it is expedient to amend and consolidate the laws respecting Indians: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Preamble.

1. This Act shall be known and may be cited as "*The Indian Act, 1876*;" and shall apply to all the Provinces, and to the North-West Territories, including the Territory of Keewatin.

Short title and extent of Act.

2. The Minister of the Interior shall be Superintendent-General of Indian Affairs, and shall be governed in the supervision of the said affairs, and in the control and management of the reserves, lands, moneys, and property of Indians in Canada by the provisions of this Act.

Superintendent General.

TERMS

3. The following terms contained in this Act shall be held to have the meaning hereinafter assigned to them, unless such meaning be repugnant to the subject or inconsistent with the context:—

Meanings assigned to terms in this Act.

1. The term "band" means any tribe, band or body of Indians who own or are interested in a reserve or in Indian lands, in common, of which the legal title is vested in the Crown, or who share alike in the distribution of any annuities

Band.

OR

or interest moneys for which the Government of Canada is responsible; the term "the band" means the band to which the context relates; and the term "band," when action is being taken by the band as such, means the band in council.

Irregular
Band.

2. The term "irregular band" means any tribe, band or body of persons of Indian blood who own no interest in any reserve or lands of which the legal title is vested in the Crown, who possess no common fund managed by the Government of Canada, or who have not had any treaty relations with the Crown.

Indians.

3. The term "Indian" means—

First. Any male person of Indian blood reputed to belong to a particular band;

Secondly. Any child of such person;

Thirdly. Any woman who is or was lawfully married to such person:

As to illegiti-
mates.

(a) Provided that any illegitimate child, unless having shared with the consent of the band in the distribution moneys of such band for a period exceeding two years, may, at any time, be excluded from the membership thereof by the band, if such proceeding be sanctioned by the Superintendent-General:

Absentees.

(b) Provided that any Indian having for five years continuously resided in a foreign country shall, with the sanction of the Superintendent-General, cease to be a member thereof and shall not be permitted to become again a member thereof, or of any other band, unless the consent of the band with the approval of the Superintendent-General or his agent be first had and obtained; but this provision shall not apply to any professional man, mechanic, missionary, teacher or interpreter, while discharging his or her duty as such:

Woman
marrying
other than
an Indian.

(c) Provided that any Indian woman marrying any other than an Indian or a non-treaty Indian shall cease to be an Indian in any respect within the meaning of this Act, except that she shall be entitled to share equally with the members of the band to which she formerly belonged, in the annual or semi-annual distribution of their annuities, interest moneys and rents; but this income may be commuted to her at any time at ten years' purchase with the consent of the band:

Marrying
non-treaty
Indians.

(d) Provided that any Indian woman marrying an Indian of any other band, or a non-treaty Indian shall cease to be a member of the band to which she formerly belonged, and become a member of the band or irregular band of which her husband is a member:

(e.)

(e) Provided also that no half-breed in Manitoba who has shared in the distribution of half breed lands shall be accounted an Indian; and that no half-breed head of a family (except the widow of an Indian, or a half-breed who has already been admitted into a treaty), shall, unless under very special circumstances, to be determined by the Superintendent-General or his agent, be accounted an Indian, or entitled to be admitted into any Indian treaty. As to half-breeds.

4. The term "non-treaty Indian" means any person of Indian blood who is reputed to belong to an irregular band, or who follows the Indian mode of life, even though such person be only a temporary resident in Canada. Non-treaty Indian.

5. The term "enfranchised Indian" means any Indian, his wife or minor unmarried child, who has received letters patent granting him in fee simple any portion of the reserve which may have been allotted to him, his wife and minor children, by the band to which he belongs, or any unmarried Indian who may have received letters patent for an allotment of the reserve. Enfranchised Indian.

6. The term "reserve" means any tract or tracts of land set apart by treaty or otherwise for the use or benefit of or granted to a particular band of Indians, of which the legal title is in the Crown, but which is unsurrendered, and includes all the trees, wood, timber, soil, stone, minerals, metals, or other valuables thereon or therein. Reserve.

7. The term "special reserve" means any tract or tracts of land and everything belonging thereto set apart for the use or benefit of any band or irregular band of Indians, the title of which is vested in a society, corporation or community legally established, and capable of suing and being sued, or in a person or persons of European descent, but which land is held in trust for, or benevolently allowed to be used by, such band or irregular band of Indians. Special reserve.

8. The term "Indian lands" means any reserve or portion of a reserve which has been surrendered to the Crown. Indian lands.

9. The term "intoxicants" means and includes all spirits, strong waters, spirituous liquors, wines, or fermented or compounded liquors or intoxicating drink of any kind whatsoever, and any intoxicating liquor or fluid, as also opium and any preparation thereof, whether liquid or solid, and any other intoxicating drug or substance, and tobacco or tea mixed or compounded or impregnated with opium or with other intoxicating drugs, spirits or substances, and whether the same or any of them be liquid or solid. Intoxicants.

- Superintendent-General. 10. The term "Superintendent-General" means the Superintendent-General of Indian Affairs.
- Agent. 11. The term "agent" means a commissioner, superintendent, agent, or other officer acting under the instructions of the Superintendent-General.
- Person. 12. The term "person" means an individual other than an Indian, unless the context clearly requires another construction.

RESERVES.

- Reserves subject to this Act. 4. All reserves for Indians or for any band of Indians, or held in trust for their benefit, shall be deemed to be reserved and held for the same purposes as before the passing of this Act, but subject to its provisions.
- Surveys authorized. 5. The Superintendent General may authorize surveys, plans and reports to be made of any reserve for Indians, shewing and distinguishing the improved lands, the forests and lands fit for settlement, and such other information as may be required; and may authorize that the whole or any portion of a reserve be subdivided into lots.
- What Indians only deemed holders of lots. 6. In a reserve, or portion of a reserve, subdivided by survey into lots, no Indian shall be deemed to be lawfully in possession of one or more of such lots, or part of a lot, unless he or she has been or shall be located for the same by the band, with the approval of the Superintendent-General:
- Indemnity to Indians dispossessed. Provided that no Indian shall be dispossessed of any lot, or part of a lot, on which he or she has improvements, without receiving compensation therefor, (at a valuation to be approved by the Superintendent-General) from the Indian who obtains the lot or part of a lot, or from the funds of the band, as may be determined by the Superintendent-General.
- Location ticket; in triplicate; how dealt with. 7. On the Superintendent-General approving of any location as aforesaid, he shall issue in triplicate a ticket granting a location title to such Indian, one triplicate of which he shall retain in a book to be kept for the purpose; the other two he shall forward to the local agent, one to be delivered to the Indian in whose favour it was issued, the other to be filed by the agent, who shall permit it to be copied into the register of the band, if such register has been established:
- Effect of such ticket limited. 8. The conferring of any such location title as aforesaid shall not have the effect of rendering the land covered thereby subject to seizure under legal process, or transferable except to an Indian of the same band, and in such case, only

only with consent of the council thereof and the approval of the Superintendent-General, when the transfer shall be confirmed by the issue of a ticket in the manner prescribed in the next preceding section.

9. Upon the death of any Indian holding under location or other duly recognized title any lot or parcel of land, the right and interest therein of such deceased Indian shall, together with his goods and chattels, devolve one-third upon his widow, and the remainder upon his children equally; and such children shall have a like estate in such land as their father; but should such Indian die without issue, but leaving a widow, such lot or parcel of land and his goods and chattels shall be vested in her, and if he leaves no widow, then in the Indian nearest akin to the deceased, but if he have no heir nearer than a cousin, then the same shall be vested in the Crown for the benefit of the band: But whatever may be the final disposition of the land, the claimant or claimants shall not be held to be legally in possession until they obtain a location ticket from the Superintendent-General in the manner prescribed in the case of new locations.

Property of deceased Indian, how to descend.

Proviso.

10. Any Indian or non-treaty Indian in the Province of British Columbia, the Province of Manitoba, in the North-West Territories, or in the Territory of Keewatin, who has, or shall have, previously to the selection of a reserve, possession of and made permanent improvements on a plot of land which has been, or shall be included in or surrounded by a reserve, shall have the same privileges, neither more nor less, in respect of such plot, as an Indian enjoys who holds under a location title.

Indians in Manitoba, British Columbia or North-West Territories, &c., having made improvements.

PROTECTION OF RESERVES.

11. No person or Indian other than an Indian of the band, shall settle, reside or hunt upon, occupy or use any land or marsh, or shall settle, reside upon or occupy any road, or allowance for roads, running through any reserve belonging to or occupied by such band; and all mortgages or hypothecs given or consented to by any Indian, and all leases, contracts and agreements made or purporting to be made by any Indian, whereby persons or Indians other than Indians of the band are permitted to reside or hunt upon such reserve, shall be absolutely void.

Who only may settle thereon.

Certain conveyances, &c., void.

12. If any person or Indian other than an Indian of the band, without the license of the Superintendent-General (which license, however, he may at any time revoke), settles, resides or hunts upon or occupies or uses any such and or marsh; or settles, resides upon or occupies any such roads or allowances

Power to remove persons unlawfully occupying.

allowances for roads, on such reserve, or if any Indian is illegally in possession of any lot or part of a lot in a subdivided reserve, the Superintendent-General or such officer or person as he may thereunto depute and authorize, shall, on complaint made to him, and on proof of the fact to his satisfaction, issue his warrant signed and sealed, directed to the sheriff of the proper county or district, or if the said reserve be not situated within any county or district, then directed to any literate person willing to act in the premises, commanding him forthwith to remove from the said land or marsh, or roads or allowances for roads, or lots or parts of lots, every such person or Indian and his family so settled, residing or hunting upon or occupying, or being illegally in possession of the same, or to notify such person or Indian to cease using as aforesaid the said lands, marshes, roads or allowances for roads; and such sheriff or other person shall accordingly remove or notify such person or Indian, and for that purpose shall have the same powers as in the execution of criminal process; and the expenses incurred in any such removal or notification shall be borne by the party removed or notified, and may be recovered from him as the costs in any ordinary suit :

Costs of removal.

Proviso : residence by consent of Superintendent-General.

Provided that nothing contained in this Act shall prevent an Indian or non-treaty Indian, if five years a resident in Canada, not a member of the band, with the consent of the band and the approval of the Superintendent-General, from residing upon the reserve, or receiving a location thereon.

Removal and punishment of persons returning after removal.

13. If any person or Indian, after having been removed or notified as aforesaid, returns to, settles upon, resides or hunts upon or occupies, or uses as aforesaid, any of the said land, marsh or lots, or parts of lots; or settles, resides upon or occupies any of the said roads, allowances for roads, or lots or parts of lots, the Superintendent-General, or any officer or person deputed and authorized as aforesaid, upon view, or upon proof on oath made before him, or to his satisfaction, that the said person or Indian has returned to, settled, resided or hunted upon or occupied or used as aforesaid any of the said lands, marshes, lots or parts of lots, or has returned to, settled or resided upon or occupied any of the said roads or allowances for roads, or lots or parts of lots, shall direct and send his warrant signed and sealed to the sheriff of the proper county or district, or to any literate person therein, and if the said reserve be not situated within any county or district, then to any literate person, commanding him forthwith to arrest such person or Indian, and commit him to the common gaol of the said county or district, or if there be no gaol in the said county or district, then to the gaol nearest to the said reserve in the Province or Territory, there to remain for the time ordered by such warrant, but which shall not exceed thirty days.

Warrant to arrest.

14. Such sheriff or other person shall accordingly arrest the said party, and deliver him to the gaoler or sheriff of the proper county, district, Province or Territory, who shall receive such person or Indian and imprison him in the said gaol for the term aforesaid.

Arrest and imprisonment.

15. The Superintendent-General, or such officer or person as aforesaid, shall cause the judgment or order against the offender to be drawn up and filed in his office, and such judgment shall not be removed by *certiorari* or otherwise, or be appealed from, but shall be final.

Order to be drawn up and filed.

16. If any person or Indian other than an Indian of the band to which the reserve belongs, without the license in writing of the Superintendent-General or of some officer or person deputed by him for that purpose, trespasses upon any of the said land, roads or allowances for roads in the said reserve, by cutting, carrying away or removing therefrom any of the trees, saplings, shrubs, underwood, timber or hay thereon, or by removing any of the stone, soil, minerals, metals or other valuables off the said land, roads or allowances for roads, the person or Indian so trespassing shall, for every tree he cuts, carries away or removes, forfeit and pay the sum of twenty dollars; and for cutting, carrying away or removing any of the saplings, shrubs, underwood, timber or hay, if under the value of one dollar, the sum of four dollars, but if over the value of one dollar, then the sum of twenty dollars; and for removing any of the stone, soil, minerals, metals or other valuables aforesaid, the sum of twenty dollars, such fine to be recovered by the Superintendent-General, or any officer or person by him deputed, by distress and sale of the goods and chattels of the party or parties fined: or the Superintendent-General, or such officer or person, without proceeding by distress and sale as aforesaid, may, upon the non-payment of the said fine, order the party or parties to be imprisoned in the common gaol as aforesaid, for a period not exceeding thirty days, when the fine does not exceed twenty dollars, or for a period not exceeding three months when the fine does exceed twenty dollars: and upon the return of any warrant for distress or sale, if the amount thereof has not been made, or if any part of it remains unpaid, the said Superintendent-General, officer or person, may commit the party in default upon such warrant, to the common gaol as aforesaid for a period not exceeding thirty days if the sum claimed by the Superintendent-General, upon the said warrant does not exceed twenty dollars, or for a time not exceeding three months if the sum claimed does exceed twenty dollars; all such fines shall be paid to the Receiver-General, to be disposed of for the use and benefit of the band of Indians for whose benefit the reserve is held, in such manner as the Governor in Council may direct.

Punishment of others than Indians trespassing on reserves.

Penalties for offences by trespassers.

Levying penalties or imprisonment of offender for non-payment.

Application of fines.

Punishment
of Indians so
trespassing.

17. If any Indian, without the license in writing of the Superintendent-General, or of some officer or person deputed by him for that purpose, trespasses upon the land of an Indian who holds a location title, or who is otherwise recognized by the department as the occupant of such land, by cutting, carrying away, or removing therefrom, any of the trees, saplings, shrubs, underwood, timber or hay thereon, or by removing any of the stone, soil, minerals, metals or other valuables off the said land; or if any Indian, without license as aforesaid, cuts, carries away or removes from any portion of the reserve of his band for sale (and not for the immediate use of himself and his family) any trees, timber or hay thereon, or removes any of the stone, soil, minerals, metals, or other valuables therefrom for sale as aforesaid, he shall be liable to all the fines and penalties provided in the next preceding section in respect to Indians of other bands and other persons.

