CANADA
HOUSE OF COMMONS

22nd Parliament, 1st Session
1953-54

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(2 vols.)

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First Session, Twenty-Second Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 2.

An Act to Provide equal pay for equal work for Women.

First reading, November 16, 1953.

Mrs. FAIRCLOUGH.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1953

79565

7 DEC 1954

First Session, 22nd Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 2.

An Act to Provide equal pay for equal work for Women.

WHEREAS it is desirable to enact a measure to prevent discrimination against women in respect of their employment by reason of their sex and, without limiting the generality of the foregoing, to ensure that women will be paid at the same rates as men for similar or comparable work: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short title.

1. This Act may be cited as the *Women's Equal Pay Act, 1954.*

Application.

2. This Act shall apply in respect of employees who are employed upon or in connection with the operation of any work, undertaking or business that is within the legislative authority of the Parliament of Canada including, but not so as to restrict the generality of the foregoing,

(a) works, undertakings or businesses operated or carried on for or in connection with navigation and shipping, whether inland or maritime, including the operation of ships and transportation by ship anywhere in Canada;

(b) railways, canals, telegraphs and other works and undertakings connecting a province with any other or others of the provinces, or extending beyond the limits of a province;

(c) lines of steam and other ships connecting a province with any other or others of the provinces or extending beyond the limits of a province;

(d) ferries between any province and any other province or between any province and any country other than Canada;

(e) aerodromes, aircraft and lines of air transportation;

(f) radio broadcasting stations;

(g) any work, undertaking or business outside the exclusive legislative authority of the legislature of any province;

(h) the civil service of Canada;

(i) any corporation established to perform any function or duty on behalf of the Government of Canada and in respect of employees of such corporations;

and in respect of the employers of all such employees in their relations with such employees and in respect of trade unions and employers' organizations composed of such employees or employers.

Definitions.

3. In this Act,

"Minister".

(a) "Minister" means the Minister of Labour;

"Deputy Minister".

(b) "Deputy Minister" means the Deputy Minister of Labour;

"Trade union". "Union".

(c) "trade union" or "union" means any organization of employees formed for purposes that include the regulation of relations between employees and employers;

"Employers' organization".

(d) "employers' organization" means an organization of employers formed for purposes that include the regulation of relations between employers and employees;

"Employment agency".

(e) "employment agency" includes a person who undertakes with or without compensation to procure employees for employers and a person who undertakes with or without compensation to procure employment for persons;

"Person".

(f) "person", in addition to the extended meaning given it by the *Interpretation Act*, includes employment agency, employers' organization and trade union.

Unfair wage practice.

4. (1) It shall be an unfair wage practice for any employer—

(a) to discriminate in the payment of wages between sexes by paying wages to any female employee at a rate less than the rate at which he pays wages to male employees for work of comparable character on jobs the performance of which requires comparable skills, except where such payment is made pursuant to a seniority or merited increase system which does not discriminate on the basis of sex; or

(b) to lay off or discharge or in any other manner discriminate against any employee because such employee has filed any charges, has instituted or caused to be instituted any proceeding, under or related to this Act, or has testified or is about to testify in any such proceedings.

Difference of rate of pay.

(2) A difference in the rate of pay between a female and a male employee based on any factor other than sex shall not constitute failure to comply with this section.

Conciliation officer to inquire into complaint.

5. (1) The Minister may on the recommendation of the Deputy Minister designate a conciliation officer to inquire into the complaint of any person that she has been discriminated against contrary to section four.

Complaint to be in writing.

(2) Every such complaint shall be in writing on the form prescribed by the Deputy Minister and shall be mailed or delivered to him at his office.

Duty of conciliation officer.

(3) The conciliation officer shall forthwith after he is appointed inquire into the complaint and endeavour to effect a settlement of the matter complained of.

Report.

(4) The conciliation officer shall report the results of his inquiry and endeavours to the Deputy Minister.

Commission.

6. (1) If the conciliation officer is unable to effect a settlement of the matter complained of, the Minister may, on the recommendation of the Deputy Minister, appoint a commission composed of one or more persons and shall forthwith communicate the names of the members of the Commission to the parties and thereupon it shall be presumed conclusively that the commission was appointed in accordance with this Act. And no order shall be made or protest entered or proceeding taken in any court, whether by way of injunction, declaratory judgment, certiorari, mandamus, prohibition, quo warranto or otherwise to question the appointment of the Commission, or to review, prohibit or restrain any of its proceedings.

Powers of Commission.

(2) The Commission shall have all the powers and enjoy all the rights and privileges of the Canada Labour Relations Board under section 58 of the *Industrial Relations and Disputes Investigation Act.*

Duties of Commission.

(3) The Commission shall give the parties full opportunity to present evidence and to make submissions and if it finds that the complaint is supported by the evidence it shall recommend to the Deputy Minister the course that ought to be taken with respect to the complaint, which recommendation may include reinstatement with or without compensation for loss of earnings and other benefits.

Majority recommendations prevail.

(4) If the commission is composed of more than one person, the recommendations of the majority shall be the recommendations of the commission.

Deputy Minister may ask for clarification, etc.

(5) After a commission has made its recommendations, the Deputy Minister may direct it to clarify or amplify any of its recommendations and they shall not be deemed to have been received by the Deputy Minister until they have been so clarified or amplified.

Minister's order.

(6) The Minister on the recommendation of the Deputy Minister may issue whatever order he deems necessary to carry the recommendations of the commission into effect, and the order shall be final and shall be complied with in accordance with its terms.

Offence and penalty.

7. (1) Every person who fails to comply with any provision of this Act or with any order made under this Act is guilty of an offence and on summary conviction is liable to a penalty of not more than $100.

Penalties to Receiver General.

(2) The penalties recovered for offences against this Act shall be paid to the Receiver General of Canada and shall form part of the Consolidated Revenue Fund.

Consent to prosecution.

(3) No prosecution for an offence under this Act shall be instituted except with the consent in writing of the Minister on the recommendation of the Deputy Minister.

Rights saved.

(4) Nothing in this Act shall affect written contracts of employment and collective bargaining agreements that were made before the 1st day of May, 1954, but if any such contract or agreement is in force on the 1st day of May, 1954, this Act shall apply thereto on and after that day.

First Session, Twenty-Second Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 3.

An Act to amend the Canada Grain Act.
(Distribution of Box Cars.)

First reading, November 16, 1953.

Mr. ARGUE.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1953

79890

1st Session, 22nd Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 3.

An Act to amend the Canada Grain Act.
(Distribution of Box Cars.)

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

1. The *Canada Grain Act*, chapter 25 of the Revised Statutes of Canada, 1952, as amended by chapter 308 of the Revised Statutes of Canada, 1952, is amended by inserting therein, immediately after section 72 thereof, the following sections:

Producer may enter and assign his acreage.

"**72A.** Any producer, as defined in section 15 of the *Canadian Wheat Board Act*, chapter 44 of the Revised Statutes of Canada, 1952, may, before the 1st day of October in any year, enter in the car order book his acreage seeded to grain as shown in his Permit Book pursuant to sections 18 and 19 of the said Act, and may assign that acreage among the elevator companies at his marketing point.

Railway agent to apportion railway cars.

"**72B.** If, at any time, no unfilled application for a car appears in the car order book at a marketing point, the railway agent shall then apportion railway cars among the elevator companies in the proportion that the acreage has been divided among the elevator companies."

Explanatory Notes.

The purpose of this Act is to provide in a new section of the Car Order Book a rule for the fair allocation of box cars among elevator companies at a marketing point where the Car Order Book, as presently constituted, is not in effect. By allocating their seeded acreage among the elevator companies at a marketing point, producers themselves will determine the distribution of box cars at that point.

First Session, Twenty-Second Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 4.

An Act to amend the Industrial Relations and Disputes Investigation Act. (Voluntary revocable check-off).

First reading, November 16, 1953.

Mr. KNOWLES.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1953

79913

1st Session, 22nd Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 4.

An Act to amend the Industrial Relations and Disputes Investigation Act. (Voluntary revocable check-off).

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

1. Section 6 of the *Industrial Relations and Disputes Investigation Act*, chapter 152 of the Revised Statutes of Canada, 1952, is amended by adding thereto the following subsection:

Deduction of union dues.

"(3) Upon request of a trade union entitled to bargain collectively under this Act on behalf of a unit of employees and upon receipt of a request in writing signed by any employee in such unit, the employer of such employee shall, until the employee in writing withdraws such request, periodically deduct, and pay out of the wages due to such employee to the person designated by the trade union to receive the same, the union dues of such employee; and the employer shall furnish to such trade union the names of the employees who have given and withdrawn such authority."

Explanatory Note.

This bill adds a new subsection three to section six of the *Industrial Relations and Disputes Investigation Act.* The effect of this new subsection is to provide for the voluntary revocable check-off of union dues.

First Session, Twenty-Second Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 5.

An Act respecting the Use of Election Material for By-elections and Northwest Territories Elections.

First reading, November 16, 1953.

THE SECRETARY OF STATE.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1953

80731

1st Session, 22nd Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 5.

An Act respecting the Use of Election Material for By-elections and Northwest Territories Elections.

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

Definitions.

"Election material."

"Former Act."

"New Act."

1. In this Act,

(a) "election material" includes instructions, forms, record books, index books, ballot papers, poll books and copies of Acts or regulations or portions thereof, and any other supplies;

(b) "former Act" means *The Canada Elections Act*, chapter 46 of the statutes of 1938, as in force immediately prior to the coming into force of the Revised Statutes of Canada, 1952;

(c) "new Act" means the *Canada Elections Act*, chapter 23 of the Revised Statutes of Canada, 1952; and

(d) other words and expressions have the same meaning as in the *Canada Elections Act*.

Use of election material authorized by former Act for by-elections and N.W.T. elections.

2. Any election material authorized or required by the former Act for the purposes of or in relation to a by-election or Northwest Territories elections may, in lieu of the election material authorized or required by the new Act, be used for the purposes of or in relation to any by-election or Northwest Territories elections held before the first general election next after the coming into force of this Act; and references in election material so used to any Act, regulation, rule, schedule or form or any part or provision thereof shall be construed as a reference to the corresponding Act, regulation, rule, schedule, form, part or provision thereof in the Revised Statutes of Canada, 1952.

Explanatory Note.

Although existing stocks of election material, prepared pursuant to *The Canada Elections Act* of 1938, are probably sufficient to provide for all by-elections to be held until the next general election, such material can no longer be used under the *Canada Elections Act*, chapter 23 of the Revised Statutes of Canada, 1952, which came into effect on September 15, 1953.

The purpose of this bill is to avoid the unnecessary expense of printing new election material by authorizing material already printed as required by *The Canada Elections Act* of 1938 to be used in any by-elections and Northwest Territories elections from now until the next general election.

First Session, Twenty-Second Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 6.

An Act respecting the Department of Northern Affairs and National Resources.

First reading, November 16, 1953.

THE PRIME MINISTER.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1953

81630

1st Session, 22nd Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 6.

An Act respecting the Department of Northern Affairs and National Resources.

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

Short Title.

Short title.

1. This Act may be cited as the *Department of Northern Affairs and National Resources Act.*

Interpretation.

Definitions. "Department". "Minister."

2. In this Act,

(a) "Department" means the Department of Northern Affairs and National Resources; and

(b) "Minister" means the Minister of Northern Affairs and National Resources.

Department Constituted.

Department constituted.

3. (1) There shall be a department of the Government of Canada called the Department of Northern Affairs and National Resources over which the Minister of Northern Affairs and National Resources appointed by commission under the Great Seal of Canada shall preside.

Management.

(2) The Minister has the management and direction of the Department and holds office during pleasure.

Deputy Minister.

4. (1) The Governor in Council may appoint an officer called the Deputy Minister of Northern Affairs and National Resources to be the deputy head of the Department and to hold office during pleasure.

Explanatory Notes.

The purpose of this bill is to redefine the present duties and functions of the Minister of Resources and Development so as to give greater emphasis to his responsibility for the administration and development of the North and for Eskimo affairs. To reflect the change in emphasis, the name of the Department is altered to include specific mention of northern affairs. The changes are in recognition of the growing importance of the North as a part of Canada and of the desirability of providing greater attention to all aspects of its affairs.

Other officers, clerks and employees.

(2) Such other officers, clerks and employees as are necessary for the proper conduct of the business of the Department shall be appointed or employed in the manner authorized by law.

Duties, Powers and Functions.

Duties, powers and functions.

5. The duties, powers and functions of the Minister extend to and include all matters over which the Parliament of Canada has jurisdiction, not by law assigned to any other department, branch or agency of the Government of Canada, relating to:

(a) the Northwest Territories and the Yukon Territory;
(b) Eskimo affairs;
(c) the forest and water resources of Canada;
(d) irrigation projects and water power developments;
(e) the national parks;
(f) historic places and monuments;
(g) the archaeology, ethnology and fauna and flora of Canada; and
(h) tourist information and services.

Further duties.

6. The Minister shall

(a) co-ordinate the activities in the Northwest Territories and the Yukon Territory of the several departments, branches and agencies of the Government of Canada,
(b) undertake, promote or recommend measures for the further economic and political development of the Northwest Territories and the Yukon Territory, and
(c) foster, through scientific investigation and technology, knowledge of the Canadian north and of the means of dealing with conditions related to its further development.

Minister may formulate plans for conservation and development of resources.

7. (1) The Minister may formulate plans for the conservation and development of the resources of Canada and for research with respect thereto, and, with the authority of the Governor in Council and in co-operation with other departments, branches and agencies of the Government of Canada, provide for carrying out such plans.

Co-operation with provinces and municipalities.

(2) The Minister may co-operate with the provinces and with municipalities in carrying out any conservation or development plans under subsection (1).

Consultation with producers, industry, etc.

(3) In carrying out his duties and functions under this section the Minister may consult with and inaugurate conferences of representatives of producers, industry, the universities, labour and provincial and municipal authorities.

5. *(a)* The responsibility in respect of the Northwest Territories and of the Yukon Territory was previously covered in section 6*(a)* of the Act. No change of substance.

(b) The Minister is now responsible for Eskimo affairs, but these have not been specifically referred to in the Act heretofore.

(c) Specific mention of water resources is added. No change of substance.

(f) New. The Minister is now responsible for historic places and monuments.

The corresponding section of the present Act lists "housing" and "the Trans-Canada Highway" as responsibilities of the Minister. These were transferred to the Minister of Public Works in September, 1953, by an Order-in-Council under the *Public Service Re-arrangement and transfer of Duties Act.*

6. *(a)* The Minister at present has the duty of co-ordinating governmental activities in the Northwest Territories and the Yukon Territory. The provision here defines the duty in statutory form.

(b) The duty set forth here is not new but the provision will for the first time make specific the obligation of the Minister to promote measures for the further development of the North.

(c) New. Scientific investigation and technological advances are of increasing importance in meeting problems created by the conditions in the north.

7. (1) Reference in the corresponding section of the present Act to plans for "public works and improvements", "housing" and "community development" has been deleted. All these matters, in so far as they come within federal jurisdiction, are the responsibility of the Minister of Public Works.

(2) The words "the universities" have been substituted for "science" in the corresponding provision of the present Act. Consultation with experts in fields other than science may be desirable from time to time.

Crown lands.

8. The Minister has the control and management of all lands belonging to Her Majesty in right of Canada except lands specially under the control and management of any other Minister, department, branch or agency of the Government of Canada.

National Museum.

9. The Minister has the control, management and administration of the National Museum of Canada, and shall collect, classify and arrange for exhibition in the Museum of such specimens as are necessary to afford complete and exact knowledge of the geology, mineralogy, palaeontology, archaeology, ethnology and fauna and flora of Canada.

Administration of Acts.

10. The Minister shall administer all Acts, orders and regulations, not by law assigned to any other Minister, relating to any of the matters mentioned in sections 5 to 9.

Report to Parliament.

11. The Minister shall, on or before the 31st day of January next following the end of each fiscal year, or if Parliament is not then sitting, on any of the first five days next thereafter that Parliament is sitting, submit to Parliament a report showing the operations of the department during that fiscal year.

TRANSITIONAL.

Department, Minister and Deputy substituted.

12. (1) Wherever in any Act of the Parliament of Canada or in any order or regulation made thereunder, or in any contract, lease or other document, the Department of Resources and Development, the Minister of Resources and Development or the Deputy Minister of Resources and Development is mentioned or referred to, there shall in each and every such case be substituted the Department of Northern Affairs and National Resources, the Minister of Northern Affairs and National Resources and the Deputy Minister of Northern Affairs and National Resources, respectively.

Idem.

(2) In any case where, immediately prior to the coming into force of this Act, the Department of Resources and Development, the Minister of Resources and Development or the Deputy Minister of Resources and Development was required to be substituted for any other Department, Minister or Deputy Minister, respectively, there shall in each and every such case be substituted the Department of Northern Affairs and National Resources, the Minister of Northern Affairs and National Resources and the Deputy Minister of Northern Affairs and National Resources, respectively.

8. Covered by section 6*(b)* of the present Act. No change.

9. Covered by section 8 of the present Act. No change of substance.

11. No change in substance from section 10 of the present Act. The form is altered to meet certain difficulties that have been encountered under the present section because of changes in the date of the opening of sessions of Parliament from year to year. The annual report by the Minister is based on the fiscal year. In cases where the session of Parliament opens early in the autumn, or where a special session may be called at an earlier date, difficulties are encountered in complying with the exact requirements of the section as it now stands.

Powers under contracts, etc.

(3) Wherever under any contract, lease or other document any power, authority or function is vested in or exercisable by any officer of the Department of Resources and Development other than the Deputy Minister, the power, authority or function, after the coming into force of this Act, is vested in and shall or may be exercised by the appropriate officer of the Department of Northern Affairs and National Resources or by such other officer thereof as the Governor in Council may designate.

Idem.

(4) Wherever under any contract, lease or other document any power, authority or function is vested in or exercisable by any officer of the Department of Mines and Resources, other than the Deputy Minister of Mines and Resources, the power, authority or function, after the coming into force of this Act, is vested in and shall or may be exercised by the appropriate officer in the Department of Northern Affairs and National Resources, the Department of Mines and Technical Surveys or the Department of Citizenship and Immigration or by such other officer thereof as the Governor in Council may designate.

Repeal.

13. The *Department of Resources and Development Act*, chapter 76 of the Revised Statutes of Canada, 1952, is repealed and the provisions of this Act are substituted therefor.

First Session, Twenty-Second Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 7.

An Act respecting the Criminal Law.

First reading, November 16, 1953

THE MINISTER OF JUSTICE.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1953

81619

1st Session, 22nd Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 7.

An Act respecting the Criminal Law.

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

SHORT TITLE.

Short title.

1. This Act may be cited as the *Criminal Code*.

INTERPRETATION.

Definitions.

2. In this Act,

"Act."

(1) "Act" includes

(a) an Act of the Parliament of Canada,

(b) an Act of the legislature of the late province of Canada,

(c) an Act of the legislature of a province, and

(d) an Act or ordinance of the legislature of a province, territory or place in force at the time that province, territory or place became a province of Canada;

"Attorney General."

(2) "Attorney General" means the Attorney General or Solicitor General of a province in which proceedings to which this Act applies are taken and, with respect to the Northwest Territories and the Yukon Territory, means the Attorney General of Canada;

"Bank-note."

(3) "bank-note" includes any negotiable instrument

(a) issued by or on behalf of a person carrying on the business of banking in or out of Canada,

(b) issued under the authority of the Parliament of Canada or under lawful authority of the government of a state other than Canada,

Explanatory Notes.

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

1. Section 1.

2. Section 2.
(1) Section 2 (1).

(2) Section 2 (2).

(3) Section 2 (4).

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

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

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

"Clerk of the court." (6) "clerk of the court" includes a person, by whatever name or title he may be designated, who from time to time performs the duties of a clerk of the court;

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

"Count." (8) "count" means a charge in an information or indictment;

"Court of appeal." (9) "court of appeal" means

(a) in the province of Ontario, the Court of Appeal,

(b) in the province of Quebec, the Court of Queen's Bench, appeal side,

(c) in the province of Nova Scotia, the Supreme Court *in banco*,

(d) in the province of New Brunswick, the Court of Appeal, otherwise known as the Appeal Division of the Supreme Court,

(e) in the province of British Columbia, the Court of Appeal,

(f) in the province of Prince Edward Island, the Supreme Court,

(g) in the province of Manitoba, the Court of Appeal,

(h) in the province of Saskatchewan, the Court of Appeal,

(i) in the province of Alberta, the Appellate Division of the Supreme Court,

(j) in the province of Newfoundland, the Supreme Court, constituted by two or more of the judges thereof,

(k) in the Yukon Territory, the Court of Appeal for the province of British Columbia, and

(l) in the Northwest Territories

(i) for those parts of the Territories west of the one hundred and second meridian of west longitude, the court of appeal for the province of Alberta, and

(ii) for those parts of the Territories east of the one hundred and second meridian of west

(4) Section 2 (4*a*).

(5) Section 2 (5).

(6) New.

(7) New.
(8) Section 2 (17).

(9) Section 2 (7).

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

"Court of criminal jurisdiction."

(10) "court of criminal jurisdiction" means

(a) a court of general or quarter sessions of the peace, when presided over by a superior court judge or a county or district court judge, or in the cities of Montreal and Quebec, by a municipal judge of the city, as the case may be, or a judge of the sessions of the peace,

(b) a magistrate or judge acting under Part XVI, and

(c) in the province of New Brunswick, the county court;

"Day."

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

"Document of title to goods."

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

"Document of title to lands."

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

"Dwelling house."

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

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

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

"Explosive substance."

(16) "explosive substance" includes

(a) anything intended to be used to make an explosive substance, and

(10) New.

(11) Section 2 (24).

(12) Section 2 (11).

(13) Section 2 (12).

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

(15) Section 2 (13).

(16) Section 2 (14).

(*b*) anything, or any part thereof, used or intended to be used, or adapted to cause, or to aid in causing an explosion in or with an explosive substance;

"Feeble-minded person." (17) "feeble-minded person" means a person in whom there exists and has existed from birth or from an early age, mental defectiveness not amounting to imbecility, but so pronounced that he requires care, supervision and control for his protection or for the protection of others;

"Highway." (18) "highway" means a road to which the public has the right of access, and includes bridges over which or tunnels through which a road passes;

"Her Majesty's Forces." (19) "Her Majesty's Forces" means the naval, army and air forces of Her Majesty wheresoever raised, and includes the Canadian Forces;

"Indictment." (20) "indictment" includes

(*a*) information, presentment and a count therein,

(*b*) a plea, replication or other pleading, and

(*c*) any record;

"Justice." (21) "justice" means a justice of the peace or a magistrate, and includes two or more justices where two or more justices are, by law, required to act or, by law, act or have jurisdiction;

"Magistrate." (22) "magistrate" means a police magistrate, a stipendiary magistrate, a district magistrate, a provincial magistrate, a judge of the sessions of the peace, a recorder, or any person having the power and authority of two or more justices of the peace, and includes the lawful deputy of each of them;

"Military." (23) "military" shall be construed as relating to all or any of the Canadian Forces;

"Military law." (24) "military law" includes all laws, regulations or orders relating to the Canadian Forces;

"Motor vehicle." (25) "motor vehicle" means a vehicle that is drawn, propelled or driven by any means other than by muscular power, but does not include a vehicle of a railway that operates on rails;

"Municipality." (26) "municipality" includes the corporation of a city, town, village, county, township, parish or other territorial or local division of a province, the inhabitants of which are incorporated or are entitled to hold property collectively for a public purpose;

"Newly-born child." (27) "newly-born child" means a person under the age of one year;

"Night." (28) "night" means the period between nine o'clock in the afternoon and six o'clock in the forenoon of the following day;

"Offensive weapon." "Weapon." (29) "offensive weapon" or "weapon" means

(*a*) anything that is designed to be used as a weapon, and

(17) Section 2 (15).

(18) Section 285 (9).

(19) Section 2 (16*a*).

(20) Section 2 (17).

(21) Section 2 (19).

(22) Section 2 (28).

(23) Section 2 (20*a*).

(24) Section 2 (21).

(25) New.

(26) Section 2 (22).

(27) New.

(28) Section 2 (24).

(29) Section 2 (25).

(*b*) anything that a person uses or intends to use as a weapon, whether or not it is designed to be used as a weapon,

and, without restricting the generality of the foregoing, includes a firearm, air-gun or air-pistol and ammunition for a firearm, air-gun or air-pistol;

"Peace officer." (30) "peace officer" includes

(*a*) a mayor, warden, reeve, sheriff, deputy sheriff, sheriff's officer and justice of the peace,

(*b*) a warden, deputy warden, instructor, keeper, gaoler, guard and any other officer or permanent employee of a prison,

(*c*) a police officer, police constable, bailiff, constable, or other person employed for the preservation and maintenance of the public peace or for the service or execution of civil process, and

(*d*) an officer or person having the powers of a customs or excise officer when performing any duty in the administration of the *Customs Act* or the *Excise Act;*

"Prison." (31) "prison" includes a penitentiary, common gaol, public or reformatory prison, lock-up, guard-room or other place in which persons who are charged with or convicted of offences are usually kept in custody;

"Property." (32) "property" includes

(*a*) real and personal property of every description and deeds and instruments relating to or evidencing the title or right to property, or giving a right to recover or receive money or goods,

(*b*) property originally in the possession or under the control of any person, and any property into or for which it has been converted or exchanged and anything acquired at any time by such conversion or exchange, and

(*c*) any postal card, postage stamp or other stamp issued or prepared for issue under the authority of the Parliament of Canada or of the legislature of a province for the payment to the Crown or a corporate body of any fee, rate or duty, whether or not it is in the possession of the Crown or of any person;

"Prosecutor." (33) "prosecutor" means the Attorney General or, where the Attorney General does not intervene, means the person who institutes proceedings to which this Act applies, and includes counsel acting on behalf of either of them;

"Public department." (34) "public department" means a department of the Government of Canada or a branch thereof or a board, commission, corporation or other body that is an agent of Her Majesty in right of Canada;

(30) Section 2 (27).

(31) Section 2 (29).

(32) Section 2 (31).

(33) New.

(34) Section 2 (32).

"Public officer."

(35) "public officer" includes

(a) an officer of customs or excise,

(b) an officer of the Canadian Forces,

(c) an officer of the Royal Canadian Mounted Police, and

(d) any officer while he is engaged in enforcing the laws of Canada relating to revenue, customs, excise, trade or navigation;

"Public stores."

(36) "public stores" includes any movable property that is under the care, supervision, administration or control of a public department or of any person in the service of a public department;

"Steal."

(37) "steal" means to commit theft;

"Superior court of criminal jurisdiction."

(38) "superior court of criminal jurisdiction" means

(a) in the province of Ontario, the Supreme Court,

(b) in the province of Quebec, the Court of Queen's Bench,

(c) in the provinces of Nova Scotia, New Brunswick, Alberta and Newfoundland respectively, the Supreme Court,

(d) in the province of British Columbia, the Supreme Court or the Court of Appeal,

(e) in the province of Prince Edward Island, the Supreme Court of Judicature,

(f) in the provinces of Manitoba and Saskatchewan respectively, the Court of Appeal or the Court of Queen's Bench,

(g) in the Yukon Territory, the Territorial Court, and

(h) in the Northwest Territories, the Territorial Court;

"Territorial division."

(39) "territorial division" includes any province, county, union of counties, township, city, town, parish or other judicial division or place to which the context applies;

"Testamentary instrument."

(40) "testamentary instrument" includes any will, codicil or other testamentary writing or appointment, as well during the life of the testator whose testamentary disposition it purports to be as after his death, whether it relates to real or personal property, or to both;

"Trustee."

(41) "trustee" means a person who is declared by any Act to be a trustee or is, by the law of the province, a trustee, and without restricting the generality of the foregoing, includes a trustee on an express trust created by deed, will or instrument in writing, or by parol;

"Valuable security."

(42) "valuable security" includes

(a) an order, exchequer acquittance or other security that entitles or evidences the title of any person

(35) Section 2 (33).

(36) Section 2 (34).

(37) New.
(38) Section 2 (38).

(39) Section 2 (39).

(40) Section 2 (40).

(41) Section 2 (42).

(42) Section 2 (43).

(i) to a share or interest in a public stock or fund or in any fund of a body corporate, company or society, or

(ii) to a deposit in a savings bank or other bank,

(b) a debenture, deed, bond, bill, note, warrant, order or other security for money or for the payment of money,

(c) a document of title to lands or goods wheresoever situate,

(d) a stamp or writing that secures or evidences title to or an interest in a chattel personal, or that evidences delivery of a chattel personal, and

(e) a release, receipt, discharge or other instrument evidencing payment of money;

"Wreck." (43) "wreck" includes the cargo, stores and tackle of a vessel and all parts of a vessel separated from the vessel, and the property of persons who belong to, are on board or have quitted a vessel that is wrecked, stranded or in distress at any place in Canada; and

"Writing." (44) "writing" includes a document of any kind and any mode in which, and any material on which, words or figures, whether at length or abridged, are written, printed or otherwise expressed, or a map or plan is inscribed.

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

(44) Section 2 (45).

PART I.

GENERAL.

Determination of age.

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

Postcard a chattel, value.

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

Value of valuable security.

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

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

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

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

Possession.

(4) For the purposes of this Act,

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

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

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

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

Meaning of expressions taken from other Acts.

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

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

(2) Section 3.

(3) Section 4.

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

(5) Section 6.

Sexual intercourse.

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

Canadian Forces not affected.

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

Punishment only after conviction.

5. (1) Where an enactment creates an offence and authorizes a punishment to be imposed in respect thereof,

(a) a person shall be deemed not to be guilty of that offence until he is convicted thereof; and

Punishment only as prescribed.

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

Offences outside of Canada.

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

Application to territories.

6. The provisions of this Act apply throughout Canada except

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

R.S., c. 142.

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

R.S., c. 215.

Application of criminal law of England.

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

Common law principles continued.

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

Criminal offences to be under law of Canada.

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

(a) of an offence at common law,

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

(c) of an offence under an Act or ordinance in force in any province, territory or place before that province, territory or place became a province of Canada,

but nothing in this section affects the power, jurisdiction or authority that a court, judge, justice or magistrate had, immediately before the coming into force of this Act, to impose punishment for contempt of court.

(6) Section 7.

4. Section 8.

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

(2) New.

6. Section 9.

7. (1) New.

(2) Section 16.

8. New.

Appeal.

9. (1) Where a court, judge, justice or magistrate summarily convicts a person for a contempt of court and imposes punishment in respect thereof, that person may, with leave of the court of appeal or a judge thereof, appeal to the court of appeal

(a) from the conviction, or

(b) against the punishment imposed.

Part XVIII applies.

(2) For the purposes of an appeal under subsection (1) the provisions of Part XVIII apply, *mutatis mutandis*.

Civil remedy not suspended.

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

Offence punishable under more than one Act.

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

Child under seven.

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

Person between seven and fourteen.

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

Consent to death.

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

Obedience to *de facto* law.

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

10. Section 13.

11. Section 15.

12. Section 17.

13. Section 18.

14. Section 67.

15. Section 68.

Insanity.

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

When insane.

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

Delusions.

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

Presumption of sanity.

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

Compulsion by threats.

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

Compulsion of wife.

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

Ignorance of the law.

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

Execution of warrant or summons on Sunday or holiday.

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

Parties to Offences.

Parties to offence.

21. (1) Every one is a party to an offence who

(a) actually commits it,

(b) does or omits to do anything for the purpose of aiding any person to commit it, or

(c) abets any person in committing it.

Common intention.

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

16. Section 19.

17. Section 20.

18. Section 21.

19. Section 22.

20. Section 661 (3).

21. Section 69.

Person counselling offence.

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

Idem.

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

Accessory after the fact.

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

Husband or wife, when not accessory.

