

ANNOTATED  
CRIMINAL CODE, 1919  
CANADA

BY

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SUPPLEMENT

INCLUDING SUBSEQUENT STATUTES AND CASES TO  
MARCH, 1920, AND A TABLE OF  
CASES CITED

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CANADA

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# SUPPLEMENT TO THE ANNOTATED CRIMINAL CODE

MARCH, 1920

Code sec. 2 (7)—Court of Appeal.—In Ontario, the Appellate Division of the Supreme Court of Ontario. 1913 Can., ch. 50, sec. 1.

Code sec. 2 (16)—“Indictment.”—A formal charge by a private prosecutor for which leave is asked under sec. 873A is included as an indictment for the purposes of a *nolle pros.* by the Attorney General. R. v. Edwards, [1919] 2 W.W.R. 600 (Alta.).

Code sec. 2 (35)—superior court of criminal jurisdiction.—In Ontario, the High Court division of the Supreme Court of Ontario. 1913 Can., ch. 50, sec. 2.

Code sec. 9—Add note: *Mounted Police.* By 1919 Can., 2nd session, ch. 28, the name of the R.N.W. Mounted Police was changed to Royal Canadian Mounted Police.

Code sec. 10—Sub-title “Pre-Confederation provincial statutes” (foot paging 23).—For “Hudson v. South Norwich,” read “Huson v. South Norwich” and add citations: R. v. Lorette [1918] 3 W.W.R. 324, 30 Can. Cr. Cas. 238 (Man.); R. v. Shaw, 7 Man. R. 518; Drapeau v. Recorder's Court (1918) 52 Que. S.C. 505, 30 Can. Cr. Cas. 249.

Code sec. 13—Civil remedy not suspended (foot paging 29).—Add: On the constitutional question compare Standard Bank v. Shuen Wah, [1919] 1 W.W.R. 586 (B.C.).

Where both criminal and civil proceedings are pending for the same cause, the criminal proceedings should be expedited and, if possible, the criminal charge should be disposed of before the trial of the civil action, *Moorehouse v. Connell* (1920) 17 O.W.N. 351.

Code sec. 19—Defence of insanity.—After citation of *McNaughten's case*, 10 Clark & Fin. 200, add: R. v. Keirstead, (1918) 45 N.B.R. 553, 30 Can. Cr. Cas. 175.

Code sec. 30—Arrest by peace officer—Belief on reasonable grounds (foot paging 44).—After citation of R. v. Cloutier, add: *Anderson v. Johnson*, [1918] 3 W.W.R. 620, 30 Can. Cr. Cas. 268. On page 45 citation of *ex parte McCleave* should read: 35 N.B.R. 100, 5 Can. Cr. Cas. 115.

Code sec. 69—Parties to offences—(foot paging 69).—At end of second paragraph, add citation: R. v. Lackman (1918) 28 Que. K.B. 69, 30 Can. Cr. Cas. 400.

Code sec. 74—Treason—Overt acts (foot paging 82).—After citation of R. v. Fehr, add: The overt acts need not in themselves amount to

treason apart from the criminal intent. *Re Schaefer*, (1918) 28 Que. K.B. 35, 31 Can. Cr. Cas. 22.

Code sec. 91—Riot Act proclamation (foot paging 98).—Citation of *R. v. Kennett* should read, 5 C. and P. 282.

Code sec. 97A—Unlawful associations advocating violence.—New section added by 1919 Can., ch. 46, sec. 1, as follows:

“ 97A. (1) Any association, organization, society or corporation, whose professed purpose or one of whose purposes is to bring about any governmental, industrial or economic change within Canada by use of force, violence or physical injury to person or property, or by threats of such injury, or which teaches, advocates, advises or defends the use of force, violence, terrorism, or physical injury to person or property, or threats of such injury, in order to accomplish such change, or for any other purpose, or which shall by any means prosecute or pursue such purpose or professed purpose, or shall so teach, advocate, advise or defend, shall be an unlawful association.

“ (2) Any property, real or personal, belonging or suspected to belong to an unlawful association, or held or suspected to be held by any person for or on behalf thereof may, without warrant, be seized or taken possession of by any person thereunto authorized by the Chief Commissioner of Dominion Police or by the Commissioner of the Royal Northwest Mounted Police, and may thereupon be forfeited to His Majesty.

“ (3) Any person who acts or professes to act as an officer of any such unlawful association, and who shall sell, speak, write or publish anything as the representative or professed representative of any such unlawful association, or become and continue to be a member thereof, or wear, carry or cause to be displayed upon or about his person or elsewhere, any badge, insignia, emblem, banner, motto, pennant, card, button or other device whatsoever indicating or intended to show or suggest that he is a member of or in anywise associated with any such unlawful association or who shall contribute anything as dues or otherwise, to it or to any one for it, or who shall solicit subscriptions or contributions for it, shall be guilty of an offence and liable to imprisonment for not more than twenty years.

“ (4) In any prosecution under this section, if it be proved that the person charged has,—

- (a) attended meetings of an unlawful association; or,
- (b) spoken publicly in advocacy of an unlawful association; or,
- (c) distributed literature of an unlawful association by circulation through the Post Office mails of Canada, or otherwise;

it shall be presumed, in the absence of proof to the contrary, that he is a member of such unlawful association.

“ (5) Any owner, lessee, agent or superintendent of any building, room, premises or place, who knowingly permits therein any meeting of an unlawful association or any subsidiary association or branch or

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committee thereof, or any assemblage of persons who teach, advocate, advise or defend the use, without authority of the law, of force, violence or physical injury to person or property, or threats of such injury, shall be guilty of an offence under this section and shall be liable to a fine of not more than five thousand dollars or to imprisonment for not more than five years, or to both fine and imprisonment.

“(6) If any judge of any superior or county court, police or stipendiary magistrate, or any justice of the peace, is satisfied by information on oath that there is reasonable ground for suspecting that any contravention of this section has been or is about to be committed, he may issue a search warrant under his hand, authorizing any peace officer, police officer, or constable, with such assistance as he may require, to enter at any time any premises or place mentioned in the warrant, and to search such premises or place, and every person found therein, and to seize and carry away any books, periodicals, pamphlets, pictures, papers, circulars, cards, letters, writings, prints, handbills, posters, publications or documents which are found on or in such premises or place, or in the possession of any person therein at the time of such search, and the same, when so seized may be carried away and may be forfeited to His Majesty.

“(7) Where, by this section, it is provided that any property may be forfeited to His Majesty, the forfeiture may be adjudged or declared by any judge of any superior or county court, or by any police or stipendiary magistrate, or by any justice of the peace, in a summary manner, and by the procedure provided by Part XV of this Act, in so far as applicable, or subject to such adaptations as may be necessary to meet the circumstances of the case.”

Code sec. 97B—Publishing or selling seditious books, etc.—Circulating literature advocating terrorism and violence.—New sec. added by 1919 Can., ch. 46, sec. 1, as follows:

“97B. (1) Any person who prints, publishes, edits, issues, circulates, sells, or offers for sale or distribution any book, newspaper, periodical, pamphlet, picture, paper, circular, card, letter, writing, print, publication or document of any kind, in which is taught, advocated, advised or defended, or who shall in any manner teach, advocate, or advise or defend, the use, without authority of law, of force, violence, terrorism, or physical injury to person or property, or threats of such injury, as a means of accomplishing any governmental, industrial or economic change, or otherwise, shall be guilty of an offence and liable to imprisonment for not more than twenty years.