Or removing
timber, &c.

Name of
offender need
not be men-
tioned in
warrant in
certain cases.

18. In all orders, writs, warrants, summonses and proceedings whatsoever made, issued or taken by the Superintendent-General, or any officer or person by him deputed as aforesaid, it shall not be necessary for him or such officer or person to insert or express the name of the person or Indian summoned, arrested, distrained upon, imprisoned, or otherwise proceeded against therein, except when the name of such person or Indian is truly given to or known by the Superintendent-General, or such officer or person; and if the name be not truly given to or known by him, he may name or describe the person or Indian by any part of the name of such person or Indian given to or known by him; and if no part of the name be given to or known by him he may describe the person or Indian proceeded against in any manner by which he may be identified; and all such proceedings containing or purporting to give the name or description of any such person or Indian as aforesaid shall *prima facie* be sufficient.

Sheriffs, &c.,
to assist
Superintend-
ent.

19. All sheriffs, gaolers or peace officers to whom any such process is directed by the Superintendent-General, or by any officer or person by him deputed as aforesaid, shall obey the same, and all other officers upon reasonable requisition shall assist in the execution thereof.

Superintend-
ent to appoint
an arbitrator
when prop-
erty is taken
from a band
for improve-
ments.

20. If any railway, road, or public work passes through or causes injury to any reserve belonging to or in possession of any band of Indians, or if any act occasioning damage to any reserve be done under the authority of any Act of Parliament, or of the Legislature of any Province, compensation shall be made to them therefor in the same manner as is provided with respect to the lands or rights of other persons; the Superintendent-General shall in any case in which an arbitration may be had, name the arbitrator on behalf of the

Indians,

Indians, and shall act for them in any matter relating to the settlement of such compensation ; and the amount awarded in any case shall be paid to the Receiver-General for the use of the band of Indians for whose benefit the reserve is held, and for the benefit of any Indian having improvements thereon.

SPECIAL RESERVES.

21. In all cases of encroachment upon, or of violation of trust respecting any special reserve, it shall be lawful to proceed by information in the name of Her Majesty, in the superior courts of law or equity, notwithstanding the legal title may not be vested in the Crown.

Crown's name may be used in writs respecting special reserves.

22. If by the violation of the conditions of any such trust as aforesaid, or by the breaking up of any society, corporation, or community, or if by the death of any person or persons without a legal succession of trusteeship, in whom the title to a special reserve is held in trust, the said title lapses or becomes void in law, then the legal title shall become vested in the Crown in trust, and the property shall be managed for the band or irregular band previously interested therein, as an ordinary reserve.

As to trusteeship of reserves lapsing.

REPAIR OF ROADS.

23. Indians residing upon any reserve, and engaged in the pursuit of agriculture as their then principal means of support, shall be liable, if so directed by the Superintendent-General, or any officer or person by him thereunto authorized, to perform labour on the public roads laid out or used in or through, or abutting upon such reserve, such labour to be performed under the sole control of the said Superintendent-General, officer or person, who may direct when, where and how and in what manner the said labour shall be applied, and to what extent the same shall be imposed upon Indians who may be resident upon any of the said lands ; and the said Superintendent-General, officer or person shall have the like power to enforce the performance of all such labour by imprisonment or otherwise, as may be done by any power or authority under any law, rule or regulation in force in the province or territory in which such reserve lies, for the non-performance of statute labour ; but the labour to be so required of any such Indian shall not exceed in amount or extent what may be required of other inhabitants of the same province, territory, county, or other local division, under the laws requiring and regulating such labour and the performance thereof.

Indians liable to labour on public roads in reserves, and to what extent.

Powers of Superintendent.

Proviso: as to amount of labour.

24. Every band of Indians shall be bound to cause the roads, bridges, ditches and fences within their reserve to be put

Band to cause roads, &c., to be put

be maintained
in order.

Powers of
Superintendent.

put and maintained in proper order, in accordance with the instructions received from time to time from the Superintendent-General, or from the agent of the Superintendent-General; and whenever in the opinion of the Superintendent-General the same are not so put or maintained in order, he may cause the work to be performed at the cost of such band, or of the particular Indian in default, as the case may be, either out of their or his annual allowances, or otherwise.

SURRENDERS.

Necessary
conditions
previous to a
sale.

25. No reserve or portion of a reserve shall be sold, alienated or leased until it has been released or surrendered to the Crown for the purposes of this Act.

On what conditions
release or surrender
to be valid.

26. No release or surrender of a reserve, or portion of a reserve, held for the use of the Indians of any band or of any individual Indian, shall be valid or binding, except on the following conditions:—

Assent of
band.

1. The release or surrender shall be assented to by a majority of the male members of the band of the full age of twenty one years, at a meeting or council thereof summoned for that purpose according to their rules, and held in the presence of the Superintendent-General, or of an officer duly authorized to attend such council by the Governor in Council or by the Superintendent-General; Provided, that no Indian shall be entitled to vote or be present at such council, unless he habitually resides on or near and is interested in the reserve in question.

Proviso.

Proof of as-
sent.

2. The fact that such release or surrender has been assented to by the band at such council or meeting, shall be certified on oath before some judge of a superior, county, or district court, or stipendiary magistrate, by the Superintendent-General or by the officer authorized by him to attend such council or meeting, and by some one of the chiefs or principal men present thereat and entitled to vote, and when so certified as aforesaid shall be submitted to the Governor in Council for acceptance or refusal;

Superintendent-
General
may grant
license to cut
trees, &c.

3. But nothing herein contained shall be construed to prevent the Superintendent-General from issuing a license to any person or Indian to cut and remove trees, wood, timber and hay, or to quarry and remove stone and gravel on and from the reserve; Provided he, or his agent acting by his instructions, first obtain the consent of the band thereto in the ordinary manner as hereinafter provided.

Proviso.

No intoxicant
to be permit-

27. It shall not be lawful to introduce at any council or meeting of Indians held for the purpose of discussing or of assenting

assenting to a release or surrender of a reserve or portion thereof, or of assenting to the issuing of a timber or other license, any intoxicant; and any person introducing at such meeting, and any agent or officer employed by the Superintendent-General, or by the Governor in Council, introducing, allowing or countenancing by his presence the use of such intoxicant among such Indians a week before, at, or a week after, any such council or meeting, shall forfeit two hundred dollars, recoverable by action in any of the superior courts of law, one half of which penalty shall go to the informer.

ted at council of Indians.

28. Nothing in this Act shall confirm any release or surrender which would have been invalid if this Act had not been passed; and no release or surrender of any reserve to any party other than the Crown, shall be valid.

Invalid surrenders not confirmed hereby.

MANAGEMENT AND SALE OF INDIAN LANDS.

* * * * *

31. Every certificate of sale or receipt for money received on the sale of Indian lands, heretofore granted or made or to be granted or made by the Superintendent-General or any agent of his, so long as the sale to which such receipt or certificate relates is in force and not rescinded, shall entitle the party to whom the same was or shall be made or granted, or his assignee, by instrument registered under this or any former Act providing for registration in such cases, to take possession of and occupy the land therein comprised, subject to the conditions of such sale, and thereunder, (unless the same shall have been revoked or cancelled) to maintain suits in law or equity against any wrongdoer or trespasser, as effectually as he could do under a patent from the Crown; and such receipt or certificate shall be *prima facie* evidence for the purpose of possession by such person, or the assignee under an instrument registered as aforesaid, in any such suit; but the same shall have no force against a license to cut timber existing at the time of the making or granting thereof.

Effect of former certificates of sale or receipts, unless rescinded.

Evidence of possession.

Proviso.

* * * * *

44. If any person, before or at the time of the public sale of any Indian lands, 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, every such offender, his, her, or their aiders and abettors, shall, for every such offence, be guilty of a misdemeanor, and, on conviction thereof, shall be liable to a fine not exceeding four hundred dollars, or imprisonment for a term not exceeding two years, or both, in the discretion of the court.

Punishment for preventing sale.

Misdemeanor, fine and imprisonment.

MANAGEMENT AND SALE OF TIMBER.

Licenses to cut timber, how granted.

45. The Superintendent-General, or any officer or agent authorized by him to that effect, may grant licenses to cut timber on reserves and ungranted Indian lands, at such rates, and subject to such conditions, regulations and restrictions as may, from time to time, be established by the Governor in Council,—such conditions, regulations and restrictions to be adapted to the locality in which such reserves or lands are situated.

* * * * *

License must describe the lands: its effect.

47. Every license shall describe the lands upon which the timber may be cut, and shall confer, for the time being, on the nominee, the right to take and keep exclusive possession of the land so described, subject to such regulations and restrictions as may be established: and every license shall vest in the holder thereof all rights of property whatsoever in all trees, timber and lumber cut within the limits of the license during the term thereof, whether such trees, timber and lumber are cut by authority of the holder of such license, or by any other person, with or without his consent: and every license shall entitle the holder thereof to seize in re-vedication or otherwise, such trees, timber or lumber, where the same are found in the possession of any unauthorized person, and also to institute any action or suit at law or in equity against any wrongful possessor or trespasser, and to prosecute all trespassers and other offenders to punishment, and to recover damages, if any: and all proceedings pending at the expiration of any license may be continued to final termination as if the license had not expired.

Further rights of holders as to trespassers.

Return to be made by licensee.

48. Every person obtaining a license shall, at the expiration thereof, make to the officer or agent granting the same, or to the Superintendent-General, a return of the number and kinds of trees cut, and of the quantity and description of saw-logs, or of the number and description of sticks of square timber manufactured and carried away under such license; and such statement shall be sworn to by the holder of the license, or his agent, or by his foreman; and any person refusing or neglecting to furnish such statement, or evading or attempting to evade any regulation made by Order in Council, shall be held to have cut without authority, and the timber made shall be dealt with accordingly.

Punishment for evasion.

* * * * *

Seizure of timber cut without authority.

53. Whenever satisfactory information, supported by affidavit made before a justice of the peace or before any other competent authority, is received by the Superintendent-General, or any other officer or agent acting under him, that
any

any timber or quantity of timber has been cut without authority on Indian lands, and describing where the said timber can be found, the said Superintendent-General, officer, or agent, or any of them, may seize or cause to be seized, in Her Majesty's name, the timber so reported to have been cut without authority, wherever it is found, and place the same under proper custody, until a decision can be had in the matter from competent authority ;

2. And where the timber so reported to have been cut without authority on Indian lands, has been made up with other timber into a crib, dram or raft, or in any other manner has been so mixed up at the mills or elsewhere, as to render it impossible or very difficult to distinguish the timber so cut on reserves or Indian lands without license, from other timber with which it is mixed up, the whole of the timber so mixed shall be held to have been cut without authority on Indian lands, and shall be liable to seizure and forfeiture accordingly, until satisfactorily separated by the holder.

When it has been indistinguishably mixed with other timber.

All to be deemed cut on Indian lands.

54. Any officer or person seizing timber, in the discharge of his duty under this Act, may in the name of the Crown call in any assistance necessary for securing and protecting the timber so seized ; and whosoever under any pretence, either by assault, force or violence, or by threat of such assault, force or violence, in any way resists or obstructs any officer or person acting in his aid, in the discharge of his duty under this Act, is guilty of felony, and liable to punishment accordingly.

Officer seizing may command assistance.

Punishment for resistance.

Felony.

55. Whosoever, whether pretending to be the owner or not, either secretly or openly, and whether with or without force or violence, takes or carries away, or causes to be taken or carried away, without permission of the officer or person who seized the same, or of some competent authority, any timber seized and detained as subject to forfeiture under this Act, before the same has been declared by competent authority to have been seized without due cause, shall be deemed to have stolen such timber being the property of the Crown, and guilty of felony, and is liable to punishment accordingly ;

Conveying away without authority to be stealing.

2. And whenever any timber is seized for non-payment of Crown dues or for any other cause of forfeiture, or any prosecution is brought for any penalty or forfeiture under this Act, and any question arises whether the said dues have been paid on such timber, or whether the said timber was cut on other than any of the lands aforesaid, the burden of proving payment, or on what land the said timber was cut, shall lie on the owner or claimant of such timber, and not on the officer who seizes the same, or the party bringing such prosecution.

Onus of proof that dues have been paid.

* * * * *

May sue for wrongs.

67. Indians and non-treaty Indians shall have the right to sue for debts due to them or in respect of any tort or wrong inflicted upon them, or to compel the performance of obligations contracted with them.

* * * * *

Presents not to be taken for debts.

69. No presents given to Indians or non-treaty Indians, nor any property purchased, or acquired with or by means of any annuities granted to Indians or any part thereof or otherwise howsoever, and in the possession of any band of such Indians or of any Indian of any band or irregular band, shall be liable to be taken, seized or distrained for any debt, matter or cause whatsoever. Nor in the Province of British Columbia, the Province of Manitoba, the North-West Territories, or in the Territory of Keewatin, shall the same be sold, bartered, exchanged or given by any band or irregular band of Indians or any Indian of any such band to any person or Indian other than an Indian of such band; and any such sale, barter, exchange or gift shall be absolutely null and void, unless such sale, barter, exchange or gift be made with the written assent of the Superintendent-General or his agent; and whosoever buys or otherwise acquires any presents or property purchased as aforesaid, without the written consent of the Superintendent-General, or his agent as aforesaid, is guilty of a misdemeanor, and is punishable by fine not exceeding two hundred dollars, or by imprisonment not exceeding six months, in any place of confinement other than a penitentiary.

Nor sold in certain provinces, &c.

Except with assent of Superintendent-General.

Penalty for contravention.

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EVIDENCE OF NON-CHRISTIAN INDIANS.

How Heathen Indians may be sworn.

74. Upon any inquest, or upon any enquiry into any matter involving a criminal charge, or upon the trial of any crime or offence whatsoever or by whomsoever committed, it shall be lawful for any court, judge, stipendiary magistrate, coroner, or justice of the peace to receive the evidence of any Indian or non-treaty Indian who is destitute of the knowledge of God and of any fixed and clear belief in religion or in a future state of rewards and punishments, without administering the usual form of oath to any such Indian, or non-treaty Indian, as aforesaid, upon his solemn affirmation or declaration to tell the truth, the whole truth and nothing but the truth, or in such form as may be approved by such court, judge, stipendiary magistrate, coroner or justice of the peace as most binding on the conscience of such Indian or non-treaty Indian.