(2) No married person whose spouse has been a party to an offence is an accessory after the fact to that offence by receiving, comforting or assisting the spouse for the purpose of enabling the spouse to escape.

When wife not accessory.

(3) No married woman whose husband has been a party to an offence is an accessory after the fact to that offence by receiving, comforting or assisting in his presence and by his authority any other person who has been a party to that offence for the purpose of enabling her husband or that other person to escape.

Attempts.

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

Question of law.

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

Protection of Persons Administering and Enforcing the Law.

Protection of persons acting under authority.

25. (1) Every one who is required or authorized by law to do anything in the administration or enforcement of the law

(a) as a private person,

(b) as a peace officer or public officer,

(c) in aid of a peace officer or public officer, or

(d) by virtue of his office,

is, if he acts on reasonable and probable grounds, justified in doing what he is required or authorized to do and in using as much force as is necessary for that purpose.

22. Section 70.

23. Section 71.

24. Section 72.

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

Idem.

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

When not protected.

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

Excessive force.

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

Use of force to prevent commission of offence.

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

(a) to prevent the commission of an offence

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

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

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

Arrest of wrong person.

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

Person assisting.

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

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

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

is protected from criminal responsibility in respect thereof to the same extent as if that person were the person named in the warrant.

26. Section 66.

27. Section 52.

28. Section 28.

Duty of person arresting.

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

Notice.

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

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

(b) the reason for the arrest.

Failure to comply.

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

Preventing breach of peace.

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

Arrest for breach of peace.

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

Giving person in charge.

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

Suppression of Riots.

Use of force to suppress riot.

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

(a) is necessary to suppress a riot, and

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

Person bound by military law.

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

29. Section 40.

30. Section 46.

31. Section 47.

32. Sections 48, 49, 50 and 51.

Obeying order of peace officer.

(3) Every one is justified in obeying an order of a peace officer to use force to suppress a riot if

(a) he acts in good faith, and

(b) the order is not manifestly unlawful.

Apprehension of serious mischief.

(4) Every one who, in good faith and on reasonable and probable grounds, believes that serious mischief will result from a riot before it is possible to secure the attendance of a peace officer is justified in using as much force as he believes in good faith and on reasonable grounds,

(a) is necessary to suppress the riot, and

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

Question of law.

(5) For the purposes of this section the question whether an order is manifestly unlawful or not is a question of law.

Duty of officers if rioters do not disperse.

33. (1) Where the proclamation referred to in section 68 has been made or an offence against paragraph *(a)* or *(b)* of section 69 has been committed, it is the duty of a peace officer and of a person who is lawfully required by him to assist, to disperse or to arrest persons who do not comply with the proclamation.

Protection of officers.

(2) No civil or criminal proceedings lie against a peace officer or a person who is lawfully required by a peace officer to assist him in respect of any death or injury that is caused as a result of the performance by the peace officer or that person of a duty that is imposed by subsection (1).

Section not restrictive.

(3) Nothing in this section limits or affects any powers, duties or functions that are conferred or imposed by this Act with respect to the suppression of riots.

Defence of person.

Self defence against unprovoked assault.

34. (1) Every one who is unlawfully assaulted without having provoked the assault is justified in repelling force by force if the force he uses is not intended to cause death or grievous bodily harm and is no more than is necessary to enable him to defend himself.

Extent of justification.

(2) Every one who is unlawfully assaulted and who causes death or grievous bodily harm in repelling the assault is justified if

(a) he causes it under reasonable apprehension of death or grievous bodily harm from the violence with which the assault was originally made or with which the assailant pursues his purposes, and

(b) he believes, on reasonable and probable grounds, that he cannot otherwise preserve himself from death or grievous bodily harm.

33. Section 93.

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

Self defence in case of aggression.

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

(a) he uses the force

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

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

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

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

Provocation.

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

Preventing assault.

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

Extent of justification.

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

Defence of Property.

Defence of movable property.

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

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

(b) in taking it from a trespasser who has taken it,

if he does not strike or cause bodily harm to the trespasser.

Assault by trespasser.

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

35. Section 54 (1).

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

37. Section 55.

38. Section 56.

Defence with claim of right.

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

Defence without claim of right.

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

Defence of dwelling.

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

Defence of house or real property.

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

Assault by trespasser.

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

Assertion of right to house or real property.

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

Assault in case of lawful entry.

(2) Where a person

(a) not having peaceable possession of a dwelling house or real property under a claim of right, or

(b) not acting under the authority of a person who has peaceable possession of a dwelling house or real property under a claim of right,

assaults a person who is lawfully entitled to possession of it and who is entering it peaceably by day to take possession of it, for the purpose of preventing him from entering, the assault shall be deemed to be without justification or provocation.

39. Sections 57 and 58.

40. Sections 59 and 60.

41. Section 61.

42. Section 62.

Trespasser provoking assault.

(3) Where a person

(a) having peaceable possession of a dwelling house or real property under a claim of right, or

(b) acting under the authority of a person who has peaceable possession of a dwelling house or real property under a claim of right,

assaults any person who is lawfully entitled to possession of it and who is entering it peaceably by day to take possession of it, for the purpose of preventing him from entering, the assault shall be deemed to be provoked by the person who is entering.

PROTECTION OF PERSONS IN AUTHORITY.

Correction of child by force.

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

Master of ship maintaining discipline.

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

Surgical operations.

45. Every one is protected from criminal responsibility for performing a surgical operation upon any person for the benefit of that person if

(a) the operation is performed with reasonable care and skill, and

(b) it is reasonable to perform the operation, having regard to the state of health of the person at the time the operation is performed and to all the circumstances of the case.

43. Section 63.

44. Section 64.

45. Section 65.

PART II.

OFFENCES AGAINST PUBLIC ORDER.

Treason and other Offences against the Queen's Authority and Person.

Treason.

46. (1) Every one commits treason who, in Canada,

(a) kills or attempts to kill Her Majesty, or does her any bodily harm tending to death or destruction, maims or wounds her, or imprisons or restrains her;

(b) levies war against Canada or does any act preparatory thereto;

(c) assists an enemy at war with Canada, or any armed forces against whom Canadian forces are engaged in hostilities whether or not a state of war exists between Canada and the country whose forces they are;

(d) uses force or violence for the purpose of overthrowing the government of Canada or a province;

(e) without lawful authority, communicates or makes available to an agent of a state other than Canada, military or scientific information or any sketch, plan, model, article, note or document of a military or scientific character that he knows or ought to know may be used by that state for a purpose prejudicial to the safety or defence of Canada;

(f) conspires with any person to do anything mentioned in paragraphs *(a)* to *(e)*; or

(g) forms an intention to do anything mentioned in paragraphs *(a)* to *(e)* and manifests that intention by an overt act.

Canadian citizen or person owing allegiance.

(2) Notwithstanding subsection (1), a Canadian citizen or a person who owes allegiance to Her Majesty in right of Canada commits treason if, while in or out of Canada, he does anything mentioned in subsection (1).

Overt act.

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

Punishment.

47. (1) Every one who commits treason is guilty of an indictable offence and is liable

(a) to be sentenced to death, if he is guilty of an offence under paragraph *(a)*, *(b)* or *(c)* of subsection (1) of section 46, or

(b) to be sentenced to death or to imprisonment for life, if he is guilty of an offence under paragraph *(d)*, *(e)*, *(f)*, or *(g)* of subsection (1) of section 46.

Corroboration.

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

46. Sections 74, 75, 77 and 78.

47. (1) Section 74 (2).

(2) Section 1002.

Limitation.

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

Information for treasonable words.

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

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

(b) a warrant for the arrest of the accused is issued within ten days after the time when the information is laid.

Prohibited Acts.

Acts intended to alarm Her Majesty or break public peace.

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

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

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

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

Assisting alien enemy to leave Canada.

50. (1) Every one commits an offence who

(a) incites or wilfully assists a subject of

(i) a state that is at war with Canada, or

(ii) a state against whose forces Canadian forces are engaged in hostilities, whether or not a state of war exists between Canada and the state whose forces they are,

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

Omitting to prevent treason.

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

Punishment.

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

Intimidating Parliament or legislature.

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

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

(2) Section 1140 (2).

49. Section 80.

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

51. Section 79.

Sabotage.

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

(a) the safety or interests of Canada, or

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

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

"Prohibited act."

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

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

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

Saving.

(3) No person does a prohibited act within the meaning of this section by reason only that

(a) he stops work as a result of the failure of his employer and himself to agree upon any matter relating to his employment, or

(b) he stops work as a result of the failure of his employer and a bargaining agent acting on his behalf to agree upon any matter relating to his employment.

Idem.

(4) No person does a prohibited act within the meaning of this section by reason only that, having stopped work in the circumstances set out in subsection (3), he attends at or near or approaches a dwelling house or place for the purpose only of obtaining or communicating information.

Inciting to mutiny.

53. Every one who

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

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

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

Assisting deserter.

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

Evidence of overt acts.

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

52. Section 509A.

53. Section 81.

54. Section 82.

55. Section 847 (1).

Resisting execution of search warrant.

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

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

57. Every one who wilfully

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

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

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

is guilty of an offence punishable on summary conviction.

PASSPORTS.

False statement to procure passport.

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

"Passport."

(2) In this section, "passport" includes

(a) a document issued by or under the authority of the Secretary of State for External Affairs for the purpose of identifying the holder thereof, and

(b) an emergency certificate authorized by the Secretary of State for External Affairs to be issued in lieu of a passport by a person duly authorized to issue passports outside of Canada.

Fraudulent use of certificate of citizenship.

59. (1) Every one who

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

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

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

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

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

56. Section 83.

57. Section 84.

58. Sections 405A and 405C.

59. Section 405B.

Sedition.

"Seditious words."

"Seditious libel."

"Seditious conspiracy."

"Seditious intention."

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

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

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

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

(a) teaches or advocates, or

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

Exception.

61. Notwithstanding subsection (4) of section 60, no person shall be deemed to have a seditious intention by reason only that he intends, in good faith,

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

(b) to point out errors or defects in

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

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

(iii) the administration of justice in Canada,

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

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

Punishment of seditious offences.

62. Every one who

(a) speaks seditious words,

(b) publishes a seditious libel, or

(c) is a party to a seditious conspiracy,

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

Offences in relation to military forces.

63. (1) Every one who wilfully

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

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

60. Sections 133 and 133A.

61. Section 134.

62. Section 135.

63. Section 132A.

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

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

"Member of a force."

(2) In this section, "member of a force" means a member of

(a) the Canadian Forces, or

(b) the naval, army or air forces of a state other than Canada that are lawfully present in Canada.

UNLAWFUL ASSEMBLIES AND RIOTS.

"Unlawful assembly."

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

(a) will disturb the peace tumultuously, or

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

Lawful assembly becoming unlawful.

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

Exception.

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

"Riot."

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

Punishment of rioter.

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

Punishment of member of unlawful assembly.

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

Reading proclamation.

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

64. Section 87.

65. Section 88.

66. Section 90.

67. Section 89.

68. Section 91.

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

GOD SAVE THE QUEEN.

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

Preventing proclamation.

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

Failure to disperse and depart.

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

Failure to depart.

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

Neglect by peace officer.

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

UNLAWFUL DRILLING.

Orders by Governor in Council.

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

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

(i) of training or drilling themselves,

(ii) of being trained or drilled to the use of arms, or

(iii) of practising military exercises; or

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

General or special order.

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

Punishment.

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

69. Section 92.

70. Section 94.

71. Section 99.

Duels.

Duelling.

72. Every one who

(a) challenges or attempts by any means to provoke another person to fight a duel,

(b) attempts to provoke a person to challenge another person to fight a duel, or

(c) accepts a challenge to fight a duel,

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

Forcible Entry and Detainer.

"Forcible entry."

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

"Forcible detainer."

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

Questions of law.

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

Punishment.

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

Piracy.

Piracy by law of nations.

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

Punishment.

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

Piratical acts.

76. Every one who, while in or out of Canada,

(a) steals a Canadian ship,

(b) steals or without lawful authority throws overboard, damages or destroys anything that is part of the cargo, supplies or fittings in a Canadian ship,

72. Section 101.

73. Section 102.

74. Section 103.

75. Sections 137 and 139.

76. Section 138.

(c) does or attempts to do a mutinous act on a Canadian ship, or

(d) counsels or procures a person to do anything mentioned in paragraph *(a)*, *(b)* or *(c)*,

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

DANGEROUS SUBSTANCES.

Duty of care re explosive.

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

Breach of duty.

78. Every one who, being under a legal duty within the meaning of section 77, fails without lawful excuse to perform that duty, is guilty of an indictable offence and if as a result an explosion of an explosive substance occurs that

(a) causes death or is likely to cause death to any person, is liable to imprisonment for life, or

(b) causes bodily harm or damage to property or is likely to cause bodily harm or damage to property, is liable to imprisonment for fourteen years.

Causing injury with intent.

79. (1) Every one commits an offence who

(a) does anything with intent to cause an explosion of an explosive substance that is likely to cause serious bodily harm or death to persons or is likely to cause serious damage to property,

(b) with intent to do bodily harm to any person

(i) causes an explosive substance to explode,

(ii) sends or delivers to a person or causes a person to take or receive an explosive substance or any other dangerous substance or thing,

(iii) places or throws anywhere or at or upon a person a corrosive fluid, explosive substance or any other dangerous substance or thing,

(c) with intent to destroy or damage property without lawful excuse, places or throws an explosive substance anywhere, or

(d) makes or has in his possession or has under his care or control any explosive substance with intent thereby

(i) to endanger life or to cause serious damage to property, or

(ii) to enable another person to endanger life or to cause serious damage to property.

Punishment.

(2) Every one who commits an offence under subsection (1) is guilty of an indictable offence and is liable

(a) for an offence under paragraph *(a)* or *(b)*, to imprisonment for life, or

(b) for an offence under paragraph *(c)* or *(d)*, to imprisonment for fourteen years.

77. New.

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

Possessing explosive without lawful excuse.

80. Every one who without lawful excuse, the proof of which lies upon him,

(a) makes or has in his possession or under his care or control an explosive substance that he does not make or does not have in his possession or under his care or control for a lawful purpose, or

(b) has in his possession a bomb, grenade or other explosive weapon,

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

Prize Fights.

Engaging in prize fight.

81. (1) Every one who

(a) engages as a principal in a prize fight,

(b) advises, encourages or promotes a prize fight, or

(c) is present at a prize fight as an aid, second, surgeon, umpire, backer or reporter,

is guilty of an offence punishable on summary conviction.

"Prize fight."

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

Offensive Weapons.

Possession of weapon.

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

Carrying weapon while in possession of anything liable to seizure.

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

Carrying concealed weapon.

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

80. Section 114.

81. (1) Sections 105 and 106.

(2) Section 2 (30).

82. Sections 115 and 463.

83. Section 116.

84. Section 117.

Short-barrel shot-gun or rifle.

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

Silencers.

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

Pointing firearm.

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

While attending public meeting.

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

Delivering firearms to minors.

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

Seizure.

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

Unauthorized issue of certificates or permits.

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

Unregistered firearm in dwelling house.

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

Firearm elsewhere than in dwelling house without permit.

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

Firearm in motor vehicle.

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

85. (1) Section 118.

(2) New.

86. Section 119.

87. New.

88. Section 120.

89. Section 121.

90. Section 122.

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

Buying and selling firearms.

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

Transfer of firearm.

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

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

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

Accepting firearm.

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

(a) it is registered in his name, or

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

Finding firearm.

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

(a) deliver it to a peace officer, or

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

Tampering with serial number, certificate or permit.

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

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

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

Punishment.

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

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

(b) an offence punishable on summary conviction.

Retail transactions in firearms.

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

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

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

Punishment.

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

Onus of proof.

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

Evidence

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

91. Section 123.

92. New.

Registry.

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

Application for registration.

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

Duties of local registrar.

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

(a) send one copy thereof to the Commissioner,

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

(c) retain one copy thereof.

Duty of Commissioner.

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

Form of certificate.

(5) Firearms registration certificates shall be in a form to be prescribed by the Commissioner.

Refusal of application.

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

Exception.

(7) Subsection (6) does not apply to firearms that, in the opinion of a local registrar of firearms, are useful or valuable only as antiques.

Evidence of registration.

(8) A firearms registration certificate is *prima facie* evidence that the firearm to which it relates is registered.

Who may issue permits in Form 42.

94. (1) A permit in Form 42 may be issued by

(a) the Commissioner or a person authorized in writing by him, or

(b) the Attorney General of a province or a person authorized in writing by him.

In Form 43.

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

In Form 44.

(3) A permit to convey, as contained in Form 44, may be issued by a local registrar of firearms to authorize a person who buys, accepts in barter, accepts as a gift or finds a firearm that is not registered in his name, to convey the firearm from the place where he takes delivery of it or from his place of residence or business to the office of the local registrar of firearms and thence to his place of residence or business.

Permit in Form 42—when issued.

(4) A permit in Form 42 shall be issued only where the person who issues it is satisfied that the applicant for the permit requires the firearm to which it relates

(a) to protect his life or property,

(b) for use in connection with his profession or occupation, or

93. Section 124.

94. Section 125.

(c) for use in target practice in connection with a shooting club approved by the Attorney General of the province in which the shooting club is situated.

Validity of permit in Form 42 or 45.

(5) A permit in Form 42 or Form 45 is valid until

(a) the expiration of the period for which it is expressed to be issued,

(b) it is revoked, or

(c) the expiration of the calendar year in which it is issued,

whichever is the earliest.

Validity of permit in Form 43.

(6) A permit in Form 43 is valid until it is revoked.

Validity of permit in Form 44.

(7) A permit as contained in Form 44 is valid only during the period for which it is expressed to be valid.

Permits supplied by Commissioner.

(8) Permits shall be supplied in blank by the Commissioner to persons who are authorized to issue them.

Revocation.

95. Permits may be revoked by any person who is authorized to issue them.

Search and seizure.

96. (1) Whenever a peace officer believes on reasonable grounds that an offence is being committed or has been committed against any of the provisions of sections 82 to 91 he may search, without warrant, a person or vehicle, or premises other than a dwelling house, and may seize anything by means of or in relation to which he reasonably believes the offence is being committed or has been committed.

Detention.

(2) Anything seized pursuant to subsection (1) may be detained for a period of two months following the time of seizure unless during that period proceedings are instituted, in which case it may be further detained until the proceedings are concluded.

Forfeiture.

(3) Where a person is convicted of an offence against any of the provisions of sections 82 to 91, anything by means of or in relation to which the offence was committed, upon such conviction, in addition to any punishment imposed, is forfeited to Her Majesty and may be disposed of as the Attorney General may direct.

Persons who do not commit offences. Wholesalers.

97. (1) A person does not commit an offence under subsection (1) or (5) of section 90 by doing anything mentioned in those subsections in the ordinary course of conducting, operating or engaging in the business of buying and selling firearms at wholesale.

Exception.

(2) A person does not commit an offence under subsection (1) of section 90 by doing anything mentioned in that subsection in the ordinary course of conducting, operating or engaging in

Repairers.

(a) the business of repairing firearms, or

Retailers.

(b) the business of buying and selling firearms or revolvers at retail, if he has a permit in Form 43.

95. Section 126.

96. Sections 127 and 634.

97. Section 128.

(3) Notwithstanding anything in sections 82 to 90,

Members of Forces.

(a) a member of the Canadian Forces or of the naval, army or air forces of a state other than Canada that are lawfully present in Canada,

Peace officers, public officers. Other officers.

(b) a peace officer or public officer, or

(c) an officer under the *Immigration Act*, the *Customs Act* or the *Excise Act*,

is not guilty of an offence under any of the provisions of those sections by reason only that he has in his possession an offensive weapon for the purpose of his duties or employment.

Definitions.

98. For the purposes of sections 89 to 97,

"Commissioner."

(a) "Commissioner" means the Commissioner of the Royal Canadian Mounted Police,

"Firearm."

(b) "firearm" means a pistol, revolver, or a firearm that is capable of firing bullets in rapid succession during one pressure of the trigger; and

"Local registrar of firearms."

(c) "local registrar of firearms" means

(i) the Commissioner or a person appointed in writing by him, or

(ii) the Attorney General of a province or a person appointed in writing by him.

98. Section 129.

PART III

OFFENCES AGAINST THE ADMINISTRATION OF LAW AND JUSTICE.

INTERPRETATION.

99. In this Part,

"Evidence." *(a)* "evidence" means an assertion of fact, opinion, belief or knowledge whether material or not and whether admissible or not;

"Government." *(b)* "government" means
(i) the Government of Canada,
(ii) the government of a province, or
(iii) Her Majesty in right of Canada or in right of a province;

"Judicial proceeding." *(c)* "judicial proceeding" means a proceeding
(i) in or under the authority of a court of justice or before a grand jury,
(ii) before the Senate or House of Commons of Canada or a committee of the Senate or House of Commons, or before a legislative council, legislative assembly or house of assembly or a committee thereof that is authorized by law to administer an oath,
(iii) before a court, judge, justice, magistrate or coroner,
(iv) before an arbitrator or umpire, or a person or body of persons authorized by law to make an inquiry and take evidence therein under oath, or
(v) before a tribunal by which a legal right or legal liability may be established,
whether or not the proceeding is invalid for want of jurisdiction or for any other reason;

"Office." *(d)* "office" includes
(i) an office or appointment under the government,
(ii) a civil or military commission, and
(iii) a position or employment in a public department;

"Official." *(e)* "official" means a person who
(i) holds an office, or
(ii) is appointed to discharge a public duty; and

"Witness." *(f)* "witness" means a person who gives evidence orally under oath or by affidavit in a judicial proceeding, whether or not he is competent to be a witness, and includes a child of tender years who gives evidence but does not give it under oath, because, in the opinion of the person presiding, the child does not understand the nature of an oath.

99. Sections 155, 170, 171 and 1033 (3).

Corruption and Disobedience.

Bribery of judicial officers, etc.

100. (1) Every one who

(a) being the holder of a judicial office, or being a member of the Parliament of Canada or of a legislature, corruptly

(i) accepts or obtains,

(ii) agrees to accept, or

(iii) attempts to obtain,

any money, valuable consideration, office, place or employment for himself or another person in respect of anything done or omitted or to be done or omitted by him in his official capacity; or

(b) gives or offers corruptly to a person who holds a judicial office, or is a member of the Parliament of Canada or of a legislature, any money, valuable consideration, office, place or employment in respect of anything done or omitted or to be done or omitted by him in his official capacity for himself or another person,

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

Consent of Attorney General.

(2) No proceedings against a person who holds a judicial office shall be instituted under this section without the consent in writing of the Attorney General of Canada.

Bribery of officers.

101. Every one who

(a) being a justice, police commissioner, peace officer, public officer, or officer of a juvenile court, or being employed in the administration of criminal law, corruptly

(i) accepts or obtains,

(ii) agrees to accept, or

(iii) attempts to obtain,

for himself or any other person any money, valuable consideration, office, place or employment with intent

(iv) to interfere with the administration of justice,

(v) to procure or facilitate the commission of an offence, or

(vi) to protect from detection or punishment a person who has committed or who intends to commit an offence; or

Idem.

(b) gives or offers, corruptly, to a person mentioned in paragraph *(a)* any money, valuable consideration, office, place or employment with intent that the person should do anything mentioned in subparagraph (iv), (v) or (vi) of paragraph *(a)*,

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

Frauds upon the Government.

Offer or gift to influence official.

102. (1) Every one commits an offence who

(a) directly or indirectly

100. Sections 156 and 593.

101. Section 157.

102. Section 158.

(i) gives, offers, or agrees to give or offer to an official or to any member of his family, or to any one for the benefit of an official, or

(ii) being an official, demands, accepts or offers or agrees to accept from any person for himself or another person,

a loan, reward, advantage or benefit of any kind as consideration for co-operation, assistance, exercise of influence or an act or omission in connection with

(iii) the transaction of business with or any matter of business relating to the government, or

(iv) a claim against Her Majesty or any benefit that Her Majesty is authorized or is entitled to bestow,

whether or not, in fact, the official is able to co-operate, render assistance, exercise influence or do or omit to do what is proposed, as the case may be;

Giving reward or commission to official without consent.

(b) having dealings of any kind with the government, pays a commission or reward to or confers an advantage or benefit of any kind upon an employee or official of the government with which he deals, or to any member of his family, or to any one for the benefit of the employee or official, with respect to those dealings, unless he has the consent in writing of the head of the branch of government with which he deals, the proof of which lies upon him;

Acceptance of commission or gift without consent.

(c) being an official or employee of the government, demands, accepts or offers or agrees to accept from a person who has dealings with the government a commission, reward, advantage or benefit of any kind directly or indirectly, by himself or through a member of his family or through any one for his benefit, unless he has the consent in writing of the head of the branch of government that employs him or of which he is an official, the proof of which lies upon him;

Compensation for procuring settlement of claim, etc.

(d) having or pretending to have influence with the government or with a minister of the government or an official, demands, accepts or offers or agrees to accept for himself or another person a reward, advantage or benefit of any kind as consideration for co-operation, assistance, exercise of influence or an act or omission in connection with

(i) anything mentioned in subparagraph (iii) or (iv) of paragraph *(a)*, or

(ii) the appointment of any person, including himself, to an office;

Offer of reward for appointment.

(e) offers, gives or agrees to offer or give to a minister of the government or an official a reward, advantage or benefit of any kind as consideration for co-operation, assistance, exercise of influence or an act or omission in connection with

(i) anything mentioned in subparagraph (iii) or (iv) of paragraph *(a)*, or

(ii) the appointment of any person, including himself, to an office; or

Reward for withdrawal of tender.

(f) having made a tender to obtain a contract with the government

(i) gives, offers or agrees to give to another person who has made a tender, or to a member of his family, or to another person for the benefit of that person, a reward, advantage or benefit of any kind as consideration for the withdrawal of the tender of that person, or

(ii) demands, accepts or agrees to accept from another person who has made a tender a reward, advantage or benefit of any kind as consideration for the withdrawal of his tender.

Contractor subscribing to election fund.

(2) Every one commits an offence who, being a party to a contract with the government directly or indirectly subscribes, gives, or agrees to subscribe or give, to any person any valuable consideration

(a) for the purpose of promoting the election of a candidate or a class or party of candidates to the Parliament of Canada or a legislature, or

(b) with intent to influence or affect in any way the result of an election conducted for the purpose of electing persons to serve in the Parliament of Canada or a legislature.

Punishment.

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

Breach of trust by public officer.

103. Every official who, in connection with the duties of his office, commits fraud or a breach of trust is guilty of an indictable offence and is liable to imprisonment for five years, whether or not the fraud or breach of trust would be an offence if it were committed in relation to a private person.

Municipal corruption.

104. (1) Every one who

(a) gives, offers or agrees to give or offer to a municipal official, or

(b) being a municipal official, demands, accepts or offers or agrees to accept from any person,

a loan, reward, advantage or benefit of any kind as consideration for the official

(c) to abstain from voting at a meeting of the municipal council or a committee thereof,

(d) to vote in favour of or against a measure, motion or resolution,

(e) to aid in procuring or preventing the adoption of a measure, motion or resolution, or

103. Section 160.

104. Section 161.

(f) to perform or fail to perform an official act,

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

Influencing municipal official.

(2) Every one who

(a) by suppression of the truth, in the case of a person who is under a duty to disclose the truth,

(b) by threats or deceit, or

(c) by any unlawful means,

influences or attempts to influence a municipal official to do anything mentioned in paragraphs *(c)* to *(f)* of subsection (1) is guilty of an indictable offence and is liable to imprisonment for two years.

"Municipal official."

(3) In this section "municipal official" means a member of a municipal council or a person who holds an office under a municipal government.

Selling office.

105. Every one who

(a) purports to sell or agrees to sell an appointment to or resignation from an office, or a consent to any such appointment or resignation, or receives, or agrees to receive a reward or profit from the purported sale thereof, or

Purchasing office.

(b) purports to purchase or gives a reward or profit for the purported purchase of any such appointment, resignation or consent, or agrees or promises to do so,

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

Reward for influencing appointment.

106. Every one who

(a) receives, agrees to receive, gives or procures to be given, directly or indirectly, a reward, advantage or benefit of any kind as consideration for co-operation, assistance or exercise of influence to secure the appointment of any person to an office;

Reward for negotiating appointment.

(b) solicits, recommends or negotiates in any manner with respect to an appointment to or resignation from an office, in expectation of a direct or indirect reward, advantage or benefit; or

Establishment for dealing in offices.

(c) keeps without lawful authority, the proof of which lies upon him, a place for transacting or negotiating any business relating to

(i) the filling of vacancies in offices,

(ii) the sale or purchase of offices, or

(iii) appointments to or resignations from offices,

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

Disobeying a statute.

107. Every one who, without lawful excuse, contravenes an Act of the Parliament of Canada by wilfully doing anything that it forbids or by wilfully omitting to do anything that it requires to be done is, unless some penalty or punishment is expressly provided by law, guilty of an indictable offence and is liable to imprisonment for two years.

105. Section 162.

106. Section 163.

107. Section 164.

Disobeying order of court.

108. Every one who, without lawful excuse, disobeys a lawful order made by a court of justice or by a person or body of persons authorized by any Act to make or give the order, other than an order for the payment of money is, unless some penalty or punishment or other mode of proceeding is expressly provided by law, guilty of an indictable offence and is liable to imprisonment for two years.

Misconduct of officers executing process.

109. Every peace officer or coroner who, being entrusted with the execution of a process, wilfully

(a) misconducts himself in the execution of the process, or

(b) makes a false return to the process,

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

110. Every one who

Obstructing public or peace officer.

(a) resists or wilfully obstructs a public officer or peace officer in the execution of his duty or any person lawfully acting in aid of such an officer,

Neglect to aid public or peace officer.

(b) omits, without reasonable excuse, to assist a public officer or peace officer in the execution of his duty in arresting a person or in preserving the peace, after having reasonable notice that he is required to do so, or

Resisting execution of process.

(c) resists or wilfully obstructs any person in the lawful execution of a process against lands or goods or in making a lawful distress or seizure,

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

Personating peace officer.

111. Every one who

(a) falsely represents himself to be a peace officer or a public officer, or

(b) not being a peace officer or public officer uses a badge or article of uniform or equipment in a manner that is likely to cause persons to believe that he is a peace officer or a public officer, as the case may be,

is guilty of an offence punishable on summary conviction.

Misleading Justice.

Perjury.

112. Every one commits perjury who, being a witness in a judicial proceeding, with intent to mislead gives false evidence, knowing that the evidence is false.

Punishment for perjury.

113. (1) Every one who commits perjury is guilty of an indictable offence and is liable to imprisonment for fourteen years, but if he commits perjury to procure the conviction of a person for an offence punishable by death, he is liable to imprisonment for life.

Proof of former trial upon trial of indictment for perjury.

(2) Where a person is charged with an offence under section 112 or 116, a certificate specifying with reasonable particularity the proceeding in which that person is alleged to have given the evidence in respect of which the offence

108. Section 165.

109. Section 166.

110. Sections 95, 167 and 168.

111. Section 169.

112. Section 170.

113. (1) Sections 172 and 174.

(2) Section 979.

is charged, is *prima facie* evidence that it was given in a judicial proceeding, without proof of the signature or official character of the person by whom the certificate purports to be signed if it purports to be signed by the clerk of the court or other official having the custody of the record of that proceeding or by his lawful deputy.

False statements in extra-judicial proceedings.

114. Every one who, not being a witness in a judicial proceeding but being permitted, authorised or required by law to make a statement by affidavit, by solemn declaration or orally under oath, makes in such a statement, before a person who is authorised by law to permit it to be made before him, an assertion with respect to a matter of fact, opinion, belief or knowledge, knowing that the assertion is false, is guilty of an indictable offence and is liable to imprisonment for fourteen years.

Corroboration.

115. No person shall be convicted of an offence under section 113 or 114 upon the evidence of only one witness unless the evidence of that witness is corroborated in a material particular by evidence that implicates the accused.