“(2) Any person who circulates or attempts to circulate or distribute any book, newspaper, periodical, pamphlet, picture, paper, circular, card, letter, writing, print, publication, or document of any kind, as described in this section by mailing the same or causing the same to

be mailed or posted in any Post Office, letter box, or other mail receptacle in Canada, shall be guilty of an offence, and shall be liable to imprisonment for not more than twenty years.

"(3) Any person who imports into Canada from any other country, or attempts to import by or through any means whatsoever, any book, newspaper, periodical, pamphlet, picture, paper, circular, card, letter, writing, print, publication or document of any kind as described in this section, shall be guilty of an offence and shall be liable to imprisonment for not more than twenty years.

"(4) It shall be the duty of every person in the employment of His Majesty in respect of His Government of Canada, either in the Post Office Department, or in any other Department to seize and take possession of any book, newspaper, periodical, pamphlet, picture, paper, circular, card, letter, writing, print, publication or document, as mentioned in the last preceding section, upon discovery of the same in the Post Office mails of Canada or in or upon any station, wharf, yard, car, truck, motor or other vehicle, steamboat or other vessel upon which the same may be found and when so seized and taken, without delay to transmit the same, together with the envelopes, coverings and wrappings attached thereto, to the Chief Commissioner of Dominion Police, or to the Commissioner of the Royal Northwest Mounted Police."

Code sec. 105—Prize fights.—Add to notes: A contract for promoting a prize-fight is illegal. *Bithell v. Butler*, (1918) 55 Que. S.C. 62, 30 Can. Cr. Cas. 275.

Code sec. 118; para. (a), line 2—Carrying dangerous weapons—(foot paging 119).—Insert before the words, "a pistol," the words, "or is carrying concealed." Amended by 1919 Can., ch. 46, sec. 2.

Code sec. 118—Possession of dangerous weapons.—Insert before para. (c) new paragraph (d:) as follows:

"being an alien, has in his possession any pistol, rifle, shot-gun, revolver, firearm or offensive weapon, without having a permit therefor, which permit may be issued in the same manner, by the same persons, and as near as may be in the same form, as in the case of the other permits referred to in this section; or". Amendment by 1919 Can., 1st session, ch. 46, sec. 2; and 1919 Can., 2nd session, ch. 12, sec. 1.

Code sec. 118, subsec. (2)—Permits to carry weapons.—Add to subsec. 2:

"but such permit shall not be good or have any force or effect beyond the limits within which the person granting the same has jurisdiction or has power to exercise and perform the duties of his office." Amendment by 1919 Can., ch. 46, sec. 2.

Code sec. 118, subsec. 5—Persons exempt from obtaining permit.—New subsec. 5 substituted by 1919 Can., ch. 46, sec. 2, so as to include immigration officers amongst those who may carry weapons. Amendment by 1919 Can., ch. 46, sec. 2.

Code sec. 128A—Carrying or discharging firearms without authority on militia property.—New section added by Amendment 1919 Can., ch. 46, sec. 3, as follows:

“128A. Any person who, without authority from the Minister of Militia and Defence, carries or discharges any firearm upon any property or premises under the control or management of the said Minister shall be guilty of an offence and liable, upon summary conviction, to a fine not exceeding one hundred dollars or to imprisonment for any term not exceeding sixty days or to both fine and imprisonment.”

Code sec. 133—What intentions not seditious.—Repealed by 1919 Can., ch. 46, sec. 4.

Code sec. 134—Punishment for seditious language or libel.—The words “two years” to be struck out. Insert after the word “imprisonment” the words “for a term of not more than 20 years.” Amendment 1919 Can., ch. 46, sec. 5.

Code sec. 134—Seditious libel—Formalities of indictment (foot paging 130).—Add citation: *R. v. Bainbridge*, (1918) 42 O.L.R. 203, 30 Can. Cr. Cas. 214.

Code sec. 157, para. (a)—Bribery of officer.—Insert in text after the words “punishment of offenders” the words “or being an officer of a Juvenile Court.” Amendment by 1919 Can., ch. 46, sec. 6.

Code sec. 157—Bribery of officer.—Add to notes: *Railway constables*, see *R. v. O'Brien*, [1919] 3 W.W.R. 469 (Alta.).

Code sec. 168—Obstructing “public officer.”—Reference to definition should be to sec. 2, subsec. (29).

Code sec. 169—Obstructing officer executing process (foot paging 160).—After citation of *R. v. Finlay*, add *R. v. Le Vesque*, (1918) 45 N.B.R. 522, 30 Can. Cr. Cas. 190.

Code sec. 169—Obstructing officer executing process.—At foot of foot paging 160 insert note: *rescue of goods lawfully impounded*, see *R. v. Lorette*, [1918] 3 W.W.R. 324, 30 Can. Cr. Cas. 238 (Man.); *R. v. Laughton*, 22 Man. R. 520; 6-7 Viet., Imp., ch. 30.

Code sec. 169—Note on summary conviction or summary trial (foot paging 161). After citation of *R. v. West*, add: and in Alberta; *R. v. McNabb* (1919) 3 W.W.R. 1031.

Code sec. 171—Perjury—Note on judicial proceedings (foot paging 166).—Add to citation of *R. v. Thickens*, a reference to 12 B.C.R. 223.

Code sec. 171—Perjury—Judicial proceedings (foot paging 166).—After citation of *R. v. McIntosh*, add: *Ex parte Lindsay*, (1918) 30 Can. Cr. Cas. 387 (N.B.).

Code sec. 172—Perjury (foot paging 169)—Oaths required or permitted under provincial law.—Add to citations; *Ex parte Lindsay*, (1918) 30 Can. Cr. Cas. 387 (N.B.); *R. v. Gainer*, [1919] 1 W.W.R. 801, 30 Can. Cr. Cas. 357 (Alta.).

Code sec. 174—Perjury—Formalities of indictment (foot paging 173, line 6).—After the word “accused” in note, add: if the court follows the statutory form by alleging that defendant “committed perjury” R. v. Bain, (1877) Ramsay’s Cases 192 (Que.); R. v. Bownes, Ramsay’s Cases 192 (Que.), but see *contra* R. v. Cohn, 36 N.S.R. 240, 6 Can. Cr. Cas. 386.

Code sec. 175 (foot paging 176).—Citation of R. v. Nier should be 9 W.W.R. 838.

Code sec. 185—Escapes—Unlawfully being at large—Effect of escape on pending habeas corpus motion (foot paging 185).—After citation of Re Bartels add: Ex parte Simpson (R. v. Keeper of Halifax Jail), (1919) 52 N.S.R. 299, 30 Can. Cr. Cas. 334.

Code sec. 190—Escape.—Add after citation of Re Bartels: Ex parte Simpson (R. v. Keeper of Halifax Jail), (1919) 52 N.S.R. 299, 30 Can. Cr. Cas. 334.

Code sec. 212—Add note: *Evidence of resemblance of child to putative father.* See R. v. Hughes, 17 Can. Cr. Cas. 450, 22 O.L.R. 344; Jordan v. Commonwealth, 1 Amer. L. R. Annotated, 617, 202 S. W. 896.

Code sec. 213—Seduction of foster-child—Prosecution within one year.—Add to note: R. v. S., [1919] 1 W.W.R. 977 (Sask.).

Code sec. 220A—Note on Juvenile Delinquents Act (foot paging 221).—Add at foot of page: The juvenile is not to be convicted in the Juvenile Court on a plea of guilty of delinquency. R. v. Wigham, (1918) 25 B.C.R. 350, 30 Can. Cr. Cas. 362. The offence of “contributing” is not complete unless the child became a “juvenile delinquent” within the statutory definition. R. v. Limoges [1920] 1 W.W.R. 293 (Alta.).