75. Provided that in the case of any inquest, or upon any inquiry into any matter involving a criminal charge, or upon the trial of any crime or offence whatsoever, the substance of the evidence or information of any such Indian, or non-treaty Indian, as aforesaid, shall be reduced to writing, and signed by the person (by mark, if necessary) giving the the same, and verified by the signature or mark of the person acting as interpreter (if any) and by the signature of the judge, stipendiary magistrate or coroner, or justice of the peace or person before whom such evidence or information has been given

Substance of evidence to be reduced to writing and attested.

76. The court, judge, stipendiary magistrate, or justice of the peace shall, before taking any such evidence, information or examination, caution every such Indian or non-treaty Indian, as aforesaid, that he will be liable to incur punishment if he do not so as aforesaid tell the truth.

Indian to be cautioned to tell the truth.

77. The written declaration or examination, made, taken and verified in manner aforesaid, of any such Indian or non-treaty Indian as aforesaid, may be lawfully read and received as evidence upon the trial of any criminal suit or proceedings, when under the like circumstances the written affidavit, examination, deposition or confession of any other person might be lawfully read and received as evidence.

Written declaration, &c., of Indians may be used in like cases as those of other persons.

78. Every solemn affirmation or declaration in whatever form made or taken by any Indian or non-treaty Indian as aforesaid shall be of the same force and effect as if such Indian or non-treaty Indian had taken an oath in the usual form; and he or she shall in like manner incur the penalty of perjury in case of falsehood.

False testimony to be perjury.

INTOXICANTS.

79. Whoever sells, exchanges with, barter, supplies or gives to any Indian, or non-treaty Indian, in Canada, any kind of intoxicant, or causes or procures the same to be done, or connives or attempts thereat or opens or keeps, or causes to be opened or kept, on any reserve or special reserve, a tavern, house, or building where any intoxicant is sold, bartered, exchanged, or given, or is found in possession of any intoxicant in the house, tent, wigwam, or place of abode of any Indian, or non-treaty Indian, shall, on conviction thereof, before any judge, stipendiary magistrate or two justices of the peace, upon the evidence of one credible witness other than the informer or prosecutor, be liable to imprisonment for a period not less than one month nor exceeding six months, with or without hard labor, and be fined not less than fifty nor more than three hundred dollars, with costs of prosecution,—one moiety of the fine to go to the informer or prosecutor, and the other

Punishment of persons furnishing intoxicants to Indians.

x 250
216
466

Penalties and application.

x

Of Commanders of vessels furnishing the same.

Penalties and application.

Imprisonment in default of payment.

Punishment of Indian making, selling or having in possession any intoxicant.

*Indian
making
to Indians*

Exception.

Keg or cask, &c., in which intoxicants are carried to be forfeited.

Intoxicants and vessels containing them may be seized.

And destroyed by order of J. P.

other moiety to Her Majesty, to form part of the fund for the benefit of that body of Indians or non-treaty Indians, with respect to one or more members of which the offence was committed; and the commander or person in charge of any steamer or other vessel, or boat, from or on board of which any intoxicant has been sold, bartered, exchanged, supplied or given to any Indian or non-treaty Indian shall be liable on conviction thereof before any judge, stipendiary magistrate or two justices of the peace, upon the evidence of one credible witness other than the informer or prosecutor, to be fined not less than fifty nor exceeding three hundred dollars for each such offence, with costs of prosecution,--the moiety of the fine to be applicable as hereinbefore mentioned; and in default of immediate payment of such fine and costs any person so fined shall be committed to any common gaol, house of correction, lock-up, or other place of confinement by the judge, stipendiary magistrate or two justices of the peace before whom the conviction has taken place, for a period of not less than one nor more than six months, with or without hard labour, or until such fine and costs are paid; and any Indian or non-treaty Indian who makes or manufactures any intoxicant, or who has in his possession, or concealed, or who sells, exchanges with, barter, supplies or gives to any other Indian or non-treaty Indian in Canada any kind of intoxicant shall, on conviction thereof, before any judge, stipendiary magistrate or two justices of the peace, upon the evidence of one credible witness other than the informer or prosecutor, be liable to imprisonment for a period of not less than one month nor more than six months, with or without hard labour; and in all cases arising under this section, Indians or non-treaty Indians, shall be competent witnesses: but no penalty shall be incurred in case of sickness where the intoxicant is made use of under the sanction of a medical man or under the directions of a minister of religion.

80. The keg, barrel, case, box, package or receptacle whence any intoxicant has been sold, exchanged, bartered, supplied or given, and as well that in which the original supply, was contained as the vessel wherein any portion of such original supply was supplied as aforesaid, and the remainder of the contents thereof, if such barrel, keg, case, box, package, receptacle or vessel aforesaid respectively, can be identified, and any intoxicant imported or manufactured or brought into and upon any reserve or special reserve, or into the house, tent, wigwam or place of abode of any Indian or non-treaty Indian, may be seized by any constable where-soever found on such land or in such place; and on complaint before any judge, stipendiary magistrate or justice of the peace, he may on the evidence of any credible witness that this Act has been contravened in respect thereof, declare the same forfeited, and cause the same to be forthwith destroyed; and

and may condemn the Indian or other person in whose possession they were found to pay a penalty not exceeding one hundred dollars nor less than fifty dollars, and the costs of prosecution; and one-half of such penalty shall belong to the prosecutor and the other half to Her Majesty, for the purposes hereinbefore mentioned; and in default of immediate payment, the offender may be committed to any common gaol, house of correction, lock-up or other place of confinement with or without hard labour, for any time not exceeding six nor less than two months unless such fine and costs are sooner paid.

Person in whose possession they were found subject to penalty from \$50 to \$100.

Imprisonment in default of payment.

81. When it is proved before any judge, stipendiary magistrate or two justices of the peace that any vessel, boat, canoe or conveyance of any description upon the sea or sea coast, or upon any river, lake or stream in Canada, is employed in carrying any intoxicant, to be supplied to Indians or non-treaty Indians, such vessel, boat, canoe or conveyance so employed may be seized and declared forfeited, as in the next preceding section, and sold, and the proceeds thereof paid to Her Majesty for the purposes hereinbefore mentioned.

Vessels used in conveying intoxicants in contravention of this Act, subject to seizure and forfeiture.

82. Every article, chattel, commodity or thing in the purchase, acquisition, exchange, trade or barter of which in contravention of this Act the consideration, either wholly or in part, may be any intoxicant, shall be forfeited to Her Majesty and shall be seized as in the eightieth section in respect to any receptacle of any intoxicant, and may be sold and the proceeds thereof paid to Her Majesty for the purposes hereinbefore mentioned.

Articles exchanged for intoxicants may be seized and forfeited.

83. It shall be lawful for any constable, without process of law, to arrest any Indian or non-treaty Indian whom he may find in a state of intoxication, and to convey him to any common gaol, house of correction, lock-up or other place of confinement, there to be kept until he shall have become sober; and such Indian or non-treaty Indian shall, when sober, be brought before any judge, stipendiary magistrate, or justice of the peace, and if convicted of being so found in a state of intoxication shall be liable to imprisonment in any common gaol, house of correction, lock-up or other place of confinement, for any period not exceeding one month. And if any Indian or non-treaty Indian, having been so convicted as aforesaid, refuses upon examination to state or give information of the person, place and time from whom, where and when, he procured such intoxicant, and if from any other Indian or non-treaty Indian, then, if within his knowledge, from whom, where and when such intoxicant was originally procured or received, he shall be liable to imprisonment as aforesaid for a further period not exceeding fourteen days.

Indians intoxicated may be arrested and imprisoned until sober.

And fined.

And further punished if they refuse to say from whom they got the intoxicants.

To what Judges only an appeal shall lie from conviction under five next preceding sections.

84. No appeal shall lie from any conviction under the five next preceding sections of this Act, except to a Judge of any superior court of law, county, or circuit, or district court, or to the Chairman or Judge of the Court of the Sessions of the Peace, having jurisdiction where the conviction was had; and such appeal shall be heard, tried, and adjudicated upon by such judge without the intervention of a jury; and no such appeal shall be brought after the expiration of thirty days from the conviction.

Want of form not to invalidate conviction.

85. No prosecution, conviction or commitment under this Act shall be invalid on account of want of form, so long as the same is according to the true meaning of this Act.

* * * * *

MISCELLANEOUS PROVISIONS.

Before whom affidavits to be used under this Act may be made.

95. All affidavits required under this Act, or intended to be used in reference to any claim, business or transaction in the Indian Branch of the Department of the Interior, may be taken before the judge or clerk of any county or circuit court, or any justice of the peace, or any commissioner for taking affidavits in any of the courts, or the Superintendent-General, or any Indian agent, or any surveyor duly licensed and sworn, appointed by the Superintendent-General to enquire into or take evidence or report in any matter submitted or pending before such Superintendent-General, or if made out of Canada, before the mayor or chief magistrate of, or the British Consul in, any city, town or other municipality; and any wilful false swearing in any such affidavit shall be perjury.

Perjury.

Certified copies of official papers to be evidence.

96. Copies of any records, documents, books or papers belonging to or deposited in the Department of the Interior, attested under the signature of the Superintendent-General or of his deputy shall be competent evidence in all cases in which the original records, documents, books or papers, could be evidence.

* * * * *

CHAP. 21.

An Act respecting the North-West Territories, and to create a separate Territory out of part thereof.

[Assented to 12th April, 1876.]

WHEREAS it is expedient, pending the settlement of the western boundary of Ontario, to create a separate Territory of the Eastern part of the North-West Territories; Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Preamble.

1. All that portion of the North-West Territories, bounded as follows, that is to say ;—

New district formed.

Beginning at the westerly boundary of the Province of Ontario on the International boundary line dividing Canada from the United States of America ; then westerly following upon the said International boundary line to the easterly boundary of the Province of Manitoba ; thence due north along the said easterly boundary of Manitoba to the north-east angle of the said Province ; thence due west on the north boundary of the said Province to the intersection by the said boundary of the westerly shore of Lake Manitoba ; thence northerly following the said westerly shore of the said lake to the easterly terminus thereon of the Portage connecting the southerly end of Lake Winnipegosis with the said Lake Manitoba known as "the Meadow Portage" ; thence westerly following upon the trail of the said portage to the westerly terminus of the same, being on the easterly shore of the said Lake Winnipegosis ; thence northerly following the line of the said easterly shore of the said lake to the southerly end of the portage leading from the head of the said lake into "Cedar Lake," known as the "Cedar" or "Mossy Portage;" thence northerly following the trail of the said portage to the north end of the same on the shore of Cedar Lake ; thence due north to the northerly limits of Canada ; thence easterly following upon the said northerly limits of Canada to the northerly extremity of Hudson's Bay ; thence southerly following upon the westerly shore of the said Hudson's Bay to the point where it would be intersected by a line drawn due north from the place of beginning, and thence due south on the said line last mentioned to the said place of beginning—

Boundaries thereof.

Shall be and is hereby set apart as a separate district of the said North-West Territories by the name of the District of Keewatin :

Name.

Provided

Proviso.
Power to re-annex any part to N. W. Territories if necessary.

Provided always, that the Governor in Council may, by proclamation published in the *Canada Gazette*, at any time when it may appear to the public advantage so to do, detach any portion of the said district from the same, and re-annex it to that part of the North-West Territories not included in the said district; and the portion so detached shall then be subject to the same government and laws as that part of the said Territories to which it is re-annexed.

Repeal of certain Acts hereby consolidated and amended.
34 V., c. 16.
36 V., c. 5.
36 V., c. 34.

2. The Act passed in the thirty-fourth year of Her Majesty's reign, chaptered sixteen, and intituled "*An Act to make further provision for the Government of the North-West Territories*," and the Act passed in the thirty-sixth year of Her Majesty's reign, chaptered five, and intituled "*An Act to amend the Act intituled 'An Act to make further provision for the Government of the North-West Territories,'*" and the Act passed in the thirty-sixth year of Her Majesty's reign, chaptered thirty-four, and intituled "*An Act further to amend the Act to make further provision for the Government of the North-West Territories*,"---the provisions whereof are herein amended and consolidated, shall be repealed as respects the said District, on the coming into force of this Act.

Lieutenant Governor of district.

3. The Lieutenant-Governor of the Province of Manitoba, or the person acting as such, shall *ex-officio* be Lieutenant-Governor of the said District of Keewatin.

Council for the district. Number of Councillors.

4. The Governor may with the advice of the Queen's Privy Council for Canada, constitute and appoint by warrant, under his sign manual, not exceeding ten nor less than five persons to be members of a Council to aid the Lieutenant-Governor in the administration of the affairs of the said district, with such powers as may be, from time to time, conferred upon them by Order of the Governor in Council.

Governor in Council may empower Lt.-Governor and his Council to make laws for the district.

5. It shall be lawful for the Governor by any Order or Orders to be by him made, with the advice of Her Majesty's Privy Council for Canada, and subject to such restrictions and conditions as to him shall seem meet, to authorize and empower the Lieutenant-Governor of the said district, by and with the advice and consent of the Council appointed to aid him as aforesaid, to make provision for the administration of justice in the said district, and generally to make, ordain and establish all such laws, institutions and ordinances as he may deem necessary for the peace, order and good government of Her Majesty's subjects and others therein, and from time to time to repeal, alter or amend the same in like manner; and any Order of the Governor in Council giving such authority to the Lieutenant-Governor and his Council, shall be in force unless and until repealed, altered or amended (as it may be) by any subsequent Order of the Governor in Council: Provided always, that all such Orders

Proviso:

of the Governor in Council, and all laws and ordinances made by the Lieutenant-Governor, with the advice and consent of his said Council, shall be subject to the provisions hereinafter made.

laws to be subject to this Act.

6. Subject to the said provisions and those hereinafter made, it shall be lawful for the Governor in Council to make laws for the peace, order and good government of the said district, and of Her Majesty's subjects and others therein, in relation to all matters and subjects in relation to which the Lieutenant-Governor and his Council are not then empowered to make laws, and for that purpose either to make new laws or to extend and apply and declare applicable to the said district, with such amendments and modifications as he may deem necessary, any Act or Acts of the Parliament of Canada, or any parts thereof, and from time to time to amend or repeal any laws so made and to make others in their stead.

Subject to this Act, Governor in Council may make laws as to matters on which Lieut.-Governor and his Council cannot make them.