Witness giving contradictory evidence.

116. (1) Every one who, being a witness in a judicial proceeding, gives evidence with respect to any matter of fact or knowledge and who subsequently, in a judicial proceeding, gives evidence that is contrary to his previous evidence is guilty of an indictable offence and is liable to imprisonment for fourteen years, whether or not the prior or the later evidence or either of them is true, but no person shall be convicted under this section unless the court, judge or magistrate, as the case may be, is satisfied beyond a reasonable doubt that the accused, in giving evidence in either of the judicial proceedings, intended to mislead.

"Evidence."

(2) Notwithstanding paragraph *(a)* of section 99, "evidence", for the purposes of this section, does not include evidence that is not material.

Consent required.

(3) No proceedings shall be instituted under this section without the consent of the Attorney General.

Fabricating evidence.

117. Every one who, with intent to mislead, fabricates anything with intent that it shall be used as evidence in a judicial proceeding, existing or proposed, by any means other than perjury or incitement to perjury is guilty of an indictable offence and is liable to imprisonment for fourteen years.

Signing pretended affidavit.

118. Every one who

(a) signs a writing that purports to be an affidavit or statutory declaration and to have been sworn or declared before him when the writing was not so sworn or declared or when he knows that he has no authority to administer the oath or declaration,

114. Sections 173, 175 and 176.

115. Section 1002.

116. New.

117. Section 177.

118. Section 179.

Using pretended affidavit.

(b) uses or offers for use any writing purporting to be an affidavit or statutory declaration that he knows was not sworn or declared, as the case may be, by the affiant or declarant or before a person authorized in that behalf, or

Writing purporting to be affidavit.

(c) signs as affiant or declarant a writing that purports to be an affidavit or statutory declaration and to have been sworn or declared by him, as the case may be, when the writing was not so sworn or declared,

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

Obstructing justice.

119. (1) Every one who wilfully attempts in any manner to obstruct, pervert or defeat the course of justice is guilty of an indictable offence and is liable to imprisonment for two years.

(2) Without restricting the generality of subsection (1), every one shall be deemed wilfully to attempt to obstruct, pervert or defeat the course of justice who in a judicial proceeding, existing or proposed,

Corrupting witness.

(a) dissuades or attempts to dissuade a person by threats, bribes or other corrupt means from giving evidence,

Corrupting juror.

(b) influences or attempts to influence by threats, bribes or other corrupt means, a person in his conduct as a juror,

Accepting bribe.

(c) accepts a bribe or other corrupt consideration to abstain from giving evidence, or to do or to refrain from doing anything as a juror,

Indemnifying bondsman.

(d) before or after being released from custody under recognizance, indemnifies or agrees to indemnify in any way, in whole or in part, his bondsman, or

Bondsman accepting indemnity.

(e) being a bondsman, accepts or agrees to accept indemnity, in whole or in part, from a person who is released or is to be released from custody under a recognizance.

Public mischief.

120. Every one who causes a peace officer to enter upon an investigation by wilfully

(a) making a false statement that accuses some other person of having committed an offence,

(b) doing anything that is intended to cause some other person to be suspected of having committed an offence that he has not committed, or to divert suspicion from himself, or

(c) reporting that an offence has been committed when it has not been committed,

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

Compounding indictable offence.

121. Every one who asks or obtains or agrees to receive or obtain any valuable consideration for himself or any

119. Section 180.

120. New.

121. New.

other person by agreeing to compound or conceal an indictable offence is guilty of an indictable offence and is liable to imprisonment for two years.

Corruptly taking reward for recovery of goods.

122. Every one who corruptly accepts any valuable consideration, directly or indirectly, under pretence or upon account of helping any person to recover any thing obtained by the commission of an indictable offence is guilty of an indictable offence and is liable to imprisonment for five years.

Advertising reward and immunity.

123. Every one who

(a) publicly advertises a reward for the return of anything that has been stolen or lost, and in the advertisement uses words to indicate that no questions will be asked if it is returned,

Idem.

(b) uses words in a public advertisement to indicate that a reward will be given or paid for anything that has been stolen or lost, without interference with or inquiry about the person who produces it,

Advertising return of money advanced on stolen property.

(c) promises or offers in a public advertisement to return to a person who has advanced money by way of loan on, or has bought, anything that has been stolen or lost, the money so advanced or paid, or any other sum of money for the return of that thing, or

Printing advertisement.

(d) prints or publishes any advertisement referred to in paragraph *(a)*, *(b)* or *(c)*,

is guilty of an offence punishable on summary conviction.

Escapes and Rescues.

Prison-breach.

124. Every one who

(a) by force or violence breaks a prison with intent to set at liberty himself or any person confined therein, or

(b) with intent to escape forcibly breaks out of, or makes any breach in, a cell or other place within a prison in which he is confined,

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

125. Every one who

Escape.

(a) escapes from lawful custody,

Being unlawfully at large.

(b) is, before the expiration of a term of imprisonment to which he was sentenced, at large within Canada without lawful excuse, the proof of which lies upon him, or

Skipping bail.

(c) having been charged with a criminal offence and being at large on recognizance fails, without lawful excuse, the proof of which lies upon him, to appear in accordance with the recognizance at the proper time and place for his preliminary inquiry, to stand his trial, to receive sentence or for the hearing of an appeal, as the case may be,

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

122. Section 182.

123. Section 183.

124. Sections 187 and 188.

125. Sections 185, 189 and 190

Permitting escape.

Conveying things into prison.

Discharge under pretended authority.

126. Every one who

(a) permits a person whom he has in lawful custody to escape, by failing to perform a legal duty,

(b) conveys or causes to be conveyed into a prison, anything, with intent to facilitate the escape of a person imprisoned therein, or

(c) directs or procures, under colour of pretended authority, the discharge of a prisoner who is not entitled to be discharged,

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

Rescue.

Peace officer permitting escape.

Prison officer permitting escape.

127. Every one who

(a) rescues any person from lawful custody or assists any person in escaping or attempting to escape from lawful custody,

(b) being a peace officer, wilfully permits a person in his lawful custody to escape, or

(c) being an officer of or an employee in a prison, wilfully permits a person to escape from lawful custody therein,

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

Assisting prisoner of war to escape.

128. Every one who knowingly and wilfully

(a) assists a prisoner of war in Canada to escape from a place where he is detained, or

(b) assists a prisoner of war, who is permitted to be at large on parole in Canada, to escape from the place where he is at large on parole,

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

Full term to be served when retaken.

129. (1) A person who escapes while undergoing imprisonment is, after undergoing any punishment to which he is sentenced for that escape, required to serve the portion of his term that he had not served at the time of his escape.

Service of *remanet*.

(2) For the purposes of subsection (1), the portion of a person's term that he had not served at the time of his escape shall be served

(a) in the prison from which the escape was made, if imprisonment for the escape is not awarded, or

(b) in the prison to which he is sentenced for the escape, if imprisonment for the escape is awarded.

Imprisonment for escape.

(3) Where a person is sentenced to imprisonment for an escape he may, for the purposes of this section, be sentenced to imprisonment in a penitentiary or in the prison from which the escape was made, whether the imprisonment is for less than two years or for two years or more.

"Escape."

(4) For the purposes of this section, "escape" means breaking prison, escaping from lawful custody or, without lawful excuse, being at large within Canada before the expiration of a term of imprisonment to which a person has been sentenced.

126. Sections 193, 194 and 195.

127. Sections 191 and 192.

128. Section 186.

129. Section 196.

PART IV.

SEXUAL OFFENCES, PUBLIC MORALS AND DISORDERLY CONDUCT.

Interpretation.

130. In this Part,

"Guardian." *(a)* "guardian" includes any person who has in law or in fact the custody or control of another person;

"Public place." *(b)* "public place" includes any place to which the public have access as of right or by invitation, express or implied; and

"Theatre." *(c)* "theatre" includes any place that is open to the public where entertainments are given, whether or not any charge is made for admission.

Special Provisions.

Corroboration. **131.** (1) No accused shall be convicted of an offence under section 140, 143, 144, 145, 146 or 155 upon the evidence of only one witness unless the evidence of the witness is corroborated in a material particular by evidence that implicates the accused.

Marriage a defence. (2) No accused shall be convicted of an offence under section 144, paragraph *(b)* of section 145 or section 146 where he proves that, subsequent to the time of the alleged offence, he married the person in respect of whom he is alleged to have committed the offence.

Burden of proof. (3) In proceedings for an offence under subsection (2) of section 138 or section 143, 144 or paragraph *(b)* of section 145 the burden of proving that the female person in respect of whom the offence is alleged to have been committed was not of previously chaste character is upon the accused.

Previous sexual intercourse with accused. (4) In proceedings for an offence under subsection (2) of section 138 or under section 143 or paragraph *(b)* of section 145, evidence that the accused had, prior to the time of the alleged offence, sexual intercourse with the female person in respect of whom the offence is alleged to have been committed shall be deemed not to be evidence that she was not of previously chaste character.

130. Section 197.

131. (1) Section 1002.

(2) Section 214(2).

(3) Section 210.

(4) Sections 211(2), 213(2) and 301(4).

Consent of child under fourteen no defence.

132. Where an accused is charged with an offence under section 138, 141 or 148 in respect of a person under the age of fourteen years, the fact that the person consented to the commission of the offence is not a defence to the charge.

Limitation.

133. No proceedings for an offence under section 143, 144, paragraph *(b)* of section 145, or under section 155, 156 or 157 shall be commenced more than one year after the time when the offence is alleged to have been committed.

Instruction to jury.

134. Notwithstanding anything in this Act or any other Act of the Parliament of Canada, where an accused is charged with an offence under section 136, 137 or subsection (1) or (2) of section 138, the judge shall, if the only evidence that implicates the accused is the evidence, given under oath, of the female person in respect of whom the offence is alleged to have been committed and that evidence is not corroborated in a material particular by evidence that implicates the accused, instruct the jury that it is not safe to find the accused guilty in the absence of such corroboration, but that they are entitled to find the accused guilty if they are satisfied beyond a reasonable doubt that her evidence is true.

Sexual Offences.

Rape.

135. A male person commits rape when he has sexual intercourse with a female person who is not his wife,

(a) without her consent, or

(b) with her consent if the consent

(i) is extorted by threats or fear of bodily harm,

(ii) is obtained by personating her husband, or

(iii) is obtained by false and fraudulent representations as to the nature and quality of the act.

Punishment for rape.

136. Every one who commits rape is guilty of an indictable offence and is liable to imprisonment for life and to be whipped.

Attempt to commit rape.

137. Every one who attempts to commit rape is guilty of an indictable offence and is liable to imprisonment for ten years and to be whipped.

Sexual intercourse with female under fourteen.

138. (1) Every male person who has sexual intercourse with a female person who

(a) is not his wife, and

(b) is under the age of fourteen years,

whether or not he believes that she is fourteen years of age or more, is guilty of an indictable offence and is liable to imprisonment for life and to be whipped.

132. Section 294.

133. Sections 215 (7) and 1140 (1) *(c)*.

134. New.

135. Section 298(1).

136. Section 299.

137. Section 300.

138. Section 301.

Sexual intercourse with female between fourteen and sixteen.

(2) Every male person who has sexual intercourse with a female person who

(a) is not his wife,

(b) is of previously chaste character, and

(c) is fourteen years of age or more and is under the age of sixteen years,

whether or not he believes that she is sixteen years of age or more, is guilty of an indictable offence and is liable to imprisonment for five years.

Acquittal where accused not chiefly to blame.

(3) Where an accused is charged with an offence under subsection (2), the court may find the accused not guilty if it is of opinion that the evidence does not show that, as between the accused and the female person, the accused is wholly or chiefly to blame.

Age.

139. No male person shall be deemed to commit an offence under section 136, 137, 138 or 142 while he is under the age of fourteen years.

Sexual intercourse with feeble-minded, etc.

140. Every male person who, under circumstances that do not amount to rape, has sexual intercourse with a female person

(a) who is not his wife, and

(b) who is and who he knows or has good reason to believe is feeble-minded, insane, or is an idiot or imbecile,

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

Indecent assault on female.

141. (1) Every one who indecently assaults a female person is guilty of an indictable offence and is liable to imprisonment for five years and to be whipped.

Consent by false representations.

(2) An accused who is charged with an offence under subsection (1) may be convicted if the evidence establishes that the accused did anything to the female person with her consent that, but for her consent, would have been an indecent assault, if her consent was obtained by false and fraudulent representations as to the nature and quality of the act.

Incest.

142. (1) Every one commits incest who, knowing that another person is by blood relationship his or her parent, child, brother, sister, grandparent or grandchild, as the case may be, has sexual intercourse with that person.

Punishment.

(2) Every one who commits incest is guilty of an indictable offence and is liable to imprisonment for fourteen years, and in the case of a male person is liable, in addition, to be whipped.

139. Section 298(2).

140. Section 219.

141. Section 292 *(a)* and *(b)*.

142. Section 204.

Compulsion of female.

(3) Where a female person is convicted of an offence under this section and the court is satisfied that she committed the offence by reason only that she was under restraint, duress or fear of the person with whom she had the sexual intercourse, the court is not required to impose any punishment upon her.

"Brother." "Sister."

(4) In this section, "brother" and "sister", respectively, include half-brother and half-sister.

Seduction of female between sixteen and eighteen.

143. Every male person who, being eighteen years of age or more, seduces a female person of previously chaste character who is sixteen years or more but less than eighteen years of age is guilty of an indictable offence and is liable to imprisonment for two years.

Seduction under promise of marriage.

144. Every male person, being twenty-one years of age or more, who, under promise of marriage, seduces an unmarried female person of previously chaste character who is less than twenty-one years of age is guilty of an indictable offence and is liable to imprisonment for two years.

Sexual intercourse with step-daughter, etc.

Sexual intercourse with female employee.

145. (1) Every male person who

(a) has illicit sexual intercourse with his step-daughter, foster daughter or female ward; or

(b) has illicit sexual intercourse with a female person of previously chaste character and under the age of twenty-one years who

(i) is in his employment,

(ii) is in a common, but not necessarily similar, employment with him and is, in respect of her employment or work, under or in any way subject to his control or direction, or

(iii) receives her wages or salary directly or indirectly from him,

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

Acquittal where accused not chiefly to blame.

(2) Where an accused is charged with an offence under paragraph *(b)* of subsection (1), the court may find the accused not guilty if it is of opinion that the evidence does not show that, as between the accused and the female person, the accused is wholly or chiefly to blame.

Seduction of female passengers on vessels.

146. Every male person who, being the owner or master of, or employed on board a vessel, engaged in the carriage of passengers for hire, seduces, or by threats or by the exercise of his authority, has illicit sexual intercourse on board the vessel with a female passenger is guilty of an indictable offence and is liable to imprisonment for two years.

Buggery or bestiality.

147. Every one who commits buggery or bestiality is guilty of an indictable offence and is liable to imprisonment for fourteen years.

143. Section 211 (1).

144. Section 212.

145. Section 213.

146. Section 214 (1).

147. Section 202.

Indecent assault on male.

148. Every male person who assaults another person with intent to commit buggery or who indecently assaults another male person is guilty of an indictable offence and is liable to imprisonment for ten years and to be whipped.

Acts of gross indecency.

149. Every one who commits an act of gross indecency with another person is guilty of an indictable offence and is liable to imprisonment for five years.

Offences Tending to Corrupt Morals.

Obscene matter.

150. (1) Every one commits an offence who

(a) makes, prints, publishes, distributes, circulates, or has in his possession for the purpose of publication, distribution or circulation any obscene written matter, picture, model, phonograph record or other thing whatsoever, or

Crime comic.

(b) makes, prints, publishes, distributes, sells or has in his possession for the purpose of publication, distribution or circulation, a crime comic.

(2) Every one commits an offence who knowingly, without lawful justification or excuse,

Selling obscene matter.

(a) sells, exposes to public view or has in his possession for such a purpose any obscene written matter, picture, model, phonograph record or other thing whatsoever,

Indecent show.

(b) publicly exhibits a disgusting object or an indecent show,

Offering to sell contraceptives.

(c) offers to sell, advertises, publishes an advertisement of, or has for sale or disposal any means, instructions, medicine, drug or article intended or represented as a method of preventing conception or causing abortion or miscarriage, or

Offering to sell other drugs.

(d) advertises or publishes an advertisement of any means, instructions, medicine, drug or article intended or represented as a method for restoring sexual virility or curing venereal diseases or diseases of the generative organs.

Defence of public good.

(3) No person shall be convicted of an offence under this section if he establishes that the public good was served by the acts that are alleged to constitute the offence and that the acts alleged did not extend beyond what served the public good.

Question of law and question of fact.

(4) For the purposes of this section it is a question of law whether an act served the public good and whether there is evidence that the act alleged went beyond what served the public good, but it is a question of fact whether the acts did or did not extend beyond what served the public good.

Motives irrelevant.

(5) For the purposes of this section the motives of an accused are irrelevant.

148. Section 293.

149. Section 206.

150. Section 207.

Ignorance of nature no defence.

(6) Where an accused is charged with an offence under subsection (1) the fact that the accused was ignorant of the nature or presence of the matter, picture, model, phonograph record, crime comic or other thing by means of or in relation to which the offence was committed is not a defence to the charge.

"Crime comic."

(7) In this section, "crime comic" means a magazine, periodical or book that exclusively or substantially comprises matter depicting pictorially

(a) the commission of crimes, real or fictitious, or

(b) events connected with the commission of crimes, real or fictitious, whether occurring before or after the commission of the crime.

Restriction on publication of reports of judicial proceedings.

151. (1) A proprietor, editor, master printer or publisher commits an offence who prints or publishes

(a) in relation to any judicial proceedings any indecent matter or indecent medical, surgical or physiological details, being matter or details that, if published, are calculated to injure public morals;

(b) in relation to any judicial proceedings for dissolution of marriage, nullity of marriage, judicial separation or restitution of conjugal rights, any particulars other than

(i) the names, addresses and occupations of the parties and witnesses,

(ii) a concise statement of the charges, defences and countercharges in support of which evidence has been given,

(iii) submissions on a point of law arising in the course of the proceedings, and the decision of the court in connection therewith, and

(iv) the summing up of the judge, the finding of the jury and the judgment of the court and the observations that are made by the judge in giving judgment.

Saving.

(2) Nothing in paragraph *(b)* of subsection (1) affects the operation of paragraph *(a)* of that subsection.

Consent of Attorney General.

(3) No proceedings for an offence under this section shall be commenced without the consent of the Attorney General.

Exceptions.

(4) This section does not apply to a person who

(a) prints or publishes any matter for use in connection with any judicial proceedings or communicates it to persons who are concerned in the proceedings;

(b) prints or publishes a notice or report pursuant to directions of a court; or

(c) prints or publishes any matter

(i) in a volume or part of a *bona fide* series of law reports that does not form part of any other publication and consists solely of reports of proceedings in courts of law, or

151. Section 207A.

(ii) in a publication of a technical character that is *bona fide* intended for circulation among members of the legal or medical professions.

Immoral theatrical performance.

152. (1) Every one commits an offence who, being the lessee, manager, agent or person in charge of a theatre, presents or gives or allows to be presented or given therein an immoral, indecent or obscene performance, entertainment or representation.

Person taking part.

(2) Every one commits an offence who takes part or appears as an actor, performer, or assistant in any capacity, in an immoral, indecent or obscene performance, entertainment or representation in a theatre.

Mailing obscene matter.

153. Every one commits an offence who makes use of the mails for the purpose of transmitting or delivering anything that is obscene, indecent, immoral or scurrilous, but this section does not apply to a person who makes use of the mails for the purpose of transmitting or delivering anything mentioned in subsection (4) of section 151.

Punishment.

154. Every one who commits an offence under section 150, 151, 152 or 153 is guilty of

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

(b) an offence punishable on summary conviction.

Parent or guardian procuring defilement.

155. Every one who, being the parent or guardian of a female person,

(a) procures her to have illicit sexual intercourse with a person other than the procurer, or

(b) orders, is party to, permits or knowingly receives the avails of, the defilement, seduction or prostitution of the female person,

is guilty of an indictable offence and is liable to

(c) imprisonment for fourteen years, if the female person is under the age of fourteen years, or

(d) imprisonment for five years, if the female person is fourteen years of age or more.

Householder permitting defilement.

156. Every one who

(a) being the owner, occupier or manager of premises, or

(b) having control of premises or assisting in the management or control of premises,

knowingly permits a female person under the age of eighteen years to resort to or to be in or upon the premises for the purpose of having illicit sexual intercourse with a particular male person or with male persons generally is guilty of an indictable offence and is liable to imprisonment for five years.

152. Section 208.

153. Section 209 *(a)* and *(b)*.

154. New.

155. Section 215 (1).

156. Section 217.

Corrupting children.

157. (1) Every one who, in the home of a child, participates in adultery or sexual immorality or indulges in habitual drunkenness or any other form of vice, and thereby endangers the morals of the child or renders the home an unfit place for the child to be in, is guilty of an indictable offence and is liable to imprisonment for two years.

Limitation.

(2) No proceedings for an offence under this section shall be commenced more than one year after the time when the offence was committed.

"Child."

(3) For the purposes of this section, "child" means a person who is or appears to be under the age of eighteen years.

Who may institute prosecutions.

(4) No proceedings shall be commenced under subsection (1) without the consent of the Attorney General, unless they are instituted by or at the instance of a recognized society for the protection of children or by an officer of a juvenile court.

Disorderly Conduct.

Indecent acts.

158. Every one who wilfully does an indecent act

(a) in a public place in the presence of one or more persons, or

(b) in any place, with intent thereby to insult or offend any person,

is guilty of an offence punishable on summary conviction.

Nudity.

159. (1) Every one who, without lawful excuse,

(a) is nude in a public place, or

(b) is nude and exposed to public view while on private property, whether or not the property is his own,

is guilty of an offence punishable on summary conviction.

"Nude."

(2) For the purposes of this section a person is nude who is so clad as to offend against public decency or order.

Consent of Attorney General.

(3) No proceedings shall be commenced under this section without the consent of the Attorney General.

Causing disturbance.

160. Every one who

(a) not being in a dwelling house causes a disturbance in or near a public place,

(i) by fighting, screaming, shouting, swearing, singing or using insulting or obscene language,

(ii) by being drunk, or

(iii) by impeding or molesting other persons;

Indecent exhibition.

(b) openly exposes or exhibits an indecent exhibition in a public place;

157. Section 215 (2) to (6).

158. Section 205.

159. Section 205A (1).

160. Sections 100, 222B and 238.

Loitering in public place.

(c) loiters in a public place and in any way obstructs persons who are there; or

Disturbing occupants of dwelling.

(d) disturbs the peace and quiet of the occupants of a dwelling house by discharging firearms or by other disorderly conduct in a public place,

is guilty of an offence punishable on summary conviction.

Disturbing Religious Services.

Obstructing officiating clergyman.

161. (1) Every one who

(a) by threats or force, unlawfully obstructs or prevents or endeavours to obstruct or prevent a clergyman or minister from celebrating divine service or performing any other function in connection with his calling;

Violence to or arrest of officiating clergyman.

(b) knowing that a clergyman or minister is about to perform, is on his way to perform, or is returning from the performance of any of the duties or functions mentioned in paragraph *(a)*

(i) assaults or offers any violence to him, or

(ii) arrests him upon a civil process, or under the pretence of executing a civil process,

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

Disturbing religious worship or certain meetings.

(2) Every one who wilfully disturbs or interrupts an assemblage of persons met for religious worship or for a moral, social or benevolent purpose is guilty of an offence punishable on summary conviction.

Idem.

(3) Every one who, at or near a meeting referred to in subsection (2), wilfully does anything that disturbs the order or solemnity of the meeting is guilty of an offence punishable on summary conviction.

Trespassing at night.

162. Every one who, without lawful excuse, the proof of which lies upon him, loiters or prowls at night upon the property of another person near a dwelling house situated on that property is guilty of an offence punishable on summary conviction.

Offensive volatile substance.

163. Every one other than a peace officer engaged in the discharge of his duty who has in his possession in a public place or who deposits, throws or injects or causes to be deposited, thrown or injected in, into or near any place,

(a) an offensive volatile substance that is likely to alarm, inconvenience, discommode or cause discomfort to any person or to cause damage to property, or

(b) a stink or stench bomb or device from which any substance mentioned in paragraph *(a)* is or is capable of being liberated,

is guilty of an offence punishable on summary conviction.

161. Sections 199, 200 and 201.

162. New.

163. Section 510A

No apparent means of support.

164. (1) Every one commits vagrancy who

(a) not having any apparent means of support

(i) lives without employment, or

(ii) is found wandering abroad or trespassing and does not, when required, justify his presence in the place where he is found;

Begging.

(b) begs from door to door or in a public place;

Prostitute or night walker.

(c) being a common prostitute or night walker is found in a public place and does not, when required, give a good account of herself;

Living by gaming or crime.

(d) supports himself in whole or in part by gaming or crime and has no lawful profession or calling by which to maintain himself; or

Sexual offenders loitering near schools, etc.

(e) having at any time been convicted of an offence under a provision mentioned in paragraph *(a)* or *(b)* of subsection (1) of section 661, is found loitering or wandering in or near a school ground, playground, public park or bathing area.

Punishment.

(2) Every one who commits vagrancy is guilty of an offence punishable on summary conviction.

Aged or infirm persons.

(3) No person who is aged or infirm shall be convicted of an offence under paragraph *(a)* of subsection (1).

NUISANCES.

Common nuisance.

165. (1) Every one who commits a common nuisance and thereby

(a) endangers the lives, safety or health of the public, or

(b) causes physical injury to any person,

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

Definition.

(2) For the purposes of this section, every one commits a common nuisance who does an unlawful act or fails to discharge a legal duty and thereby

(a) endangers the lives, safety, health, property or comfort of the public, or

(b) obstructs the public in the exercise or enjoyment of any right that is common to all the subjects of Her Majesty in Canada.

Spreading false news.

166. Every one who wilfully publishes a statement, tale or news that he knows is false and that causes or is likely to cause injury or mischief to a public interest is guilty of an indictable offence and is liable to imprisonment for two years.

Not burying dead.

167. Every one who

(a) neglects, without lawful excuse, to perform any duty that is imposed upon him by law or that he undertakes with reference to the burial of a dead human body or human remains, or

Indignity to dead body.

(b) improperly or indecently interferes with or offers any indignity to a dead human body or human remains, whether buried or not,

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

164. Sections 238 and 239.

165. Sections 221 and 222.

166. Section 136.

167. Section 237.

PART V.

DISORDERLY HOUSES, GAMING AND BETTING.

Interpretation.

"Bet."

168. (1) In this Part,

(a) "bet" means a bet that is placed on any contingency or event that is to take place in or out of Canada, and without restricting the generality of the foregoing, includes a bet that is placed on any contingency relating to a horse-race, fight, match or sporting event that is to take place in or out of Canada;

"Common bawdy-house."

(b) "common bawdy-house" means a place that is

(i) kept or occupied, or

(ii) resorted to by one or more persons

for the purpose of prostitution or the practice of acts of indecency;

"Common betting house."

(c) "common betting house" means a place that is opened, kept or used for the purpose of

(i) enabling, encouraging or assisting persons who resort thereto to bet between themselves or with the keeper, or

(ii) enabling any person to receive, record, register, transmit or pay bets or to announce the results of betting;

"Common gaming house."

(d) "common gaming house" means a place that is

(i) kept for gain to which persons resort for the purpose of playing games; or

(ii) kept or used for the purpose of playing games

(A) in which a bank is kept by one or more but not all of the players,

(B) in which all or any portion of the bets on or proceeds from a game is paid, directly or indirectly, to the keeper of the place,

(C) in which, directly or indirectly, a fee is charged to or paid by the players for the privilege of playing or participating in a game or using gaming equipment, or

(D) in which the chances of winning are not equally favourable to all persons who play the game, including the person, if any, who conducts the game;

"Disorderly house."

(e) "disorderly house" means a common bawdy-house, a common betting house or a common gaming house;

"Game."

(f) "game" means a game of chance or mixed chance and skill;

168. (1) *(a)* New.

(b) Section 225.

(c) Section 227.

(d) Section 226.

(e) Section 2 (9) *(a)*.

(f) New.

"Gaming equipment."

(g) "gaming equipment" means anything that is or may be used for the purpose of playing games or for betting;

"Keeper."

(h) "keeper" includes a person who

(i) is an owner or occupier of a place,

(ii) assists or acts on behalf of an owner or occupier of a place,

(iii) appears to be, or to assist or act on behalf of an owner or occupier of a place,

(iv) has the care or management of a place, or

(v) uses a place permanently or temporarily, with or without the consent of the owner or occupier; and

"Place."

(i) "place" includes any place, whether or not

(i) it is covered or enclosed,

(ii) it is used permanently or temporarily, or

(iii) any person has an exclusive right of user with respect to it.

Exception.

(2) A place is not a common gaming house within the meaning of subparagraph (i) or clause (B) or (C) of subparagraph (ii) of paragraph *(d)* of subsection (1)

(a) while it is occupied and used by an incorporated *bona fide* social club or branch thereof if

(i) the whole or any portion of the bets on or proceeds from games played therein is not directly or indirectly paid to the keeper thereof, and

(ii) no fee in excess of ten cents an hour or fifty cents a day is charged to persons for the right or privilege of participating in the games played therein; or

Charitable organizations.

(b) while occasionally it is used by charitable or religious organizations for the purpose of playing games for which a direct fee is charged to persons for the right or privilege of playing, if the proceeds from the games are to be used for a charitable or religious object.

Onus.

(3) The onus of proving that, by virtue of subsection (2), a place is not a common gaming house is on the accused.

(4) A place may be a common gaming house notwithstanding that

Effect when game partly played on premises.

(a) it is used for the purpose of playing part of a game and another part of the game is played elsewhere; or

(b) the stake that is played for is in some other place.

(g) New.

(h) Sections 227 (2) and 229 (3).

(i) Section 227 (2).

(2) Section 226 (1) *(b)* (ii) in part.

(3) New.

(4) Section 226 (2).

PRESUMPTIONS.

From obstruction.

169. In proceedings under this Part,

(a) evidence that a peace officer who was authorized to enter a place was wilfully prevented from entering or was wilfully obstructed or delayed in entering is *prima facie* evidence that the place is a disorderly house;

From device for concealment.

(b) evidence that a place was found to be equipped with gaming equipment or any device for concealing, removing or destroying gaming equipment is *prima facie* evidence that the place is a common gaming house or a common betting house, as the case may be;

From gaming equipment.

(c) evidence that gaming equipment was found in a place entered under a warrant issued pursuant to this Part, or on or about the person of anyone found therein, is *prima facie* evidence that the place is a common gaming house and that the persons found therein were playing games, whether or not any person acting under the warrant observed any persons playing games therein; and

From previous conviction.

(d) evidence that a person was convicted of keeping a disorderly house is, for the purpose of proceedings against any one who is alleged to have been an inmate or to have been found in that house at the time the person committed the offence of which he was convicted, *prima facie* evidence that the house was, at that time, a disorderly house.

Conclusive presumption from slot machine.

170. (1) For the purpose of proceedings under this Part, a place that is found to be equipped with a slot machine shall be conclusively presumed to be a common gaming house.

"Slot machine."

(2) In this section "slot machine" means any automatic machine or slot machine

(a) that is used or intended to be used for any purpose other than vending merchandise or services; or

(b) that is used or intended to be used for the purpose of vending merchandise or services if

(i) the result of one of any number of operations of the machine is a matter of chance or uncertainty to the operator,

(ii) as a result of a given number of successive operations by the operator the machine produces different results, or

(iii) on any operation of the machine it discharges or emits a slug or token.

169. Sections 985 and 986 (1), (2) and (3)

170. Section 986 (4).

Search.

Warrant to search.