Code sec. 225—Common bawdy-house (foot paging 228).—Add note: Reporting alien prostitutes, when subject to deportation, 1919, Can., ch. 25, sec. 14.

Code sec. 225—Gaming houses (fourth line from foot of page 229).—After the words “penalties of sec. 228,” add reference to R. v. Johnson [1920] 1 W.W.R. 93 (Alta.).

Code sec. 226—Common gaming house (foot paging 230).—Add after citation of R. v. Ham: R. v. Long Kee, (1918) 26 B.C.R. 78.

Code sec. 227A—Opium joints.—Add to note on the Opium and Drug Act: see Amendment of 1919, 2nd session, ch. 26.

Code sec. 228—Keeping disorderly house—Note on summary trial or indictment.—Add after citation of R. v. Booth: R. v. Griffiths, (1919) 16 O.W.N. 277, and as to penalty see Code secs. 773 (f) and 781; R. v. Avon, (1919) 16 O.W.N. 283, reversing 45 O.L.R. 383.

Code sec. 231—Bucket shops (foot paging 245).—After citation of Maloof v. Bickell, add: affirmed [1920] 1 W.W.R. 407 (Can.).

Code sec. 238—Vagrancy—Note on origin (foot paging 258).—Insert reference to 1915 Can., ch. 12, sec. 7.



Code sec. 238 (i)—Vagrancy (foot paging 265).—After citation of *R. v. Jackson*, insert: It is an account of her presence on the street, not of her character which is to be given. *R. v. Levine*, [1919] 1 W.W.R. 637, 30 Can. Cr. Cas. 305 (Alta.).

Code sec. 238, sub-sec. (1)—Vagrancy (foot paging 266).—After citation of *R. v. Kolotyła*, add: A conviction was quashed for lack of direct evidence that defendant supported himself for the most part by gaming. *R. v. Anderson* [1920] 1 W.W.R. 609 (Alta.).

Code sec. 242c—Non-support—*Prima facie* evidence of neglect.—New section added as follows: "Upon any prosecution under section two hundred and forty-two A, evidence that a man has, without lawful cause or excuse, left his wife without making provision for her maintenance for a period of at least one month from the date of his so leaving, or for the maintenance for the same period of any child of his under the age of sixteen years, shall be *prima facie* evidence of neglect to provide necessaries under this section." Amendment 1919 Can., ch. 46, sec. 7 (operative from Oct. 1, 1919).

Code sec. 259—Murder—The medical testimony (foot paging 290).—For "C. J." read county judge.

Code sec. 259—Murder—Reasonable doubt (foot paging 290).—Add citations: *R. v. Fong Soon*, [1919] 1 W.W.R. 486, 31 Can. Cr. Cas. 78; *R. v. Smith*, [1917] 1 W.W.R. 553, 23 B.C.R. 197, 201, 26 Can. Cr. Cas. 398; *Morin v. The Queen*, 18 S.C.R. 407, 426.

Code sec. 259—Murder—Dying declarations (foot paging 291).—After citation of *R. v. Aho*, add: *R. v. Giovanzzi*, (1919) 16 O.W.N. 291; *R. v. Walker*, 15 B.C.R. 100, 13 W.L.R. 47, 16 Can. Cr. Cas. 77.

Code sec. 259—Murder—Alibi (foot paging 302).—After citation of *R. v. Rufino*, add: If there is evidence of identity to go to the jury it will not be reviewed on a case reserved. *R. v. Harvey*, 42 O.L.R. 187, 30 Can. Cr. Cas. 160; *R. v. Akerley*, (1918) 46 N.B.R. 195, 30 Can. Cr. Cas. 343.

Code sec. 274—Grievous bodily harm.—Add after citation of *R. v. Hostetter*: *R. v. Adonchuk*, [1919] 1 W.W.R. 987, 30 Can. Cr. Cas. 301 (Alta.).

Code sec. 284—Causing bodily injury by unlawful act or omission—Note on punishment where corporation defendant (foot paging 331). At end of note add reference to sec. 1035 (3).

Code sec. 285—Injury by furious driving.—Add to references under "Origin": 1910 Can., ch. 13, sec. 1. After citation of *Anderson v. C.N.R.* add: There must have been some anterior wilful misconduct or wilful negligence leading up to the collision. Wilful negligence is not to be inferred from the mere fact of collision with a bicycle. *R. v. Wilson* [1919] 3 W.W.R. 1087 (Alta.).

Code sec. 295—Assault with bodily harm—Note on actual bodily harm (foot paging 346).—Both citations of *R. v. Law* should read "9 W.W.R. 1075."

Code sec. 307—Bigamy—Note on Canadian divorcees (foot paging 376).—Citation of *Walker v. Walker* should now read, [1919] 2 W.W.R. 935 (P. C.) affirming [1918] 2 W.W.R. 1 (Man.). And add after that citation: As to divorce jurisdiction in Alberta and Saskatchewan see *Board v. Board*, [1919] 2 W.W.R. 940, (P. C.) affirming [1918] 2 W.W.R. 633, 13 Alta. L.R. 263; 49 Viet., Can., ch. 25; *Fletcher v. Fletcher* [1920] 1 W.W.R. 5 (Sask.), reversing [1918] 3 W.W.R. 283; *Moran v. Moran* [1920] 1 W.W.R. 612 (Alta.).

Code sec. 307—Bigamy—Note on domicile (foot paging 379).—After citation of *Casdagli v. Casdagli* add: Reversed on appeal (1919) 88 L.J.P. 49.

Code sec. 310—Polygamy—Note on adultery offences (foot paging 383).—*R. v. Akerley* now reported, 46 N.B.R. 195, 30 Can. Cr. Cas. 343. And at end of note add: *Ex parte Belyea*, (1918) 45 N.B.R. 308, 30 Can. Cr. Cas. 284.

Code sec. 316A—Communicating venereal disease.—New section added 1919 Can., ch. 46, sec. 8, as follows:

“316A. (1) Any person who is suffering from venereal disease in a communicable form, who knowingly or by culpable negligence communicates such venereal disease to any other person shall be guilty of an offence, and shall be liable upon summary conviction to a fine not exceeding five hundred dollars or to imprisonment for any term not exceeding six months, or to both fine and imprisonment.

“Provided, that a person shall not be convicted under this section if he proves that he had reasonable grounds to believe that he was free from venereal disease in a communicable form at the time the alleged offence was committed.

“Provided, also, that no person shall be convicted of any offence under this section upon the evidence of one witness, unless the evidence of such witness be corroborated in some material particular by evidence implicating the accused.

“(2) For the purposes of this section, ‘venereal disease’ means syphilis, gonorrhoea, or soft chancre.”

Code sec. 347—Theft—Note on fraudulently taking or converting with intent (foot paging 423).—Add to citation of *R. v. Clark*: *Richard v. R.*, (1918) 31 Can. Cr. Cas. 64, 25 R.L. 173 (Que.); *R. v. Pointon*, 32 L.J.M.C. 29.

Code sec. 347—Theft—Note on presumption from recent possession (foot paging 429).—After citation of *R. v. Poolman* add: *R. v. Kleparezuk*, [1918] 1 W.W.R. 695, 13 Alta. L.R. 212, 29 Can. Cr. Cas. 336.

Code sec. 354—Theft as between husband and wife (foot paging 436).—After citation of *R. v. Thos. King*, add: *R. v. Creamer*, (1919) 88 L.J.K.B. 594.