7. The powers hereby given to the Governor in Council with respect to Acts of the Parliament of Canada, shall belong also to the Lieutenant-Governor and his Council, with respect to the subjects and matters in relation to which they are empowered to make laws, and shall extend to the modification, amendment or repeal (as to the said district) of any Act mentioned in section eleven or in the schedule to this Act, and to the vesting in any judge or judges of any court or courts in Manitoba the power of hearing and determining in that Province either in the first instance or in appeal, but, according to laws in force in the said district, any civil or criminal suit or case arising therein; and the Lieutenant-Governor shall have power to appoint justices of the peace, and such other officers as may be necessary for administering the laws in force in the said district:

Power to modify certain Acts extended to the district.

J. P's. and other necessary officers.

Provided always that no law to be made either by the Governor in Council, or by the Lieutenant-Governor and his Council shall—

Proviso: as to power to make laws:

1. Be inconsistent with any provision of this Act or of any Act of the Parliament of Canada, expressly referring to the said district, or—

2. Impose any tax or any duty of customs or excise or any penalty exceeding one hundred dollars; or—

3. Alter or repeal the punishment provided by any Act mentioned in section eleven or the schedule to this Act for any offence; or—

4. Appropriate any public money, lands or property of the Dominion without the authority of Parliament.

Copies to be transmitted to Governor and laid before Parliament.

A copy of every such law made by the Lieutenant-Governor and his Council shall be mailed for transmission to the Governor in Council within ten days after its passing, and may be disallowed by him at any time within two years after its passing; and a copy of every such law and every law made by the Governor in Council, shall be laid before both Houses of Parliament, as soon as conveniently may be after the making and passing thereof: Any copy of any such law made by the Governor in Council, or by the Lieutenant-Governor and his Council, printed in the *Canada Gazette*, or by the Queen's Printer, or the Printer to the Government of Manitoba at Winnipeg, shall be *prima facie* evidence of such law and that it is in force.

Proof of laws.

As to Customs and Excise duties and laws.

8. Unless and until it is otherwise ordered by the Parliament of Canada, the duties of customs and excise shall continue to be the same in the said district as in Manitoba; and except in so far as it may be otherwise provided by any law made under this Act, or made under any former Act and remaining in force in the said district, and subject always to the prohibition of intoxicants hereinafter mentioned, the laws respecting the customs and excise shall be also the same in the said district as in Manitoba.

Laws now in force in the N. W. T. to remain in force in the district until altered.

9. All laws in force in the said district as part of the North-West Territories, at the time of the coming into force of this Act, and not hereby repealed, shall, so far as they are consistent with "*The British North America Act, 1867*," with the terms and conditions of the admission of Rupert's Land and the North-West Territories into the Union, approved of by the Queen, under the one hundred and forty-sixth section thereof, and with any Act of the Parliament of Canada relating to the North-West Territories then in force, and with this Act, remain in force in the said district until repealed or altered by the Parliament of Canada, or by the Governor in Council, or the Lieutenant-Governor and his Council, under this Act,—as shall also any order of the Governor in Council made under any Act mentioned in the second section of this Act, until repealed or altered, as it may be, under this Act.

Officers continued.

10. All public officers and functionaries holding office in the North-West Territories at the time of the coming into force of this Act, shall continue to be public officers and functionaries of the said district until it is otherwise ordered under the authority of this Act.

Acts mentioned in this section or in the schedule to apply to new district.

11. Unless and until it is otherwise ordered by any law relating to the North-West Territories and in force in the said district, or under this Act, and subject always to the provisions of this Act, the Acts mentioned in the schedule to this Act as limited in the said schedule, and

as amended by any subsequent Acts, shall apply to and be in force in the said district,—as shall also all Acts of the Parliament of Canada relating to the executive government and the several departments thereof, the public works of the Dominion, the postal service, the Canada Pacific Railway, the currency, the Statutes of Canada, the public lands of the Dominion and the survey thereof, commissions of public officers and the oaths of allegiance and of office, and the extradition of certain offenders to the United States of America, and so much of the Act passed in the thirty-eighth year of Her Majesty's reign, and intituled "*An Act to amend and consolidate the Laws respecting the North-West Territories*," chaptered forty-nine, as is hereinafter mentioned, that is to say:—Sections fourteen to fifty-three of the said Act, respecting—DESCENT OF REAL ESTATE,—OTHER PROVISIONS AS TO REAL ESTATE,—WILLS—AS TO MARRIED WOMEN, and section seventy-four respecting the PROHIBITION OF INTOXICANTS; and the said sections shall so apply to and be in force in the said district from the coming into force of this Act, whether the said Act shall or shall not have then been brought into force by proclamation in other portions of the North-West Territories: the remaining provisions of the said Act shall not apply to the said district unless expressly extended to it by a law or laws made under the authority of this Act; and in construing any provision of the said Act as applicable to the said district, the said district shall be held to be intended whenever the North-West Territories are mentioned, unless the context and intention require another construction.

Parts of 38 V., c. 49, to apply.

Interpretation.

12. The rule of construction mentioned in the next preceding section shall apply also to sections one to nine, both inclusive, of the Act passed in the thirty-sixth year of Her Majesty's reign, chaptered thirty-five, and intituled "*An Act respecting the administration of justice, and for the establishment of a Police Force in the North-West Territories*," which sections shall remain in force in and with respect to the said district, notwithstanding the coming into force of the Act last cited in the next preceding section, and shall, as respects the said district, be excepted from the repeal therein proposed. The remaining sections of the said Act of the thirty-sixth year of Her Majesty's reign, chapter thirty-five, relating to the Police Force in the North-West Territories, as amended by the Act passed in the thirty-seventh year of Her Majesty's reign, chaptered twenty-two, and the Act passed in the thirty-eighth year of Her Majesty's reign, chaptered fifty, shall remain in force in the said district, and apply to it, and the Lieutenant-Governor of the said district shall (but subject to any order in that behalf from the Governor) have the local disposition of the said force in such numbers and to such extent as the Governor may direct, and may exercise such power in aid of the administration

Certain sections of 36 V., c. 35, to apply to the new district

Other sections of the said Act respecting N. W. Police Force to apply as amended by 37 V., c. 22 and 38 V., c. 50.

of

of civil and criminal justice, and for the general peace, order and good government of the said district, and for or in aid of the performance of all duties assigned by the laws in force in the said district, to any constables or officers therein.

Powers of stipendiary magistrates for N. W. T. in the said district.

(1.) And each and every stipendiary magistrate appointed or to be appointed for the North-West Territories, under the said Act passed in the thirty-sixth year of Her Majesty's reign, chapter thirty-five, or under the Act passed in the thirty-eighth year of Her Majesty's reign, chapter forty-nine, shall, notwithstanding the separation of the said District of Keewatin from the remainder of the said Territories for the other purposes of this Act, continue to have, hold and exercise within the said district the same jurisdiction, powers, authority, rights and duties to all intents as if it had still remained part of the said Territories, or this Act had not been passed.

Interpretation clause.

13. The words "the said district," in this Act, mean the District of Keewatin hereby constituted; the words "this Act" include the provisions of former Acts hereby declared applicable to the said district.

Proviso as to 38 V., c. 49.

14. This Act shall not affect the said Act passed in the thirty-eighth year of Her Majesty's reign, chaptered forty-nine, except only as herein expressly provided.

When this Act shall come into force.

15. This Act shall come into force and effect upon, from and after a day to be named in a proclamation to be issued by the Governor in Council for that purpose.

one of the territories

SCHEDULE.

Acts of the Parliament of Canada referred to in the eleventh section of this Act.

| Chapter. | TITLE. |
|----------|---|
| | <i>Acts passed in the First Session, 31st Victoria, 1867, 1868.</i> |
| 14 | An Act to protect the inhabitants of Canada against lawless aggressions from subjects of foreign countries at peace with Her Majesty. |
| 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. |
| 69 | An Act for the better security of the Crown and of the Government. <i>As amended by 32, 33 Vict., chap. 17.</i> |

SCHEDULE.—Continued.

Acts of the Parliament of Canada referred to in the eleventh section of this Act.

| Chapter. | TITLE. |
|----------|--|
| 70 | An Act respecting riots and riotous assemblies. |
| 71 | An Act respecting forgery, perjury and intimidation in connection with the Provincial Legislatures and their Acts. |
| 72 | An Act respecting Accessories to and Abettors of indictable offences. |
| 73 | An Act respecting Police of Canada. |
| 74 | An Act respecting persons in custody charged with high treason or felony. <i>Acts passed in the Second Session, 32, 33 Victoria, 1869.</i> |
| 18 | An Act respecting offences relating to the Coin. |
| 19 | An Act respecting Forgery. |
| 20 | An Act respecting offences against the Person. <i>As amended by 36 Vict., chap. 50.</i> |
| 21 | An Act respecting Larceny and other similar offences. <i>As amended by 38 Vict., chap. 40, and other Acts.</i> |
| 22 | An Act respecting Malicious Injuries to Property. <i>As amended by 35 Vict., chap. 34.</i> |
| 23 | An Act respecting Perjury. <i>As amended by 33 Vict., chap. 26.</i> |
| 24 | An Act for the better preservation of the peace in the vicinity of the Public Works. <i>As amended by 33 Vict., chap. 28, and 38 Vict., chap. 38.</i> |
| 29 | An Act respecting Procedure in Criminal Cases, and other matters relating to Criminal Law. <i>Sections 1 to 7, both inclusive, relating to the apprehension of offenders; sections 81 to 87, both inclusive, relating to the punishment of offences; and sections 125 to 133, both inclusive, relating to pardons, undergoing sentence, limitation of actions and prosecutions, and general provisions. The whole Act will apply, in Manitoba, to offences committed in the said District of Keewatin, but triable in Manitoba, and the persons committing them.</i> |
| 30 | An Act respecting the duties of Justices of the Peace out of Sessions in relation to persons charged with indictable offences. <i>So far as respects indictable offences committed in the said District and triable in Manitoba, or committed in some Province in Canada, and the offender apprehended in the said District.</i> |
| 31 | An Act relating to the duties of Justices of the Peace out of Sessions in relation to summary convictions and orders. <i>Except so much of this Act (or of any Act amending it as gives any appeal from any conviction or order adjudged or made under it.)</i> |
| 32 | An Act respecting the prompt and summary administration of criminal justice in certain cases. <i>In applying this Act to the said District, the expression "competent magistrate" shall be construed as meaning two Justices of the Peace sitting together as well as any functionary or tribunal having the power of two Justices of the Peace, and the jurisdiction shall be absolute without the consent of the parties charged.</i> |
| 33 | An Act respecting the trial and punishment of juvenile offenders. <i>In applying this Act to the said District, the expression "and two or more justices" shall be construed as including any magistrate having the powers of any two Justices of the Peace. This Act shall not apply to any offence punishable by imprisonment for two years or upwards, and it shall not be necessary that any recognizance be transmitted to any Clerk of the Peace.</i> |

CHAP. 22.

An Act to amend the Acts therein mentioned, as respects the importation or manufacture of intoxicants in the North-West Territories

[Assented to 12th April, 1876.]

Preamble.

IN amendment of the Act passed in the thirty-seventh year of Her Majesty's reign, chaptered seven, and of the Act passed in the thirty-eighth year of Her Majesty's reign, chaptered forty-nine: Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Sec. 2 of 37 V., c. 7, and s. 74 of 38 V., c. 49 amended.

1. The second section of this Act first above mentioned is hereby amended by inserting after the word "Territories" in the thirteenth line the words "or of the Lieutenant-Governor of Manitoba under regulations to be, from time to time, made by the Governor in Council;" and the seventy-fourth section of the said Act passed in the thirty-eighth year of Her Majesty's reign, chaptered forty-nine, is hereby amended by inserting the same words after the word "Territories," in the seventh line of the said section.

CHAP. 23

An Act to supply an omission in the Act 37 Vict., chap. 42, extending certain Criminal Laws of Canada to British Columbia.

[Assented to 12th April, 1876.]

33 V., c. 27.

WHEREAS in the section substituted by the Act passed in the thirty-third year of Her Majesty's reign, chaptered twenty-seven, intituled "*An Act to amend the Act respecting the duties of Justices of the Peace out of Sessions, in relation to summary convictions and orders,*" for the sixty-fifth section of the Act thereby amended, the several courts to which, under the said section, an appeal is given from a conviction had or an order made by a justice or justices of the peace in the several Provinces forming the Dominion of Canada at the time of the passing of the Act first cited are mentioned, but no such provision was or could be made as to the Province of British Columbia, which was not then part of Canada; and, whereas, the Act first cited and the Act thereby amended were, by the Act passed in the thirty-seventh year of Her Majesty's reign, intituled "*An Act to extend*"

32 and 33 V., c. 31, s. 65.

37 V., c. 42.

extend to the Province of British Columbia certain of the Criminal Laws now in force in other Provinces of the Dominion, extended, with others, to British Columbia, but no provision was made as to the court to which the appeal given by the said substituted section should lie, and it is expedient to remedy such omission: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The said substituted sixty-fifth section mentioned in the preamble is hereby amended by inserting therein, immediately before the words “such right of” in the last line but one of the first paragraph of the said section, as printed in the Statutes of the session in which it was passed, the words “and in the Province of British Columbia, to the “court of general or quarter sessions of the peace which shall “be held nearest to the place where the conviction has taken “place or the order has been made from which it is desired “to appeal.”

Section substituted by 33 V., c. 27, for sec. 65 of 32 and 33 V., c. 31, amended as respects its application to British Columbia.

CHAP. 24.

An Act to provide for the appointment of Assistant Inspectors of Penitentiaries in Manitoba and British Columbia.

[Assented to 12th April, 1876.]

WHEREAS, owing to the distance, it is essential to the efficient and economical inspection of Penitentiaries in Manitoba and British Columbia to make provision for the appointment of Assistant Inspectors resident in those Provinces: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Preamble.

1. It shall be lawful for the Governor in Council to appoint some fit and proper person to be Assistant Inspector of any Penitentiary established in the Province of Manitoba, and also to appoint some fit and proper person to be Assistant Inspector of any Penitentiary established in the Province of British Columbia.

Assistant Inspectors for Manitoba and British Columbia.

Such Assistant Inspectors shall act as the representatives of the Inspector, to whom they shall report, and they shall hold office during pleasure.

To represent and report to Inspector.

To be officers of Department of Justice.

3. They shall be officers of the Department of Justice and shall each receive a salary not exceeding two hundred and fifty dollars per annum, and travelling expenses, to be determined by the Governor in Council.

Their powers to be assigned by Governor in Council.