171. (1) A justice who receives from a peace officer a report in writing that he has reasonable ground to believe and does believe that an offence under section 176, 177, 179 or 182 is being committed at any place within the jurisdiction of the justice, may issue a warrant under his hand authorizing a peace officer to enter and search the place by day or night and seize anything found therein that may be evidence that an offence under section 176, 177, 179 or 182, as the case may be, is being committed at that place, and to take into custody all persons who are found in or at that place and requiring those persons and things to be brought before him or before another justice having jurisdiction, to be dealt with according to law.

Search without warrant, seizure and arrest.

(2) A peace officer may, whether or not he is acting under a warrant issued pursuant to this section, take into custody any person whom he finds keeping a common gaming house and any person whom he finds therein, and may seize anything that may be evidence that such an offence is being committed and shall bring those persons and things before a justice having jurisdiction, to be dealt with according to law.

Disposal of property seized.

(3) Except where otherwise expressly provided by law, a court, judge, justice or magistrate before whom anything that is seized under this section is brought may

(a) declare that any money or security for money so seized is forfeited, and

(b) direct that anything so seized, other than money or security for money, shall be destroyed,

if no person shows sufficient cause why it should not be forfeited or destroyed, as the case may be.

When declaration or direction may be made.

(4) No declaration or direction shall be made pursuant to subsection (3) in respect of anything seized under this section until

(a) it is no longer required as evidence in any proceedings that are instituted pursuant to the seizure, or

(b) the expiration of thirty days from the time of seizure where it is not required as evidence in any proceedings.

Converting security into money.

(5) Where any security for money is forfeited under this section, the Attorney General may, for the purpose of converting the security into money, deal with the security in all respects as if he were the person entitled to the proceeds thereof.

Telephones exempt from seizure.

(6) Nothing in this section authorizes the seizure, forfeiture or destruction of telephone, telegraph or other communication facilities or equipment owned by a person engaged in providing telephone, telegraph or other communication service to the public or forming part of the telephone, telegraph or other communication service or system of such a person.

171. Section 641.

Search for woman in bawdy-house.

172. A justice who is satisfied by information upon oath that there is reasonable ground to believe that a female person has been enticed to or is concealed in a common bawdy-house may issue a warrant under his hand authorizing a peace officer or other person named therein to enter and search the place, by day or night, and requiring her and the keeper of the place to be brought before him or another justice having jurisdiction to be kept in custody or released as he considers proper.

Use of force.

173. A peace officer may, for the purpose of executing a warrant issued under section 171 or 172, use as much force as is necessary to effect entry into the place in respect of which the warrant is issued.

Examination of persons arrested in disorderly houses.

174. (1) A justice before whom a person is taken pursuant to a warrant issued under section 171 or 172 may require that person to be examined on oath and to give evidence with respect to

(a) the purpose for which the place referred to in the warrant is or has been used, kept or occupied, and

(b) any matter relating to the execution of the warrant.

Person refusing to be examined.

(2) A person to whom this section applies who

(a) refuses to be sworn, or

(b) refuses to answer a question,

may be dealt with in the same manner as a witness appearing before a superior court of criminal jurisdiction pursuant to a subpoena.

Use of evidence.

(3) No evidence that is given by a person under this section may be used or received in evidence in any criminal proceedings against him, except proceedings for perjury in giving that evidence.

Obstruction.

Obstructing execution of warrant.

175. Every one who, for the purpose of preventing, obstructing or delaying a peace officer who is executing a warrant issued under this Part in respect of a disorderly house or who is otherwise authorized to enter a disorderly house, does anything, or being the keeper of the disorderly house, permits anything to be done to give effect to that purpose is guilty of an offence punishable on summary conviction.

Gaming and Betting.

Keeping gaming or betting house.

176. (1) Every one who keeps a common gaming house or common betting house is guilty of an indictable offence and is liable to imprisonment for two years.

Person found in gaming or betting house.

(2) Every one who

(a) is found, without lawful excuse, in a common gaming house or common betting house, or

172. Section 640.

173. Section 641 (1).

174. Section 642.

175. Section 230.

176. Sections 228 and 229.

Owner permitting use.

(b) as owner, landlord, lessor, tenant, occupier or agent, knowingly permits a place to be let or used for the purposes of a common gaming house or common betting house,

is guilty of an offence punishable on summary conviction.

Betting, pool selling, book-making, etc.

177. (1) Every one commits an offence who

(a) uses or knowingly allows a place under his control to be used for the purpose of recording or registering bets or selling a pool;

(b) imports, makes, buys, sells, rents, leases, hires or keeps, exhibits, employs or knowingly allows to be kept, exhibited or employed in any place under his control a device or apparatus for the purpose of recording or registering bets or selling a pool, or any machine or device for gambling or betting;

(c) has under his control any money or other property relating to a transaction that is an offence under this section;

(d) records or registers bets or sells a pool;

(e) engages in pool-selling or book-making, or in the business or occupation of betting, or makes any agreement for the purchase or sale of betting or gaming privileges, or for the purchase or sale of information that is intended to assist in book-making, pool-selling or betting;

(f) prints, provides or offers to print or provide information intended for use in connection with book-making, pool-selling or betting upon any horse-race, fight, game or sport whether or not it takes place in or out of Canada or has or has not taken place;

(g) imports or brings into Canada any information or writing that is intended or is likely to promote or be of use in gambling, book-making, pool-selling or betting upon a horse-race, fight, game or sport, and where this paragraph applies it is immaterial

(i) whether the information is published before, during or after the race, fight, game or sport, or

(ii) whether the race, fight, game or sport takes place in Canada or elsewhere,

but this paragraph does not apply to a newspaper, magazine or other periodical published in good faith primarily for a purpose other than the publication of such information;

(h) advertises, prints, publishes, exhibits, posts up, or otherwise gives notice of any offer, invitation or inducement to bet on, to guess or to foretell the result of a contest, or a result of or contingency relating to any contest;

177. Section 235 (1).

(i) wilfully and knowingly sends, transmits, delivers or receives any message by telegraph, telephone, mail or express that conveys any information relating to book-making, pool-selling, betting or wagering, or that is intended to assist in book-making, pool-selling, betting or wagering; or

(j) aids or assists in any manner in anything that is an offence under this section.

Punishment

(2) Every one who commits an offence under this section is guilty of an indictable offence and is liable to imprisonment for two years.

Exemption.

178. (1) Sections 176 and 177 do not apply to

(a) any person or association by reason of his or their becoming the custodian or depository of any money, property or valuable thing staked, to be paid to

(i) the winner of a lawful race, sport, game or exercise,

(ii) the owner of a horse engaged in a lawful race, or

(iii) the winner of any bets between not more than ten individuals;

(b) a private bet between individuals not engaged in any way in the business of betting;

(c) bets made or records of bets made through the agency of a pari-mutuel system only as hereinafter provided, upon the race course of an association

(i) incorporated before May 19, 1947, if

(A) the association has conducted a race meeting with pari-mutuel betting under the supervision of an officer appointed by the Minister of Agriculture at any time after January 1, 1938 but before May 19, 1947, or

(B) the Minister of Agriculture has, before May 19, 1947, made a determination under this section that the provisions of sections 176 and 177 shall not extend to the operation of a pari-mutuel system with respect to running races at a race meeting conducted by the association on a race course of another association, or

(ii) incorporated on or after May 19, 1947 by special Act of the Parliament of Canada or of the legislature of a province,

during the actual progress of a race meeting conducted by the association upon races being run thereon and if, as to race meetings at which there are running races, the following provisions are complied with, namely,

(iii) no race meeting shall continue for more than fourteen consecutive days on days on which racing may be lawfully carried on and there shall be not more than eight races on any of those days, and

178. Section 235 (2) to (6).

(iv) no association shall hold, and on any one track there shall not be held, except as hereinafter provided, in any one calendar year more than one race meeting, at which there are running races, of more than seven and not exceeding fourteen such days or two such race meetings having an interval of at least twenty days between them of not more than seven such days each;

(d) race meetings at which there are trotting or pacing races exclusively where pool-selling, betting or wagering is permitted by an association incorporated in any manner before March 20, 1912, or incorporated after that day by special Act of the Parliament of Canada or of the legislature of a province, on a race course during the actual progress of the race meetings conducted by the association, if the following provisions are complied with, namely,

(i) the race meetings shall not in any one calendar year be conducted for more than fourteen days or fourteen nights or a total of fourteen days and nights on which racing may be lawfully carried on,

(ii) no more than eight races or dashes, or four heat races of three heats each, or six heat races of two heats each shall be held during any twenty-four hour period, and

(iii) any pari-mutuel system of betting used upon the race course shall be used as hereinafter provided; or

(e) the operation of a pari-mutuel system with respect to running races at a race meeting conducted by an association on a race course of another association, if

(i) the provisions of sections 176 and 177 do not extend to the operation of a pari-mutuel system with respect to running races on the race courses of both associations,

(ii) both race courses are in the same province, and

(iii) the Minister of Agriculture so determines in a particular case.

Operation of pari-mutuel system.

(2) No pari-mutuel system of betting shall be used upon any race course unless the system has been approved by and its operation is carried on under the supervision, at the expense of the association, of an officer appointed by the Minister of Agriculture, whose duty it shall be to stop the betting before each race and to see that no further amounts are deposited.

Idem.

(3) Where any person or association becomes a custodian or depository of any money, bet or stakes under a pari-mutuel system during the actual progress of a race meeting conducted by and on the race course of an association in accordance with this section, upon races being run thereon, the percentage deducted and retained by the person or association in respect of each race from the total

amount of money so deposited, or of which the person or association becomes the custodian, shall not exceed nine per cent, and, in addition, the person or association may retain the remainder occurring in each calculation under the regulations of the amount payable in respect of each dollar wagered, and any odd cents over any multiple of five cents in the amount so calculated.

Purses.

(4) Where the Minister of Agriculture is not satisfied that a proper proportion of gate receipts and percentages taken from the pari-mutuel pools is being given in purses to horses taking part in the race meeting or that the provisions of this section are being carried out in good faith by the person or association conducting the race meeting, he may at any time order the betting to be stopped for any period that he considers proper.

Regulations.

(5) The Minister of Agriculture may make regulations with respect to the carrying out of the provisions of paragraphs *(c)*, *(d)* and *(e)* of subsection (1) and subsections (2) and (3), and may, by the regulations, impose such fines, not exceeding in any one case five hundred dollars for any violation of any such regulations, as he considers necessary to ensure compliance with the regulations.

Lotteries.

179. (1) Every one is guilty of an indictable offence and is liable to imprisonment for two years who

Publishing lottery scheme.

(a) makes, prints, advertises or publishes, or causes or procures to be made, printed, advertised or published, any proposal, scheme or plan for advancing, lending, giving, selling or in any way disposing of any property, by lots, cards, tickets, or any mode of chance whatsoever;

Disposing of lottery tickets.

(b) sells, barters, exchanges or otherwise disposes of, or causes or procures, or aids or assists in, the sale, barter, exchange or other disposal of, or offers for sale, barter or exchange, any lot, card, ticket or other means or device for advancing, lending, giving, selling or otherwise disposing of any property, by lots, tickets or any mode of chance whatsoever;

Conveyance of material for lottery.

(c) knowingly sends, transmits, mails, ships, delivers or allows to be sent, transmitted, mailed, shipped or delivered, or knowingly accepts for carriage or transport or conveys any article that is used or intended for use in carrying out any device, proposal, scheme or plan for advancing, lending, giving, selling or otherwise disposing of any property by any mode of chance whatsoever;

Conducting lottery scheme.

(d) conducts or manages any scheme, contrivance or operation of any kind for the purpose of determining

179. Sections 236 and 442 *(b)*.

who, or the holders of what lots, tickets, numbers or chances, are the winners of any property so proposed to be advanced, loaned, given, sold or disposed of;

Conducting scheme for disposal of property.

(e) conducts, manages or is a party to any scheme, contrivance or operation of any kind by which any person, upon payment of any sum of money, or the giving of any valuable security, or by obligating himself to pay any sum of money or give any valuable security, shall become entitled under the scheme, contrivance or operation, to receive from the person conducting or managing the scheme, contrivance or operation, or any other person, a larger sum of money or amount of valuable security than the sum or amount paid or given, or to be paid or given, by reason of the fact that other persons have paid or given, or obligated themselves to pay or give any sum of money or valuable security under the scheme, contrivance or operation;

Disposal of goods by game of chance.

(f) disposes of any goods, wares or merchandise by any game of chance or any game of mixed chance and skill in which the contestant or competitor pays money or other valuable consideration;

Inducing persons to stake money.

(g) induces any person to stake or hazard any money or other valuable property or thing on the result of any dice game, three-card monte, punch board, coin table or on the operation of a wheel of fortune;

Playing three-card monte.

(h) for valuable consideration carries on or plays or offers to carry on or to play, or employs any person to carry on or play in a public place or a place to which the public have access, the game of three-card monte;

Receiving bets on three-card monte.

(i) receives bets of any kind on the outcome of a game of three-card monte; or

Permitting three-card monte.

(j) being the owner of a place, permits any person to play the game of three-card monte therein.

"Three-card monte."

(2) In this section "three-card monte" means the game commonly known as three-card monte and includes any other game that is similar to it, whether or not the game is played with cards and notwithstanding the number of cards or other things that are used for the purpose of playing.

Exemption of Agricultural fairs.

(3) Paragraphs *(f)* and *(g)* of subsection (1), in so far as they do not relate to a dice game, three-card monte, punch board or coin table, do not apply to an agricultural fair or exhibition, or to any operator of a concession leased by an agricultural fair or exhibition board within its own grounds and operated during the period of the annual fair on those grounds.

Offence.

(4) Every one who buys, takes or receives a lot, ticket or other device mentioned in subsection (1) is guilty of an offence punishable on summary conviction.

Lottery sale void.

(5) Every sale, loan, gift, barter or exchange of any property, by any lottery, ticket, card or other mode of chance depending upon or to be determined by chance or lot, is void, and all property so sold, lent, given, bartered or exchanged, is forfeited to Her Majesty.

Bona fide purchase.

(6) Subsection (5) does not affect any right or title to property acquired by any *bona fide* purchaser for valuable consideration without notice.

Foreign lottery included.

(7) This section applies to the printing or publishing, or causing to be printed or published, of any advertisement, scheme, proposal or plan of any foreign lottery, and the sale or offer for sale of any ticket, chance or share, in any such lottery, or the advertisement for sale of such ticket, chance or share, and the conducting or managing of any such scheme, contrivance or operation for determining the winners in any such lottery.

Saving.

(8) This section does not apply to

Dividing property by lot.

(a) the division by lot or chance of any property by joint tenants or tenants in common, or persons having joint interests in any such property;

Raffles at church bazaars.

(b) raffles for prizes of small value at any bazaar held for any charitable or religious object, if permission to hold the same has been obtained from the city or other municipal council, or from the mayor, reeve or other chief officer of the city, town or other municipality, wherein such bazaar is held, and the articles raffled for thereat have first been offered for sale and none of them has a value exceeding fifty dollars;

Rewards to promote thrift.

(c) the distribution by lot of premiums given as rewards to promote thrift by punctuality in making periodical deposits of weekly savings in any chartered savings bank; or

Recalling securities by lot.

(d) bonds, debentures, debenture stock or other securities recallable by drawing of lots and redeemable with interest and providing for payment of premiums upon redemption or otherwise.

Gambling in public conveyances.

180. (1) Every one who obtains or attempts to obtain anything from any person by playing a game in a vehicle, aircraft or vessel used as a public conveyance for passengers is guilty of an indictable offence and is liable to imprisonment for two years.

Arrest without warrant.

(2) Every person in charge of a vehicle, aircraft or vessel and any person authorized by him may arrest, without warrant, a person who he has good reason to believe has committed or attempted to commit or is committing or attempting to commit an offence under this section.

180. Section 234.

Posting up section.

(3) Every person who owns or operates a vehicle, aircraft or vessel to which this section applies shall keep posted up, in some conspicuous part thereof, a copy of this section or a notice to the like effect, and in default thereof is guilty of an offence punishable on summary conviction.

Cheating at play.

181. Every one who, with intent to defraud any person, cheats while playing a game or in holding the stakes for a game or in betting is guilty of an indictable offence and is liable to imprisonment for two years.

BAWDY-HOUSES.

Keeping common bawdy-house.

182. (1) Every one who keeps a common bawdy-house is guilty of an indictable offence and is liable to imprisonment for two years.

(2) Every one who

Inmate.

(a) is an inmate of a common bawdy-house,

Person found.

(b) is found, without lawful excuse, in a common bawdy-house, or

Liability of landlord.

(c) as owner, landlord, lessor, tenant, occupier, agent or otherwise having charge or control of any place, knowingly permits the place or any part thereof to be let or used for the purposes of a common bawdy-house,

is guilty of an offence punishable on summary conviction.

Notice of conviction to be served on owner.

(3) Where a person is convicted of an offence under subsection (1), the court shall cause a notice of the conviction to be served upon the owner, landlord or lessor of the place in respect of which the person in convicted or his agent, and the notice shall contain a statement to the effect that it is being served pursuant to this section.

Duty of landlord on notice.

(4) Where a person upon whom a notice is served under subsection (3) fails forthwith to exercise any right he may have to determine the tenancy or right of occupation of the person so convicted, and thereafter any person is convicted of an offence under subsection (1) in respect of the same premises, the person upon whom the notice was served shall be deemed to have committed an offence under subsection (1) unless he proves that he has taken all reasonable steps to prevent the recurrence of the offence.

Transporting person to bawdy-house.

183. Every one who knowingly takes, transports, directs, or offers to take, transport, or direct any other person to a common bawdy-house is guilty of an offence punishable on summary conviction.

PROCURING.

Procuring.

184. (1) Every one who

(a) procures, attempts to procure or solicits a female person to have illicit sexual intercourse with another person, whether in or out of Canada,

181. Section 442 *(a)*.

182. Sections 228 and 229 (2), (4), (6) and (7).

183. Section 229 (8).

184. Sections 216, 1002 and 1140 (1) *(c)*.

(b) inveigles or entices a female person who is not a common prostitute or a person of known immoral character to a common bawdy-house or house of assignation for the purpose of illicit sexual intercourse or prostitution,

(c) knowingly conceals a female person in a common bawdy-house or house of assignation,

(d) procures or attempts to procure a female person to become, whether in or out of Canada, a common prostitute,

(e) procures or attempts to procure a female person to leave her usual place of abode in Canada, if that place is not a common bawdy-house, with intent that she may become an inmate or frequenter of a common bawdy-house, whether in or out of Canada,

(f) on the arrival of a female person in Canada, directs or causes her to be directed, or takes or causes her to be taken, to a common bawdy-house or house of assignation,

(g) procures a female person to enter or leave Canada, for the purpose of prostitution,

(h) for the purposes of gain, exercises control, direction or influence over the movements of a female person in such manner as to show that he is aiding, abetting or compelling her to engage in or carry on prostitution with any person or generally,

(i) applies or administers to a female person or causes her to take any drug, intoxicating liquor, matter, or thing with intent to stupefy or overpower her in order thereby to enable any person to have illicit sexual intercourse with her,

(j) being a male person, lives wholly or in part on the avails of prostitution, or

(k) being a female person, lives wholly or in part on the avails of prostitution of another female person,

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

Presumption.

(2) Evidence that a male person lives with or is habitually in the company of prostitutes, or lives in a common bawdy-house or house of assignation is *prima facie* evidence that he lives on the avails of prostitution.

Corroboration.

(3) No person shall be convicted of an offence under subsection (1), other than an offence under paragraph *(j)* of that subsection, upon the evidence of only one witness unless the evidence of that witness is corroborated in a material particular by evidence that implicates the accused.

Limitation.

(4) No proceedings for an offence under this section shall be commenced more than one year after the time when the offence is alleged to have been committed.

PART VI.

OFFENCES AGAINST THE PERSON AND REPUTATION.

Interpretation.

185. In this Part,

"Abandon." "Expose." *(a)* "abandon" or "expose" includes

(i) a wilful omission to take charge of a child by a person who is under a legal duty to do so, and

(ii) dealing with a child in a manner that is likely to leave that child exposed to risk without protection;

"Child." *(b)* "child" includes an adopted child and an illegitimate child;

"Form of marriage." *(c)* "form of marriage" includes a ceremony of marriage that is recognized as valid

(i) by the law of the place where it was celebrated, or

(ii) by the law of the place where an accused is tried, notwithstanding that it is not recognized as valid by the law of the place where it was celebrated; and

"Guardian." *(d)* "guardian" includes a person who has in law or in fact the custody or control of a child.

Duties Tending to Preservation of Life.

Duty of persons to provide necessaries. **186.** (1) Every one is under a legal duty

(a) as a parent, foster parent, guardian or head of a family, to provide necessaries of life for a child under the age of sixteen years;

(b) as a husband, to provide necessaries of life for his wife; and

(c) to provide necessaries of life to a person under his charge if that person

(i) is unable, by reason of detention, age, illness, insanity or other cause, to withdraw himself from that charge, and

(ii) is unable to provide himself with necessaries of life.

Offence. (2) Every one commits an offence who, being under a legal duty within the meaning of subsection (1), fails without lawful excuse, the proof of which lies upon him, to perform that duty, if

(a) with respect to a duty imposed by paragraph *(a)* or *(b)* of subsection (1),

(i) the person to whom the duty is owed is in destitute or necessitous circumstances, or

(ii) the failure to perform the duty endangers the life of the person to whom the duty is owed, or causes or is likely to cause the health of that person to be endangered permanently; or

185. Section 240.

186. Sections 241, 242 and 244.

(b) with respect to a duty imposed by paragraph *(c)* of subsection (1), the failure to perform the duty endangers the life of the person to whom the duty is owed or causes or is likely to cause the health of that person to be injured permanently.

Punishment. (3) Every one who commits an offence under subsection (2) is guilty of

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

(b) an offence punishable on summary conviction.

Presumptions. (4) For the purpose of proceedings under this section,

(a) evidence that a man has cohabited with a woman or has in any way recognized her as being his wife is *prima facie* evidence that they are lawfully married;

(b) evidence that a person has in any way recognized a child as being his child is *prima facie* evidence that the child is his child;

(c) evidence that a man has left his wife and has failed, for a period of any one month subsequent to the time of his so leaving, to make provision for her maintenance or for the maintenance of any child of his under the age of sixteen years, is *prima facie* evidence that he has failed without lawful excuse to provide necessaries of life for them; and

(d) the fact that a wife or child is receiving or has received necessaries of life from another person who is not under a legal duty to provide them is not a defence.

Duty of persons undertaking acts dangerous to life. **187.** Every one who undertakes to administer surgical or medical treatment to another person or to do any other lawful act that may endanger the life of another person is, except in cases of necessity, under a legal duty to have and to use reasonable knowledge, skill and care in so doing.

Duty of persons undertaking acts. **188.** Every one who undertakes to do an act is under a legal duty to do it if an omission to do the act is or may be dangerous to life.

Abandoning child. **189.** Every one who unlawfully abandons or exposes a child who is under the age of ten years, so that its life is or is likely to be endangered or its health is or is likely to be permanently injured, is guilty of an indictable offence and is liable to imprisonment for two years.

190. Every master who

Causing bodily harm to apprentice or servant. *(a)* unlawfully does, or causes to be done, bodily harm to his apprentice or servant so that his life is endangered or his health is or is likely to be permanently injured, or

Master failing to provide necessaries. *(b)* omits, without lawful excuse, to provide necessaries of life for an apprentice or servant in accordance with any contract that he has entered into with respect to that apprentice or servant,

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

187. Section 246.

188. Section 248.

189. Section 245.

190. Sections 243, 244 and 249.

Criminal Negligence.

"Criminal negligence."

191. (1) Every one is criminally negligent who

(a) in doing anything, or

(b) in omitting to do anything that it is his duty to do,

shows wanton or reckless disregard for the lives or safety of other persons.

"Duty."

(2) For the purposes of this section, "duty" means a duty imposed by law.

Causing death by criminal negligence.

192. Every one who by criminal negligence causes death to another person is guilty of an indictable offence and is liable to imprisonment for life.

Causing bodily harm by criminal negligence.

193. Every one who by criminal negligence causes bodily harm to another person is guilty of an indictable offence and is liable to imprisonment for ten years.

Homicide.

Homicide.

194. (1) A person commits homicide when, directly or indirectly, by any means, he causes the death of a human being.

Kinds of homicide.

(2) Homicide is culpable or not culpable.

Non culpable homicide.

(3) Homicide that is not culpable is not an offence.

Culpable homicide.

(4) Culpable homicide is murder or manslaughter or infanticide.

Idem.

(5) A person commits culpable homicide when he causes the death of a human being,

(a) by means of an unlawful act,

(b) by criminal negligence,

(c) by causing that human being, by threats or fear of violence or by deception, to do anything that causes his death, or

(d) by wilfully frightening that human being, in the case of a child or sick person.

Exception.

(6) Notwithstanding anything in this section, a person does not commit homicide within the meaning of this Act by reason only that he causes the death of a human being by procuring, by false evidence, the conviction and death of that human being by sentence of the law.

When child becomes human being.

195. (1) A child becomes a human being within the meaning of this Act when it has completely proceeded, in a living state, from the body of its mother whether or not

(a) it has breathed,

(b) it has an independent circulation, or

(c) the navel string is severed.

191. New.

192. New.

193. Sections 283, 284 and new.

194. (1) Section 250.

(2) Sections 252 (1).
(3) Section 252 (4).
(4) Section 252(3).

(5) Section 252 (2).

(6) Section 253.

195. Section 251.

Killing child.

(2) A person commits homicide when he causes injuries to a child before or during its birth as a result of which the child dies.

Death which might have been prevented.

196. Where a person, by an act or omission, does any thing that results in the death of a human being, he causes the death of that human being notwithstanding that death from that cause might have been prevented by resorting to proper means.

Death from treatment of injury.

197. Where a person causes to a human being a bodily injury that is of itself of a dangerous nature and from which death results, he causes the death of that human being notwithstanding that the immediate cause of death is proper or improper treatment that is applied in good faith.

Death within year and a day.

198. No person commits culpable homicide or the offence of causing the death of a human being by criminal negligence unless the death occurs within one year and one day commencing with the time of the occurrence of the last event by means of which he caused or contributed to the cause of death.

Acceleration of death.

199. Where a person causes bodily injury to a human being that results in death, he causes the death of that human being notwithstanding that the effect of the bodily injury is only to accelerate his death from a disease or disorder arising from some other cause.

Killing by influence on the mind.

200. No person commits culpable homicide where he causes the death of a human being

(a) by any influence on the mind alone, or,

(b) by any disorder or disease resulting from influence on the mind alone,

but this section does not apply where a person causes the death of a child or sick person by wilfully frightening him.

Murder, Manslaughter and Infanticide.

Murder.

201. Culpable homicide is murder

(a) where the person who causes the death of a human being

(i) means to cause his death, or

(ii) means to cause him bodily harm that he knows is likely to cause his death, and is reckless whether death ensues or not;

(b) where a person, meaning to cause death to a human being or meaning to cause him bodily harm that he knows is likely to cause his death, and being reckless

196. Section 257.

197. Section 258.

198. Section 254.

199. Section 256.

200. Section 255.

201. Section 259.

whether death ensues or not, by accident or mistake causes death to another human being, notwithstanding that he does not mean to cause death or bodily harm to that human being; or

(c) where a person, for an unlawful object, does anything that he knows or ought to know is likely to cause death, and thereby causes death to a human being, notwithstanding that he desires to effect his object without causing death or bodily harm to any human being.

Murder in commission of offences.

202. Culpable homicide is murder where a person causes the death of a human being while committing or attempting to commit treason or an offence mentioned in section 52, piracy, escape or rescue from prison or lawful custody, resisting lawful arrest, rape, indecent assault, forcible abduction, robbery, burglary or arson, whether or not the person means to cause death to any human being and whether or not he knows that death is likely to be caused to any human being, if

Intention to cause bodily harm.

(a) he means to cause bodily harm for the purpose of

(i) facilitating the commission of the offence, or

(ii) facilitating his flight after committing or attempting to commit the offence,

and the death ensues from the bodily harm;

Administering overpowering thing.

(b) he administers a stupefying or overpowering thing for a purpose mentioned in paragraph *(a)*, and the death ensues therefrom;

Stopping the breath.

(c) he wilfully stops, by any means, the breath of a human being for a purpose mentioned in paragraph *(a)*, and the death ensues therefrom; or

Using weapon.

(d) he uses a weapon or has it upon his person

(i) during or at the time he commits or attempts to commit the offence, or

(ii) during or at the time of his flight after committing or attempting to commit the offence,

and the death ensues as a consequence.

Murder reduced to manslaughter.

203. (1) Culpable homicide that otherwise would be murder may be reduced to manslaughter if the person who committed it did so in the heat of passion caused by sudden provocation.

What is provocation.

(2) A wrongful act or insult that is of such a nature as to be sufficient to deprive an ordinary person of the power of self-control is provocation for the purposes of this section if the accused acted upon it on the sudden and before there was time for his passion to cool.

Questions of fact.

(3) For the purposes of this section the questions

(a) whether a particular wrongful act or insult amounted to provocation, and

202. Section 260.

203. Section 261.

(b) whether the accused was deprived of the power of self-control by the provocation that he alleges he received,

are questions of fact, but no one shall be deemed to have given provocation to another by doing anything that he had a legal right to do, or by doing anything that the accused incited him to do in order to provide the accused with an excuse for causing death or bodily harm to any human being.

Death during illegal arrest.

(4) Culpable homicide that otherwise would be murder is not necessarily manslaughter by reason only that it was committed by a person who was being arrested illegally, but the fact that the illegality of the arrest was known to the accused may be evidence of provocation for the purpose of this section.

Infanticide.

204. A female person commits infanticide when by a wilful act or omission she causes the death of her newly-born child, if at the time of the act or omission she is not fully recovered from the effects of giving birth to the child and by reason thereof or of the effect of lactation consequent on the birth of the child her mind is then disturbed.

Man-slaughter.

205. Culpable homicide that is not murder or infanticide is manslaughter.

Punishment for murder.

206. Every one who commits murder is guilty of an indictable offence and shall be sentenced to death.

Punishment for man-slaughter.

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

Punishment for infanticide.

208. Every female person who commits infanticide is guilty of an indictable offence and is liable to imprisonment for five years.

Killing unborn child.

209. (1) Every one who causes the death of a child that has not become a human being, in such a manner that, if the child were a human being, he would be guilty of murder, is guilty of an indictable offence and is liable to imprisonment for life.

Saving.

(2) This section does not apply to a person who, by means that, in good faith, he considers necessary to preserve the life of the mother of a child that has not become a human being, causes the death of the child.

Attempt to commit murder.

210. Every one who attempts by any means to commit murder is guilty of an indictable offence and is liable to imprisonment for life.

204. Section 262 (2).

205. Section 262 (1).

206. Section 263.

207. Section 268.

208. Section 268A.

209. Section 306.

210. Section 264.

Accessory after fact to murder.

211. Every one who is an accessory after the fact to murder is guilty of an indictable offence and is liable to imprisonment for life.

Suicide.

Counselling or aiding suicide.

212. Every one who

(a) counsels or procures a person to commit suicide, or

(b) aids or abets a person to commit suicide,

whether suicide ensues or not, is guilty of an indictable offence and is liable to imprisonment for fourteen years.

Attempt to commit suicide.

213. Every one who attempts to commit suicide is guilty of an offence punishable on summary conviction.

Neglect in Childbirth and Concealing Dead Body.

Neglect to obtain assistance in childbirth.

214. A female person who, being pregnant and about to be delivered, with intent that the child shall not live or with intent to conceal the birth of the child, fails to make provision for reasonable assistance in respect of her delivery is, if the child is permanently injured as a result thereof or dies immediately before, during or in a short time after birth, as a result thereof, guilty of an indictable offence and is liable to imprisonment for five years.