Code sec. 355—Theft by person required to account (foot paging 444).—Add note as follows:

*Fraudulent omission to account.* If an account has been given, there can be a conviction under this head only in case it be found that a prior default in giving an account was the result of fraudulent intent. *R. v. Loftus*, (1919) 46 O.L.R. 45; *R. v. Mackay*, [1918] 1 W.W.R. 945, 29 Can. Cr. Cas. 194 (Alta.).

Code sec. 355—Agent's secret profit.—After citation of *re Buchanan*, add: *R. v. McNabb* [1919] 3 W.W.R. 1031 (Alta.).

Code sec. 377A—Penalty for theft of motor cars.—“Every one is guilty of an indictable offence and liable to imprisonment for any term not exceeding two years and not less than one year, who steals any automobile or motor car, and the provisions of section one thousand and thirty-five shall not apply or extend to any person convicted of an offence under the provisions of this section.” New section added by 1919 Can., ch. 46, sec. 9.

Code sec. 394—Fraudulent possession of boom timber, etc.—Amended so as to add after the words “description of lumber” throughout the section, the words “boom chains, chains, lines or shackles,” 1919 Can., ch. 46, sec. 10.

Code sec. 399—Receiving—Note on recent possession (foot paging 483).—After citation of *R. v. Sbarra* add: *R. v. Scott*, [1919] 2 W.W.R. 227 (Alta.). After citation of *Klein v. Katz* add: *R. v. Myers*, [1919] 3 W.W.R. 187 (Sask.).

Code sec. 404—False pretences—Note on false pretense by conduct (foot paging 495).—After citation of *R. v. Leverton*, add: *R. v. King*, (1919) 46 O.L.R. 28, 16 O.W.N. 314; *State of New York v. Israelowitz*, 29 Can. Cr. Cas. 323 (B.C.).

Code sec. 404—False pretences (foot paging 498).—Add note: Sales by false weights or measures are punishable under the Weights and Measures Act, sec. 61A, added by 1919 Can., 1st session, ch. 75, sec. 7.

Code sec. 405—False pretences—Note on extradition (foot paging 506).—After citation of *Re Martin*, add: *Re Roseberg*, [1918] 1 W.W.R. 845, 28 Man. R. 439; 29 Can. Cr. Cas. 309 and see as to intra-empire extradition, *R. v. Harrison*, 29 Can. Cr. Cas. 420, *Re Harrison*, 30 Can. Cr. Cas. 150 (B.C.).

Code sec. 418—Falsifying books.—Add to notes: Being privy to the making of false entry, see *R. v. Lackman*, (1918) 28 (Que.) K.B. 69, 30 Can. Cr. Cas. 400.

Code sec. 431A—Second-hand dealers buying boom-chains, lines or shackles.—New section added, 1919 Can., ch. 46, sec. 11, as follows:

“431A. (1) Every one who, being a dealer in second hand goods of any kind, trades or traffics in or has in his possession for sale any boom or other chains, lines or shackles for the use of rafting, storing, fastening or towing lumber or logs, and who purchases, trades or traffics in any boom or other chain line or shackle which has upon it the trade mark duly registered or other mark or name of any person,

without the written consent of such person, or who, without such consent, has in his possession any such boom chains or other description of chains, lines or shackles for the purpose of sale or traffic, is guilty of an offence, and shall be liable on summary conviction to a penalty of twenty-five dollars or imprisonment for any term not exceeding thirty days for a first offence, and of fifty dollars or imprisonment for sixty days for any subsequent offence."

Code sec. 460—Breaking shop.—Add note: A parlor car buffet is not included as a "warehouse." *R. v. Levy*, (1919) 31 Can. Cr. Cas. 19 (N.S.).

Code sec. 466—Forgery—Note on criminal intent (foot paging 579).—After citation of *R. v. Gould* add: *R. v. Hoffman* (1919) 45 O.L.R. 234, 16 O.W.N. 21.

Code sec. 496—Trade conspiracy (foot paging 626).—After citation of *Graham v. Bricklayers*, add: *R. v. Russell* [1920] 1 W.W.R. 624 (Man.).

Code sec. 498—Trade combines.—Add note as follows: This section is now to be read with the 1919 Legislation contained in the Combines and Fair Prices Act, 1919, Can., ch. 45, and the Board of Commerce Act, 1919, ch. 47.

Code sec. 501—Intimidation (foot paging 636).—Note on origin. Reference to the Imperial Act should be 38-39 Viet., ch. 86.

Code sec. 501—Intimidation (foot paging 636).—Add note: "At the option of the accused." These words will not deprive a superior court of criminal jurisdiction of the right to try an indictment where there is no record of any election having been made. The onus is upon the accused to show that he was deprived of the right of trial by way of summary proceedings. *R. v. Russell* [1920] 1 W.W.R. 164 (Man.).

Code sec. 515—Protection from forest fires, etc.—New subsec. (1A) added 1919 Can., ch. 15, sec. 1, as follows:

"(1A) Every one is guilty of an indictable offence and liable to two years' imprisonment who by negligence causes any fire which occasions loss of life or loss of property.

"The person owning, occupying or controlling the premises in which such a fire occurs, or on which such fire originates, shall be deemed to have caused the fire through negligence if such person has failed to obey the requirements of any law intended to prevent fires or which requires apparatus for the extinguishment of fires or to facilitate the escape of persons in the event of fire, if the jury finds that such fire, or the loss of life, or the whole or any substantial portion of the loss of property, would not have occurred if such law had been complied with."

515A.—Refusing to make structural alterations required by fire officer.—New section added by 1919 Can., ch. 15, sec. 2, as follows:

"515A. When any Dominion, Provincial or Municipal fire officer or authority recommends to the owner, lessee or other person controlling or

operating any building, structure, factory, shipyard, vessel, dock, wharf, pier, sawmill, or yard in which logs or lumber are stored or held, that any reasonable change, alteration or addition should be made in or to such building, structure, factory, shipyard, vessel, dock, wharf, pier, sawmill or yard with a view to safeguarding life or property from destruction by fire or that any material should be removed therefrom with such view; or that any apparatus should be supplied therefor with such view; and if such recommendation is approved by an officer in the service of His Majesty, thereto authorized by the Governor in Council; and if notice of such recommendation and approval has been personally served upon such owner, lessee or other person; and if, after the expiration of thirty days from the receipt of such notice, such owner, lessee or other person refuses, neglects or otherwise fails to carry out such recommendation to the satisfaction of the officer in the service of His Majesty hereinbefore mentioned, such owner, lessee or other person shall be guilty of an indictable offence, and shall be liable to a fine of not exceeding one thousand dollars, or to imprisonment for any term not exceeding six months, or to both such fine and imprisonment."

Code sec. 537—Injury to animals (foot paging 678).—After citation of *Miles v. Hutchings* add: *Nye v. Niblett*, 87 L.J.K.B. 590.

Code sec. 537 (foot paging 678).—After citation of *O'Leary v. Thénier*, add: *R. v. Fusell* [1920] 1 W.W.R. 614 (Sask.).

Code sec. 540—Mischief—Note on *certiorari* and prohibition (foot paging 685).—Before citation of *R. v. Adamson* insert: *R. v. Bloomsbury Commissioners*, [1915] 3 K.B. 768, and compare.

Code sec. 573—Conspiracy to commit any indictable offence (foot paging 715).—Offences indictable at common law are included although not specifically dealt with by the Code. *R. v. Russell* [1920] 1 W.W.R. 624, 643, per Cameron, J. A.

Code sec. 576—Mandamus (foot paging 723).—After citation of *R. v. Wong Tun* add: A mandamus is not granted unless the applicant can show that he has a clear, legal, specific right to ask for the intervention of the court. *R. v. Lewisham Union Guardians* [1897] 1 Q.B. 498, 501; *Re Provincial Board of Health and City of Toronto* (1920) 17 O.W.N. 1.