4. They shall have, with reference to the Penitentiaries of which they are respectively appointed Assistant Inspectors, such of the powers, and discharge such of the duties imposed by law on the Inspector of Penitentiaries as may be, from time to time, assigned to them respectively by the Governor in Council.

CHAP. 36.

An Act respecting the attendance of Witnesses on Criminal Trials.

[Assented to 12th April, 1876.]

Preamble.

WHEREAS it is expedient to make better provision for securing the attendance of witnesses on criminal trials: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Witnesses summoned must attend.

1. Any 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.

Judge may cause witness to be arrested to answer for his default.

2. 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 found guilty thereof may, by order of the judge, be fined or imprisoned, or both,—the fine not exceeding one hundred dollars, and the imprisonment being in the common gaol, with or without hard labor, for a term not exceeding ninety days.

Punishment of witness found guilty of such default.

CHAP. 37.

An Act to amend the Criminal Law relating to Violence,
Threats and Molestation.

[Assented to 12th April, 1876.]

WHEREAS it is expedient to amend the Criminal Law Preamble.
relating to Violence, Threats, and Molestation: There-
fore Her Majesty, by and with the advice and consent of
the Senate and House of Commons of Canada, enacts as
follows:—

1. The Act of the thirty-eighth year of Her Majesty's 38 v., c. 39,
reign, chapter thirty-nine, intituled "*An Act to amend the* repealed.
provisions of 'An Act to amend the Criminal Law relating to
Violence, Threats and Molestation'" is hereby repealed.

2. The first section of the Act of the thirty-fifth year of Sec. 1. of 35
Her Majesty's reign, chapter thirty-one, intituled "*An Act* V., c. 31,
to amend the Criminal Law relating to Violence, Threats and repealed and
Molestation" shall remain repealed, and the following other
provisions shall be substituted instead thereof, and shall here- provisions
after be read as forming the first section of the said Act, substituted.
which shall be construed accordingly:—

1. Every person who wrongfully and without legal Persons
authority, with a view to compel any other person to abstain wrongfully
from doing anything which he has a legal right to do, or to committing
do anything from which he has a legal right to abstain,— certain acts,
viz :

"(1). Uses violence to such other person, or his wife or
children, or injures his property; or—

"(2). 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; or—

"(3). Persistently follows such other person about from
place to place; or—

"(4). Hides any tools, clothes or other property owned or
used by such other person, or deprives him, or hinders him
in the use thereof; or—

"(5). Follows such other person with one or more other
persons in a disorderly manner in or through any street or
road; or—

"(6.) Besets or watches the house or other place where such other person resides or works or carries on business or happens to be—

Liable to fine or imprisonment.

"Shall be liable to a fine not exceeding one hundred dollars, or to imprisonment for a term not exceeding three months :

Proviso : Interpretation.

"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."

Persons charged with such offences may object to be tried under sec. 2 of 35, V., c. 31.

3. Where a person is brought before a functionary or tribunal named in the second section of the said Act of the thirty-fifth year of Her Majesty's reign, chapter thirty-one, in respect to any offence under the provisions of the first section of the said Act as amended by the second section of this Act, the accused may on appearing before such functionary or tribunal declare that he objects to being tried for such offence by such functionary or tribunal ; and thereupon such functionary or tribunal shall not proceed with such trial, but may deal with the case in all respects as if the accused were charged with an indictable offence and not with an offence punishable on summary conviction, and the accused may be prosecuted on indictment accordingly : and this section shall be read as part of the said Act.

Proceedings in such case to be by indictment.

Limitation of prosecution and punishment for conspiracy for purposes of trade combination.

4. A prosecution shall not be maintainable against a 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 indictable by Statute, or is punishable under the provisions of the Act hereby amended ; nor shall any person, who is convicted upon any such prosecution, be liable to any greater punishment than is provided by such Statute or by the said Act as hereby amended, for the act of which he may have been convicted as aforesaid.

"Trade combination" and "act," meaning of in this Act.

2. For the purpose of this section, "trade combination" means any combination between masters or workmen or other persons, for regulating or altering the relations between 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 word "act" includes a default, breach or omission.



40 VICTORIA.

CHAP. 4.

An Act to extend to the Province of Prince Edward Island, certain Criminal Laws now in force in other Provinces of Canada.

[Assented to 28th April, 1877.]

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

1. The Acts of the Parliament of Canada passed in former Sessions of the said Parliament, and mentioned in the Schedule to this Act, are and each of them is hereby extended to and shall have force and effect of law within the Province of Prince Edward Island, save and except so far only as any provision of any such Act may be therein declared to be applicable to one or more only of the Provinces composing the Dominion at the time of the passing of such Act and mentioned therein. Acts in the Schedule extended to Prince Edward Island.

2. In case any of the said Acts, or any enactment or provision therein, has force and effect in relation to one of the Provinces comprising the Dominion at the time of its passing, in a sense peculiar to that Province and different from the sense in which it has force and effect in relation to all the said Provinces as a whole, such Act, enactment or provision shall have force and effect within and in relation to the said Province of Prince Edward Island, in the last mentioned sense only. Such Acts to have effect in Prince Edward Island as in all the Provinces of Canada as a whole.

3. Nothing in this Act shall be construed as a declaration that any of the said Acts or any part thereof, had not, or has not or would not have, without the passing of this Act, force or effect in or in relation to the Province of Prince Edward Island. As to effect of the passing of this Act.

Acts extended not to have a retroactive effect.

Power of existing Courts to try offenders under the Acts extended.

Who may bail offenders under 32-33 V., c. 30.

General powers of courts, &c.

Provision in the absence of a Penitentiary in the Province.

4. Nothing in this Act shall be construed to give a retroactive effect to any of the Acts hereby extended to the said Province, or to any enactment or provision therein, so as to make any act done before it comes into force a crime or offence if it would not be so without this Act, or to alter the punishment for any crime or offence committed before it comes into force; but the trial for such crime or offence, and the procedure respecting it after the said time, shall be had or continued, under the provisions of the Acts hereby extended, in and by the court, magistrate or tribunal, in or before which the case may be pending: and the Supreme Court of the said Province, and other courts, or magistrates and tribunals now existing or hereafter to be constituted by the Legislature of the said Province for the trial of treasons, felonies, or indictable or other offences respectively, shall have power to hear, try and determine treasons, felonies or indictable or other offences of the like classes respectively, under the Acts hereby extended to the said Province. Any Judge of the Supreme Court or County Court shall have power to order the admission of an accused party to bail under sections fifty-three and sixty-one of the Act passed in the session held in the thirty-second and thirty-third years of Her Majesty's reign, and intituled "*An Act respecting the duties of Justices of the Peace, out of sessions, in relation to persons charged with indictable offences;*" and generally any power vested by any of the Acts hereby extended in any court, magistrate or tribunal, may be exercised respectively by any court, magistrate or tribunal of like name or kind in the said Province.

5. In the absence of any penitentiary building in the said Province, any common gaol or other place of confinement therein, shall be held to be a penitentiary for the confinement and reformation of persons, male or female, lawfully convicted of crime before any court in the said Province, and sentenced to imprisonment for life or for a term of not less than two years, and such offender shall be imprisoned therein accordingly: Provided always, that whenever the building to be constructed for a joint penitentiary of the Provinces of Nova Scotia, New Brunswick and Prince Edward Island shall be completed, and the Governor in Council shall have declared by proclamation to be published in the *Canada Gazette*, that such building and any tract of land (within either of the said Provinces) thereunto attached, shall upon, from and after a day named in such proclamation, be a penitentiary, the same shall, from and after the said day, be the penitentiary for the said Province of Prince Edward Island (as well as for the other said Provinces) and offenders thereafter sentenced in the said Province to imprisonment for life or for a term of two years or more, shall be imprisoned and undergo their sentence therein, and the provisions of the Acts hereby extended, or any of them, respecting

ing the conveyance of convicts from the place of conviction to the penitentiary and their delivery to and reception by the warden thereof, shall extend and apply to persons convicted in the said Province and liable to imprisonment in the said penitentiary; and convicts imprisoned before the said day in any common gaol or place of confinement in the said Province under sentence of imprisonment, whether under any Act hereby extended to the said Province or under any Act before such extension in force therein, for life or for a term of more than two years, and of which not less than two years shall then be unexpired, may, under such provisions as aforesaid respecting their conveyance and such further orders as the Governor may make, be removed to the said penitentiary and undergo the remainder of their respective sentences therein, or of the term to which they may have been commuted.

As to convicts imprisoned before this Act comes into force.

6. Any appeal to the General or Quarter Sessions of the Peace, from any conviction by or order of a Justice of the Peace, given by the Act passed in the session held in the thirty-second and thirty-third years of Her Majesty's reign, and intituled "*An Act respecting the duties of Justices of the Peace out of Sessions in relation to summary convictions and orders*," or by the Act amending it, passed in the thirty-third year of Her Majesty's reign, and intituled "*An Act to amend the Act respecting the duties of Justices of the Peace out of Sessions in relation to summary convictions and orders*," shall, in the said Province, lie to the Supreme Court at the sitting thereof held next after the expiration of twelve days from the time when such conviction was had, or such order made,—the proceedings prior to the appeal being governed by the Act hereby extended to the said Province and first mentioned in this section.

As to appeals under Acts extended.

32-33 V., c. 31.

33 V., c. 27.

7. Any return of the convictions before any Justice or Justices of the Peace, required by the seventy-sixth section of the Act first-mentioned in the next preceding section, to be made to the Clerk of the Peace or other proper officer, shall be made to the Clerk of the Court of Assize for the county, at and up to the twelfth day next before the sitting of the said Court next after such convictions respectively, and shall be dealt with by the said Clerk of Assize in the manner provided by the eightieth and eighty-first sections of the said Act.

Returns of convictions, to whom to be made.

8. Fines collected under the "*Act respecting the prompt and summary administration of Criminal Justice in certain cases*" and also under the "*Act respecting the trial and punishment of Juvenile Offenders*" shall be paid over to the Provincial Secretary and Treasurer.

Appropriation of fines under Acts of 32-33 V., cc. 32 and 33.

Repeal of enactments in Provincial Acts inconsistent with those of Acts hereby extended.

Proviso.

Commencement of Act.

9. So much of every law in force in the Province of Prince Edward Island at the time of the coming into force of this Act, as is inconsistent with or repugnant to any of the enactments or provisions of this Act, or of any Act hereby extended to the said Province, or makes any provision in any matter provided for by the said enactments or provisions, is hereby repealed from and after the said time; but such repeal shall not affect the past operation of any such law, or the validity of anything already done, or of any judgment or order pronounced or made, or any right, title, obligation or liability then accrued, or any penalty, forfeiture or punishment incurred under such law before such repeal.

10. This Act shall commence and take effect upon, from and after the first day of April, in the year of Our Lord, one thousand eight hundred and seventy-eight.

SCHEDULE.

Acts of the Parliament of Canada referred to in the first section of this Act.

| Chapter. | TITLE. |
|---|---|
| <i>Acts passed in the First Session, 31 Victoria, 1867, 1868.</i> | |
| 14 | An Act to protect the inhabitants of Canada against lawless aggressions from subjects of foreign countries at peace with Her Majesty. |
| 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. |
| 69 | An Act for the better security of the Crown and of the Government. <i>As amended by 32-33 Victoria, chapter 17.</i> |
| 70 | An Act respecting riots and riotous assemblies. |
| 71 | An Act respecting forgery, perjury and intimidation in connection with the Provincial Legislatures and their Acts. |
| 72 | An Act respecting Accessories to and Abettors of indictable offences. |
| 73 | An Act respecting Police of Canada. |
| 74 | An Act respecting persons in custody charged with high treason or felony. |
| 94 | An Act respecting the Treaty between Her Majesty and the United States of America, for the apprehension and surrender of certain offenders. <i>As amended by 33 Victoria, chapter 25.</i> |
| <i>Acts passed in the Second Session, 32-33 Victoria, 1869.</i> | |
| 17 | An Act to remove doubts as to Legislation in Canada regarding offences not wholly committed within its limits. |
| 18 | An Act respecting offences relating to the Coin. |

SCHEDULE—Continued.

| Chapter. | TITLE. |
|----------|---|
| 19 | An Act respecting Forgery. |
| 20 | An Act respecting offences against the Person. <i>As amended by 36 Victoria, chapter 50.</i> |
| 21 | An Act respecting Larceny and other similar offences. <i>As amended by 35 Victoria, chapters 33 and 35, and 38 Victoria, chapter 40.</i> |
| 22 | An Act respecting Malicious Injuries to Property. <i>As amended by 35 Victoria, chapter 34.</i> |
| 23 | An Act respecting Perjury. <i>As amended by 33 Victoria, chapter 26.</i> |
| 24 | An Act for the better preservation of the Peace in the vicinity of Public Works. <i>As amended by 33 Victoria, chapter 28, and 38 Victoria, chapter 38.</i> |
| 25 | An Act respecting certain offences relative to Her Majesty's Army and Navy. |
| 26 | An Act for the better protection of Her Majesty's Military and Naval Stores. |
| 27 | An Act respecting Cruelty to Animals. <i>As amended by 33 Victoria, chapter 29.</i> |
| 28 | An Act respecting Vagrants. <i>As amended by 37 Victoria, chapter 43.</i> |
| 29 | An Act respecting Procedure in Criminal Cases, and other matters relating to Criminal Law. <i>As amended by 36 Victoria, chapters 3 and 51, and 39 Victoria, chapter 36.</i> |
| 30 | An Act respecting the duties of Justices of the Peace out of Sessions in relation to persons charged with indictable offences. |
| 31 | An Act respecting the duties of Justices of the Peace out of Sessions in relation to summary convictions and orders. <i>As amended by 33 Victoria, chapter 27, and 36 Victoria, chapter 58.</i> |
| 32 | An Act respecting the prompt and summary administration of criminal justice in certain cases. <i>In applying this Act to Prince Edward Island, the expression "competent magistrate" shall be construed as meaning any two Justices of the Peace sitting together, as well as any functionary or tribunal having the powers of two Justices of the Peace, and the jurisdiction shall be absolute without the consent of the parties charged.</i> |
| 33 | An Act respecting the trial and punishment of juvenile offenders. <i>In applying this Act to Prince Edward Island, the expression "any two or more Justices," shall be construed as including any magistrate having the powers of two Justices of the Peace. This Act shall not apply to any offence punishable by imprisonment for two years and upwards, and it shall not be necessary that the recognizance be transmitted to any Clerk of the Peace.</i> <i>Acts passed in the Third Session, 33 Victoria, 1870.</i> |
| 25 | An Act to amend the Act respecting the extradition of certain offenders to the United States of America. |
| 26 | An Act to amend the Act respecting Perjury. |
| 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. |
| 28 | An Act to amend an Act for the better preservation of the Peace in the vicinity of Public Works. |
| 29 | An Act to amend an Act respecting Cruelty to Animals. |
| 31 | An Act for the better protection of the Clothing and Property of Seamen in Her Majesty's Navy. <i>Acts passed in the Fifth Session, 35 Victoria, 1872.</i> |
| 31 | An Act to amend the Criminal Law relating to Violence, Threats and Molestation. <i>As amended by 38 Victoria, chapter 39, and 39 Victoria, chapter 37.</i> |