Concealing body of child

215. Every one who in any manner disposes of the dead body of a child, with intent to conceal the fact that its mother has been delivered of it, whether the child died before, during or after birth, is guilty of an indictable offence and is liable to imprisonment for two years.

Bodily Harm and Acts and Omissions Causing Danger to the Person.

Causing bodily harm with intent.

216. Every one who, with intent

(a) to wound, maim or disfigure any person,

(b) to endanger the life of any person, or

(c) to prevent the arrest or detention of any person,

discharges a firearm, air gun or air pistol at or causes bodily harm in any way to any person, whether or not that person is the one mentioned in paragraph *(a)*, *(b)* or *(c)*, is guilty of an indictable offence and is liable to imprisonment for fourteen years.

211. Section 267.

212. Section 269.

213. Section 270.

214. Section 271.

215. Section 272.

216. Section 273.

Administering noxious thing.

217. Every one who administers or causes to be administered to any person or causes any person to take poison or any other destructive or noxious thing is guilty of an indictable offence and is liable

Causing bodily harm.

(a) to imprisonment for fourteen years, if he intends thereby to endanger the life of or to cause bodily harm to that person, or,

Intent to annoy.

(b) to imprisonment for two years, if he intends thereby to aggrieve or annoy that person.

Overcoming resistance to commission of offence.

218. Every one who, with intent to enable or assist himself or another person to commit an indictable offence,

(a) attempts, by any means, to choke, suffocate or strangle another person, or by any means calculated to choke, suffocate or strangle, attempts to render another person insensible, unconscious or incapable of resistance, or

(b) administers, or causes to be administered to any person, or attempts to administer to any person, or causes or attempts to cause any person to take a stupefying or overpowering drug, matter or thing,

is guilty of an indictable offence and is liable to imprisonment for life and to be whipped.

Traps likely to cause bodily harm.

219. (1) Every one who, with intent to cause death or bodily harm to persons, whether ascertained or not, sets or places or causes to be set or placed a trap, device or other thing whatsoever that is likely to cause death or bodily harm to persons is guilty of an indictable offence and is liable to imprisonment for five years.

Permitting traps on premises.

(2) A person who, being in occupation or possession of a place where anything mentioned in subsection (1) has been set or placed, knowingly and wilfully permits it to remain there, shall be deemed, for the purposes of that subsection, to have set or placed it with the intent mentioned therein.

Interfering with transportation facilities.

220. Every one who, with intent to endanger the safety of any person, places anything upon or does anything to any property that is used for or in connection with the transportation of persons or goods by land, water or air that is likely to cause death or bodily harm to persons is guilty of an indictable offence and is liable to imprisonment for life.

AUTOMOBILES.
DANGEROUS PLACES AND UNSEAWORTHY SHIPS.

Criminal negligence in operation of motor vehicle.

221. (1) Every one who is criminally negligent in the operation of a motor vehicle is guilty of

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

(b) an offence punishable on summary conviction.

217. Sections 277 and 278.

218. Section 276.

219. Section 281.

220. Section 282.

221. (1) New.

Failing to stop at scene of accident.

(2) Every one who, having the care, charge or control of a vehicle that is involved in an accident with a person, horse or vehicle, with intent to escape civil or criminal liability fails to stop his vehicle, give his name and address and, where any person has been injured, offer assistance, is guilty of

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

(b) an offence punishable on summary conviction.

Prima facie evidence.

(3) In proceedings under subsection (2), evidence that an accused failed to stop his vehicle, offer assistance where any person has been injured and give his name and address is *prima facie* evidence of an intent to escape civil and criminal liability.

Driving while intoxicated.

222. Every one who, while intoxicated or under the influence of a narcotic drug, drives a motor vehicle or has the care or control of a motor vehicle, whether it is in motion or not, is guilty of

(a) an indictable offence and is liable

(i) for a first offence, to imprisonment for not more than three months and not less than thirty days, and

(ii) for each subsequent offence, to imprisonment for not more than one year and not less than three months; or

(b) an offence punishable on summary conviction and is liable

(i) for a first offence, to imprisonment for not more than thirty days and not less than seven days,

(ii) for a second offence, to imprisonment for not more than three months and not less than one month, and

(iii) for each subsequent offence, to imprisonment for not more than one year and not less than three months.

Driving while ability to drive is impaired.

223. Every one who, while his ability to drive a motor vehicle is impaired by alcohol or a drug, drives a motor vehicle or has the care or control of a motor vehicle, whether it is in motion or not, is guilty of an indictable offence or an offence punishable on summary conviction and is liable

(a) for a first offence, to a fine of not more than five hundred dollars and not less than fifty dollars or to imprisonment for three months or to both,

(b) for a second offence, to imprisonment for not more than three months and not less than fourteen days, and

(c) for each subsequent offence, to imprisonment for not more than one year and not less than three months.

Conviction under section 223 when charged with offence under section 222.

224. (1) Where an accused is charged with an offence under section 222, and the evidence does not establish that he committed an offence under that section, but establishes that he committed an offence under section

(2) Section 285 (2).

(3) Section 285 (2).

222. Section 285 (4).

223. Section 285 (4*a*).

224. Section 285 (4*b*) to (4*e*).

223, the accused may be convicted of an offence under section 223 and the conviction bars further proceedings for any such offence under section 222 or 223.

Presumption of care or control.

(2) For the purpose of sections 222 and 223, where a person occupies the seat ordinarily occupied by the driver of a motor vehicle he shall be deemed to have the care or control of the vehicle unless he establishes that he did not enter or mount the vehicle for the purpose of setting it in motion.

Chemical analysis.

(3) In any proceedings under section 222 or 223, the result of a chemical analysis of a sample of the blood, urine, breath or other bodily substance of a person may be admitted in evidence on the issue whether that person was intoxicated or under the influence of a narcotic drug or whether his ability to drive was impaired by alcohol or a drug, notwithstanding that he was not, before he gave the sample, warned that he need not give the sample or that the results of the analysis of the sample might be used in evidence.

No obligation to give sample.

(4) No person is required to give a sample of blood, urine, breath or other bodily substance for chemical analysis for the purposes of this section and evidence that a person refused to give such a sample or that such a sample was not taken is not admissible nor shall such a refusal or the fact that a sample was not taken be the subject of comment by any person in the proceedings.

Order prohibiting driving.

225. (1) Where an accused is convicted of an offence under section 192, 193 or 207 committed by means of a motor vehicle or of an offence under subsection (1) of section 221 or under section 222 or 223, the court, judge, justice or magistrate, as the case may be, may, in addition to any other punishment that may be imposed for that offence, make an order prohibiting him from driving a motor vehicle on the highway in Canada

(a) during any period that the court, judge, justice or magistrate considers proper, if he is liable to imprisonment for life in respect of that offence, or

(b) during any period not exceeding three years, if he is not liable to imprisonment for life in respect of that offence.

Copy of order for registrar.

(2) Where an order is made pursuant to subsection (1), a copy of the order certified under the hand of the justice or magistrate or under the hand of the judge or the clerk of the court and sealed with the seal, if any, of the court, shall

(a) where the accused holds a permit or licence to drive a motor vehicle, be sent to the registrar of motor vehicles for the province in which the licence or permit was issued, or

(b) where the accused does not hold a permit or licence to drive a motor vehicle, be sent to the registrar of

225. Section 285 (7) and (8).

motor vehicles for the province in which the accused resides.

Driving while disqualified.

(3) Every one who drives a motor vehicle in Canada while he is disqualified or prohibited from driving a motor vehicle by reason of

(a) the legal suspension or cancellation, in any province, of his permit or licence to drive a motor vehicle in that province, or

(b) an order made pursuant to subsection (1),

is guilty of an offence punishable on summary conviction.

Motor vehicle equipped with smoke screen.

226. Every one who, without lawful excuse, owns or has the care, charge or control of a motor vehicle or vessel equipped with an apparatus for making a smoke screen is guilty of an offence punishable on summary conviction.

Impeding attempt to save life.

227. Every one who

(a) prevents or impedes or attempts to prevent or impede any person who is attempting to save his own life, or

(b) without reasonable cause prevents or impedes or attempts to prevent or impede any person who is attempting to save the life of another person,

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

Duty to safeguard dangerous places.

228. (1) Every one who makes or causes to be made an opening in ice that is open to or frequented by the public is under a legal duty to guard it in a manner that is adequate to prevent persons from falling in by accident and is adequate to warn them that the opening exists.

Idem.

(2) Every one who leaves an excavation on land that he owns or of which he has charge or supervision is under a legal duty to guard it in a manner that is adequate to prevent persons from falling in by accident and is adequate to warn them that the excavation exists.

Offences.

(3) Every one who fails to perform a duty imposed by subsection (1) or (2)

(a) is guilty of manslaughter, if the death of any person results therefrom,

(b) is guilty of an offence under subsection (2) of section 231, if bodily harm to any person results therefrom, or

(c) is guilty of an offence punishable on summary conviction.

Sending or taking unseaworthy ship to sea.

229. (1) Every one who sends or attempts to send or being the master knowingly takes a Canadian ship

(a) on a voyage from a place in Canada to any other place, whether that voyage is by sea or by coastal or inland waters, or

(b) on a voyage from a place on the inland waters of the United States to a place in Canada,

in an unseaworthy condition from any cause, and thereby

226. Section 285 (5).

227. Section 286.

228. Section 287.

229. Sections 288, 289 and 595.

endangers the life of any person, is guilty of an indictable offence and is liable to imprisonment for five years.

Defences.

(2) An accused shall not be convicted of an offence under this section where he proves

(a) that he used all reasonable means to ensure that the ship was in a seaworthy state, or

(b) that to send or take the ship in that unseaworthy condition was, under the circumstances, reasonable and justifiable.

Consent of Attorney General.

(3) No proceedings shall be instituted under this section without the consent in writing of the Attorney General of Canada.

ASSAULTS.

"Assault."

230. A person commits an assault when, without the consent of another person or with consent, where it is obtained by fraud,

(a) he applies force intentionally to the person of the other, directly or indirectly, or

(b) he attempts or threatens, by an act or gesture, to apply force to the person of the other, if he has or causes the other to believe upon reasonable grounds that he has present ability to effect his purpose.

Punishment for common assault.

231. (1) Every one who commits a common assault is guilty of

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

(b) an offence punishable on summary conviction.

Causing bodily harm by assault or otherwise.

(2) Every one who unlawfully causes bodily harm to any person or commits an assault that causes bodily harm to any person is guilty of an indictable offence and is liable to imprisonment for two years.

Assault with intent.

232. (1) Every one who assaults a person with intent to commit an indictable offence is guilty of an indictable offence and is liable to imprisonment for five years.

Other assaults.

(2) Every one who

(a) assaults a public officer or peace officer engaged in the execution of his duty, or a person acting in aid of such an officer;

(b) assaults a person with intent to resist or prevent the lawful arrest or detention of himself or another person; or

(c) assaults a person

(i) who is engaged in the lawful execution of a process against lands or goods or in making a lawful distress or seizure, or

(ii) with intent to rescue anything taken under a lawful process, distress or seizure,

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

230. Section 290.

231. Sections 274, 291 and 295.

232. Section 296.

Kidnapping and Abduction.

Kidnapping.

233. (1) Every one who kidnaps a person with intent

(a) to cause him to be confined or imprisoned against his will,

(b) to cause him to be unlawfully sent or transported out of Canada against his will, or

(c) to hold him for ransom or to service against his will,

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

Forcible confinement.

(2) Every one who, without lawful authority, confines, imprisons or forcibly seizes another person is guilty of an indictable offence and is liable to imprisonment for five years.

Non-resistance.

(3) In proceedings under this section the fact that the person in relation to whom the offence is alleged to have been committed did not resist is not a defence unless the accused proves that the failure to resist was not caused by threats, duress, force or exhibition of force.

Abduction of female.

234. Every one who takes away or detains a female person, against her will, with intent

(a) to marry her or to have illicit sexual intercourse with her, or

(b) to cause her to marry or to have illicit sexual intercourse with a male person,

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

Abduction of female under sixteen.

235. (1) Every one who, without lawful authority, takes or causes to be taken an unmarried female person under the age of sixteen years out of the possession of and against the will of her parent or guardian or of any other person who has lawful care or charge of her is guilty of an indictable offence and is liable to imprisonment for five years.

(2) For the purpose of proceedings under this section it is not material whether

Consent immaterial.

(a) the female person is taken with her own consent or at her own suggestion, or

Belief as to age immaterial.

(b) the accused believes that the female person is sixteen years of age or more.

Abduction of child under fourteen.

236. (1) Every one who, with intent to deprive a parent or guardian or any other person who has lawful care or charge of a child under the age of fourteen years of the possession of that child, or with intent to steal anything on or about the person of such a child, unlawfully

(a) takes or entices away or detains the child, or

233. Section 297.

234. Section 313.

235. Section 315.

236. Section 316.

(b) receives or harbours the child,

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

Bona fide claim of right.

(2) This section does not apply to a person who, claiming in good faith a right to possession of a child, obtains possession of the child.

Abortion.

Procuring miscarriage.

237. (1) Every one who, with intent to procure the miscarriage of a female person, whether or not she is pregnant, uses any means for the purpose of carrying out his intention is guilty of an indictable offence and is liable to imprisonment for life.

Woman procuring her own miscarriage.

(2) Every female person who, being pregnant, with intent to procure her own miscarriage, uses any means or permits any means to be used for the purpose of carrying out her intention is guilty of an indictable offence and is liable to imprisonment for two years.

"Means" defined.

(3) In this section, "means" includes

(a) the administration of a drug or other noxious thing,

(b) the use of an instrument, and

(c) manipulation of any kind.

Supplying noxious things.

238. Every one who unlawfully supplies or procures a drug or other noxious thing or an instrument or thing, knowing that it is intended to be used or employed to procure the miscarriage of a female person, whether or not she is pregnant, is guilty of an indictable offence and is liable to imprisonment for two years.

Venereal Diseases.

Venereal disease.

239. (1) Every one who, having venereal disease in a communicable form, communicates it to another person is guilty of an offence punishable on summary conviction.

Defence.

(2) No person shall be convicted of an offence under this section where he proves that he had reasonable grounds to believe and did believe that he did not have venereal disease in a communicable form at the time the offence is alleged to have been committed.

Corroboration.

(3) No person shall be convicted of an offence under this section upon the evidence of only one witness, unless the evidence of that witness is corroborated in a material particular by evidence that implicates the accused.

"Venereal disease."

(4) For the purposes of this section, "venereal disease" means syphilis, gonorrhea or soft chancre.

237. Sections 303 and 304.

238. Section 305.

239. Section 307.

Offences Against Conjugal Rights.

"Bigamy."

240. (1) Every one commits bigamy who

(a) in Canada,

(i) being married, goes through a form of marriage with another person,

(ii) knowing that another person is married, goes through a form of marriage with that person, or

(iii) on the same day or simultaneously, goes through a form of marriage with more than one person; or

(b) being a Canadian citizen resident in Canada leaves Canada with intent to do anything mentioned in subparagraphs (i) to (iii) of paragraph *(a)* and, pursuant thereto, does outside of Canada anything mentioned in those subparagraphs in circumstances mentioned therein.

Matters of defence.

(2) No person commits bigamy by going through a form of marriage if

Belief that spouse dead.

(a) that person in good faith and on reasonable grounds believes that his spouse is dead,

Absence for seven years.

(b) the spouse of that person has been continuously absent from him for seven years immediately preceding the time when he goes through the form of marriage, unless he knew that his spouse was alive at any time during those seven years,

Divorce.

(c) that person has been divorced from the bond of the first marriage, or

Annulment.

(d) the former marriage has been declared void by a court of competent jurisdiction.

Incompetency no defence.

(3) Where a person is alleged to have committed bigamy, it is not a defence that the parties would, if unmarried, have been incompetent to contract marriage under the law of the place where the offence is alleged to have been committed.

Validity presumed.

(4) Every marriage or form of marriage shall, for the purpose of this section, be deemed to be valid unless the accused establishes that it was invalid.

Act or omission by accused does not invalidate.

(5) No act or omission on the part of an accused who is charged with bigamy invalidates a marriage or form of marriage that is otherwise valid.

Punishment.

241. (1) Every one who commits bigamy is guilty of an indictable offence and is liable to imprisonment for five years.

Certificate of marriage.

(2) For the purposes of this section a certificate of marriage issued under the authority of law is *prima facie* evidence of the marriage or form of marriage to which it relates without proof of the signature or official character of the person by whom it purports to be signed.

240. Section 308.

241. (1) Section 309 (1).

(2) New.

Procuring feigned marriage.

242. (1) Every male person who

(a) procures, or

(b) knowingly aids in procuring,

a feigned marriage between himself and a female person is guilty of an indictable offence and is liable to imprisonment for five years.

Corroboration.

(2) No person shall be convicted of an offence under this section upon the evidence of only one witness unless the evidence of that witness is corroborated in a material particular by evidence that implicates the accused.

243. (1) Every one who

(a) practises or enters into or in any manner agrees or consents to practise or enter into

Polygamy.

(i) any form of polygamy, or

Conjugal union.

(ii) any kind of conjugal union with more than one person at the same time,

whether or not it is by law recognized as a binding form of marriage; or

Celebrating rite.

(b) celebrates, assists or is a party to a rite, ceremony, contract or consent that purports to sanction a relationship mentioned in subparagraph (i) or (ii) of paragraph *(a)*,

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

Evidence in case of polygamy.

(2) Where an accused is charged with an offence under this section, no averment or proof of the method by which the alleged relationship was entered into, agreed to or consented to is necessary in the indictment or upon the trial of the accused, nor is it necessary upon the trial to prove that the persons who are alleged to have entered into the relationship had or intended to have sexual intercourse.

Unlawful Solemnization of Marriage.

244. Every one who

Pretending to solemnize marriage.

(a) solemnizes or pretends to solemnize a marriage without lawful authority, the proof of which lies upon him, or

Procuring unlawful marriage.

(b) procures a person to solemnize a marriage knowing that he is not lawfully authorized to solemnize the marriage,

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

Marriage contrary to law.

245. Every one who, being lawfully authorized to solemnize marriage, knowingly and wilfully solemnizes a marriage in violation of the laws of the province in which the marriage is solemnized is guilty of an indictable offence and is liable to imprisonment for two years.

242. Sections 309 (2) and 1002 (*d*).

243. (1) Section 310.

(2) Section 948.

244. Section 311.

245. Section 312.

Blasphemous Libel.

Offence.

246. (1) Every one who publishes a blasphemous libel is guilty of an indictable offence and is liable to imprisonment for two years.

Question of fact.

(2) It is a question of fact whether or not any matter that is published is a blasphemous libel.

Saving.

(3) No person shall be convicted of an offence under this section for expressing in good faith and in decent language, or attempting to establish by argument used in good faith and conveyed in decent language, an opinion upon a religious subject.

Defamatory Libel.

"Newspaper."

247. In sections 248 to 267, "newspaper" means any paper, magazine or periodical containing public news, intelligence or reports of events, or any remarks or observations thereon, printed for sale and published periodically or in parts or numbers, at intervals not exceeding thirty-one days between the publication of any two such papers, parts or numbers, and any paper, magazine or periodical printed in order to be dispersed and made public, weekly or more often, or at intervals not exceeding thirty-one days, that contains advertisements, exclusively or principally.

Definition.

248. (1) A defamatory libel is matter published, without lawful justification or excuse, that is likely to injure the reputation of any person by exposing him to hatred, contempt or ridicule, or that is designed to insult the person of or concerning whom it is published.

Mode of expression.

(2) A defamatory libel may be expressed directly or by insinuation or irony

(a) in words legibly marked upon any substance, or

(b) by any object signifying a defamatory libel otherwise than by words.

"Publishing."

249. A person publishes a libel when he

(a) exhibits it in public,

(b) causes it to be read or seen, or

(c) shows or delivers it, or causes it to be shown or delivered, with intent that it should be read or seen by the person whom it defames or by any other person.

Punishment of libel known to be false.

250. Every one who publishes a defamatory libel that he knows is false is guilty of an indictable offence and is liable to imprisonment for five years.

246. Section 198.

247. Section 2 (23).

248. Section 317.

249. Section 318.

250. Section 333.

Punishment for defamatory libel.

251. Every one who publishes a defamatory libel is guilty of an indictable offence and is liable to imprisonment for two years.

Extortion by libel.

252. (1) Every one commits an offence who, with intent

(a) to extort money from any person, or

(b) to induce a person to confer upon or procure for another person an appointment or office of profit or trust,

publishes or threatens to publish or offers to abstain from publishing or to prevent the publication of a defamatory libel.

Idem.

(2) Every one commits an offence who, as the result of the refusal of any person to permit money to be extorted or to confer or procure an appointment or office of profit or trust, publishes or threatens to publish a defamatory libel.

Punishment.

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

Proprietor of newspaper presumed responsible.

253. (1) The proprietor of a newspaper shall be deemed to publish defamatory matter that is inserted and published therein, unless he proves that the defamatory matter was inserted in the newspaper without his knowledge and without negligence on his part.

General authority to manager when negligence.

(2) Where the proprietor of a newspaper gives to a person general authority to manage or conduct the newspaper as editor or otherwise, the insertion by that person of defamatory matter in the newspaper shall, for the purposes of subsection (1), be deemed not to be negligence on the part of the proprietor unless it is proved that

(a) he intended the general authority to include authority to insert defamatory matter in the newspaper, or

(b) he continued to confer general authority after he knew that it had been exercised by the insertion of defamatory matter in the newspaper.

Selling newspapers.

(3) No person shall be deemed to publish a defamatory libel by reason only that he sells a number or part of a newspaper that contains a defamatory libel, unless he knows that the number or part contains defamatory matter or that defamatory matter is habitually contained in the newspaper.

Selling book containing defamatory libel.

254. (1) No person shall be deemed to publish a defamatory libel by reason only that he sells a book, magazine, pamphlet or other thing, other than a newspaper that contains defamatory matter if, at the time of the sale, he does not know that it contains the defamatory matter.

251. Section 334.

252. Section 332.

253. Section 329.

254. Section 330.

Sale by servant.

Exemption of master.

(2) Where a servant, in the course of his employment, sells a book, magazine, pamphlet or other thing, other than a newspaper, the employer shall be deemed not to publish any defamatory matter contained therein unless it is proved that the employer authorized the sale knowing that

(a) defamatory matter was contained therein, or

(b) defamatory matter was habitually contained therein, in the case of a periodical.

Publishing proceedings of courts of justice.

255. No person shall be deemed to publish a defamatory libel by reason only that he publishes defamatory matter

(a) in a proceeding held before or under the authority of a court exercising judicial authority, or

(b) in an inquiry made under the authority of an Act or by order of Her Majesty, or under the authority of a public department or a department of the government of a province.

Parliamentary papers.

256. No person shall be deemed to publish a defamatory libel by reason only that he

(a) publishes to the Senate or House of Commons or to a legislature, defamatory matter contained in a petition to the Senate or House of Commons or to the legislature, as the case may be,

(b) publishes by order or under the authority of the Senate or House of Commons or of a legislature, a paper containing defamatory matter, or

(c) publishes, in good faith and without ill-will to the person defamed, an extract from or abstract of a petition or paper mentioned in paragraph *(a)* or *(b)*.

Fair reports of parliamentary or judicial proceedings.

257. (1) No person shall be deemed to publish a defamatory libel by reason only that he publishes in good faith, for the information of the public, a fair report of the proceedings of the Senate or House of Commons or a legislature, or a committee thereof, or of the public proceedings before a court exercising judicial authority, or publishes, in good faith, any fair comment upon any such proceedings.

Divorce proceedings an exception.

(2) This section does not apply to a person who publishes a report of evidence taken or offered in any proceeding before the Senate or House of Commons or any committee thereof, upon a petition or bill relating to any matter of marriage or divorce, if the report is published without authority from or leave of the House in which the proceeding is held or is contrary to any rule, order or practice of that House.

255. Section 320.

256. Section 321.

257. Section 322.

Fair report of public meeting.

258. No person shall be deemed to publish a defamatory libel by reason only that he publishes in good faith, in a newspaper, a fair report of the proceedings of any public meeting if

(a) the meeting is lawfully convened for a lawful purpose and is open to the public,

(b) the report is fair and accurate,

(c) the publication of the matter complained of is for the public benefit, and

(d) he does not refuse to publish in a conspicuous place in the newspaper a reasonable explanation or contradiction by the person defamed in respect of the defamatory matter.

Public benefit.

259. No person shall be deemed to publish a defamatory libel by reason only that he publishes defamatory matter that, on reasonable grounds, he believes is true, and that is relevant to any subject of public interest, the public discussion of which is for the public benefit.

Fair comment.

On public person.

On work of art or literature.

260. No person shall be deemed to publish a defamatory libel by reason only that he publishes fair comments

(a) upon the public conduct of a person who takes part in public affairs, or

(b) upon a published book or other literary production, or on any composition or work of art or performance publicly exhibited, or on any other communication made to the public on any subject, if the comments are confined to criticism thereof.

When truth a defence.

261. No person shall be deemed to publish a defamatory libel where he proves that the publication of the defamatory matter in the manner in which it was published was for the public benefit at the time when it was published and that the matter itself was true.

Publication invited or necessary.

262. No person shall be deemed to publish a defamatory libel by reason only that he publishes defamatory matter

(a) on the invitation or challenge of the person in respect of whom it is published, or

(b) that it is necessary to publish in order to refute defamatory matter published in respect of him by another person,

if he believes that the defamatory matter is true and it is relevant to the invitation, challenge or necessary refutation, as the case may be, and does not in any respect exceed what is reasonably sufficient in the circumstances.

258. Section 323.

259. Section 324.

260. Section 325.

261. Section 331.

262. Section 319.

Answer to inquiries.

263. No person shall be deemed to publish a defamatory libel by reason only that he publishes, in answer to inquiries made to him, defamatory matter relating to a subject matter in respect of which the person by whom or on whose behalf the inquiries are made has an interest in knowing the truth or who, on reasonable grounds, the person who publishes the defamatory matter believes has such an interest, if

(a) the matter is published, in good faith, for the purpose of giving information in answer to the inquiries,

(b) the person who publishes the defamatory matter believes that it is true,

(c) the defamatory matter is relevant to the inquiries, and

(d) the defamatory matter does not in any respect exceed what is reasonably sufficient in the circumstances.

Giving information to person interested.

264. No person shall be deemed to publish a defamatory libel by reason only that he publishes to another person defamatory matter for the purpose of giving information to that person with respect to a subject matter in which the person to whom the information is given has, or is believed on reasonable grounds by the person who gives it to have, an interest in knowing the truth with respect to that subject matter if

Conditions.

(a) the conduct of the person who gives the information is reasonable in the circumstances,

(b) the defamatory matter is relevant to the subject matter, and

(c) the defamatory matter is true, or if it is not true, is made without ill-will towards the person who is defamed and is made in the belief, on reasonable grounds, that it is true.

Publication in good faith for redress of wrong.

265. No person shall be deemed to publish a defamatory libel by reason only that he publishes defamatory matter in good faith for the purpose of seeking remedy or redress for a private or public wrong or grievance from a person who has, or who on reasonable grounds he believes has the right or is under an obligation to remedy or redress the wrong or grievance, if

(a) he believes that the defamatory matter is true,

(b) the defamatory matter is relevant to the remedy or redress that is sought, and

(c) the defamatory matter does not in any respect exceed what is reasonably sufficient in the circumstances.

Proving publication by order of legislature.

266. (1) An accused who is alleged to have published a defamatory libel may, at any stage of the proceedings, adduce evidence to prove that the matter that is alleged to be

263. Section 327.

264. Section 328.

265. Section 326.

266. Sections 912, 913 and 947.

defamatory was contained in a paper published by order or under the authority of the Senate or House of Commons or a legislature.

Directing verdict.

(2) Where at any stage in proceedings referred to in subsection (1) the court, judge, justice or magistrate is satisfied that matter alleged to be defamatory was contained in a paper published by order or under the authority of the Senate or House of Commons or a legislature, he shall direct a verdict of not guilty to be entered and shall discharge the accused.

Certificate of order.

(3) For the purposes of this section a certificate under the hand of the Speaker or clerk of the Senate or House of Commons or a legislature to the effect that the matter that is alleged to be defamatory was contained in a paper published by order or under the authority of the Senate, House of Commons or legislature, as the case may be, is conclusive evidence thereof.

VERDICTS.

Verdicts in cases of defamatory libel.

267. Where, on the trial of an indictment for publishing a defamatory libel, a plea of not guilty is pleaded, the jury that is sworn to try the issue may give a general verdict of guilty or not guilty upon the whole matter put in issue upon the indictment, and shall not be required or directed by the judge to find the defendant guilty merely on proof of publication by the defendant of the alleged defamatory libel, and of the sense ascribed thereto in the indictment, but the judge may, in his discretion, give a direction or opinion to the jury on the matter in issue as in other criminal proceedings, and the jury may, on the issue, find a special verdict.

267. Section 956.

PART VII.

OFFENCES AGAINST RIGHTS OF PROPERTY.

Interpretation

268. In this Part,

"Break." *(a)* "break" means

(i) to break any part, internal or external, or

(ii) to open any thing that is used or intended to be used to close or to cover an internal or external opening;

"Document." *(b)* "document" means any paper, parchment or other material used for writing or printing, marked with matter capable of being read, but does not include trade-marks on articles of commerce or inscriptions on stone or metal or other like material;

"Exchequer bill." *(c)* "exchequer bill" means a bank note, bond, note, debenture or security that is issued or guaranteed by Her Majesty under the authority of the Parliament of Canada or the legislature of a province;

"Exchequer bill paper." *(d)* "exchequer bill paper" means paper that is used to manufacture exchequer bills;

"False document." *(e)* "false document" means a document

(i) the whole or some material part of which purports to be made by or on behalf of a person

(A) who did not make it or authorize it to be made, or

(B) who did not in fact exist;

(ii) that is made by or on behalf of the person who purports to make it but is false in some material particular;

(iii) that is made in the name of an existing person, by him or under his authority, with a fraudulent intention that it should pass as being made by some person, real or fictitious, other than the person who makes it or under whose authority it is made; and

"Revenue paper." *(f)* "revenue paper" means paper that is used to make stamps, licences or permits or for any purpose connected with the public revenue.

Theft.

"Theft." **269.** (1) Every one commits theft who fraudulently and without colour of right takes, or fraudulently and

268. Section 335.

269. Sections 345 and 347.

without colour of right converts to his use or to the use of another person, anything whether animate or inanimate, with intent,

(a) to deprive, temporarily or absolutely, the owner of it or a person who has a special property or interest in it, of the thing or of his property or interest in it,

(b) to pledge it or deposit it as security,

(c) to part with it under a condition with respect to its return that the person who parts with it may be unable to perform, or

(d) to deal with it in such a manner that it cannot be restored in the condition in which it was at the time it was taken or converted.

Time when theft completed.

(2) A person commits theft when, with intent to steal anything, he moves it or causes it to move or to be moved, or begins to cause it to become movable.

Secrecy.

(3) A taking or conversion of anything may be fraudulent notwithstanding that it is effected without secrecy or attempt at concealment.

Purpose of taking.

(4) For the purposes of this Act the question whether anything that is converted is taken for the purpose of conversion, or whether it is, at the time it is converted, in the lawful possession of the person who converts it is not material.

Living creature wild by nature.

(5) For the purposes of this section a person who has a wild living creature in captivity shall be deemed to have a special property or interest in it while it is in captivity and after it has escaped from captivity.

Oysters.

270. (1) Where oysters and oyster brood are in oyster beds, layings or fisheries that are the property of any person and are sufficiently marked out or known as the property of that person, he shall be deemed to have a special property or interest in them.

Oyster bed.