Code sec. 577—Jurisdiction of Courts (foot paging 760).—After citation of *R. v. Sinclair*, add: *R. v. Nevison*, [1919] 1 W.W.R. 793, 31 Can. Cr. Cas. 116 (B.C.).

Code sec. 581—Trade combine trials.—Add note: Sec. 581 will apply to the Combines and Fair Prices Act, 1919, Can., ch. 45; and see Board of Commerce Act, 1919, Can., ch. 37.

Code sec. 584—Special jurisdiction—Offence during transportation (foot paging 771).—After citation of *R. v. Lynn* add: *R. v. Nevison*, [1919] 1 W.W.R. 793, 31 Can. Cr. Cas. 116 (B.C.).

Code sec. 590—Trade conspiracies (foot paging 777).—Add reference to *R. v. Russell* [1920] 1 W.W.R. 624 (Man.).

Code sec. 607—Preserving order in court.—After citation of *Re Scaife* add: and see *Re Reiben*, [1919] 1 W.W.R. 648, 30 Can. Cr. Cas. 271 (Sask.).

Code sec. 683—Depositions in writing or shorthand (foot paging 883).—After citation of *R. v. Rouleau* add: *R. v. Nyczzyk*, [1919] 2 W.W.R. 661 (Man.).

Code sec. 690—Commitment for trial—Note on review by habeas corpus (foot paging 909).—After citation of *Ex parte Garland* add: *R. v. Payne*, 30 Can. Cr. Cas. 382 (Que.); *R. v. Mackey*, 29 Can. Cr. Cas. 167 (N.S.); *R. v. Moreney*, 30 Can. Cr. Cas. 395 (Que.).

Code sec. 698—Bail after committal.—Add note: Discretion as to bail, see *R. v. Russell* [1919] 3 W.W.R. 306, 32 Can. Cr. Cas. 66 (Man.) disapproving dieta in *R. v. Fortier*, 6 Can. Cr. Cas. 191 (Que.).

Code sec. 705—Note on prohibition against summary conviction proceedings (foot paging 928).—After citation of *R. v. Phillips*, add *R. v. Spence*, (1919) 45 O.L.R. 391, 403; *R. v. McAulay*, [1918] 3 W.W.R. 178, 30 Can. Cr. Cas. 145 (Man.); *R. v. McNabb* [1919] 3 W.W.R. 1031 (Alta.).

Code sec. 706—Summary convictions (foot paging 938).—Add note: Provincial laws adopting Part XV for provincial offences. The adoption of Part XV by provincial law will not authorize the backing of a warrant outside of the province for an offence under a provincial statute passed since Confederation. *Ex parte Eli* [1920] 1 W.W.R. 661 (Alta.).

Code sec. 706—Summary convictions—Note on Inland Revenue Act (foot paging 939).—After citation of *R. v. Young* add: *R. v. Banni*, (1919) 16 O.W.N. 160, 31 Can. Cr. Cas. 55; *R. v. Berlin Lion Brewery*, (1919) 45 O.L.R. 340; *R. v. Auerbach*, (1919) 31 Can. Cr. Cas. 46 (Que.); *Hardy v. Lachance*, (1919) 30 Can. Cr. Cas. 288; *R. v. Bellmont* [1919] 3 W.W.R. 895 (Alta.).

Code sec. 706—Summary convictions—Note on War Revenue Act (foot paging 940).—Add citations: *Minister, etc. v. Bourke*, (1919) 31 Can. Cr. Cas. 48 (Que.); *Sifton v. Brunet*, (1919) 31 Can. Cr. Cas. 1 (Que.); *Cadotte v. Lazarovitz*, (1919) 31 Can. Cr. Cas. 43 (Que.); *Minister of Inland Revenue v. Huot*, 25 R. de J. 119 (Que.).

Code sec. 706 (foot paging 940) add: *Secret Commissions Act*.—Prosecutions under the Act, 1909 Can., ch. 33, may be taken either under Part XV or by indictment, but the limit of punishment is less upon summary conviction. *R. v. McNabb* [1919] 3 W.W.R. 1031 (Alta.). The option is not with the accused. *Ibid.*

Code sec. 707—Summary convictions—Note on substitute justices.—After citation of *R. v. Perrin* at foot of 944 add: *R. v. Smith*, [1919] 3 W.W.R. 311 (B.C.).

Code sec. 710—Summary convictions—Each complaint for one offence only (foot paging 953).—Correct citation of *R. v. Alward* to

25 Ont. R. 519 and add R. v. Austin, 1 W.L.R. 571, Ex parte Simpson (R. v. Keeper of Halifax Jail), 52 N.S.R. 299, 30 Can. Cr. Cas. 334. Also after citation of R. v. Brine, add R. v. McManus [1919] 3 W.W.R. 190, 30 Can. Cr. Cas. 122 (Alta.).

Code sec. 710—Summary convictions (foot paging 954).—After citation of R. v. Sing add: Two convictions under *The Liquor Act* Alta. 1916, were quashed because the trials of the two charges were so mixed as to raise a *prima-facie* case (not cleared away by any statement of the justices to the contrary) that the evidence had a cumulative effect, so that the decision in each case was affected by the evidence in the other. R. v. A. King, [1919] 2 W.W.R. 877, 31 Can. Cr. Cas. 297 (Alta.).

Code sec. 711—Summary convictions—Summons to be signed by justice (foot paging 960).—After citation of *Lamontagne v. Lanctot* add: A notice from the prosecutor to appear at a named time and place served along with a copy of the complaint is not a sufficient summons. *Lacasse v. Fortier*, 30 Can. Cr. Cas. 87 (Que.); *Rheume v. Cliche*, 24 R.L.N.S. 61, 30 Can. Cr. Cas. 112 (Que.).

Code sec. 711—Summary convictions—Stenographer taking down the depositions (foot paging 962).—After citation of R. v. Johnson, add: 22 Man R. 426, 19 Can. Cr. Cas. 203; R. v. Knight, [1919] 3 W.W.R. 529 (Alta.); R. v. Limerick, 44 N.B.R. 233.

Code sec. 715—"Full answer and defence" (foot paging 966 and 968).—After citation of R. v. Dominion Drug Stores add: Affirmed on an equal division [1919] 2 W.W.R. 413, 31 Can. Cr. Cas. 86.

Code sec. 715—Summary convictions—Adjournment on amending charge (foot paging 970).—After citation of R. v. Farrell add: There may be circumstances in which the failure of a person not represented by counsel to ask an adjournment when charged without summons or warrant will not operate as a waiver of the right to have the trial take place under conditions affording the accused full opportunity to make his defence. R. v. Avon, (1919) 16 O.W.N. 283, 45 O.L.R. 633, 32 Can. Cr. Cas. 79, reversing 45 O.L.R. 383; compare R. v. Pirie, 45 N.B.R. 195, 29 Can. Cr. Cas. 164.

Code sec. 721—Summary convictions—Appearance without summons or warrant (foot paging 981).—After citation of R. v. Yaldon, add: An objection to the jurisdiction because of the arrest having been illegally made without warrant must be taken promptly. R. v. Tey Shing [1920] 1 W.W.R. 546 (Alta.); R. v. Kostich [1919] 3 W.W.R. 378 (Alta.); R. v. Pollard [1917] 3 W.W.R. 754, 13 Alta. L.R. 157.