SCHEDULE—*Continued.*

| Chapter | TITLE. |
|---------|--|
| 32 | An Act to amend the law relating to the Fraudulent Marking of Merchandise. |
| 33 | An Act for the avoidance of doubts respecting Larceny of Stamps. |
| 34 | An Act to correct a clerical error in the Act respecting Malicious Injuries to Property. |
| 35 | An Act to amend the law relating to Advertisements respecting Stolen Goods. <i>Acts passed in the Sixth Session, 36 Victoria, 1873.</i> |
| 3 | An Act to amend the Act respecting Procedure in Criminal Cases. |
| 50 | An Act to amend the Act respecting Offences against the Person. |
| 51 | An Act further to amend the law respecting certain matters of Procedure in Criminal Cases. |
| 58 | An Act to amend the Acts for more effectually preventing the desertion of Seamen, and for other purposes. <i>The Second Section only.</i> <i>Acts passed in the Seventh Session, 37 Victoria, 1874.</i> |
| 37 | An Act for the suppression of Voluntary and Extra-judicial Oaths. |
| 38 | An Act respecting the crime of Libel. |
| 43 | An Act to amend an Act respecting Vagrants. <i>Acts passed in the Eighth Session, 33 Victoria, 1875.</i> |
| 38 | An Act to amend the Acts for the better preservation of the Peace in the vicinity of Public Works. |
| 39 | An Act to amend the provisions of "An Act to amend the Criminal Law relating to Violence, Threats and Molestation." |
| 40 | An Act to amend the Act, intituled: "An Act respecting Larceny and other similar offences." <i>Acts passed in the Ninth Session, 39 Victoria, 1876.</i> |
| 36 | An Act respecting the attendance of Witnesses on Criminal Trials. |
| 37 | An Act to amend the Criminal Law relating to Violence, Threats and Molestation. <i>Acts passed in the present Session, 40 Victoria, 1877.</i> |
| | Any Act amending any of the Acts mentioned in this Schedule. |

EXTRACTS FROM

CHAP. 7.

An Act to amend the "North-West Territories Act, 1875."

[Assented to 28th April, 1877.]

* * * * *

7. Sections sixty-two, sixty-three and sixty-four of the said Act are hereby repealed and the following sections, respectively, substituted in lieu thereof:---

Sections 62, 63, 64 repealed and new substituted.

"62. Each Stipendiary Magistrate having taken the following oath before the Lieutenant-Governor or any Stipendiary Magistrate in the North-West Territories, that is to say: ---'I do swear that I will truly and faithfully execute the several powers, duties and trusts committed to me by or under 'The North-West Territories Acts, 1875 and 1877,' without fear, without favor, and without malice: So help me God;---shall have jurisdiction throughout the North-West Territories, as hereinafter mentioned, and shall also have jurisdiction and may exercise within the North-West Territories, the magisterial, and other functions appertaining to any Justice of the Peace, or any two Justices of the Peace, under any laws or ordinances which may, from time to time, be in force in the North-West Territories.

Stipendiary Magistrates' oath of office.

And jurisdiction.

"63. Each Stipendiary Magistrate shall further have power to try in a summary way, and without the intervention of a jury, in addition to any other charge which he may by law have the power so to try, any charge against any person or persons for any offence committed within the North-West Territories, mentioned in the third section of the Act passed in the thirty-sixth year of Her Majesty's reign, chapter thirty-five, intituled "An Act respecting the Administration of Justice and for the establishment of a Police Force in the North-West Territories,"---Which section is hereby re-enacted and shall be and remain in force notwithstanding the coming into force of the Act hereby amended.

Further powers, for summary trial of certain offenders under section 3 of 35 V., c. 35.

Said section to remain in force.

Trial without a jury by assent of offender in certain cases.

“ 61. When the maximum punishment for a crime not triable in a summary way under the next preceding section, or under any other provision of the criminal law, does not exceed seven years' imprisonment, the Stipendiary Magistrate---if the accused assents thereto---may try in a summary way and without the intervention of a jury, any charge against any person or persons for any such crime, but if the accused does not so consent then the trial shall be had as provided in the next following sub-section :

Trial by jury of six.

“ 2. When the maximum punishment for a crime other than punishment by death exceeds seven years' imprisonment, the Stipendiary Magistrate and a Justice of the Peace, with the intervention of a jury of six, may try any charge against any person or persons for any such crime :

When the crime is capital.

“ 3. When the punishment for a crime is death, one Stipendiary Magistrate and two Justices of the Peace, with the intervention of a jury of six, may try any charge against any person or persons for any such crime :

Procedure in such cases.

Notes by Magistrate.

Defence by Counsel.

“ 4. The procedure upon trials under sub-sections two and three of this section shall be as far as possible similar to the procedure upon summary trials ; but the Stipendiary Magistrate shall, upon every such trial, take, or cause to be taken, in writing, full notes of the evidence and other proceedings thereat ; and all persons tried under the said sub-sections shall be admitted after the close of the case for the prosecution to make full answer and defence by counsel learned in the law :

Death sentence to be reported.

Stay of execution.

“ 5. When any person is convicted of a capital offence and is sentenced to death, the Stipendiary Magistrate shall forward to the Minister of Justice full notes of the evidence with his report upon the case, and the execution shall be stayed until such report is received and the pleasure of the Governor thereon is communicated to the Lieutenant-Governor :

Summoning jurors: until ordinance is made.

“ 6. In default of any ordinance in that behalf, made under sub-section nine of this section, persons required as jurors for a trial under the said sub-sections two and three, shall be summoned by a Stipendiary Magistrate from among such male persons as he may think suitable in that behalf ; and the jury required on such trials shall be called from among the persons so summoned as such jurors, and sworn by the Stipendiary Magistrate who presides at the trial :

“7. Any person arraigned for treason or felony may challenge peremptorily and without cause not more than six jurors : Peremptory challenges by prisoners.

“Every peremptory challenge beyond the number so allowed shall be entirely void ; Void beyond six.

“The Crown may peremptorily challenge not more than four jurors : By Crown.

“Challenges for cause shall be the same as now provided for under the Act, chapter twenty-nine, thirty-second and thirty-third Victoria, (1869) intituled “*An Act respecting procedure in criminal cases and other matters relating to criminal law*” ; Challenges for cause.

“If, from challenges or otherwise, the jurors summoned for the trial are exhausted, the Stipendiary Magistrate shall direct some constable or other person to summon by word of mouth from among the by-standers or from the neighbourhood, such number of persons as may be necessary to make up a jury, the persons so summoned being subject to challenge as those summoned by the Magistrate in the first instance, and the like proceedings shall be repeated, if necessary, until a jury be formed, competent to try the case ; and any person summoned, as hereby provided, to serve as a juror, and making default or refusing to serve as such without lawful excuse to the satisfaction of the Magistrate, may be fined by him in a sum not exceeding ten dollars, and committed to prison until such fine be paid. Provision if the list of jurors is exhausted. Tales. Fine on juror summoned and not serving.

“8. If imprisonment in jail for not less than two years, or in the penitentiary, be awarded in any case, the convict may be ordered to be imprisoned in the North-West Territories or to be conveyed to the penitentiary in the Province of Manitoba ; in which latter case he shall undergo such punishment therein as if convicted in the Province of Manitoba, and shall be so conveyed by any constable or constables, and received and detained therein by the authorities of the penitentiary on the warrant of the Stipendiary Magistrate : Provision when imprisonment for two years or more is awarded.

“9. The Lieutenant-Governor in Council, or the Lieutenant-Governor, by and with the advice and consent of the Legislative Assembly, as the case may be, may, from time to time, make any ordinance in respect to the mode of calling juries, and when, and by whom, and how they may be summoned Lt.-Governor in Council or with Assembly, may make jury laws.

No Grand Jury. or taken, and in respect of all matters relating to the same ; but no Grand Jury shall be called in the North-West Territories :

Returns to Lt.-Governor. " 10. Returns of all trials and proceedings, civil and criminal, shall be made to the Lieutenant-Governor in such form and at such times as he may direct."

* * * * *

Powers of Stipendiary Magistrates in Keewatin. 12. Stipendiary Magistrates appointed under the said Act or under this Act shall have the same power and authority for trying offences in the District of Keewatin as, under the said Act, they have in the North-West Territories, and the provisions herein made as to such trials and as to imprisonments under sentences shall apply to the District of Keewatin.

Powers of County Judges and Judges of Q. B., Manitoba, in N.W.T. Proviso. 2. The Chief Justice or any Judge of the Court of Queen's Bench, of the Province of Manitoba, shall have the same power and authority for trying offences in the District of Keewatin as under said Act or this Act a Stipendiary Magistrate or two Stipendiary Magistrates or a Stipendiary Magistrate and two Justices of the Peace have in the North-West Territories, and the provisions herein made as to trials shall, so far as applicable, apply to trials before such Chief Justice or Judge in the District of Keewatin : Provided always, that the Chief Justice or Judge shall not proceed to any such trial unless requested by the Governor in Council.

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CHAP. 25.

An Act to make provision for the Extradition of Fugitive Criminals.

[Assented to 28th April, 1877.]

WHEREAS the Parliament of Canada has all the powers Preamble.
proper for making legislative provision for the extradition from Canada of Fugitive Criminals;

And whereas the Parliament and Government of Canada have all the powers proper for performing the obligations of Canada as part of the British Empire towards Foreign States, arising under treaties between the Empire and foreign states;

And whereas several extradition arrangements, some of which are referred to in the first schedule to this Act, have been made between Her Majesty the Queen and Foreign States;

And whereas other such arrangements may, from time to time, be made;

And whereas it is proper to make provision by one Canadian law for the execution of all such arrangements:

Therefore 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 term "extradition arrangement" means a treaty, convention or arrangement made by Her Majesty with a Foreign State for the surrender of fugitive criminals, and extending to Canada: Definition of terms used. Extradition arrangement.

The term "extradition crime" may mean any crime which, if committed in Canada, or within Canadian jurisdiction, would be one of the crimes described in the second 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: Extradition crime.

The terms "conviction" and "convicted" do not include the case of a condemnation under foreign law by reason of contumacy; but the term "accused person" includes a person so condemned: Conviction. Convicted.

The

Fugitive.
Fugitive criminal.

The terms "fugitive" and "fugitive criminal" 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 State.

The term "Foreign State" includes every colony, 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, in case of Foreign State.

The term "warrant", in the case of a Foreign State, includes any judicial document authorizing the arrest of a person accused or convicted of crime :

Judge.

The term "judge" includes any person authorized to act judicially in extradition matters.

Proceedings commenced under former law.

2. Proceedings for or in relation to the surrender of a fugitive criminal of a Foreign State, commenced under any other law previously to the time at which this Act shall apply in the case of that state, may be completed, and the fugitive surrendered or discharged, in the same manner as if this Act had not been passed.

Acts repealed.

31 V., c. 94.

33 V., c. 25.

36 V., c. 127.

3. The following Acts of the Parliament of Canada—namely, the Act passed in the year of our Lord, one thousand eight hundred and sixty-eight and intituled "*An Act respecting the Treaty between Her Majesty and the United States of America for the apprehension and surrender of certain Offenders* ;" and the Act passed in the year of our Lord, one thousand eight hundred and seventy, and intituled "*An Act to amend the Act respecting the Extradition of certain Offenders to the United States of America* ;" and the Act passed in the year of our Lord one thousand eight hundred and seventy-three, and intituled "*An Act to make further provision respecting the Extradition of Criminals*," are, save for the purposes of the second section of this Act, hereby repealed.

As to arrangements existing when this Act comes into force.

Provided operation of Act of U. K., 1870, has ceased in Canada.

4. In the case of any Foreign State with which there is at or after the time this Act comes into force, an extradition arrangement, this Act shall apply during the continuance of such arrangement: Provided that the operation of the Act of the Parliament of the United Kingdom passed in the year of our Lord one thousand eight hundred and seventy, and intituled "*An Act for amending the law relating to the Extradition of Criminals*," shall have ceased or been suspended within Canada in the case of that state :

This Act not to contravene arrangement, but to enforce it.

(2.) For the avoidance of doubts, any provisions of this Act which may be deemed to be inconsistent with any term of the arrangement shall not have effect to contravene the arrangement; and this Act shall be so read and construed as to provide for the execution of the arrangement ;

(3.)

(3.) In the case of any Foreign State with respect to which the application to the United Kingdom of the said Act of the Parliament of the United Kingdom 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 ;

When the Act of U. K. is subject to limitation in its application to U. K.

(4.) 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 *mutatis mutandis* to the new Order.

Governor in Council may revoke any order.

5. This Act, in so far as its application in the case of any Foreign State may depend on or be affected by any Order in Council made under or referred to in this Act, shall apply, or its application shall be affected, after the time specified in the Order, or, if no time be specified, after the date of the publication of the Order in the *Canada Gazette* :

If the application of this Act depends on 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 may be, published in the *Canada Gazette* and laid before both Houses of Parliament :

Publication of Order in Council in U. K. or Canada.

(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 validity of the Order : and the application of this Act pursuant and subject thereto, shall not be questioned.

Effect of publication in *Canada Gazette*.

6. No fugitive shall be liable to surrender under this Act if it appears—(1) that the offence in respect of which proceedings are taken under this Act is one of a political character ; or (2) that such proceedings are being in fact taken with a view to prosecute or punish him for an offence of a political character.

No surrender for political offences.

7. 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.

Surrender not to depend on time when the offence was committed, etc.

What judges may act judicially in cases under this Act.

8. All judges of the superior courts and of the county courts of any Province or Territory of Canada, and all commissioners who may be, from time to time, appointed for the purpose in any such Province or Territory by the Governor 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 or Territory; 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 or Territory;

Powers.