(2) An indictment is sufficient if it describes an oyster bed, laying or fishery by name or in some other way, without stating that it is situated in a particular territorial division.

Theft by bailee of things under seizure.

271. Every one who is a bailee of anything that is under lawful seizure by a peace officer or public officer in the execution of the duties of his office, and who is obliged by law or agreement to produce and deliver it to that officer or to another person entitled thereto at a certain time and place, or upon demand, steals it if he does not produce and deliver it in accordance with his obligation, but he does not steal it if his failure to produce and deliver it is not the result of a wilful act or omission by him.

270. Sections 346 and 864 *(e)*.

271. Section 348.

Agent pledging goods, when not theft.

272. A factor or agent does not commit theft by pledging or giving a lien on goods or documents of title to goods that are entrusted to him for the purpose of sale or for any other purpose, if the pledge or lien is for an amount that does not exceed the sum of

(a) the amount due to him from his principal at the time the goods or documents are pledged or the lien is given, and

(b) the amount of any bill of exchange that he has accepted for or on account of his principal.

Theft of services.

273. Every one commits theft who fraudulently or maliciously

(a) abstracts, consumes or uses electricity or gas or causes it to be wasted or diverted, or

(b) uses a telephone or telegraph line or obtains telephone or telegraph service.

Theft by or from person having special property or interest.

274. A person may be convicted of theft notwithstanding that anything that is alleged to have been stolen was stolen

(a) by the owner of it from a person who has a special property or interest in it,

(b) by a person who has a special property or interest in it from the owner of it,

(c) by a lessee of it from his reversioner,

(d) by one of several joint owners, tenants in common or partners of or in it from the other persons who have an interest in it, or

(e) by the directors, officers or members of a company, body corporate, unincorporated body or of a society associated together for a lawful purpose from the company, body corporate, unincorporated body or society, as the case may be.

Husband or wife.

275. (1) Subject to subsection (2), no husband or wife, during cohabitation, commits theft of anything that is by law the property of the other.

Theft by spouse while living apart.

(2) A husband or wife commits theft who, intending to desert or on deserting the other or while living apart from the other, fraudulently takes or converts anything that is by law the property of the other in a manner that, if it were done by another person, would be theft.

(3) Every one commits theft who, during cohabitation of a husband and wife, knowingly,

Theft by person assisting spouse.

(a) assists either of them in dealing with anything that is by law the property of the other in a manner that would be theft if they were not married, or

Receiving property of spouse.

(b) receives from either of them anything that is by law the property of the other and has been obtained from the other by dealing with it in a manner that would be theft if they were not married.

272. Section 349 (1).

273. Section 351.

274. Section 352.

275. Section 354.

Theft by person required to account.

276. (1) Every one commits theft who, having received anything from any person on terms that require him to account for or pay it or the proceeds of it or a part of the proceeds to that person or another person, fraudulently fails to account for or pay it or the proceeds of it or the part of the proceeds of it accordingly.

Effect of entry in account.

(2) Where subsection (1) otherwise applies, but one of the terms is that the thing received or the proceeds or part of the proceeds of it shall be an item in a debtor and creditor account between the person who receives the thing and the person to whom he is to account for or to pay it, and that the latter shall rely only on the liability of the other as his debtor in respect thereof, a proper entry in that account of the thing received or the proceeds or part of the proceeds of it, as the case may be, is a sufficient accounting therefor, and no fraudulent conversion of the thing or the proceeds or part of the proceeds of it thereby accounted for shall be deemed to have taken place.

Theft by person holding power of attorney.

277. Every one commits theft who, being entrusted, whether solely or jointly with another person, with a power of attorney for the sale, mortgage, pledge or other disposition of real or personal property, fraudulently sells, mortgages, pledges or otherwise disposes of the property or any part of it, or fraudulently converts the proceeds of a sale, mortgage, pledge or other disposition of the property, or any part of the proceeds, to some purpose other than that for which he was entrusted by the power of attorney.

Misappropriation of money held under direction.

278. (1) Every one commits theft who, having received, either solely or jointly with another person, money or valuable security or a power of attorney for the sale of real or personal property, with a direction that the money or a part of it, or the proceeds or a part of the proceeds of the security or the property shall be applied to a purpose or paid to a person specified in the direction, fraudulently and contrary to the direction applies to any other purpose or pays to any other person the money or proceeds or any part of it.

Effect of entry in account.

(2) This section does not apply where a person who receives anything mentioned in subsection (1) and the person from whom he receives it deal with each other on such terms that all money paid to the former would, in the absence of any such direction, be properly treated as an item in a debtor and creditor account between them, unless the direction is in writing.

Taking ore for scientific purpose.

279. No person commits theft by reason only that he takes, for the purpose of exploration or scientific investigation, a specimen of ore or mineral from land that is not enclosed and is not occupied or worked as a mine, quarry or digging.

276. Section 355.

277. Section 356.

278. Section 357.

279. Section 378 (2).

Punishment for theft.

280. Except where otherwise prescribed by law, every one who commits theft is guilty of an indictable offence and is liable

(a) to imprisonment for ten years, where the property stolen is a testamentary instrument or where the value of what is stolen exceeds fifty dollars, or

(b) to imprisonment for two years, where the value of what is stolen does not exceed fifty dollars.

OFFENCES RESEMBLING THEFT.

Taking motor vehicle without consent.

281. Every one who, without the consent of the owner, takes a motor vehicle with intent to drive or use it or cause it to be driven or used is guilty of an offence punishable on summary conviction.

Criminal breach of trust.

282. Every one who, being a trustee of anything for the use or benefit, whether in whole or in part, of another person, or for a public or charitable purpose, converts, with intent to defraud and in violation of his trust, that thing or any part of it to a use that is not authorized by the trust is guilty of an indictable offence and is liable to imprisonment for fourteen years.

Public servant refusing to deliver property.

283. Every one who, being or having been employed in the service of Her Majesty in right of Canada or in right of a province, or in the service of a municipality, and entrusted by virtue of that employment with the receipt, custody, management or control of anything, refuses or fails to deliver it to a person who is authorized to demand it and does demand it, is guilty of an indictable offence and is liable to imprisonment for fourteen years.

Fraudulently taking cattle.

Defacing brand on cattle.

284. (1) Every one who, without the consent of the owner,

(a) fraudulently takes, holds, keeps in his possession, conceals, receives, appropriates, purchases or sells, cattle that are found astray; or

(b) fraudulently, in whole or in part,

(i) obliterates, alters or defaces, a brand or mark on cattle, or

(ii) makes a false or counterfeit brand or mark on cattle,

Evidence of property in cattle.

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

(2) In any proceedings under this Act, evidence that cattle are marked with a brand or mark that is recorded or registered in accordance with any Act is *prima facie* evidence that the cattle are owned by the registered owner of that brand or mark.

280. New.

281. Section 285 (3).

282. Section 390.

283. Section 391.

284. (1) Section 392.

(2) and (3). Section 989.

Presumption from possession.

(3) Where an accused is charged with theft of cattle or with an offence under subsection (1), the burden of proving that the cattle came lawfully into the possession of the accused or his employee or into the possession of another person on behalf of the accused is on the accused, if the accused is not the registered owner of the brand or mark with which the cattle are marked, unless it appears that possession of the cattle by an employee of the accused or by another person on behalf of the accused was without the knowledge and authority, sanction or approval of the accused.

Taking possession etc., of drift timber.

285. (1) Every one is guilty of an indictable offence and is liable to imprisonment for five years who, without the consent of the owner,

(a) fraudulently takes, holds, keeps in his possession, conceals, receives, appropriates, purchases or sells,

(b) removes, alters, obliterates or defaces a mark or number on, or

(c) refuses to deliver up to the owner or to the person in charge thereof on behalf of the owner or to a person authorized by the owner to receive it,

any lumber or lumbering equipment that is found adrift, cast ashore or lying upon or embedded in the bed or bottom, or on the bank or beach of a river, stream or lake in Canada, or in the harbours or any of the coastal waters of Canada.

Dealer in second hand goods.

(2) Every one who, being a dealer in second-hand goods of any kind, trades or traffics in or has in his possession for sale or traffic any lumbering equipment that is marked with the mark, brand, registered timber mark, name or initials of a person, without the written consent of that person, is guilty of an offence punishable on summary conviction.

Search for timber unlawfully detained.

(3) A peace officer who suspects, on reasonable grounds, that any lumber owned by any person and bearing the registered timber mark of that person is kept or detained in or on any place without the knowledge or consent of that person, may enter into or upon that place to ascertain whether or not it is detained there without the knowledge or consent of that person.

Evidence of property in timber.

(4) Where any lumber or lumbering equipment is marked with a timber mark or a boom chain brand registered under any Act, the mark or brand is *prima facie* evidence, in proceedings under subsection (1), that it is the property of the registered owner of the mark or brand.

Presumption from possession.

(5) Where an accused or his servants or agents are in possession of lumber or lumbering equipment marked with the mark, brand, registered timber mark, name or initials of another person, the burden of proving that it came lawfully into his possession or into possession of his servants or agents is, in proceedings under subsection (1), on the accused.

285. (1) Section 394.

(2) Section 431 (4).

(3) Section 638.

(4) and (5). Section 990.

"Coastal waters."

(6) In this section,

(a) "coastal waters of Canada" includes all of Queen Charlotte Sound, all the Strait of Georgia and the Canadian waters of the Strait of Juan de Fuca,

"Lumber."

(b) "lumber" means timber, mast, spar, shingle bolt, sawlog or lumber of any description, and

"Lumbering equipment."

(c) "lumbering equipment" includes a boom chain, chain, line and shackle.

Destroying documents of title.

286. Every one who, for a fraudulent purpose, destroys, cancels, conceals or obliterates

(a) a document of title to goods or lands,

(b) a valuable security or testamentary instrument, or

(c) a judicial or official document,

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

Fraudulent concealment.

287. Every one who, for a fraudulent purpose, takes, obtains, removes or conceals anything is guilty of an indictable offence and is liable to imprisonment for two years.

Robbery and Extortion.

"Robbery."

288. Every one commits robbery who

(a) steals, and for the purpose of extorting whatever is stolen or to prevent or overcome resistance to the stealing, uses violence or threats of violence to a person or property,

(b) steals from any person and, at the time he steals or immediately before or immediately thereafter, wounds, beats, strikes or uses any personal violence to that person,

(c) assaults any person with intent to steal from him, or

(d) steals from any person while armed with an offensive weapon or imitation thereof.

Punishment for robbery.

289. Every one who commits robbery is guilty of an indictable offence and is liable to imprisonment for life and to be whipped.

Stopping mail with intent.

290. Every one who stops a mail conveyance with intent to rob or search it is guilty of an indictable offence and is liable to imprisonment for life.

Extortion.

291. (1) Every one who, without reasonable justification or excuse and with intent to extort or gain anything, by threats, accusations, menaces or violence induces or attempts to induce any person, whether or not he is the

(6) Section 394.

286. Section 396.

287. Section 397.

288. Sections 445, 446 and 448.

289. Section 447.

290. Section 449.

291. Sections 450 to 454.

person threatened, accused or menaced or to whom violence is shown, to do anything or to cause anything to be done, is guilty of an indictable offence and is liable to imprisonment for fourteen years.

Saving.

(2) A threat to institute civil proceedings is not a threat for the purposes of this section.

BREAKING AND ENTERING.

292. (1) Every one who

Breaking and entering with intent.

(a) breaks and enters a place with intent to commit an indictable offence therein;

Breaking and entering and committing.

(b) breaks and enters a place and commits an indictable offence therein; or

Breaking out.

(c) breaks out of a place after

(i) committing an indictable offence therein, or

(ii) entering the place with intent to commit an indictable offence therein,

is guilty of an indictable offence and is liable

Punishment.

(d) to imprisonment for life, if the offence is committed in relation to a dwelling house, or

Idem.

(e) to imprisonment for fourteen years, if the offence is committed in relation to a place other than a dwelling house.

Presumptions.

(2) For the purposes of proceedings under this section, evidence that an accused

(a) broke and entered a place is *prima facie* evidence that he broke and entered with intent to commit an indictable offence therein; or

(b) broke out of a place is *prima facie* evidence that he broke out after

(i) committing an indictable offence therein, or

(ii) entering with intent to commit an indictable offence therein.

Committing offence when armed.

(3) Every one who is convicted of an offence under this section who had upon his person, at the time he committed the offence or was arrested therefor, an offensive weapon or imitation thereof, is liable to be whipped in addition to any other punishment that may be imposed in respect of the offence for which he is convicted.

"Place."

(4) For the purposes of this section, "place" means

(a) a dwelling house,

(b) a building or structure or any part thereof, other than a dwelling house,

(c) a railway vehicle, vessel, aircraft or trailer, or

(d) a pen or enclosure in which fur-bearing animals are kept in captivity for breeding or commercial purposes.

292. Sections 455 to 461.

Being unlawfully in dwelling house.

293. (1) Every one who without lawful excuse, the proof of which lies upon him, enters or is in a dwelling house with intent to commit an indictable offence therein is guilty of an indictable offence and is liable to imprisonment for ten years.

Presumption.

(2) For the purposes of proceedings under this section, evidence that an accused, without lawful excuse, entered or was in a dwelling house is *prima facie* evidence that he entered or was in the dwelling house with intent to commit an indictable offence therein.

"Entrance."

294. For the purposes of sections 292 and 293,

(a) a person enters as soon as any part of his body or any part of an instrument that he uses is within any thing that is being entered; and

(b) a person shall be deemed to have broken and entered if

(i) he obtained entrance by a threat or artifice or by collusion with a person within, or

(ii) he entered without lawful justification or excuse, the proof of which lies upon him, by a permanent or temporary opening.

Possession of house-breaking instruments.

295. (1) Every one who without lawful excuse, the proof of which lies upon him, has in his possession any instrument for house-breaking, vault-breaking or safe-breaking is guilty of an indictable offence and is liable to imprisonment for fourteen years.

Disguise with intent.

(2) Every one who, with intent to commit an indictable offence, has his face masked or coloured or is otherwise disguised is guilty of an indictable offence and is liable to imprisonment for ten years.

Having in Possession.

Having in possession property obtained by crime.

296. Every one commits an offence who has anything in his possession knowing that it was obtained

(a) by the commission in Canada of an offence punishable by indictment, or

(b) by an act or omission anywhere that, if it had occurred in Canada, would have constituted an offence punishable by indictment.

Punishment.

297. Every one who commits an offence under section 296 is guilty of an indictable offence and is liable

(a) to imprisonment for ten years, where the property that comes into his possession is a testamentary instrument or where the value of what comes into his possession exceeds fifty dollars, or

(b) to imprisonment for two years, where the value of what comes into his possession does not exceed fifty dollars.

293. Section 462.

294. Section 340.

295. Section 464.

296. Section 399.

297. Section 399.

Theft from mail.

298. (1) Every one who

(a) steals

(i) anything sent by post, after it is deposited at a post office and before it is delivered,

(ii) a bag, sack or other container or covering in which mail is conveyed, whether it does or does not contain mail, or

(iii) a key suited to a lock adopted for use by the Canada Post Office, or

(b) has in his possession anything in respect of which he knows that an offence has been committed under paragraph *(a)*,

is guilty of an indictable offence and is liable to imprisonment for ten years and, where the offence is committed under paragraph *(a)*, to imprisonment for not less than six months.

Allegation of value not necessary.

(2) In proceedings for an offence under this section it is not necessary to allege in the indictment or to prove on the trial that anything in respect of which the offence was committed had any value.

Bringing into Canada property obtained by crime.

299. Every one who brings into or has in Canada anything that he has obtained outside of Canada by an act that, if it had been committed in Canada, would have been the offence of theft or an offence under section 296, is guilty of an indictable offence and is liable to imprisonment for ten years.

Having in possession when complete.

300. For the purposes of section 296 and paragraph *(b)* of subsection (1) of section 298, the offence of having in possession is complete when a person has, alone or jointly with another person, possession of or control over anything mentioned in those sections or when he aids in concealing or disposing of it, as the case may be.

Evidence.

301. (1) Where an accused is charged with an offence under section 296 or paragraph *(b)* of subsection (1) of section 298, evidence is admissible at any stage of the proceedings to show that property other than the property that is the subject matter of the proceedings

(a) was found in the possession of the accused, and

298. Sections 364, 365, 400 and 869.

299. Section 398.

300. Section 402.

301. Section 993.

(b) was stolen within twelve months before the proceedings were commenced,

and that evidence may be considered for the purpose of proving that the accused knew that the property forming the subject-matter of the proceedings was stolen property.

Notice to accused.

(2) Subsection (1) does not apply unless

(a) at least three days' notice in writing is given to the accused that in the proceedings it is intended to prove that property other than the property that is the subject-matter of the proceedings was found in his possession, and

(b) the notice sets out the nature or description of the property and describes the person from whom it is alleged to have been stolen.

Evidence of previous conviction.

302. (1) Where an accused in charged with an offence under section 296 or paragraph *(b)* of subsection (1) of section 298 and evidence is adduced that the subject matter of the proceedings was found in his possession, evidence that the accused was, within five years before the proceedings were commenced, convicted of an offence involving theft or an offence under section 296 is admissible at any stage of the proceedings and may be taken into consideration for the purpose of proving that the accused knew that the property that forms the subject matter of the proceedings was unlawfully obtained.

Notice to accused.

(2) Subsecion (1) does not apply unless at least three days' notice in writing is given to the accused that in the proceedings it is intended to prove the previous conviction.

False Pretences.

"False pretence."

303. (1) A false pretence is a representation of a matter of fact either present or past, made by words or otherwise, that is known by the person who makes it to be false and that is made with a fraudulent intent to induce the person to whom it is made to act upon it.

Exaggeration.

(2) Exaggerated commendation or depreciation of the quality of anything is not a false pretence unless it is carried to such an extent that it amounts to a fraudulent misrepresentation of fact.

Question of fact.

(3) For the purposes of subsection (2) it is a question of fact whether commendation or depreciation amounts to a fraudulent misrepresentation of fact.

302. Section 994.

303. Section 404.

304. (1) Every one commits an offence who

Obtaining by false pretence.

(a) by a false pretence, whether directly or through the medium of a contract obtained by a false pretence, obtains anything in respect of which the offence of theft may be committed or causes it to be delivered to another person;

Obtaining credit by false pretence.

(b) obtains credit by a false pretence or by fraud;

False statement in writing.

(c) knowingly makes or causes to be made, directly or indirectly, a false statement in writing with intent that it should be relied upon, with respect to the financial condition or means or ability to pay of himself or any person, firm or corporation that he is interested in or that he acts for, for the purpose of procuring, in any form whatsoever, whether for his benefit or the benefit of that person, firm or corporation,

(i) the delivery of personal property,

(ii) the payment of money,

(iii) the making of a loan,

(iv) the extension of credit,

(v) the discount of an account receivable, or

(vi) the making, accepting, discounting or endorsing of a bill of exchange, cheque, draft, or promissory note; or

Idem.

(d) knowing that a false statement in writing has been made with respect to the financial condition or means or ability to pay of himself or another person, firm or corporation that he is interested in or that he acts for, procures upon the faith of that statement, whether for his benefit or for the benefit of that person, firm or corporation, anything mentioned in subparagraphs (i) to (vi) of paragraph *(c)*.

Punishment.

(2) Every one who commits an offence under paragraph *(a)* of subsection (1) is guilty of an indictable offence and is liable

(a) to imprisonment for ten years, where the property obtained is a testamentary instrument or where the value of what is obtained exceeds fifty dollars; or

(b) to imprisonment for two years, where the value of what is obtained does not exceed fifty dollars.

Punishment.

(3) Every one who commits an offence under paragraph *(b)*, *(c)* or *(d)* of subsection (1) is guilty of an indictable offence and is liable to imprisonment for ten years.

Presumption from cheque issued without funds.

(4) Where, in proceedings under paragraph *(a)* of subsection (1), it is shown that anything was obtained by the accused by means of a cheque that, when presented for payment within a reasonable time, was dishonoured on the ground that no funds or insufficient funds were on deposit to the credit of the accused in the bank on which the cheque was drawn, it shall be presumed to have been obtained by a false pretence, unless the court is satisfied by evidence that when the accused issued the cheque he had reasonable

304. Sections 405 and 407 (2).

grounds to believe that it would be honoured if presented for payment within a reasonable time after it was issued.

Obtaining execution of valuable security by fraud.

305. Every one who, with intent to defraud or injure another person, by a false pretence causes or induces any person

(a) to execute, make, accept, endorse or destroy the whole or any part of a valuable security, or

(b) to write, impress or affix a name or seal on any paper or parchment in order that it may afterwards be made or converted into or used or dealt with as a valuable security,

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

Publication of false advertisements.

306. (1) Every one who publishes or causes to be published an advertisement containing a statement that purports to be a statement of fact but that is untrue, deceptive or misleading or is intentionally so worded or arranged that it is deceptive or misleading, is guilty of an indictable offence and is liable to imprisonment for five years, if the advertisement is published

(a) to promote, directly or indirectly, the sale or disposal of property or any interest therein, or

(b) to promote a business or commercial interest.

Publication of statement without proper test.

(2) Every one who publishes or causes to be published in an advertisement a statement or guarantee of the performance, efficacy or length of life of anything that is not based upon an adequate and proper test of that thing, the proof of which lies upon the accused, is, if the advertisement is published to promote, directly or indirectly, the sale or disposal of that thing, guilty of an offence punishable on summary conviction.

Saving.

(3) Subsections (1) and (2) do not apply to a person who publishes an advertisement that he accepts in good faith for publication in the ordinary course of his business.

What is proper test.

(4) For the purposes of subsection (2), a test that is made by the National Research Council of Canada or by any other public department is an adequate and proper test, but no reference shall be made in an advertisement to indicate that a test has been made by the National Research Council or other public department unless the advertisement has, before publication, been approved and permission to publish it has been given in writing by the president of the National Research Council or by the deputy head of the public department, as the case may be.

Idem.

(5) Nothing in subsection (4) shall be deemed to exclude, for the purposes of this section, any other adequate or proper test.

305. Section 406 (1).

306. Section 406 (2) and (3).

Fraudulently obtaining food and lodging.

307. (1) Every one who fraudulently obtains food, lodging or other accommodation at an hotel or inn or at a lodging, boarding or eating house is guilty of an offence punishable on summary conviction.

Presumption.

(2) In proceedings under this section, evidence that an accused obtained food, lodging or other accommodation at an hotel or inn or at a lodging, boarding or eating house, and did not pay for it and

(a) made a false or fictitious show or pretence of having baggage,

(b) had any false or pretended baggage,

(c) surreptitiously removed or attempted to remove his baggage or any material part of it,

(d) absconded or surreptitiously left the premises,

(e) knowingly made a false statement to obtain credit or time for payment, or

(f) offered a worthless cheque, draft or security in payment for his food, lodging or other accommodation,

is *prima facie* evidence of fraud.

Witchcraft.

Pretending to practise witchcraft, etc.

308. Every one who fraudulently

(a) pretends to exercise or to use any kind of witchcraft, sorcery, enchantment or conjuration,

(b) undertakes, for a consideration, to tell fortunes, or

(c) pretends from his skill in or knowledge of an occult or crafty science to discover where or in what manner anything that is supposed to have been stolen or lost may be found,

is guilty of an offence punishable on summary conviction.

Forgery and Offences Resembling Forgery.

"Forgery."

309. (1) Every one commits forgery who makes a false document, knowing it to be false, with intent

(a) that it should in any way be used or acted upon as genuine, to the prejudice of any one whether within Canada or not, or

(b) that some person should be induced by the belief that it is genuine to do or to refrain from doing anything, whether within Canada or not.

Making false document.

(2) Making a false document includes

(a) altering a genuine document in any material part,

(b) making a material addition to a genuine document or adding to it a false date, attestation, seal or other thing that is material, or

(c) making a material alteration in a genuine document by erasure, obliteration, removal or in any other way.

When forgery complete.

(3) Forgery is complete as soon as a document is made with the knowledge and intent referred to in subsection (1), notwithstanding that the person who makes it does not

307. Section 407 (3).

308. Section 443.

309. Section 466.

intend that any particular person should use or act upon it as genuine or be induced, by the belief that it is genuine, to do or refrain from doing anything.

Forgery complete though document incomplete.

(4) Forgery is complete notwithstanding that the false document is incomplete or does not purport to be a document that is binding in law, if it is such as to indicate that it was intended to be acted upon as genuine.

Punishment for forgery.

310. (1) Every one who commits forgery is guilty of an indictable offence and is liable to imprisonment for fourteen years.

Corroboration.

(2) No person shall be convicted of an offence under this section upon the evidence of only one witness unless the evidence of that witness is corroborated in a material particular by evidence that implicates the accused.

Uttering forged document.

311. (1) Every one who, knowing that a document is forged,

(a) uses, deals with, or acts upon it, or

(b) causes or attempts to cause any person to use, deal with, or act upon it,

as if the document were genuine, is guilty of an indictable offence and is liable to imprisonment for fourteen years.

Wherever forged.

(2) For the purposes of proceedings under this section, the place where a document was forged is not material.

Exchequer bill paper.

312. Every one who, without lawful authority or excuse, the proof of which lies upon him,

Making, etc.

(a) makes, uses or knowingly has in his possession

(i) any exchequer bill paper, revenue paper, or paper that is used to make bank notes, or

(ii) any paper that is intended to resemble paper mentioned in subparagraph (i);

Instruments.

(b) makes, offers or disposes of or knowingly has in his possession any plate, die, machinery, instrument or other writing or material that is adapted and intended to be used to commit forgery; or

Counterfeiting public seals.

(c) makes, reproduces or uses a public seal of Canada or of a province, or the seal of a public body or authority in Canada, or of a court of law,

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

Printing counterfeit proclamation.

313. Every one who knowingly

(a) prints a proclamation, order, regulation or appointment, or notice thereof, and causes it falsely to purport to have been printed by the Queen's Printer for Canada, or the Queen's Printer for a province, or

Tendering in evidence.

(b) tenders in evidence a copy of a proclamation, order, regulation or appointment that falsely purports to

310. Sections 468 and 1002.

311. Section 467.

312. Sections 471, 472 and 473.

313. Section 474.

have been printed by the Queen's Printer for Canada or the Queen's Printer for a province,

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

Telegram, etc., in false name.

314. Every one who, with intent to defraud, causes or procures a telegram, cablegram or radio message to be sent or delivered as being sent by the authority of another person, knowing that it is not sent by his authority and with intent that the message should be acted on as being sent by his authority, is guilty of an indictable offence and is liable to imprisonment for five years.

False messages.

315. Every one who, with intent to injure or alarm any person sends or causes or procures to be sent by telegram, letter, radio, cable or otherwise a message that contains matter that he knows is false is guilty of an indictable offence and is liable to imprisonment for two years.

Threatening letters.

316. (1) Every one commits an offence who sends, delivers, utters or directly or indirectly causes any person to receive

(a) a letter or writing that he knows contains a threat to cause death or injury to any person; or

(b) a letter or writing that he knows contains a threat

(i) to burn, destroy or damage real or personal property, or

(ii) to kill, maim, wound, poison or injure an animal or bird that is the property of any person.

Punishment.

(2) Every one who commits an offence under paragraph *(a)* of subsection (1) is guilty of an indictable offence and is liable to imprisonment for ten years.

(3) Every one who commits an offence under paragraph *(b)* of subsection (1) is guilty of

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

(b) an offence punishable on summary conviction.

Drawing document without authority.

317. Every one who

(a) with intent to defraud and without lawful authority makes, executes, draws, signs, accepts or endorses a document in the name or on the account of another person by procuration or otherwise, or

Uttering.

(b) makes use of or utters a document knowing that it has been made, executed, signed, accepted or endorsed with intent to defraud and without lawful authority, in the name or on the account of another person, by procuration or otherwise,

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

314. Section 475.

315. Section 476.

316. Sections 265, 516, 537 (1) *(c)* and 538.

317. Section 477.

Obtaining, etc., by instrument based on forged document.

318. Every one who demands, receives, or obtains anything, or causes or procures anything to be delivered or paid to any person under, upon, or by virtue of any instrument issued under the authority of law, knowing that it is based on a forged document, is guilty of an indictable offence and is liable to imprisonment for fourteen years.

Counterfeiting stamp.

319. (1) Every one who

Using.

(a) fraudulently uses, mutilates, affixes, removes or counterfeits a stamp or part thereof;

Possessing.

(b) knowingly and without lawful excuse, the proof of which lies upon him, has in his possession

(i) a counterfeit stamp or a stamp that has been fraudulently mutilated, or

(ii) anything bearing a stamp of which a part has been fraudulently erased, removed or concealed; or

Instruments for counterfeiting stamps.

(c) without lawful excuse, the proof of which lies upon him, makes or knowingly has in his possession a die or instrument that is capable of making the impression of a stamp or part thereof,

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

Counterfeiting mark.

(2) Every one who, without lawful authority,

(a) makes a mark,

Selling.

(b) sells, or exposes for sale, or has in his possession a counterfeit mark, or

Affixing false mark.

(c) affixes a mark to anything that is required by law to be marked, branded, sealed or wrapped other than the thing to which the mark was originally affixed or was intended to be affixed, or

Affixing counterfeit mark.

(d) affixes a counterfeit mark to anything that is required by law to be marked, branded, sealed or wrapped,

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

(3) In this section,

"Mark."

(a) "mark" means a mark, brand, seal, wrapper or design used by or on behalf of

(i) the Government of Canada or of a province,

(ii) the government of a state other than Canada, or

(iii) a department, board, commission or agent established by a government mentioned in subparagraph (i) or (ii) in connection with the service or business of that government; and

"Stamp."

(b) "stamp" means an impressed or adhesive stamp used for the purpose of revenue by the Government of Canada or of a province or by the government of a state other than Canada.

318. Section 478.

319. Section 479.

Injuring documents.

320. (1) Every one who unlawfully

(a) destroys, defaces or injures a register, or any part of a register of births, baptisms, marriages, deaths or burials that is required or authorized by law to be kept in Canada, or a copy or any part of a copy of such a register that is required by law to be transmitted to a registrar or other officer,

(b) inserts or causes to be inserted in a register or copy referred to in paragraph *(a)* an entry, that he knows is false, of any matter relating to a birth, baptism, marriage, death or burial, or erases any material part from such a register or copy,

(c) destroys, damages or obliterates an election document or causes an election document to be destroyed, damaged or obliterated, or

(d) makes or causes to be made an erasure, alteration or interlineation in or upon an election document,

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

"Election document."

(2) In this section, "election document" means any document or writing issued under the authority of an Act of the Parliament of Canada or of a legislature with respect to an election held pursuant to the authority of any such Act.

False copy from register.

321. Every one who

(a) being authorized or required by law to make or issue a certified copy of, extract from or certificate in respect of a register, record or document, knowingly makes or issues a false certified copy, extract or certificate,

Fraudulent copy by person not authorized.

(b) not being authorized or required by law to make or issue a certified copy of, extract from or certificate in respect of a register, record or document, fraudulently makes or issues a copy, extract or certificate that purports to be certified as authorized or required by law, or

Giving false particulars.

(c) being authorized or required by law to make a certificate or declaration concerning any particular required for the purpose of making entries in a register, record or document, knowingly and falsely makes the certificate or declaration,

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

320. Sections 480 to 483 and 528.

321. Sections 480 to 483.

PART VIII.

FRAUDULENT TRANSACTIONS RELATING TO CONTRACTS AND TRADE.

INTERPRETATION.