Code sec. 722—When adjournment demandable as of right (foot paging 986).—After citation of R. v. Lorenzo add: R. v. Dominion Drug Stores, [1919] 2 W.W.R. 413, 31 Can. Cr. Cas. 86 (Alta.) affirming on an equal division, [1919] 1 W.W.R. 285, 30 Can. Cr. Cas. 318; R. v. Eli, 10 Ont. R. 727.

Code sec. 724—Amending the information.—After citation of *R. v. Lyons* add: *Ex parte Stewart*, 29 Can. Cr. Cas. 301 (N.S.); unless authorized by the special Act; *R. v. Van Fleet*, [1918] 2 W.W.R. 432, 13 Alta. L.R. 320, 30 Can. Cr. Cas. 147, affirming [1918] 1 W.W.R. 332, 29 Can. Cr. Cas. 218; *R. v. Byron*, *Ex parte Batson*, 37 N.B.R. 386, 10 Can. Cr. Cas. 240.

Code sec. 725—Charging an offence in different modes (foot paging 991).—After citation of *Re Wagner* add: *R. v. McManus*, [1919] 3 W.W.R. 190, 30 Can. Cr. Cas. 122 (Alta.); *Re Tellier*, *Cout. S.C. Cas.* 110.

Code sec. 726—Separating the penalty as to several defendants (foot paging 996).—After citation of *Gaul v. Township of Ellice* add: *R. v. James*, 29 Can. Cr. Cas. 204 (N.S.); *R. v. Sutton*, 42 U.C.Q.B. 220.

Code sec. 726—Summary convictions—Adjournment for judgment (foot paging 997).—After citation of *Therrien v. McEachern* add: *Nagazoa v. Niquet*, 24 R. de Jur. 339, 30 Can. Cr. Cas. 77 (Que.); *McBrien v. Recorder's Court of Montreal*, (1919) 31 Can. Cr. Cas. 352.

Code sec. 727—Summary convictions—The memorandum of adjudication (foot paging 1002).—After citation of *R. v. McCarthy*, add: The memorandum of adjudication may, by direction of the justice, be included in the stenographer's notes. *R. v. Clarke*, [1918] 2 W.W.R. 752, 13 Alta. L.R. 469, 30 Can. Cr. Cas. 200.

Code sec. 730—Summary convictions—Certificate of dismissal—Bar to subsequent information (foot paging 1006).—After citation of *Foster v. Hull*, add *R. v. Stokes*, 29 Can. Cr. Cas. 144 (Man.).

Code sec. 735—Summary convictions—Discretion to award costs (foot paging 1012).—After citation of *R. v. Rudolph*, add: *R. v. Murphy*, 29 Can. Cr. Cas. 445 (N.S.)

Code sec. 748—Sureties to keep the peace (foot paging 1027).—Insert note as follows: Threats of "personal injury" under subsec. (2) refers to a threatened act of violence against the person which would cause bodily harm; in French *blessure* or *lésion corporelle*. *R. v. Buteau*, 30 Can. Cr. Cas. 411 (Que.).

Code sec. 750—Appeal from summary conviction—Notice of appeal (foot paging 1035).—Subsection (b) amended by Can. 1919, ch. 46, sec. 12 to read as follows:

"(b) The appellant shall give notice of his intention to appeal by filing in the office of the clerk of the court appealed to a notice in writing setting forth with reasonable certainty the conviction or order appealed against and the court appealed to, and the notice shall be served upon the respondent and the Justice who tried the case, or, in the alternative, upon such person or persons as a judge of the court appealed to shall direct, and such service shall be within ten days of the making of the conviction or order complained of, or within such further time, not exceeding an additional twenty days, as a



judge of the court appealed to may see fit to fix either before or after the expiration of the said ten days."

Code sec. 750—Summary convictions—Serving the notice of appeal (foot paging 1038-9).—The cases referred to in the note as to serving the notice were decided before the Code amendment of 1919 which clears up some of the questions raised in *Gallagher v. Vennesland*, [1917] 1 W.W.R. 860, and in *R. v. McDermott*, 7 W.W.R. 165.

Code sec. 750—Cash deposit instead of recognizance (foot paging 1039).—At end of note add: The deposit of cash is a security payable to the Crown. *Groulx v. Sicotte*, 19 Can. Cr. Cas. 101 (Que.).

Code sec. 750—Appeal from summary conviction—Where affidavit of merits required under special Act (foot paging 1042-3).—At end of note add: The justice is not to refuse to sign the appellant's affidavit of merits on the ground that the appeal has been waived or barred by other proceedings taken by the appellant, but is to leave that question to the appellate court. *R. v. Dominion Drug Stores*, [1919] 1 W.W.R. 285, 30 Can. Cr. Cas. 318, and in appeal [1919] 2 W.W.R. 413, 31 Can. Cr. Cas. 86 (Alta.).

Code sec. 752—Appeal from summary conviction—Procedure on the rehearing (foot paging 1049).—After citation of *R. v. Baird*, add *R. v. Auerbach*, (1919) 31 Can. Cr. Cas. 46 (Que.); *R. v. Murphy*, 29 Can. Cr. Cas. 445 (N.S.).

Code sec. 757—Summary convictions—Duty to return information and depositions (foot paging 1056).—After citation of *R. v. Dominion Drug Stores* add: Same case in appeal [1919] 2 W.W.R. 413, 31 Can. Cr. Cas. 86 (Alta.).

Code sec. 757—Summary convictions—Proof of previous conviction (foot paging 1056).—After citation of *R. v. Curran*, add: *R. v. Berlin Lion Brewery Ltd.*, (1919) 45 O.L.R. 340. And the production of the docket entry of the prior conviction before the same magistrate and shown to be authentic will prove it in the event of no formal conviction having been drawn up. *R. v. Tansley*, [1917] 3 W.W.R. 70, 29 Can. Cr. Cas. 225, affirming [1917] 2 W.W.R. 1025, 28 Can. Cr. Cas. 278. A conviction for a second offence with increased penalty can be made only when charged as such; *R. v. Harry*, [1919] 3 W.W.R. 298 (Alta.); but the power to amend on *certiorari* may be exercised by reducing it to one as for a first offence. *R. v. Harry supra*.

Code sec. 770—Fees on summary conviction.—Correct italic headline to read "their" clerks instead of "other" clerks.

Code sec. 773—Summary trials—As to appeal (foot paging 1081).—After citation of *R. v. Berenstein* add: *R. v. Griffiths* (1919) 16 O.W.N. 277.

Code sec. 773—This section repealed by 1919 Can., ch. 46, sec. 13; but see new sec. 778A added by the same Act.

Code sec. 774—Summary trial—When jurisdiction absolute (foot paging 1083).—After citation of *R. v. Helliwell*, add: see also *R. v. Avon*, (1919) 16 O.W.N. 283, reversing 45 O.L.R. 383.

Code sec. 774—Absolute jurisdiction in disorderly house cases (foot paging 1083).—Add to this note: There is no power to reserve a case for the court of appeal. *R. v. Griffiths*, (1919) 16 O.W.N. 277; *R. v. Booth*, 31 O.L.R. 539.

Code sec. 777 (foot paging 1088).—Delete the word "not" inserted by a typographical error in the second line of subsec. 4.

Code sec. 777—Note on general sessions of the peace (foot paging 1089).—Add to citation of *R. v. Belyea*: 45 N.B.R. 308, 30 Can. Cr. Cas. 284.

Code sec. 778—Summary trials—Stating option (foot paging 1095).—Add after citation of *R. v. Howell*, *R. v. James*, 31 Can. Cr. Cas. 4 (Sask.).