No *habeas corpus* power.

(2.) Nothing in this section shall be construed to confer on any judge any jurisdiction in *habeas corpus* matters.

Depositions, etc., made in Foreign States or copies thereof, when receivable.

9. 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 on proceedings under this Act;

How to be authenticated.

(2.) Such papers shall be deemed duly authenticated, if authenticated in manner provided for the time being by law, or if authenticated as follows,—

If signed or certified.

(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,—

Or authenticated on oath or by seal.

(b.) And if in every case 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; of which seal the judge shall take judicial notice without proof.

Warrant under this Act, how executed.

10. 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 endorsed, by a Justice of the Peace having jurisdiction in the place where it is executed.

On what grounds a warrant may issue.

11. Where 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:

(2.)

(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.

Report to Minister of Justice.

12. 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 near as may be, as if the fugitive were brought before him charged with an indictable offence committed in Canada :

How fugitive shall be brought before judge.

(2.) The judge shall receive upon oath, or affirmation where affirmation is allowed by the law of Canada, the evidence of any witness tendered to show the truth of the charge or the fact of the conviction :

How judge shall receive evidence of 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, in fact, being taken with a view to prosecute or punish him for an offence of a political character.

Or that offence is political.

13. In the case of a fugitive alleged to have been convicted of an extradition crime, if 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 (2), in the case of a fugitive accused of an extradition crime, if such evidence is produced as would, according to the law of Canada, subject to the provisions of this Act, justify his committal for trial, in case the crime had been committed in Canada,---the judge shall issue his warrant for the committal 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.

What evidence shall be sufficient to justify committal.

Committal to gaol and for what time.

14. If the judge commits a fugitive to prison, he shall on such committal—

Judge shall—

(1.) 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

Give certain information to fugitive,—

(2.) 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 may think fit.

And transmit evidence to Minister of Justice.

15. A requisition for the surrender of a fugitive criminal of a Foreign State who is, or is suspected of being in Canada,

By whom requisition for surrender may be made.

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 be convenient, then in such other mode as may be settled by arrangement.

Cases in which Minister of Justice may refuse surrender.

16. In case the Minister of Justice at any time determines—(1) that the offence in respect of which proceedings are being taken under this Act is one of a political character; or (2) 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 (3) that for any other reason he ought not to be surrendered; or (4) that the Foreign State does not intend to make a requisition for surrender,—the Minister of Justice 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.

And order discharge

Surrender not to be made during a certain time.

17. A fugitive shall not be surrendered until after the expiration of fifteen days from the date of his committal for surrender; nor (in case a writ of *habeas corpus* is issued) until after the decision of the court remanding him;

If fugitive is undergoing punishment in Canada.

(2.) A fugitive who has been accused of some 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.

Minister may order delivery of fugitive to Foreign State officer.

18. 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 may, in his opinion, be duly authorized to receive him in the name and on behalf of the Foreign State, and he shall be so surrendered accordingly;

Powers of such officer.

(2.) It shall be lawful for any person to whom such order is directed to deliver, and for the person or persons so authorized, to 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 may be delivered, on or in pursuance of such order, it shall be lawful to retake him in the same manner as any person accused or convicted of any crime against the laws of Canada may be retaken on an escape.

19 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.

As to property found on fugitive.

20. If a fugitive is not surrendered and conveyed out of Canada within two months after his committal for surrender, or (in case a writ of *habeas corpus* is issued) then 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, it shall be lawful for any one or more of the judges of the superior courts of the Province or Territory in which such person is confined, having power to grant a writ of *habeas corpus*, upon application made to him or them by or on behalf of the fugitive, and on proof that reasonable notice of the intention to make such application has been given to the Minister of Justice, to order the fugitive to be discharged out of custody, unless sufficient cause be shown against such discharge.

Fugitive must be surrendered within a certain time

Or may be released on *habeas corpus*.

21. The forms set forth in the third schedule to this Act or forms as near thereto as circumstances admit, may be used in the matters to which such forms refer, and, when used, shall be deemed valid.

Forms in Schedule 3, valid.

22. A requisition for the surrender of a fugitive criminal from Canada, who is or is suspected of being 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 be convenient, then in such other mode as may be settled by arrangement.

Requisition for a fugitive from Canada, how made.

23. When any person accused or convicted of an extradition crime is surrendered by a Foreign State in pursuance of any 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 term 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.

Fugitive surrendered by Foreign State not liable to punishment in Canada contrary to arrangement.

24. This Act may be cited as “*The Extradition Act, 1877.*” Short title.

FIRST SCHEDULE.

Arrangements referred to in the preamble:—

Treaty between Her Majesty and the United States of America, signed at Washington, 9th August, 1842; ratifications exchanged at London, 13th October, 1842;

Convention between Her Majesty and the King of the French, signed at London, 13th February, 1843; ratifications exchanged at London, 13th March, 1843;

Treaty between Her Majesty and the Emperor of Germany, signed at London, 14th May, 1872; ratifications exchanged at London, 11th June, 1872;

Treaty between Her Majesty and the King of the Belgians, signed at Brussels, 31st July, 1872; ratifications exchanged at Brussels, 9th August, 1872;

Treaty between Her Majesty and the King of Italy, signed at Rome, 5th February, 1873; ratifications exchanged at Rome, 18th March, 1873;

Treaty between Her Majesty and the King of Denmark, signed at Copenhagen, 31st March, 1873; ratifications exchanged at Copenhagen, 26th April, 1873;

Treaty between Her Majesty and the Emperor of Brazil, signed at Rio de Janeiro, 13th November, 1872; ratifications exchanged at Rio de Janeiro, 28th August, 1873;

Treaty between Her Majesty and the King of Sweden and Norway, signed at Stockholm, 26th June, 1873; ratifications exchanged at Stockholm, 28th September, 1873;

Treaty between Her Majesty and the Emperor of Austria, signed at Vienna, 3rd December, 1873; ratifications exchanged at Vienna, 10th March, 1874;

Treaty between Her Majesty and the King of the Netherlands, signed at the Hague, 19th June, 1874; ratifications exchanged at the Hague, 21st July, 1874;

Treaty between Her Majesty and the Swiss Confederation, signed at Berne, 31st March, 1874; ratifications exchanged at Berne, 31st December, 1874;

Treaty between Her Majesty and the President of the Republic of Hayti, signed at Port au Prince, 7th December, 1874; ratifications exchanged at Port au Prince, 2nd September, 1875;

Treaty between Her Majesty and the President of the Republic of Honduras, signed at Guatemala, 6th January, 1874; ratifications exchanged at Guatemala, 12th October, 1875.

SECOND SCHEDULE.

The following list of crimes is to 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,

crimes, of the descriptions comprised in the list, as are, under that law, indictable offences:—

Murder, or attempt or conspiracy to murder ;

Manslaughter ;

Counterfeiting or altering money, and uttering counterfeit or altered money ;

Forgery, counterfeiting or altering, or uttering what is forged, counterfeited or altered ;

Larceny ;

Embezzlement ;

Obtaining money or goods, or valuable securities by false pretences ;

Crimes against bankruptcy or insolvency law ;

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 ;

Rape ;

Abduction ;

Child-stealing ;

Kidnapping ;

False imprisonment ;

Burglary, house-breaking or shop-breaking ;

Arson ;

Robbery ;

Threats by letter or otherwise, with intent to extort ;

Perjury or subornation of perjury ;

Piracy by municipal law or law of nations, committed on board of or against a vessel of a Foreign State ;

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 ;

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 ;

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 ;

Any offence under the Act of Canada, passed in the year of our Lord one thousand eight hundred and sixty-nine, intituled "*An Act respecting Larceny and other similar offences,*" or any Act amending or substituted for the same, which offence is not included in any foregoing portion of this schedule ;

Any offence under the Act passed in the said year, intituled "*An Act respecting Malicious Injuries to Property,*" or any Act amending or substituted for the same, which offence is not included in any foregoing portion of this schedule ;

Any offence under the Act passed in the said year, intituled "*An Act respecting forgery,*" or any Act amending or substituted

stituted for the same, which offence is not included in any foregoing portion of this schedule ;

Any offence under the Act passed in the said year, intituled "*An Act respecting Offences relating to the Coin,*" or any Act amending or substituted for the same, which offence is not included in any foregoing portion of this schedule ;

Any offence under the Act passed in the said year, intituled "*An Act respecting Offences against the Person,*" or any Act amending or substituted for the same, which offence is not included in any foregoing portion of this schedule ;

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.

THIRD SCHEDULE.

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, 1877,*" 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 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 of our Lord at is
brought before me a judge under "*The*
Extradition Act, 1877," who has been
apprehended

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 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, 1877:*"

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 _____
said _____; and I command you, the _____
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.

CHAP. 26.

An Act respecting Procedure and Evidence in Criminal Cases.

[Assented to 28th April, 1877.]

Preamble.

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

Effect of s. 28 of 32-33 V., c. 29 restricted in certain cases.

1. The provisions of section twenty-eight of the Act passed in the session held in the thirty-second and thirty-third years of Her Majesty's reign, intituled "*An Act respecting Procedure in Criminal Cases, and other matters relating to Criminal Law,*" shall not extend or be applicable to prevent the presentment to or finding by a Grand Jury of any bill of indictment, containing a count or counts for any of the offences mentioned in the said twenty-eighth section, if such count or counts be such as may now be lawfully joined with the rest of such bill of indictment, and if the same count or counts be 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 of the Peace, 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; and nothing in the said section shall extend or be applicable to prevent the presentment to or finding by a Grand Jury of any bill of indictment, if such bill be presented to the Grand Jury with the consent of the court in or before which the same may be preferred.

Further restrictions.

The said sections and this Act to apply to nuisance.

2. All the provisions of the twenty-eighth section of the above recited Act, and of this Act, shall extend and be applicable to the offences of nuisance, and of forcible entry or detainer, and the said section shall henceforth be read as if the said offences had been included therein.

Evidence as to former possession of other stolen goods.

3. Where 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 proving that such person knew the property to be stolen which forms the subject of the proceedings taken against him: Provided that not less than three days' notice in writing shall have been given to the person accused that proof

Proviso: Notice must have been

is

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.

given to the accused.

4. Where 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 shall have 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.

Evidence as to previous conviction for fraud or dishonesty.

Proviso: Notice to accused.

Indictment need not charge previous conviction.

5. The sixty-fourth section of the said Act is hereby amended by adding the following words:—

Section 64 amended.

“ Provided that for the purposes of this section a deposition of the witness purporting to have been taken before a justice or justices on the investigation of the charge, and to be signed by the witness and the justice or justices, returned to and produced from the custody of the proper officer, shall be *prima facie* presumed to have been signed by the witness.”

Proviso: Proof of deposition of witnesses.

6. The ninety-fifth section of the said Act is hereby amended by adding thereto the words following: “ And wherever 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.”

Section 95 amended as to whipping.

7. The one hundredth and first section of the said Act is hereby amended by inserting after the word “ Act,” in the second line, the words: “ whether before or after the first day of July, eighteen hundred and sixty-seven.”

Section 101 amended.

CHAP. 27.

An Act to amend the law respecting appeals from convictions before, or orders by Justices of the Peace.

[Assented to 28th April, 1877.]

Preamble

WHEREAS it is expedient to amend the law with reference to appeals from convictions before, and orders by Justices of the Peace: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

39 V. c. 23 repealed.

1. The Act thirty-ninth Victoria, chapter twenty-three, intituled "An Act to supply an omission in the Act thirty-seven Victoria, chapter forty-two, extending certain Criminal Laws of Canada to British Columbia," is hereby repealed.

Part of s. 1 of 33 V. c. 27 repealed.

2. So much of the first section of the Act thirty-third Victoria, chapter twenty-seven, intituled "An Act to amend the Act respecting the duties of Justices of the Peace out of Sessions in relation to summary convictions and orders," as precedes the first sub-section of the section thereby substituted is hereby repealed and the following substituted therefor:—

Section 65 of 32, 33, V. c. 31 repealed.

"1. Section sixty-five of the said Act is hereby repealed and the following section substituted:—

Unless otherwise provided such appeals to be to certain Courts in the several Provinces.

"65. Unless it be otherwise provided in any special Act under which a conviction takes place or an order is made by a Justice or Justices of the Peace, 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 Quebec to the Court of Queen's Bench, Crown side; in the Province of Ontario, to the Court of General or Quarter Sessions of the Peace; in the Province of Nova Scotia, to the County Court of the district where the cause of the information or complaint arose; in the Province of New Brunswick, to the County Court of the district where the cause of the information or complaint arose; in the Province of Manitoba, to the County Court of the county where the cause of the information or complaint arose; 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. In case some other court of appeal be provided in any Province as aforesaid the appeal

Unless another Court be provided.

appeal shall be to such Court. Every right of appeal shall, unless it be otherwise provided in any special Act, be subject to the conditions following:—

3. Whenever, in the Act thirty-second and thirty-third Victoria, chapter thirty-one, intituled "*An Act respecting the duties of Justices of the Peace out of sessions in relation to summary convictions and orders,*" any duty in relation to an appeal is imposed on any officer by the term "Clerk of the Peace," the said term shall include the proper officer of the court having jurisdiction in appeal under the said Act and the Acts amending the same, including this Act.

"Clerk of the Peace," whom to include in 32, 33, V. c. 31.

CHAP. 28.

An Act to amend the Act respecting Offences against the Person.

[Assented to 28th April, 1877.]

WHEREAS it is expedient to amend the Criminal Law relating to Offences against the Person; Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Preamble.

1. The tenth section of the Act passed in the session held in the thirty-second and thirty-third years of Her Majesty's reign, chapter twenty, intituled "*An Act respecting Offences against the Person,*" is hereby repealed, and the following is substituted therefor:—

S. 10 of 32-33 V. c. 20 repealed.

"**10.** Whosoever 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, with intent, in any of the cases aforesaid, to commit murder, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life, or for any term not less than two years; or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour and with or without solitary confinement."

New section substituted: Administering poison or wounding with intent to murder.

Punishment.

2. The fifty-first section of the said Act is hereby repealed, and the following is substituted therefor:—

S. 51 repealed.

"**51.** Whosoever unlawfully and carnally knows and abuses any girl under the age of ten years, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life or for any term not less than five years."

Carnally knowing girl under ten years of age. Punishment.

CHAP.

CHAP. 29.

An Act to amend the Act respecting Larceny and other similar offences.

[Assented to 28th April, 1877.]

Preamble.