322. In this Part,

"Goods." *(a)* "goods" means anything that is the subject of trade or commerce; and

"Trading stamps." *(b)* "trading stamps" includes any form of cash receipt, receipt, coupon, premium ticket or other device, designed or intended to be given to the purchaser of goods by the vendor thereof or on his behalf, and to represent a discount on the price of the goods or a premium to the purchaser thereof

(i) that may be redeemed

(A) by any person other than the vendor, the person from whom the vendor purchased the goods, or the manufacturer of the goods,

(B) by the vendor, the person from whom the vendor purchased the goods, or the manufacturer of the goods in cash or in goods that are not his property in whole or in part, or

(C) by the vendor elsewhere than in the premises where the goods are purchased; or

(ii) that does not show upon its face the place where it is delivered and the merchantable value thereof; or

(iii) that may not be redeemed upon demand at any time,

but an offer, endorsed by the manufacturer upon a wrapper or container in which goods are sold, of a premium or reward for the return of that wrapper or container to the manufacturer is not a trading stamp.

FRAUD.

Fraud. **323.** (1) Every one who, by deceit, falsehood or other fraudulent means, whether or not it is a false pretence within the meaning of this Act, defrauds the public or any person, whether ascertained or not, of any property, money or valuable security, is guilty of an indictable offence and is liable to imprisonment for ten years.

322. Section 335.

323. Section 444.

Affecting public market.

(2) Every one who, by deceit, falsehood or other fraudulent means, whether or not it is a false pretence within the meaning of this Act, with intent to defraud, affects the public market price of stocks, shares, merchandise or anything that is offered for sale to the public, is guilty of an indictable offence and is liable to imprisonment for ten years.

Using mails to defraud.

324. Every one who makes use of the mails for the purpose of transmitting or delivering letters or circulars concerning schemes devised or intended to deceive or defraud the public, or for the purpose of obtaining money under false pretences, is guilty of an indictable offence and is liable to imprisonment for two years.

Fraudulent manipulation of stock exchange transactions.

325. Every one who, through the facility of a stock exchange, curb market or other market, with intent to create a false or misleading appearance of active public trading in a security or with intent to create a false or misleading appearance with respect to the market price of a security,

(a) effects a transaction in the security that involves no change in the beneficial ownership thereof,

(b) enters an order for the purchase of the security, knowing that an order of substantially the same size at substantially the same time and at substantially the same price for the sale of the security has been or will be entered by or for the same or different persons, or

(c) enters an order for the sale of the security, knowing that an order of substantially the same size at substantially the same time and at substantially the same price for the purchase of the security has been or will be entered by or for the same or different persons,

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

Gaming in stocks or merchandise.

326. (1) Every one is guilty of an indictable offence and is liable to imprisonment for five years who, with intent to make gain or profit by the rise or fall in price of the stock of an incorporated or unincorporated company or undertaking, whether in or out of Canada, or of any goods, wares, or merchandise,

324. Section 209 *(c)*.

325. Section 444A.

326. Sections 231 and 987.

Making contract without intention to acquire or sell.

(a) makes or signs, or authorizes to be made or signed, any contract or agreement, oral or written, purporting to be for the purchase or sale of shares of stock or goods, wares or merchandise, without the *bona fide* intention of acquiring the shares, goods, wares or merchandise or of selling them, as the case may be; or

Contract without delivery or intention to receive.

(b) makes or signs, or authorizes to be made or signed, any contract or agreement, oral or written, purporting to be for the sale or purchase of shares of stock or goods, wares or merchandise in respect of which no delivery of the thing sold or purchased is made or received, and without the *bona fide* intention of making or receiving delivery thereof, as the case may be,

Saving.

but this section does not apply where a broker, on behalf of a purchaser, receives delivery, notwithstanding that the broker retains or pledges what is delivered as security for the advance of the purchase money or any part thereof.

Onus.

(2) Where, in proceedings under this section, it is established that the accused made or signed a contract or agreement for the sale or purchase of shares of stock or goods, wares or merchandise, or acted, aided or abetted in the making or signing thereof, the burden of proof of a *bona fide* intention to acquire or to sell the shares, goods, wares or merchandise or to deliver or to receive delivery thereof, as the case may be, lies upon the accused.

Broker reducing stock by selling for his own account.

327. Every one is guilty of an indictable offence and is liable to imprisonment for five years who, being an individual, or a member or employee of a partnership, or a director, officer or employee of a corporation, where he or the partnership, or corporation is employed as a broker by any customer to buy and carry upon margin any shares of an incorporated or unincorporated company or undertaking, whether in or out of Canada, thereafter sells or causes to be sold shares of the company or undertaking for any account in which

(a) he or his firm or a partner thereof, or

(b) the corporation or a director thereof,

has a direct or indirect interest, if the effect of the sale is, otherwise than unintentionally, to reduce the amount of such shares in the hands of the broker or under his control in the ordinary course of business below the amount of such shares that the broker should be carrying for all customers.

327. Section 231A.

Fraudulent concealment.

328. (1) Every one who, being a vendor or mortgagor of property or of a chose in action or being a solicitor for or agent of a vendor or mortgagor of property or a chose in action, is served with a written demand for an abstract of title by or on behalf of the purchaser or mortgagee before the completion of the purchase or mortgage, and who

Of document of title.

(a) with intent to defraud and for the purpose of inducing the purchaser or mortgagee to accept the title offered or produced to him, conceals from him any settlement, deed, will or other instrument material to the title, or any encumbrance on the title, or

Falsifying pedigree.

(b) falsifies any pedigree upon which the title depends,

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

Consent Required.

(2) No proceedings shall be instituted under this section without the consent of the Attorney General.

Fraudulent registration of title.

329. Every one who, as principal or agent, in a proceeding to register title to real property, or in a transaction relating to real property that is or is proposed to be registered, knowingly and with intent to deceive,

(a) makes a material false statement or representation,

(b) suppresses or conceals from a judge or registrar or any person employed by or assisting the registrar, any material document, fact, matter or information, or

(c) is privy to anything mentioned in paragraph *(a)* or *(b)*,

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

Fraudulent sale of real property.

330. Every one who, knowing of an unregistered prior sale or of an existing unregistered grant, mortgage, hypothec, privilege or encumbrance of or upon real property, fraudulently sells the property or any part thereof is guilty of an indictable offence and is liable to imprisonment for two years.

Receipt intended to mislead.

331. Every one who wilfully

(a) with intent to mislead, injure or defraud any person, whether or not that person is known to him, gives to a person anything in writing that purports to be a receipt for or an acknowledgment of property that has been delivered to or received by him, before the property referred to in the purported receipt or acknowledgment has been delivered to or received by him, or

328. Section 419.

329. Section 420.

330. Section 421.

331. Section 425.

Using receipt.

(b) accepts, transmits or uses a purported receipt or acknowledgment to which paragraph *(a)* applies,

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

Fraudulent disposal of goods on which money advanced.

332. (1) Every one who

(a) having shipped or delivered to the keeper of a warehouse or to a factor, agent or carrier, anything upon which the consignee thereof has advanced money or has given valuable security, thereafter, with intent to deceive, defraud or injure the consignee, disposes of it in a manner that is different from and inconsistent with any agreement that has been made in that behalf between him and the consignee, or

Aiding such disposal.

(b) knowingly and wilfully aids or assists any person to make a disposition of anything to which paragraph *(a)* applies for the purpose of deceiving, defrauding or injuring the consignee,

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

Saving.

(2) No person is guilty of an offence under this section where, before disposing of anything in a manner that is different from and inconsistent with any agreement that has been made in that behalf between him and the consignee, he pays or tenders to the consignee the full amount of money or valuable security that the consignee has advanced.

Fraudulent receipts under *Bank Act.*

333. Every one is guilty of an indictable offence and is liable to imprisonment for two years who

(a) wilfully makes a false statement in a receipt, certicate or acknowledgment for anything that may be used for a purpose mentioned in the *Bank Act;* or

(b) wilfully,

(i) after giving to another person,

(ii) after a person employed by him has, to his knowledge, given to another person, or

(iii) after obtaining and endorsing or assigning to another person,

a receipt, certificate or acknowledgment for anything that may be used for a purpose mentioned in the *Bank Act*, without the consent in writing of the holder or endorsee or the production and delivery of the receipt, certificate or acknowledgment, alienates or parts with, or does not deliver to the holder or owner the property mentioned in the receipt, certificate or acknowledgment.

332. Section 426.

333. Section 427.

Saving.

334. Where an offence is committed under section 331, 332 or 333 by a person who acts in the name of a corporation, firm or partnership, no person other than the person who does the act by means of which the offence is committed or who is secretly privy to the doing of that act is guilty of the offence.

Disposal of property to defraud creditors.

335. Every one who,

(a) with intent to defraud his creditors,

(i) makes or causes to be made a gift, conveyance, assignment, sale, transfer or delivery of his property, or

(ii) removes, conceals or disposes of any of his property; or

Receiving.

(b) with intent that any one should defraud his creditors, receives any property by means of or in relation to which an offence has been committed under paragraph *(a)*,

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

Fraud in relation to fares, etc.

336. (1) Every one whose duty it is to collect a fare, toll, ticket or admission who wilfully

(a) fails to collect it,

(b) collects less than the proper amount payable in respect thereof, or

(c) accepts any valuable consideration for failing to collect it or for collecting less than the proper amount payable in respect thereof,

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

Idem.

(2) Every one who gives or offers to a person whose duty it is to collect a fare, toll, ticket or admission fee, any valuable consideration

(a) for failing to collect it, or

(b) for collecting an amount less than the amount payable in respect thereof,

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

Fraudulently obtain transportation.

(3) Every one who, by any false pretence or fraud, unlawfully obtains transportation by land, water or air is guilty of an offence punishable on summary conviction.

Fraud by holder of mining lease.

337. (1) Every one is guilty of an indictable offence and is liable to imprisonment for five years who

(a) being the holder of a lease or licence issued

(i) under an Act relating to the mining of precious metals, or

334. Section 428.

335. Section 417 *(a)* and *(b)*.

336. Section 412 (1) and (2).

337. Section 424 (1) and (6).

(ii) by the owner of land that is supposed to contain precious metals,

by a fraudulent device or contrivance defrauds or attempts to defraud any person of any precious metals or money payable or reserved by the lease or licence, or fraudulently conceals or makes a false statement with respect to the amount of precious metals procured by him;

Unlawful sale of substance containing precious metals.

(b) sells or purchases any rock, mineral, or other substance that contains precious metals or unsmelted, untreated, unmanufactured, or partly smelted, partly treated or partly manufactured precious metals, unless he establishes that he is the owner or agent of the owner or is acting under lawful authority; or

Unlawful possession.

(c) has in his possession or knowingly has upon his premises

(i) any rock or mineral of a value of twenty-five cents per pound or more,

(ii) any mica of a value of seven cents per pound or more, or

(iii) any precious metals,

that there is reasonable ground to believe have been stolen or have been dealt with contrary to this section, unless he establishes that he is lawfully in possession thereof.

Seizure and forfeiture.

(2) Where a person is convicted of an offence under this section, the court may order anything by means of or in relation to which the offence was committed, upon such conviction, to be forfeited to Her Majesty in right of the province in which the proceedings take place.

Search for precious metals.

338. (1) Where an information in writing is laid under oath before a justice by any person having an interest in a mining claim, that any precious metals or rock, mineral or other substance containing precious metals is unlawfully deposited in any place or held by any person contrary to law, the justice may issue a warrant to search any of the places or persons mentioned in the information.

Power to seize.

(2) Where, upon search, anything mentioned in subsection (1) is found, it shall be seized and carried before the justice who shall order

(a) that it be detained for the purposes of an inquiry or trial, or

(b) if it is not detained for the purposes of an inquiry or trial,

338. Section 637.

(i) that it be restored to the owner, or

(ii) that it be forfeited to Her Majesty in right of the province in which the proceedings take place if the owner cannot be ascertained.

Appeal

(3) An appeal lies from an order made under paragraph *(b)* of subsection (2) in the manner in which an appeal lies in summary conviction proceedings under Part XXIV and the provisions of that Part relating to appeals apply to appeals under this subsection.

Salting mine.

339. (1) Every one who

(a) adds anything to or removes anything from an existing or prospective mine, mining claim or oil well with a fraudulent intent to affect the result of an assay, test or valuation that has been made or is to be made with respect to the mine, mining claim or oil well, or

Salting sample.

(b) adds anything to, removes anything from or tampers with a sample or material that has been taken or is being or is about to be taken from an existing or prospective mine, mining claim or oil well for the purpose of being assayed, tested or otherwise valued, with a fraudulent intent to affect the result of the assay, test or valuation,

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

Presumption.

(2) For the purposes of proceedings under subsection (1), evidence that

(a) something has been added to or removed from anything to which subsection (1) applies, or

(b) anything to which subsection (1) applies has been tampered with,

is *prima facie* evidence of a fraudulent intent to affect the result of an assay, test or valuation.

Falsification of Books and Documents.

By destruction etc.

340. (1) Every one who, with intent to defraud,

(a) destroys, mutilates, alters, falsifies, or makes a false entry in, or

(b) omits a material particular from, or alters a material particular in,

339. Section 424A.

340. Sections 413, 415, 418, 484 and 485.

a book, paper, writing, valuable security or document is guilty of an indictable offence and is liable to imprisonment for five years.

To defraud creditors.

(2) Every one who, with intent to defraud his creditors, is privy to the commission of an offence under subsection (1) is guilty of an indictable offence and is liable to imprisonment for five years.

False employment record. Time clock.

341. Every one who, with intent to deceive,

(a) falsifies an employment record, or

(b) punches a time clock,

is guilty of an offence punishable on summary conviction.

False return by public officer.

342. Every one who, being entrusted with the receipt, custody or management of any part of the public revenues, knowingly furnishes a false statement or return of

(a) any sum of money collected by him or entrusted to his care, or

(b) any balance of money in his hands or under his control,

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

False prospectus, etc.

343. (1) Every one who makes, circulates or publishes a prospectus, statement or account, whether written or oral, that he knows is false in a material particular, with intent

(a) to induce persons, whether ascertained or not, to become shareholders or partners in a company,

(b) to deceive or defraud the members, shareholders or creditors, whether ascertained or not, of a company,

(c) to induce any person to entrust or advance anything to a company, or

(d) to enter into any security for the benefit of a company,

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

"Company."

(2) In this section, "company" means a syndicate, body corporate or company, whether existing or proposed to be created.

Obtaining carriage by false billing.

344. (1) Every one who, by means of a false or misleading representation, knowingly obtains or attempts to obtain the carriage of anything by any person into a

341. Section 415A (*b*) and (*c*).

342. Section 416.

343. Section 414.

344. Section 412 (3).

country, province, district or other place, whether or not within Canada, where the importation or transportation of it is, in the circumstances of the case, unlawful is guilty of an offence punishable on summary conviction.

Forfeiture.

(2) Where a person is convicted of an offence under subsection (1), anything by means of or in relation to which the offence was committed, upon such conviction, in addition to any punishment that is imposed, is forfeited to Her Majesty and shall be disposed of as the court may direct.

Trader failing to keep accounts.

345. (1) Every one who, being a trader or in business,

(a) is indebted in an amount exceeding one thousand dollars,

(b) is unable to pay his creditors in full, and

(c) has not kept books of account that, in the ordinary course of the trade or business in which he is engaged, are necessary to exhibit or explain his transactions,

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

Saving.

(2) No person shall be convicted of an offence under this section

(a) where, to the satisfaction of the court or judge, he

(i) accounts for his losses, and

(ii) shows that his failure to keep books was not intended to defraud his creditors; or

(b) where his failure to keep books occurred at a time more than five years prior to the day on which he was unable to pay his creditors in full.

Personation.

Personation with intent.

346. Every one who fraudulently personates any person, living or dead,

(a) with intent to gain advantage for himself or another person,

(b) with intent to obtain any property or an interest in any property, or

(c) with intent to cause disadvantage to the person whom he personates or another person,

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

345. Section 417 *(c)*.

346. Sections 408 and 410.

Personation at examination.

347. Every one who falsely, with intent to gain advantage for himself or some other person, personates a candidate at a competitive or qualifying examination held under the authority of law or in connection with a university, college or school or who knowingly avails himself of the results of such personation is guilty of an offence punishable on summary conviction.

Acknowledging instrument in false name.

348. Every one who, without lawful authority or excuse, the proof of which lies upon him, acknowledges in the name of another person before a court or a judge or other person authorized to receive the acknowledgment, a recognizance of bail, a confession of judgment, a consent to judgment or a judgment, deed or other instrument, is guilty of an indictable offence and is liable to imprisonment for five years.

Forgery of Trade Marks and Trade Descriptions.

349. For the purposes of this Part, every one forges a trade mark who

Simulating trade mark.

(a) without the consent of the proprietor of the trade mark, makes or reproduces in any manner that trade mark or a mark so nearly resembling it as to be calculated to deceive, or

Falsifying trade mark.

(b) falsifies, in any manner, a genuine trade mark.

Forging trade mark.

350. Every one commits an offence who, with intent to deceive or defraud the public or any person, whether ascertained or not, forges a trade mark.

Passing off.

351. Every one commits an offence who, with intent to deceive or defraud the public or any person, whether ascertained or not,

(a) passes off other wares or services as and for those ordered or required, or

(b) makes use, in association with wares or services, of any description that is false in a material respect as to

(i) the kind, quality, quantity or composition,

(ii) the geographical origin, or

(iii) the mode of the manufacture, production or performance

of such wares or services.

347. Section 409.

348. Section 411.

349. Section 486.

350. Section 488 (1).

351. New.

Instruments for forging trade mark.

352. (1) Every one commits an offence who makes, has in his possession or disposes of a die, block, machine or other instrument, designed or intended to be used in forging a trade mark.

Saving.

(2) No person shall be convicted of an offence under this section where he proves that he acted in good faith in the ordinary course of his business or employment.

353. Every one commits an offence who, with intent to deceive or defraud,

Defacing trade mark.

(a) defaces, conceals or removes a trade mark or the name of another person from anything without the consent of that other person, or

Using bottles bearing trade mark of another.

(b) being a manufacturer, dealer, trader or bottler fills any bottle or siphon that bears the trade mark or name of another person, without the consent of that other person, with a beverage, milk, by-product of milk or other liquid commodity for the purpose of sale or traffic.

Used goods sold without disclosure.

354. Every one commits an offence who sells, exposes or has in his possession for sale, or advertises for sale, goods that have been used, reconditioned or remade and that bear the trade mark or the trade name of another person, without making full disclosure that the goods have been reconditioned, rebuilt or remade for sale and that they are not then in the condition in which they were originally made or produced.

Punishment.

355. (1) Every one who commits an offence under section 350, 351, 352, 353 or 354 is guilty of

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

(b) an offence punishable on summary conviction.

Forfeiture.

(2) Anything by means of or in relation to which a person commits an offence under section 350, 351, 352, 353 or 354 is, unless the court otherwise orders, forfeited upon the conviction of that person for that offence.

Falsely claiming Royal Warrant.

356. Every one who falsely represents that goods are made by a person holding a royal warrant, or for the service of Her Majesty, a member of the Royal Family or a public department is guilty of an offence punishable on summary conviction.

352. Section 494.

353. Section 490.

354. Section 490A.

355. Sections 491, 635 and 1039.

356. Section 492.

Presumption from port of shipment.

357. Where, in proceedings under this Part, the alleged offence relates to imported goods, evidence that the goods were shipped to Canada from a place outside of Canada is *prima facie* evidence that the goods were made or produced in the country from which they were shipped.

Wreck.

358. Every one who

Secreting wreck.

(a) secretes wreck, or defaces or obliterates the marks on wreck, or uses any means to disguise or conceal the fact that anything is wreck, or in any manner conceals the character of wreck, from a person who is entitled to inquire into the wreck,

Receiving wreck.

(b) receives wreck, knowing that it is wreck, from a person other than the owner thereof or a receiver of wreck, and does not within forty-eight hours thereafter inform the receiver of wreck thereof,

Offering wreck for sale.

(c) offers wreck for sale or otherwise deals with it, knowing that it is wreck, and not having a lawful authority to sell or deal with it,

Keeping wreck.

(d) keeps wreck in his possession knowing that it is wreck, without lawful authority to keep it, for any time longer than the time reasonably necessary to deliver it to the receiver of wreck, or

Boarding wrecked vessel.

(e) boards, against the will of the master, a vessel that is wrecked, stranded or in distress unless he is a receiver of wreck or a person acting under orders of a receiver of wreck,

is guilty of

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

(g) an offence punishable on summary conviction.

Public Stores.

Distinguishing mark on public stores.

359. The Governor-in-Council may, by notice to be published in the *Canada Gazette*, prescribe distinguishing marks that are appropriated for use on public stores to denote the property of Her Majesty therein, whether the stores belong to Her Majesty in right of Canada or to Her Majesty in any other right.

357. Section 992.

358. Section 430.

359. Section 432.

Applying or removing marks without authority.

360. (1) Every one who,

(a) without lawful authority, the proof of which lies upon him, applies a distinguishing mark to anything, or

(b) with intent to conceal the property of Her Majesty in public stores, removes, destroys or obliterates, in whole or in part, a distinguishing mark,

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

Unlawful transactions in public stores.

(2) Every one who, without lawful authority, the proof of which lies upon him, receives, possesses, keeps, sells or delivers public stores that he knows bear a distinguishing mark is guilty of

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

(b) an offence punishable on summary conviction.

"Distinguishing mark."

(3) For the purposes of this section, "distinguishing mark" means a distinguishing mark that is appropriated for use on public stores pursuant to section 359.

Selling defective stores to Her Majesty.

361. (1) Every one who knowingly sells or delivers defective stores to Her Majesty or commits fraud in connection with the sale, lease or delivery of stores to Her Majesty or the manufacture of stores for Her Majesty is guilty of an indictable offence and is liable to imprisonment for fourteen years.

Offences by officers and employees of corporations.

(2) Every one who, being a director, officer, agent or employee of a corporation that commits, by fraud, an offence under subsection (1),

(a) knowingly takes part in the fraud, or

(b) knows or has reason to suspect that the fraud is being committed or has been or is about to be committed and does not inform the responsible government, or a department thereof, of Her Majesty,

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

Unlawful use of military uniforms or certificates.

362. Every one who without lawful authority, the proof of which lies upon him,

(a) wears a uniform of the Canadian Forces or any other naval, army or air force or a uniform that is so similar to the uniform of any of those forces that it is likely to be mistaken therefor,

(b) wears a distinctive mark relating to wounds received or service performed in war, or a military medal, ribbon, badge, chevron or any decoration or order that is

360. Section 433.

361. Section 434.

362. Section 435.

awarded for war services, or any imitation thereof, or any mark or device or thing that is likely to be mistaken for any such mark, medal, ribbon, badge, chevron, decoration or order,

(c) has in his possession a certificate of discharge, certificate of release, statement of service or identity card from the Canadian Forces or any other naval, army or air force that has not been issued to and does not belong to him, or

(d) has in his possession a commission or warrant or a certificate of discharge, certificate of release, statement of service or identity card issued to an officer or person in or who has been in the Canadian Forces or any other naval, army or air force, that contains any alteration that is not verified by the initials of the officer who issued it, or by the initials of some officer thereto lawfully authorized,

is guilty of an offence punishable on summary conviction.

Military stores.

363. (1) Every one who buys, receives or detains from a member of the Canadian Forces or a deserter or absentee without leave from those forces any military stores that are owned by Her Majesty or for which the member, deserter or absentee without leave is accountable to Her Majesty is guilty of

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

(b) an offence punishable on summary conviction.

Exception.

(2) No person shall be convicted of an offence under this section where he establishes that he did not know and had no reason to suspect that the military stores in respect of which the offence was committed were owned by Her Majesty or were military stores for which the member, deserter or absentee without leave was accountable to Her Majesty.

Evidence of enlistment.

364. (1) In proceedings under sections 360 to 363, evidence that a person was at any time performing duties in the Canadian Forces is *prima facie* evidence that his enrolment in the Canadian Forces prior to that time was regular.

Presumption when accused a dealer in stores.

(2) An accused who is charged with an offence under subsection (2) of section 360 shall be presumed to have known that the stores in respect of which the offence is alleged to have been committed bore a distinguishing mark within the

363. Section 436.

364. Section 991.

meaning of that subsection at the time the offence is alleged to have been committed if he was, at that time, in the service or employment of Her Majesty or was a dealer in marine stores or in old metals.

Breach of Contract, Intimidation and Discrimination against Trade Unionists.

Criminal breach of contract.

365. (1) Every one who wilfully breaks a contract, knowing or having reasonable cause to believe that the probable consequences of doing so, whether alone or in combination with others, will be

Where life endangered.
(a) to endanger human life,

Causing bodily injury.
(b) to cause serious bodily injury,

Endangering property.
(c) to expose valuable property, real or personal, to destruction or serious injury,

Depriving of services.
(d) to deprive the inhabitants of a city or place, or part thereof, wholly or to a great extent, of their supply of light, power, gas or water, or

Preventing running of trains.
(e) to delay or prevent the running of a locomotive engine, tender, freight or passenger train or car, on a railway that is a common carrier,

is guilty of

(f) an indictable offence and is liable to imprisonment for five years, or

(g) an offence punishable on summary conviction.

Saving.
(2) No person wilfully breaks a contract within the meaning of subsection (1) by reason only that

(a) being the employee of an employer, he stops work as a result of the failure of his employer and himself to agree upon any matter relating to his employment or,

(b) being a member of an organization of employees formed for the purpose of regulating relations between employers and employees, he stops work as a result of the failure of the employer and a bargaining agent acting on behalf of the organization to agree upon any matter relating to the employment of members of the organization,

if, before the stoppage of work occurs, all steps provided by law have been taken through negotiation, collective bargaining, conciliation and arbitration.

Intimidation.
366. (1) Every one who, wrongfully and without lawful authority, for the purpose of compelling another person to abstain from doing anything that he has a lawful right to do, or to do anything that he has a lawful right to abstain from doing,

By violence.
(a) uses violence or threats of violence to that person or to his wife or children, or injures his property,

365. Section 499.

366. Sections 501 and 502.

By threats.

(b) intimidates or attempts to intimidate that person or a relative of that person by threats that, in Canada or elsewhere, violence or other injury will be done to or punishment inflicted upon him or a relative of his, or that the property of any of them will be damaged,

By following.

(c) persistently follows that person about from place to place,

By hiding property.

(d) hides any tools, clothes or other property owned or used by that person, or deprives him of them or hinders him in the use of them,

By disorderly conduct.

(e) with one or more other persons follows that person, in a disorderly manner, on a highway,

By watching or besetting.

(f) besets or watches the dwelling house or place where that person resides, works, carries on business or happens to be, or

By obstructing highway.

(g) blocks or obstructs a highway,

is guilty of an offence punishable on summary conviction.

Exception.

(2) A person who attends at or near or approaches a dwelling house or place, for the purpose only of obtaining or communicating information, does not watch or beset within the meaning of this section.

367. Every one who, being an employer or the agent of an employer, wrongfully and without lawful authority

Employer refusing to employ member of trade union.

(a) refuses to employ or dismisses from his employment any person for the reason only that the person is a member of a lawful trade union or of a lawful association or combination of workmen or employees formed for the purpose of advancing, in a lawful manner, their interests and organized for their protection in the regulation of wages and conditions of work,

Employer intimidating workman.

(b) seeks by intimidation, threat of loss of position or employment, or by causing actual loss of position or employment, or by threatening or imposing any pecuniary penalty, to compel workmen or employees to abstain from belonging to a trade union, association or combination to which they have a lawful right to belong, or

Employers conspiring.

(c) conspires, combines, agrees or arranges with any other employer or his agent to do anything mentioned in paragraph *(a)* or *(b)*,

is guilty of an offence punishable on summary conviction.

367. Section 502A.

Secret Commissions.

Bribery of agent.

368. (1) Every one commits an offence who

(a) corruptly

(i) gives, offers or agrees to give or offer to an agent, or

Agent accepting bribe.

(ii) being an agent, demands, accepts or offers or agrees to accept from any person,

a reward, advantage or benefit of any kind as consideration for doing or forbearing to do, or for having done or forborne to do, any act relating to the affairs or business of his principal or for showing or forbearing to show favour or disfavour to any person with relation to the affairs or business of his principal; or

(b) with intent to deceive a principal gives to an agent of that principal, or, being an agent, uses with intent to deceive his principal, a receipt, account, or other writing

False account to deceive principal.

(i) in which the principal has an interest,

(ii) that contains any statement that is false or erroneous or defective in any material particular, and

(iii) that is intended to mislead the principal.

Privity to offence.

(2) Every one commits an offence who is knowingly privy to the commission of an offence under subsection (1).

Punishment.

(3) A person who commits an offence under this section is guilty of an indictable offence and is liable to imprisonment for two years.

(4) In this section,

"Agent."

(a) "agent" includes an employee, and

"Principal."

(b) "principal" includes an employer.

Trading Stamps.

Issuing trading stamps.

369. (1) Every one who, by himself or his employee or agent, directly or indirectly issues, gives, sells or otherwise disposes of, or offers to issue, give, sell or otherwise dispose of trading stamps to a merchant or dealer in goods for use in his business is guilty of an offence punishable on summary conviction.

Giving to purchaser of goods.

(2) Every one who, being a merchant or dealer in goods, by himself or his employee or agent, directly or indirectly gives or in any way disposes of, or offers to give or in any way dispose of, trading stamps to a person who purchases goods from him is guilty of an offence punishable on summary conviction.

368. Section 504.

369. Section 505.

PART IX.

WILFUL AND FORBIDDEN ACTS IN RESPECT OF CERTAIN PROPERTY.

Interpretation.

"Property."

370. In this Part, "property" means real or personal corporeal property.

"Wilfully."

371. (1) Every one who causes the occurrence of an event by doing an act or by omitting to do an act that it is his duty to do, knowing that the act or omission will probably cause the occurrence of the event and being reckless whether the event occurs or not, shall be deemed, for the purposes of this Part, wilfully to have caused the occurrence of the event.

Colour of right.

(2) No person shall be convicted of an offence under sections 372 to 387 where he proves that he acted with legal justification or excuse and with colour of right.

(3) Where it is an offence to destroy or to damage anything,

Partial interest.

(a) the fact that a person has a partial interest in what is destroyed or damaged does not prevent him from being guilty of the offence if he caused the destruction or damage, and

Total interest.

(b) the fact that a person has a total interest in what is destroyed or damaged does not prevent him from being guilty of the offence if he caused the destruction or damage with intent to defraud.

Mischief.

Destruction or damage.
Rendering property dangerous, etc.
Obstructing use of property.
Obstructing person in use of property.

372. (1) Every one commits mischief who wilfully

(a) destroys or damages property,

(b) renders property dangerous, useless, inoperative or ineffective,

(c) obstructs, interrupts or interferes with the lawful use, enjoyment or operation of property, or

(d) obstructs, interrupts or interferes with any person in the lawful use, enjoyment or operation of property.

Punishment.

(2) Every one who commits mischief that causes actual danger to life is guilty of an indictable offence and is liable to imprisonment for life.

Idem.

(3) Every one who commits mischief in relation to public property is guilty of an indictable offence and is liable to imprisonment for fourteen years.

Idem.

(4) Every one who commits mischief in relation to private property is guilty of an indictable offence and is liable to imprisonment for five years.

370. New.

371. Sections 509 and 541.

372. Sections 96, 97, 238*(h)*, 510, 516B, 517 to 522, 525, and 533 to 535.

Offence.

(5) Every one who wilfully does an act or wilfully omits to do an act that it is his duty to do is, if that act or omission is likely to constitute mischief causing actual danger to life, or to constitute mischief in relation to public property or private property, guilty of an indictable offence and is liable to imprisonment for five years.

Saving.

(6) No person commits mischief within the meaning of this section by reason only that

(a) he stops work as a result of the failure of his employer and himself to agree upon any matter relating to his employment, or

(b) he stops work as a result of the failure of his employer and a bargaining agent acting on his behalf to agree upon any matter relating to his employment.

(7) No person commits mischief within the meaning of this section by reason only that, having stopped work in the circumstances set out in subsection (6), he attends at or near or approaches a dwelling house or place for the purpose only of obtaining or communicating information.