Code sec. 778—Summary trials (foot paging 1096).—After citation of *R. v. Graf*, add: It is sufficient that the charge was reduced to writing before the accused was asked to plead to it. *R. v. Nelson* [1920] 1 W.W.R. 150<sup>1</sup> (Alta.).

Code sec. 778—Summary trials—Proceedings under plea of not guilty (foot paging 1098).—After citation of *R. v. Jung Lee*, add: *R. v. Knight*, [1919] 3 W.W.R. 529 (Alta.), but see *contra*, *Re Britt*, 51 Que. S.C. 448, 18 Que. P.R. 388, 23 R. de Jur. 278. As to changing plea, see *R. v. Nelson* [1920] 1 W.W.R. 150 (Alta.), distinguishing *R. v. Richmond* [1917] 2 W.W.R. 1200, 12 Alta. L.R. 133.

Code 778A—Summary trial of corporations for indictable offences.—New section added by 1919 Can., ch. 46, sec. 13, as follows:

"778A. (1) When the person to be charged is a corporation, the summons may be served on the mayor or chief officer of such corporation, or upon the clerk or secretary or the like officer thereof, and may be in the same form as if the defendant were a natural person.

"(2) The corporation in such case shall appear by attorney, who may on its behalf elect, and confess or deny the charge, and thereupon the case shall proceed as if the defendant were a natural person.

"(3) If the corporation does not appear and confess or deny the charge, the magistrate may proceed in the absence of the defendant as upon a preliminary investigation."

Code sec. 778—Summary trials (foot paging 1114).—Add note: *Right to Be Tried before the Same Magistrate*. Where under the procedure laid down in sec. 778 of the Code, the accused has consented to a charge being summarily tried and determined by the magistrate and the charge has been read to accused who has pleaded not guilty, the accused has a right to be tried by the magistrate who has proposed to try him summarily and before whom he has consented to be tried. Such magistrate, if not disqualified, should not send the accused to trial

before another magistrate. The fact that the magistrate has expressed the opinion that the question is a matter that should have been settled by a civil action—that the proceedings taken were an attempt to use the criminal law to enforce a civil right—does not necessarily imply bias. In any case it is too late to raise such objection after the accused has elected, has been arraigned, and has pleaded. *Re Bain*, [1919] 2 W.W.R. 709 (Man.).

Code sec. 824—Speedy trials—Note on courts of record (foot paging 1130-1).—Add to note: A district judge's criminal court ought to have a record and an official whose duty it is to keep it properly. The clerk is supposed to be such an official. Strictly, a book in which is entered by the clerk every essential thing which occurs, except the testimony given by the witnesses, ought to be kept. *R. v. Porhorliuk*, 30 Can. Cr. Cas. 281 (Alta.).

Code sec. 825—Summary trials—Who may elect a summary trial (foot paging 1134).—After citation of *R. v. Jun Goon*, add: As to jurisdiction where the committal is made in one district to the gaol situate in another district, see *R. v. Meyers*, [1919] 3 W.W.R. 187 (Sask.); *R. v. Anderson*, [1918] 1 W.W.R. 12 and 14, 29 Can. Cr. Cas. 176, 10 Sask. L.R. 436.

Code sec. 828—Re-election of speedy trial.—New clause added after subsec. 4 by Code amendment 1919 Can., ch. 46, sec. 14, as follows:

“And provided also that no prisoner shall have a right to re-elect later than thirty days before the day fixed for the next sittings of the court at which trials by jury can be had, unless the prisoner was committed for trial within forty days before the said date, in which event he must re-elect not later than ten days before the day fixed for the next sittings of the court at which trials by jury can be had.”

Code sec. 834—Speedy trial—Consent to trial on new charge (foot paging 1149).—In fourth line of note after the words “formalities of sec. 827” add: *R. v. Treflak*, [1919] 2 W.W.R. 794, 31 Can. Cr. Cas. 151 (Sask.).

Code sec. 873 (foot paging 1185).—After citation of *Kelly v. The King*, add *R. v. Russell* [1920] 1 W.W.R. 164 (Man.).

Code sec. 873A—Leave of court to prefer a charge.—Leave should be refused a private prosecutor if the Attorney General opposes, as that official might enter a *nolle prosequi* under Code sec. 962. *R. v. Edwards*, [1919] 2 W.W.R. 600 (Alta.).

The formal charge referred to in this section is to be distinguished from the charge on a speedy trial, as to which see Code secs. 827, 834. *R. v. Bobyck* (1919) 32 Can. Cr. Cas. 26 (Sask.).

Code sec. 923—Mixed juries in Quebec (foot paging 1242).—After citation of *R. v. Yancey* add: *Veuillette v. R.*, (1919) 58 S.C.R. 414 (Can.).

Code sec. 928—Calling the jurors who have stood by (foot paging 1246).—The phrase "unless the prosecutor challenges them *and* shows cause" was amended by 1919 Can., ch. 46, sec. 15, by substituting the word "or" for "and." This amendment taking effect October 1, 1919, supersedes the decision in *R. v. Churton*, [1919] 1 W.W.R. 774 (B.C.) as to the effect of the word "and." The note on that case at top of foot paging 1247 should therefore be cancelled.

Code sec. 932—Peremptory challenges (foot paging 1249).—As to peremptory challenges on indictment containing several counts, see *R. v. Russell* [1920] 1 W.W.R. 624 (Man.).

Code sec. 942—Full answer and defence (foot paging 1257).—After citation of *R. v. Shortall*, add: *R. v. Fong Soon*, [1919] 1 W.W.R. 486, 31 Can. Cr. Cas. 78 (B.C.); *R. v. Akerley*, 46 N.B.R. 195, 30 Can. Cr. Cas. 343; *Northern Club v. Whimster*, [1919] 3 W.W.R. 411, 416 (B.C.); *R. v. Covert*, [1917] 1 W.W.R. 919, 932, 10 Alta. L.R. 349, 28 Can. Cr. Cas. 25; *R. v. Smith*, [1917] 1 W.W.R. 553, 23 B.C.R. 197, 201, 26 Can. Cr. Cas. 398; and as to homicide see note to Code sec. 259.

Code sec. 944—Crown's right of reply (foot paging 1261).—Add to citation of *R. v. Keirstead*: 45 N.B.R. 553, 30 Can. Cr. Cas. 175.

Code sec. 959—Non-communication with jury while deliberating (foot paging 1271).—After citation of *Veronneau v. The King*, add: *R. v. Corrigan*, [1919] 2 W.W.R. 81 (Sask.).

Code sec. 962—Stay by Attorney General (foot paging 1276).—Add to citation of *R. v. Spence*: 45 O.L.R. 391 31 Can. Cr. Cas. 365. Add after citation of *R. v. Blackley*: *R. v. Edwards*, [1919] 2 W.W.R. 600 (Alta.).

Code sec. 966—Acquittal on account of insanity (foot paging 1284).—After citation of *R. v. Smith*, add: Any evidence in the possession of the Crown on the question of insanity should be placed at the disposal of the defence. *R. v. Keirstead*, 45 N.B.R. 553, 30 Can. Cr. Cas. 175.

Code sec. 985—Presence of gaming instruments (foot paging 1297).—There must be proof of the search order to raise the statutory presumption under sec. 985, which differs in this respect from the second part of sec. 986. *R. v. Cessarsky* [1920] 1 W.W.R. 536.