32-33 V., c. 21.

FOR remedying an omission in the Act passed in the session held in the thirty-second and thirty-third years of Her Majesty's reign, intituled "*An Act respecting Larceny and other similar offences*," Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Word "cattle" how construed.

1. The first section of the said Act is hereby amended by inserting in the clause defining the term "cattle," the word "sheep" after the word "swine."

And in 32-33 V., c. 22.

2. The word "cattle," wherever used in the Act passed in the said session, intituled "*An Act respecting Malicious Injuries to Property*," shall have the meaning assigned to it in the said "*Act respecting Larceny [and other similar offences]*," as amended by this Act.

Sec. 4 of 32-33 V., c. 21 amended.

3. The fourth section of the said first cited Act is amended by striking out the word "three" and substituting the word "seven."

 CHAP. 30.

An Act to make provision against the improper use of Firearms.

[Assented to 28th April, 1877.]

Preamble.

WHEREAS it is expedient to make provision against the improper use of Firearms; Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Persons carrying pistol or air gun without cause may be bound to keep the peace.

1. Whosoever 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 in any gaol or place of confinement for a term not exceeding thirty days.

2. Whosoever, 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 be liable on conviction thereof to a fine of not less than twenty dollars or more than fifty dollars, or to imprisonment in any gaol or place of confinement for a term not exceeding three months.

Having a pistol or air gun when arrested or when committing an offence.

3. Whosoever has upon his person a pistol or air gun, with intent therewith unlawfully and maliciously to do injury to any other person, shall be liable on conviction thereof, to a fine of not less than fifty or more than two hundred dollars, or to imprisonment in any gaol or place of confinement for a term not exceeding six months :

Or with intent to injure any one.

(2) The intent aforesaid may be *prima facie* inferred from the fact of the pistol or air gun being on the person.

Intent presumed.

4. Whosoever, without lawful excuse, points at another person any firearm or air gun, whether loaded or unloaded, shall be liable on conviction thereof, to a fine of not less than twenty or more than fifty dollars, or to imprisonment in any gaol or place of confinement for a term not exceeding thirty days.

Pointing firearm at any person, without excuse.

5. The seventy-fourth, seventy-fifth and seventy-sixth sections of the Act passed in the session held in the thirty-second and thirty-third years of Her Majesty's reign, chapter twenty, intituled "*An Act respecting offences against the person,*" shall apply and extend to any offence against the second, third or fourth section of this Act.

Sections 74, 75, 76 of 32, 33 V. c. 20 to apply.

6. Nothing in this Act contained shall prevent any person from being liable, under any other Act or otherwise, to any other or greater punishment than is provided for any offence by this Act; so, however, that no person be punished twice for the same offence.

Not to prevent greater punishment if incurred.

7. Nothing in this Act contained shall be held to affect any right of any soldier, sailor or volunteer, in Her Majesty's service, constable or policeman, to carry loaded pistols in the discharge of his duty.

Exception as to soldiers on duty.

CHAP. 31.

An Act for the repression of Betting and Pool-selling.

[Assented to 28th April, 1877.]

Preamble.

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

Any person keeping a place for recording bets or selling pools, &c.

1. In case any person 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, or—

(2.) 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, or—

(3.) Becomes the custodian or depositary of any money, property, or valuable thing staked, wagered, or pledged, or—

(4.) Records or registers any bet or wager, or sells any pool,—

Upon the result (a) of any political or municipal election, or (b) of any race, or (c) of any contest or trial of skill or endurance of man or beast,—

Is guilty of misdemeanor: Punishment.

Such person is guilty of a misdemeanor, and shall be liable to be imprisoned in any common gaol for any term less than one year, with or without hard labour, and to a fine not exceeding one thousand dollars.

Act to come into force 1st May, 1878, and not to extend to holders of stakes in certain cases.

2. Provided always, that this Act shall not come into operation until the first of May, one thousand eight hundred and seventy-eight, and shall not extend to any person by reason of his becoming the custodian or depositary 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.

Sec. 2 of 32, 33 V., c. 32, amended as to cases under this Act.

3. The second section of the Act thirty-second and thirty-third Victoria, chapter thirty-two, intituled "*An Act respecting the prompt and summary administration of Criminal Justice in certain cases,*" is hereby amended by adding after the words "bawdy house" in the sixth sub-section, the following:—

“7. With having committed a misdemeanor under the Act passed in the fortieth year of Her Majesty’s reign, intituled ‘*An Act for the repression of Betting and Pool-selling.*’”

CHAP. 32.

An Act for the Prevention of Gambling Practices in certain Public Conveyances.

[Assented to 28th April, 1877.]

FOR the prevention of gambling practices in certain public conveyances, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:--

Preamble.

1. Whosoever in any railway car, or steamboat, used as a public conveyance for passengers, by means of the game commonly known as “three card monte,” or of any other 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, shall be deemed guilty of the misdemeanor of having obtained the same unlawfully by false pretences, and shall be liable to be punished by imprisonment in any gaol or place of confinement for any term less than one year, with or without hard labour, and with or without solitary confinement; and every person aiding, encouraging, advising or confederating with any person in the commission of the said offence shall be deemed guilty thereof and liable to be punished in like manner, as a principal therein; and 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, shall be a misdemeanor, punishable in like manner as the offence itself.

Punishment of persons obtaining money by gambling in railway cars or steamboats

Confederates to be punishable as principals.

2. 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 steamboat 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.

Where the offence may be tried and punished.

3. It shall be lawful for and it shall be the duty of any conductor, master or superior officer in charge of, and for any clerk or employee when authorized by the conductor or superior

Conductor or master, or persons authorized by

them, shall arrest offenders.

If no offenders shall be dealt with after arrest.

Money, &c., so obtained to be dealt with as stolen. How this Act shall be construed. 32, 33, V. c. 21 and 31.

Fees to persons arresting an offender.

Copies of Act to be posted.

Penalty for default.

superior officer in charge in any railway train, or steamboat, station or landing place in or at which any such offence, as aforesaid, is committed or attempted, with or without warrant to arrest any person or persons whom he has good reason to believe to have committed or attempted to commit the same, and to take them 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 had as if he had been arrested upon a warrant of such justice.

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; and this Act shall be interpreted as one Act with the "*Act respecting Larceny and other similar Offences*;" and the "*Act respecting the Duties of Justices of the Peace out of Sessions, in relation to persons charged with Indictable Offences*," and other Acts relating to criminal law shall, so far as consistent with this Act, apply to proceedings under it; and any person arresting an 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.

5 The company or persons owning or working any railway car or steamboat to which this Act applies, shall keep a copy thereof posted up in some conspicuous part of such conveyance, and any conductor, master or superior officer in charge who makes default in the discharge of any duty imposed on him by the third section, shall, on conviction thereof before a Justice of the Peace, be liable to a penalty of not less than twenty nor more than one hundred dollars.

CHAP. 33.

An Act to amend the Act for the suppression of Gaming Houses.

[Assented to 28th April, 1877.]

Preamble.
38 V., c. 415

WHEREAS it is expedient to amend the Act for suppressing Gaming Houses; Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The first section of the Act thirty-eighth Victoria, chapter forty-one, intituled "*An Act for suppressing Gaming Houses and to punish the keepers thereof*," is hereby amended by inserting after the words "gaming house" in the eighth line, the words—"whether admission thereto be limited to those possessed of entrance keys, or otherwise." Section 1 amended.

2. Section three of the said Act is hereby amended by striking out all the words after the word "aforesaid" in the fifteenth line thereof. Section 3 amended.

3. The police magistrate or other justice before whom any person is taken by virtue of any order or warrant under the said Act shall direct any cards, dice, balls, counters, tables or other instruments of gaming used in playing any game, and seized under the said Act, in any place used as a common gaming house, to be forthwith destroyed. Instruments of gaming seized to be destroyed.

4. Any person playing or looking on while any other person is playing in a common gaming house is guilty of an offence, and shall be liable on conviction thereof to a fine of not less than twenty, nor more than one hundred dollars, and in default of payment to imprisonment in the common gaol for a term not exceeding two months: Provided always, that such person shall not be liable on his trial to examination under the sixth section of the Act by this Act amended. Punishment of persons found in a common gaming house. Proviso.

5. The third and fourth sections of this Act shall be read and taken as part of the Act by this Act amended. Construction of Act.

6. The Act thirty-second and thirty-third Victoria, chapter thirty-two, intituled "*An Act respecting the prompt and summary administration of Criminal Justice in certain cases*," shall apply to cases arising under the fourth section of this Act. 32-33 V., c. 32 to apply to cases under section 4.

CHAP. 34.

An Act to amend the Post Office Act, 1875.

[Assented to 28th April, 1877.]

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

1. Sub-section seventeen of section seventy-two of the Act thirty-eighth Victoria, chapter seven, known as "*The Post Office Act, 1875*," is hereby repealed and the following substituted therefor:— Sub-section 17 of s. 72 of 38 V., c. 7 repealed, and new one substituted.

Abandoning
or obstruct-
ing mails, &c.,
to be misde-
meanor.

“ 17. To abandon, or to obstruct or wilfully delay the passing or progress of any mail, or any car, train, locomotive engine, tender, carriage, vessel, horse or animal employed in conveying any mail on any railway, public highway, river, canal, or water communication, shall be a misdemeanor; ”

Not to pre-
vent greater
punishment
if incurred.

Proviso.

2. Nothing in the foregoing sub-section contained shall prevent any person from being liable, under any other Act or otherwise, to any other or greater punishment than is provided for any offence under the said sub-section,—so, however, that no person be punished twice for the same offence.

CHAP. 35.

An Act to repeal certain laws making Breaches of Contracts of Service criminal, and to provide for the punishment of certain Breaches of Contract.

[Assented to 28th April, 1877.]

Preamble.

WHEREAS breaches of contract, whether of service, or otherwise, are in general civil wrongs only, and not criminal in their nature; and it is just that breaches of contract of service should in general be treated like other breaches of contract, as civil wrongs, and not as crimes; and that the law should be amended accordingly; And whereas certain wilful and malicious breaches of contract, involving danger to persons or property, or grave public inconvenience, should be punished as crimes: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Repeal of so
much of c. 75
Con. Stat.,
U.C.,

And of c. 27,
Con. Stat.,
L.C.

1. All those parts of sections four, five, seven, nine, ten and eleven of the Act chapter seventy-five of the Consolidated Statutes for Upper Canada, intituled “*An Act respecting Master and Servant,*” and all those parts of sections five and seven of the Act chapter twenty-seven, of the Consolidated Statutes for Lower Canada, intituled “*An Act respecting Masters and Servants in the Country Parts,*” (as amended by the Act of the legislature of the late Province of Canada, twenty-ninth and thirtieth Victoria, chapter thirty-four, intituled “*An Act to amend chapter twenty-seven of the Consolidated Statutes for Lower Canada, respecting Masters and Servants in the Country Parts,*”) and all those parts of section three of the Act of the legislature of the Province of Prince Edward Island, second William the Fourth, chapter twenty-six, intituled “*An Act for repealing an Act of the thirty-fifth year*

year of the reign of King George the Third, intituled 'An Act for regulating Servants,' and for substituting other provisions in lieu thereof," which make a violation of any of the provisions of any of the said sections criminal, shall be and stand repealed from and after the first day of May in the year of Our Lord one thousand eight hundred and seventy-eight.

And of Act of P.E.I 2 W. 4, c. 26
As makes breach of contract a crime, from 1st May, 1878.

(2.) All those parts of sections two and three of the said chapter twenty-seven of the Consolidated Statutes for Lower Canada, as amended as aforesaid, which make a violation of any of the provisions of either of the said sections criminal, and which sections have been repealed by the Act of the Legislature of Quebec, thirty-third Victoria, chapter twenty, intituled "*An Act further to amend chapter twenty-seven of the Consolidated Statutes for Lower Canada respecting Masters and Servants in the Country Parts*," are hereby repealed.

Other parts of c. 27 of Con. Stat., L. C., repealed.

2. Any person who 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; and

Breach of contract endangering life, person or property.

(2.) Any person who, 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; and

Or with case of gas or water companies, or municipal corporation.

(3.) Any person who, being under any contract made by him—

Or railway companies.

(a.) With a railway company, bound, agreeing or assuming to carry Her Majesty's mails, or passengers or freight; or—

(b.) With Her Majesty, or any one on behalf of Her Majesty, or of the Government, 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 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,—

Shall,

How punishable.

Shall, on conviction thereof, be liable to be punished by fine not exceeding one hundred dollars, or by imprisonment for a term not exceeding three months, with or without hard labor.

Breach of contract by municipal authority, gas or water company.

3. Any municipal corporation or authority or any 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 and water; and

Or railway company.

(2.) Any railway company which, being bound, agreeing or assuming to carry Her Majesty's mails or 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, shall be liable to a penalty not exceeding one hundred dollars.

How punishable.

Word "maliciously" how construed.

4. The word "maliciously" used in reference to any offence against this Act, shall be construed in the same manner as it is required in the sixty-sixth section of the Act thirty-second and thirty-third Victoria, chapter twenty-two, intituled "*An Act Respecting Malicious Injuries to Property*," to be construed with reference to any offence committed against the last mentioned Act.

Prosecution to be as under 35 V., c. 31 amended by 39 V., c. 37.

5. All offences against the second section of this Act shall be prosecuted as provided by the Act thirty-fifth Victoria, chapter thirty-one, intituled "*An Act to amend the Criminal Law relating to Violence, Threats and Molestation*," as amended by the Act thirty-ninth Victoria, chapter thirty-seven, intituled "*An Act to amend the Criminal Law relating to Violence, Threats and Molestation*."

Not to prevent liability to greater punishment.

6. Nothing in this Act contained shall prevent any person from being liable under any other Act, or otherwise, to any other or greater punishment than is provided for any offence by this Act,—so, however, that no person be punished twice for the same offence.

Municipalities, gas, water or railway companies, to post up copies of this Act.

7. Every municipal corporation, authority, or company, mentioned in the second section, shall cause to be posted up at the gas-works, or water-works, or railway stations, as the case may be, belonging to such corporation, authority, or company, a printed copy of this Act, in some conspicuous place,

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 ;

(2.) Any such municipal corporation, authority or company, making 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 any person unlawfully injuring, defacing, or covering up any such copy so posted up, as aforesaid, shall be liable, on summary conviction, to a penalty not exceeding ten dollars. Penalty for default.

§. This Act may be cited as "*The Breaches of Contract Act, 1877.*" Short title.

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