Code sec. 986—Evidence of disorderly house—House found fitted or provided, etc. (foot paging 1299).—Add to note: In Alberta it is held that the word "and" preceding "if any house, etc." is disjunctive, with the result that the part of the section as to finding gambling paraphernalia is effective although a search order was not proved. *R. v. Cessarsky* [1920] 1 W.W.R. 536. The finding of padded card tables, many decks of cards, poker chips and money on the table at which players were sitting, may raise the statutory presumption. *Ibid.*

Code sec. 989—Cattle brands as evidence (foot paging 1300).—After citation of *R. v. Forsythe*, add: *Zeats v. Johnston*, 3 Sask. L.R. 364.

Code sec. 1002—Note on accomplice evidence (foot paging 1316).—Citation of *R. v. Akerley* should be 30 Can. Cr. Cas. 343, 46 N.B.R. 195

and add: R. v. Dumont, 54 Que. S.C. 9, 29 Can. Cr. Cas. 442; R. v. Morrison, 51 N.S.R. 253, 29 Can. Cr. Cas. 6; R. v. Feigenbaum, (1919) 88 L.J.K.B. 551.

Code sec. 1002—Corroboration.—Add note: *Corroboration in venereal disease charge*. A similar provision is made by 1919 Can., ch. 46, sec. 8, as to the offence thereby declared. (Code sec. 316A).

Code sec. 1003—Note on corroboration of child's unsworn testimony (foot paging 1320).—On second line of page delete the words "but see contra" and substitute a semi-colon.

Code sec. 1014—Limitations of the right of appeal (foot paging 1333).—After citation of R. v. Mulvihill add: This mode of appeal by case reserved does not apply to summary trials not within Code sec. 777. R. v. Booth (1914) 31 O.L.R. 539, 541; R. v. Griffiths (1919) 16 O.W.N. 277; and see Code secs. 797 and 1013.

Code sec. 1017—Papers accompanying the case reserved (foot paging 1343).—After citation of Brunet v. The King add: The Judge's notes of his own findings where there is no official stenographic transcript on a trial without a jury, will be accredited on the appeal in preference to counsel's affidavit that judgment was orally pronounced upon a different ground. R. v. Jacobs, 26 Que. K.B. 382, 30 Can. Cr. Cas. 80. Evidence which is not relevant to the question reserved need not be sent up. R. v. Fong Soon, [1919] 1 W.W.R. 486, 31 Can. Cr. Cas. 78 (B.C.). The trial judge should certify his findings of fact, and not merely what the evidence was, and should specify in the reserved case the points of law upon which he entertained doubts. R. v. Gross, 28 Que. K.B. 54, 31 Can. Cr. Cas. 35, 39.

Code sec. 1017—Papers accompanying the case reserved. Citation of R. v. Davis where first referred to should be 5 W.W.R. 1340.

Code sec. 1028—Application to summary convictions (foot paging 1360).—After citation of R. v. Robidoux, add: R. v. Auerbach, (1919) 31 Can. Cr. Cas. 46 (Que.).

Code sec. 1035—Fine in lieu of imprisonment (foot paging 1364-5).—Add note: *Theft of motor car*. By the terms of Code sec. 377A added by 1919 Can., ch. 46, sec. 3, the provisions of sec. 1035 shall not apply or extend to any person convicted of an offence under the provisions of sec. 377A.

Code sec. 1048—Compensation orders (foot paging 1373).—Add note: Effect of compensation order as a judgment debt. See *Morse v. Kizer* (1919) 59 S.C.R. 1, affirming *Kizer v. Morse*, 52 N.S.R. 112, 32 Can. Cr. Cas. 108.

Code sec. 1120—Orders for further detention (foot paging 1415, 1416, 1417).—Citation of *Ex parte Carroll* should read 29 Can. Cr. Cas. 213 (N.B.).

Code sec. 1120—Remands to custody for further proceedings (foot paging 1417).—After citation of R. v. Hicks, add: If a committal for trial was made on a preliminary enquiry in which the accused was il-

legally denied the right to call witnesses, a remand may be made to take such evidence, and if the magistrate thereafter disclaims jurisdiction on the ground that the case has gone to the Assizes, an order may be made for the prisoner's discharge on the illegal commitment. *R. v. Payne*, (1919) 30 Can. Cr. Cas. 382 (Que.).

Code sec. 1122—No *certiorari* after appeal taken from summary conviction (foot paging 1419).—After citation of *R. v. Becker*, add: *R. v. Gainor*, [1919] 1 W.W.R. 801, 30 Can. Cr. Cas. 357 (Alta.).

Code sec. 1124—Magistrate may return an amended conviction (foot paging 1422).—After citation of *R. v. O'Brien*, add: And an amended warrant of commitment may be returned to correct an error in the name of the prisoner as stated in the first warrant. *R. v. Bearden*, (1919) 17 O.W.N. 68.

Code sec. 1124—Reducing illegal and excessive punishment (foot paging 1423).—After citation of *R. v. Van Fleet*, add: Same case in appeal [1918] 2 W.W.R. 432, 30 Can. Cr. Cas. 147 (Alta.). After citation of *R. v. Avon*, add: Compare *R. v. Asheroft*, 4 Terr. L.R. 119, 2 Can. Cr. Cas. 387. But see *R. v. Avon* in appeal (1919) 16 O.W.N. 283 (reversing 16 O.W.N. 162, 45 O.L.R. 383), in which the power to apply sec. 1124 without a *certiorari* is doubted.

Code sec. 1125—Irregularities curable on *certiorari* (foot paging 1424).—Add note. *Negating exceptions*. Subsec. (c) of sec. 1125 prevents holding a summary conviction under the Lord's Day Act, R.S.C., 1906, ch. 153, invalid on *certiorari* because of the omission to negative circumstances the existence of which would make lawful the act complained of. *R. v. Sam Bow*, [1919] 3 W.W.R. 315, 31 Can. Cr. Cas. 269 (B.C.).

Code sec. 1130—Defects of form in summary trial proceedings (foot paging 1427).—After citation of *R. v. Burtress*, add: See also *R. v. James*, 31 Can. Cr. Cas. 4 (Sask.); *R. v. Crookes*, 4 Sask. L.R. 335, 19 Can. Cr. Cas. 150; *Brunet v. The King*, 57 S.C.R. 83, 30 Can. Cr. Cas. 16.

Code sec. 1142—Time limitations (foot paging 1436).—Citation of *R. v. Graves* is 52 N.S.R. 365, 30 Can. Cr. Cas. 279.

Code sec. 1144—Notice of action. For *Linden v. Brown*, read *Sinden v. Brown*, 17 A.R. 173.

Code sec. 1152—Forms (foot paging 1498).—Add form 76 (1919 Can., ch. 46, sec. 2, and 1913 Can., ch. 13, sec. 32) as follows:

## FORM 76.

## WEAPON PERMIT.

[Insert name of place of issue and date.]

Permission is hereby given to — [insert name of holder of permit] of — to carry [insert character of weapon] for [insert duration of permit and county, city, town or other limits within which permit is to be in force].

Reason for granting permit:

[Here are to be inserted the reasons for issuing permit.]

[Name and office of person issuing permit.]

## CANADA EVIDENCE ACT.

Appendix (foot paging 1509).—Canada Evidence Act, sec. 26, amended 1919 Can., ch. 12, to read as follows:

“26. A copy of any entry in any book kept in any office or department of the Government of Canada, or in any commission, board or other branch of the public service of Canada, shall be received as evidence of such entry, and of the matter, transactions and accounts therein recorded, if it is proved by the oath or affidavit of an officer of such department, commission, board or other branch of the said public service, that such book was, at the time of the making of the entry, one of the ordinary books kept in such office, department, commission, board or other branch of the said public service, that the entry was made in the usual and ordinary course of business of such office, department, commission, board or other branch of the said public service, and that such copy is a true copy thereof.”

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