Damage not more than fifty dollars.

373. (1) Every one who wilfully destroys or damages property is, where actual danger to life is not involved, guilty of an offence punishable on summary conviction if the alleged amount of destruction or damage does not exceed fifty dollars.

Compensation.

(2) Where an accused is convicted of an offence under subsection (1) the summary conviction court may, in addition to any punishment that is imposed, order the accused to pay to a person aggrieved an amount not exceeding fifty dollars that appears to the summary conviction court to be reasonable compensation for the destruction or damage.

Imprisonment in default.

(3) The summary conviction court may order that where an amount that is adjudged to be paid as compensation under subsection (2) is not paid forthwith or within the period that the summary conviction court appoints at the time of the conviction, the accused shall be imprisoned for a term not exceeding two months.

Idem.

(4) The summary conviction court may order that terms of imprisonment that are imposed under this section shall take effect one after the other.

ARSON AND OTHER FIRES.

Arson.

374. (1) Every one who wilfully sets fire to

(a) a building or structure, whether completed or not,

(b) a stack of vegetable produce or of mineral or vegetable fuel,

(c) a mine,

(d) a well of combustible substance,

(e) a vessel or aircraft, whether completed or not,

373. Section 539.

(4) Section 740 (1) in part.

374. Sections 511 and 513.

(f) timber or materials placed in a shipyard for building, repairing or fitting out a ship,

(g) military or public stores or munitions of war,

(h) a crop, whether standing or cut down, or

(i) any wood, forest, or natural growth, or any lumber, timber, log, float, boom, dam or slide,

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

Fraudulently burning personal property.

(2) Every one who wilfully and for a fraudulent purpose sets fire to personal property not mentioned in subsection (1) is guilty of an indictable offence and is liable to imprisonment for five years.

Setting fire to other substance.

375. Every one who

(a) wilfully sets fire to anything that is likely to cause anything mentioned in subsection (1) of section 374 to catch fire; or

(b) wilfully and for a fraudulent purpose sets fire to anything that is likely to cause personal property not mentioned in subsection (1) of section 374 to catch fire,

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

Presumption against holder of insurance.

376. Where a person is charged with an offence under section 374 or 375, evidence that he is the holder of or is named as the beneficiary under a policy of fire insurance relating to the property in respect of which the offence is alleged to have been committed is, where intent to defraud is material, *prima facie* evidence of intent to defraud.

Setting a fire by negligence.

377. (1) Every one who causes a fire

(a) wilfully, or

(b) by violating a law in force in the place where the fire occurs,

is, if the fir e results in loss of life or destruction of or damage to property, guilty of an indictable offence and is liable to imprisonment for five years.

Presumption against person in control of premises.

(2) For the purposes of this section, the person who owns, occupies or controls property in which a fire that results in loss of life or destruction of or damage to property originates or occurs shall be deemed wilfully to have caused the fire if he has failed to comply with any law that is intended to prevent fires or that requires the property to be equipped with apparatus for the purpose of extinguishing fires or for the purpose of enabling persons to escape in the event of fire, and if it is established that the fire, or the loss of life, or the whole or any substantial portion of the destruction of or damage to the property would not have occurred if he had complied with the law.

375. Sections 512 and 514.

376. Section 541.

377. Section 515 (1) and (2).

Other Interference with Property.

False alarm of fire.

378. Every one who wilfully, without reasonable cause, by outcry, ringing bells, using a fire alarm, telephone or telegraph, or in any other manner, makes or circulates or causes to be made or circulated an alarm of fire is guilty of an offence punishable on summary conviction.

Interfering with saving of wrecked vessel.

379. (1) Every one who wilfully prevents or impedes, or who wilfully endeavours to prevent or impede,

(a) the saving of a vessel that is wrecked, stranded, abandoned or in distress, or

(b) a person who attempts to save a vessel that is wrecked, stranded, abandoned or in distress,

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

Interfering with saving of wreck.

(2) Every one who wilfully prevents or impedes or wilfully endeavours to prevent or impede the saving of wreck is guilty of an offence punishable on summary conviction.

Interfering with marine signal, etc.

380. (1) Every one who makes fast a vessel or boat to a signal, buoy or other sea mark that is used for purposes of navigation is guilty of an offence punishable on summary conviction.

(2) Every one who wilfully alters, removes or conceals a signal, buoy or other sea mark that is used for purposes of navigation is guilty of an indictable offence and is liable to imprisonment for ten years.

Removing natural bar without permission.

381. Every one who wilfully and without the written permission of the Minister of Transport, the burden of proof of which lies on the accused, removes any stone, wood, earth or other material that forms a natural bar necessary to the existence of a public harbour, or that forms a natural protection to such a bar, is guilty of an indictable offence and is liable to imprisonment for two years.

Occupant injuring building.

382. Every one who, wilfully and to the prejudice of a mortgagee or owner, pulls down, demolishes or removes, all or any part of a dwelling house or other building of which he is in possession or occupation, or severs from the freehold any fixture fixed therein or thereto is guilty of an indictable offence and is liable to imprisonment for five years.

Interfering with boundary lines.

383. Every one who wilfully pulls down, defaces, alters or removes anything planted or set up as the boundary line or part of the boundary line of land is guilty of an offence punishable on summary conviction.

Interfering with international boundary marks, etc.

384. (1) Every one who wilfully pulls down, defaces, alters or removes

(a) a boundary mark lawfully placed to mark an international, provincial, county or municipal boundary, or

378. Section 516A.

379. Section 524.

380. Section 526.

381. Section 527.

382. Section 529.

383. Section 530.

384. Sections 531 and 532.

(b) a boundary mark lawfully placed by a land surveyor to mark a limit, boundary or angle of a concession, range, lot or parcel of land,

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

Saving.

(2) A land surveyor does not commit an offence under subsection (1) where, in his operations as a land surveyor, he takes up, when necessary, a boundary mark mentioned in paragraph *(b)* of subsection (1) and carefully replaces it as it was before he took it up.

Cattle and Other Animals.

Killing or injuring cattle.

Placing poison.

385. Every one who wilfully

(a) kills, maims, wounds, poisons or injures cattle, or

(b) places poison in such a position that it may easily be consumed by cattle,

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

Killing or injuring other animals.

Placing poison.

386. Every one who wilfully and without lawful excuse

(a) kills, maims, wounds, poisons or injures dogs, birds or animals that are not cattle and are kept for a lawful purpose, or

(b) places poison in such a position that it may easily be consumed by dogs, birds or animals that are not cattle and are kept for a lawful purpose,

is guilty of an offence punishable on summary conviction.

Cruelty to Animals.

387. (1) Every one commits an offence who

Causing unnecessary suffering.

(a) wilfully causes or, being the owner, wilfully permits to be caused unnecessary pain, suffering or injury to an animal or bird,

Causing injury by negligence.

(b) by wilful neglect causes damage or injury to animals or birds while they are being driven or conveyed,

Abandoning.

(c) being the owner or the person having the custody or control of a domestic animal or bird or an animal or bird wild by nature that is in captivity, abandons it in distress or wilfully neglects or fails to provide suitable and adequate food, water, shelter and care for it,

Baiting.

(d) in any manner encourages, aids or assists at the fighting or baiting of animals or birds,

Poisoning.

(e) wilfully, without reasonable excuse, administers a poisonous or injurious drug or substance to a domestic animal or bird or an animal or bird wild by nature that

385. Section 536.

386. Sections 393 and 537 (1) *(a)* and *(b)*.

387. Section 542.

is kept in captivity or being the owner of such an animal or bird, wilfully permits a poisonous or injurious drug or substance to be administered to it, or

Field trials.

(f) promotes, arranges, conducts, assists in, receives money for, or takes part in a meeting, competition, exhibition, pastime, practice, display, or event at or in the course of which captive birds are liberated by hand, trap, contrivance or any other means for the purpose of being shot when they are liberated, or

(g) being the owner, occupier, or person in charge of any premises, permits the premises or any part thereof to be used for a purpose mentioned in paragraph *(f)*.

Punishment.

(2) Every one who commits an offence under subsection (1) is guilty of an offence punishable on summary conviction.

Keeping cock-pit.

388. (1) Every one who builds, makes, maintains or keeps a cock-pit on premises that he owns or occupies, or allows a cock-pit to be built, made, maintained or kept on such premises is guilty of an offence punishable on summary conviction.

Confiscation.

(2) A peace officer who finds cocks in a cock-pit or on premises where a cock-pit is located shall seize them and take them before a justice who shall order them to be destroyed.

Transportation of cattle by rail or water.

389. (1) Except as provided in this section, no railway company or owner or master of a vessel shall confine cattle in a railway car or vessel in which they are conveyed in Canada or between Canada and the United States for more than thirty-six hours without unloading the cattle for rest, water and feeding for a period of at least five consecutive hours.

Saving.

(2) No offence is committed under subsection (1) where compliance with that subsection is prevented by storm or by necessary delay or detention or by other unavoidable cause.

Transportation of calves.

(3) No railway company or owner or master of a vessel shall convey in a railway car or vessel calves that are under the age of three weeks except calves at foot of milch cows or pure-bred calves.

Time how reckoned.

(4) For the purposes of subsection (1) the period of confinement of cattle includes the time during which the cattle have been confined without rest, food or water on a connecting railway or vessel from which the cattle are received, whether in the United States or in Canada.

Saving.

(5) This section does not apply in respect of cattle that are carried in a car or vessel in which they have proper space and opportunity for rest and in which they are provided with proper food and water.

388. Section 543.

389. Section 544.

Lien for food.

(6) The owner of cattle to which this section applies or the person who has custody of them shall properly feed and water them during the periods of rest required by this section, but if he does not do so, the railway company or the owner or master of the vessel that carries them shall properly feed and water them at the expense of the owner or of the person who has custody of them, and the railway company or owner or master of the vessel, as the case may be, has a lien in respect thereof upon the cattle and is not liable for any detention of the cattle.

Sanitary precautions.

(7) When cattle are unloaded from cars for rest, food and water as required by this section, the railway company that has, at that time, charge of the cars in which the cattle have been carried, shall, except during a period of frost, clean the floors of the cars and litter them with clean sawdust or sand before they are again loaded with livestock.

Overcrowding.

(8) No railway company shall permit a railway car or other vehicle that carries cattle or other domestic animals or birds on the railway to be overcrowded so that unnecessary suffering is caused to the cattle or other domestic animals or birds therein.

Conveying bulls.

(9) No railway company shall permit a bull of mature age to be carried on its railway in the same railway car with other cattle unless the bull is securely tied by the head.

Punishment.

(10) Every one who knowingly and wilfully violates or wilfully fails to comply with this section is guilty of an offence punishable on summary conviction.

Search.

390. (1) A peace officer who believes on reasonable and probable grounds that a person has failed to comply with section 389 in respect of a vehicle or vessel may at any time enter the vehicle or go on board the vessel.

Obstruction.

(2) Every one who refuses to admit a peace officer acting under subsection (1) to a vehicle or vessel or to any premises where the vehicle or vessel is located is guilty of an offence punishable on summary conviction.

390. Section 545.

PART X.

OFFENCES RELATING TO CURRENCY.

Interpretation.

391. In this Part,

"Copper coin." *(a)* "copper coin" means a coin other than a gold or silver coin;

"Counterfeit money." *(b)* "counterfeit money" includes

(i) a false coin or false paper money that resembles or is apparently intended to resemble or pass for a current coin or current paper money,

(ii) a forged bank note or forged blank bank note, whether complete or incomplete,

(iii) a genuine coin or genuine paper money that is prepared or altered to resemble or pass for a current coin or current paper money of a higher denomination,

(iv) a current coin from which the milling is removed by filing or cutting the edges and on which new milling is made to restore its appearance,

(v) a coin cased with gold or silver, as the case may be, that is intended to resemble or pass for a current gold or silver coin, and

(vi) a coin or a piece of metal or mixed metals washed or coloured by any means with a wash or material capable of producing the appearance of gold or silver and that is intended to resemble or pass for a current gold or silver coin;

"Counterfeit token of value." *(c)* "counterfeit token of value" means a counterfeit excise stamp, postage stamp or other evidence of value, by whatever technical, trivial or deceptive designation it may be described, and includes genuine coin or paper money that has no value as money;

"Current." *(d)* "current" means lawfully current in Canada or elsewhere by virtue of a law, proclamation or regulation in force in Canada or elsewhere as the case may be; and

"Utter." *(e)* "utter" includes sell, pay, tender and put off.

Making.

Making. **392.** Every one who makes or begins to make counterfeit money is guilty of an indictable offence and is liable to imprisonment for fourteen years.

This Part is derived from Part IX of the present *Criminal Code*. It has been completely revised. It replaces sections 2 (8), 546 to 569, 632, 955, 957 and 981.

Possession.

393. Every one who, without lawful justification or excuse, the proof of which lies upon him,

Buying. *(a)* buys, receives or offers to buy or receive,

Having. *(b)* has in his custody or possession, or

Importing. *(c)* introduces into Canada,

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

Having clippings, etc.

394. Every one who, without lawful justification or excuse, the proof of which lies upon him, has in his custody or possession

(a) gold or silver filings or clippings,

(b) gold or silver bullion, or

(c) gold or silver in dust, solution or otherwise,

produced or obtained by impairing, diminishing or lightening a current gold or silver coin, knowing that it has been so produced or obtained, is guilty of an indictable offence and is liable to imprisonment for five years.

Uttering.

395. Every one who, without lawful justification or excuse, the proof of which lies upon him,

Uttering counterfeit money. *(a)* utters or offers to utter counterfeit money or uses counterfeit money as if it were genuine, or

Exporting. *(b)* exports, sends or takes counterfeit money out of Canada,

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

396. Every one who, with intent to defraud, knowingly utters

Uttering coin not current. *(a)* a coin that is not current, or

Uttering false coin. *(b)* a piece of metal or mixed metals that resembles in size, figure and colour a current gold or silver coin and is of less value than the current coin for which it is uttered,

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

Fraudulent use of slugs, etc.

397. Everyone who fraudulently inserts or uses in a machine that vends merchandise or services or collects fares or tolls, anything that is intended to pass for the coin or the token of value that the machine is designed to receive in exchange for the merchandise, service, fare or toll, as the case may be, is guilty of an offence punishable on summary conviction.

Defacing or Impairing.

Clipping coin.

398. Every one who

(a) impairs, diminishes or lightens a current gold or silver coin with intent that it should pass for a current gold or silver coin, or

Uttering clipped coin.

(b) utters a coin, knowing that it has been impaired, diminished or lightened contrary to paragraph *(a)*,

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

Defacing current coin.

Uttering defaced coin.

399. Every one who

(a) defaces a current gold, silver or copper coin, or

(b) utters a current gold, silver or copper coin that has been defaced,

is guilty of an offence punishable on summary conviction.

Printing circulars, etc., in likeness of notes.

400. Every one who designs, engraves, prints or in any manner makes, executes, issues, distributes, circulates or uses a business or professional card, notice, placard, circular, handbill or advertisement in the likeness or appearance of

(a) a current bank note or current paper money, or

(b) any obligation or security of a government or a bank,

is guilty of an offence punishable on summary conviction.

Instruments or Materials.

Making, having or dealing in instruments for counterfeiting.

401. Every one who, without lawful justification or excuse, the proof of which lies upon him,

(a) makes or repairs,

(b) begins or proceeds to make or repair,

(c) buys or sells, or

(d) has in his custody or possession,

a machine, engine, tool, instrument, material or thing that he knows has been used or that he knows is adapted and intended for use in making counterfeit money or counterfeit tokens of value is guilty of an indictable offence and is liable to imprisonment for fourteen years.

Conveying instruments for coining out of mint.

402. Every one who, without lawful justification or excuse, the proof of which lies upon him, knowingly conveys out of any of Her Majesty's mints in Canada,

(a) a machine, engine, tool, instrument, material or thing used or employed in connection with the manufacture of coins,

(b) a useful part of anything mentioned in paragraph *(a)*, or

(c) coin, bullion, metal or a mixture of metals,

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

Advertising and Trafficking in Counterfeit Money or Counterfeit Tokens of Value.

Advertising offer to deal in counterfeit money, etc.

403. (1) Every one who

(a) by an advertisement or any other writing offers to sell, procure or dispose of counterfeit money or counterfeit tokens of value or to give information with respect to the manner in which or the means by which counterfeit money or counterfeit tokens of value may be sold, procured or disposed of, or

Dealing in counterfeit tokens of value.

(b) purchases, obtains, negotiates or otherwise deals with counterfeit tokens of value, or offers to negotiate with a view to purchasing or obtaining them,

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

Fraudulent use of money genuine but valueless.

(2) No person shall be convicted of an offence under subsection (1) in respect of genuine coin or genuine paper money that has no value as money unless, at the time when the offence is alleged to have been committed, he knew that the coin or paper money had no value as money and he had a fraudulent intent in his dealings with or with respect to the coin or paper money.

Special Provisions as to Proof.

Counterfeit when complete.

404. Every offence relating to counterfeit money or counterfeit tokens of value shall be deemed to be complete notwithstanding that the money or tokens of value in respect of which the proceedings are taken are not finished or perfected or do not copy exactly the money or tokens of value that they are apparently intended to resemble or for which they are apparently intended to pass.

Forfeiture.

Ownership.

405. (1) Counterfeit money, counterfeit tokens of value and anything that is used or is intended to be used to make counterfeit money or counterfeit tokens of value belong to Her Majesty.

Seizure.

(2) A peace officer may seize and detain

(a) counterfeit money,

(b) counterfeit tokens of value, and

(c) machines, engines, tools, instruments, materials or things that have been used or that have been adapted and are intended for use in making counterfeit money or counterfeit tokens of value,

and anything seized shall be sent to the Minister of Finance to be disposed of or dealt with as he may direct, but anything that is required as evidence in any proceedings shall not be sent to the Minister until it is no longer required in those proceedings.

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PART XI.

ATTEMPTS—CONSPIRACIES—ACCESSORIES.

Attempts, accessories.

406. Except where otherwise expressly provided by law, the following provisions apply in respect of persons who attempt to commit or are accessories after the fact to the commission of offences, namely,

Where offence punishable with death or life imprisonment.

(a) every one who attempts to commit or is an accessory after the fact to the commission of an indictable offence for which, upon conviction, an accused is liable to be sentenced to death or to imprisonment for life, is guilty of an indictable offence and is liable to imprisonment for fourteen years;

Where offence punishable with fourteen years or less.

(b) every one who attempts to commit or is an accessory after the fact to the commission of an indictable offence for which, upon conviction, an accused is liable to imprisonment for fourteen years or less, is guilty of an indictable offence and is liable to imprisonment for a term that is one-half of the longest term to which a person who is guilty of that offence is liable; and

Where offence punishable on summary conviction.

(c) every one who attempts to commit or is an accessory after the fact to the commission of an offence punishable on summary conviction is guilty of an offence punishable on summary conviction.

Counselling, etc., offence which is not committed.

407. Except where otherwise expressly provided by law, the following provisions apply in respect of persons who counsel, procure or incite other persons to commit offences namely,

(a) every one who counsels, procures or incites another person to commit an indictable offence is, if the offence is not committed, guilty of an indictable offence and is liable to the same punishment to which a person who attempts to commit that offence is liable; and

(b) every one who counsels, procures or incites another person to commit an offence punishable on summary conviction is, if the offence is not committed, guilty of an offence punishable on summary conviction.

408. (1) Except where otherwise expressly provided by law, the following provisions apply in respect of conspiracy, namely,

Conspiracy to murder.

(a) every one who conspires with any one to commit murder or to cause another person to be murdered, whether in Canada or not, is guilty of an indictable offence and is liable to imprisonment for fourteen years;

Conspiracy to bring false accusation.

(b) every one who conspires with any one to prosecute a person for an alleged offence, knowing that he did not commit that offence, is guilty of an indictable offence and is liable

406. Sections 570, 571, 572 (in part), 574 and 575.

407. Sections 69 and 572 (in part).

408. *(a)* Section 266 *(a)*.

(b) Section 178.

(i) to imprisonment for ten years, if the alleged offence is one for which, upon conviction, that person would be liable to be sentenced to death or to imprisonment for life or for fourteen years, or

(ii) to imprisonment for five years, if the alleged offence is one for which, upon conviction, that person would be liable to imprisonment for less than fourteen years;

Conspiracy to defile.

(c) every one who conspires with any one to induce, by false pretences, false representations or other fraudulent means, a woman to commit adultery or fornication, is guilty of an indictable offence and is liable to imprisonment for two years; and

Conspiracy to commit other offences.

(d) every one who conspires with any one to commit an indictable offence not provided for in paragraph *(a)*, *(b)* or *(c)* is guilty of an indictable offence and is liable to the same punishment as that to which an accused who is guilty of that offence would, upon conviction, be liable.

Common law conspiracy.

(2) Every one who conspires with any one

(a) to effect an unlawful purpose, or

(b) to effect a lawful purpose by unlawful means,

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

Conspiracy in restraint of trade.

409. (1) A conspiracy in restraint of trade is an agreement between two or more persons to do or to procure to be done any unlawful act in restraint of trade.

Trade union, exception.

(2) The purposes of a trade union are not, by reason only that they are in restraint of trade, unlawful within the meaning of subsection (1).

Saving.

410. (1) Except where otherwise expressly provided by law, no person shall be convicted of conspiracy in restraint of trade by reason only that he

(a) refuses to work with a workman or for an employer, or

(b) does any act or causes any act to be done for the purposes of a trade combination.

"Trade combination."

(2) In this section, "trade combination" means any combination between masters or workmen or other persons for the purpose of regulating or altering the relations between masters or workmen, or the conduct of a master or workman in or in respect of his business, employment or contract of employment or service.

Conspiracy.

411. (1) Every one who conspires, combines, agrees or arranges with another person

To limit commercial facilities.

(a) to limit unduly the facilities for transporting, producing, manufacturing, supplying, storing or dealing in any article,

(c) Section 218.

(d) Section 573.

(2) New.

409. Sections 496 and 497.

410. (1) Section 590.

(2) Section 2 (41).

411. Section 498.

To restrain commerce.
(b) to restrain or injure trade or commerce in relation to any article,

To lessen production.
(c) to prevent, limit or lessen, unduly, the manufacture or production of an article, or to enhance unreasonably the price thereof, or

To lessen competition.
(d) to prevent or lessen, unduly, competition in the production, manufacture, purchase, barter, sale, transportation or supply of an article, or in the price of insurance upon persons or property,

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

"Article."
(2) For the purposes of this section, "article" means an article or commodity that may be a subject of trade or commerce.

Saving.
(3) This section does not apply to combinations of workmen or employees for their own reasonable protection as workmen or employees.

412. (1) Every one engaged in trade, commerce or industry who

Discrimination in trade.
(a) is a party or privy to, or assists in, any sale that discriminates to his knowledge, directly or indirectly, against competitors of the purchaser, in that any discount, rebate, allowance, price concession or other advantage, is granted to the purchaser over and above any discount, rebate, allowance, price concession or other advantage, available at the time of such sale to such competitors in respect of a sale of goods of like quality and quantity;

Lower prices in particular area.
(b) engages in a policy of selling goods in any area of Canada at prices lower than those exacted by such seller elsewhere in Canada, having or designed to have the effect of substantially lessening competition or eliminating a competitor in such part of Canada; or

Lessening prices.
(c) engages in a policy of selling goods at prices unreasonably low, having or designed to have the effect of substantially lessening competition or eliminating a competitor,

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

Defence.
(2) It is not an offence under paragraph *(a)* of subsection (1) to be a party or privy to, or assist in any sale mentioned therein unless the discount, rebate, allowance, price concession or other advantage was granted as part of a practice of discriminating as described in that paragraph.

Co-operative society not affected.
(3) The provisions of paragraph *(a)* of subsection (1) shall not prevent a co-operative society returning to producers or consumers, or a co-operative wholesale society returning to its constituent retail members, the whole or any part of the net surplus made in its trading operations in proportion to purchases made from or sales to the society.

412. Section 498A.

PART XII.

JURISDICTION.

General.

Superior court of criminal jurisdiction.

413. (1) Every superior court of criminal jurisdiction has jurisdiction to try any indictable offence.

Court of criminal jurisdiction.

(2) Every court of criminal jurisdiction has jurisdiction to try an indictable offence other than

(a) an officer under any of the following sections, namely,

Treason.
(i) section 47,

Alarming or harming Her Majesty.
(ii) section 49,

Intimidating Parliament or legislature.
(iii) section 51,

Inciting to mutiny.
(iv) section 53,

Sedition.
(v) section 62,

Piracy.
(vi) section 75,

Piratical acts.
(vii) section 76,

Bribery of officers.
(viii) section 101,

Rape.
(ix) section 136,

Causing death by criminal negligence.
(x) section 192,

Murder.
(xi) section 206,

Manslaughter.
(xii) section 207,

Threat to murder.
(xiii) paragraph *(a)* of subsection (1) of section 316, or

Combination restraining trade.
(xiv) section 411,

Accessories.
(b) the offence of being an accessory after the fact to treason or murder,

Corrupting justice.
(c) an offence under section 100 by the holder of a judicial office,

Attempts.
(d) the offence of attempting to commit any offence mentioned in paragraph *(a)*, or

Conspiracy.
(e) the offence of conspiring to commit any offence mentioned in paragraph *(a)*.

Jurisdiction over person.

414. Subject to this Act, every superior court of criminal jurisdiction and every court of criminal jurisdiction that has power to try an indictable offence is competent to try an accused for that offence

(a) if the accused is found, is arrested or is in custody within the territorial jurisdiction of the court; or

(b) if the accused has been committed for trial to, or has been ordered to be tried by

(i) that court, or

(ii) any other court, the jurisdiction of which has by lawful authority been transferred to that court.

Trial by jury compulsory.

415. Except where otherwise expressly provided by law, every accused who is charged with an indictable offence shall be tried by a court composed of a judge and jury.

413. (1) Section 580 (1).

(2) Sections 582 and 583.

414. Section 577.

415. New.

Option for trial without jury in trade conspiracy cases.

416. (1) Where an indictment is found against an accused, other than a corporation, for an offence under section 411, the accused may elect to be tried without a jury and where he so elects he shall be tried by the judge presiding at the court at which the indictment is found, or the judge presiding at any subsequent sittings of that court, or at any court where the indictment comes on for trial.

Part XVI applies.

(2) Where an accused makes an election under subsection (1), the proceedings subsequent to the election shall be in accordance with Part XVI in so far as that Part is capable of being applied.

Trial without jury in Alberta.

417. Notwithstanding anything in this Act, an accused who is charged with an indictable offence in the Province of Alberta may, with his consent, be tried by a judge of the superior court of criminal jurisdiction of Alberta without a jury.

Adjournment when no jury summoned.

418. Where the competent authority has determined that a panel of jurors is not to be summoned for a term or sittings of the court for the trial of criminal cases in any territorial division, the clerk of the court may, on the day of the opening of the term or sittings, if a judge is not present to preside over the court, adjourn the court and the business of the court to a subsequent day.

Special Jurisdiction.

419. For the purposes of this Act,

On water between jurisdictions.

(a) where an offence is committed in or upon any water or upon a bridge, between two or more territorial divisions, the offence shall be deemed to have been committed in any of the territorial divisions;

Near boundary between jurisdictions.

(b) where an offence is committed on the boundary of two or more territorial divisions or within five hundred yards of any such boundary, or the offence was commenced within one territorial division and completed within another, the offence shall be deemed to have been committed in any of the territorial divisions;

During course of journey in ship or vehicle.

(c) where an offence is committed in or upon a vehicle employed in a journey, or on board a vessel employed on a navigable river, canal or inland water, the offence shall be deemed to have been committed in any territorial division through which the vehicle or vessel passed in the course of the journey or voyage on which the offence was committed, and where the center or other part of the road, or navigable river, canal or inland water on which the vehicle or vessel passed in the course of the journey or voyage is the boundary of two or more territorial divisions, the offence shall be deemed to have been committed in any of the territorial divisions;

416. Section 581.

417. Section 581A.

418. Section 580 (2).

419. Sections 545A and 584.

Aircraft.

(d) where an offence is committed in an aircraft in the course of a flight of that aircraft, it shall be deemed to have been committed

(i) in the territorial division in which the flight commenced,

(ii) in any territorial division over which the aircraft passed in the course of the flight, or

(iii) in the territorial division in which the flight ended; and

Door-to-door mail delivery.

(e) where an offence is committed in respect of a mail in the course of the door-to-door delivery of the mail, the offence shall be deemed to have been committed in any territorial division through which the mail was carried on that delivery.

Offences in territorial waters.

420. (1) Where an offence is committed by a person, whether or not he is a Canadian citizen, on a part of the sea adjacent to the coast of Canada and within three nautical miles of ordinary low water mark, whether or not it was committed on board or by means of a Canadian ship, the offence is within the competence of and shall be tried by the court having jurisdiction in respect of similar offences in the territorial division nearest to the place where the offence was committed, and shall be tried in the same manner as if the offence had been committed within that territorial division.

Consent.

(2) No proceedings for an offence to which subsection (1) applies shall, where the accused is not a Canadian citizen, be instituted without the consent of the Attorney General of Canada.

Offence committed entirely in one province not triable in another.

421. (1) Subject to subsections (2) and (3), nothing in this Act authorizes a court in a province to try an offence committed entirely in another province.

Exception.

(2) Every proprietor, publisher, editor or other person charged with the publication of a defamatory libel in a newspaper or with conspiracy to publish a defamatory libel in a newspaper shall be dealt with, indicted, tried and punished in the province where he resides or in which the newspaper is printed.

Exception.

(3) Where an accused is in custody and signifies in writing before a magistrate his intention to plead guilty to an offence with which he is charged that is alleged to have been committed in Canada outside the province in which he is in custody, he may, if the offence is not an offence mentioned in subsection (2) of section 413, and the Attorney General of the province where the offence is alleged to have been committed consents, be brought before a court or person that would have had jurisdiction to try that offence if it had been committed in the province where the accused is in custody, and where he pleads guilty to that offence, the court or person shall convict the accused and impose the punishment

420. (1) New.

(2) Section 591.

421. (1) and (2). Section 888.

(3) New.

warranted by law, but where he does not plead guilty, he shall be returned to custody and shall be dealt with according to law.

Writing not admissible.

(4) No writing that is executed by an accused pursuant to subsection (3) is admissible in evidence against him in any criminal proceedings.

"Newspaper".

(5) In this section, "newspaper" has the same meaning that it has in section 247.

Offence in unorganized territory.

422. (1) Where an offence is committed in an unorganized tract of country in any province or on a lake, river or other water therein, not included in a territorial division or in a provisional judicial district, proceedings in respect thereof may be commenced and an accused may be charged, tried and punished in respect thereof within any territorial division or provisional judicial district of the province in the same manner as if the offence had been committed within that territorial division or provisional judicial district.

New territorial division.

(2) Where a provisional judicial district or a new territorial division is constituted in an unorganized tract referred to in subsection (1), the jurisdiction conferred by that subsection continues until appropriate provision is made by law for the administration of criminal justice within the provisional judicial district or new territorial division.

Offence not in a province.

423. Where an offence is committed in a part of Canada not in a province, proceedings in respect thereof may be commenced and the accused may be charged, tried and punished within any territorial division in any province in the same manner as if that offence had been committed in that territorial division.

RULES OF COURT.

Power to make rules.

424. (1) Every superior court of criminal jurisdiction and every court of appeal, respectively, may, at any time with the concurrence of a majority of the judges thereof present at a meeting held for the purpose, make rules of court not inconsistent with this Act or any other Act of the Parliament of Canada, and any rules so made shall apply to any prosecution, proceeding, action or appeal, as the case may be, within the jurisdiction of that court, instituted in relation to any matter of a criminal nature or arising from or incidental to any such prosecution, proceeding, action or appeal.

(2) Rules under subsection (1) may be made

Regulating duties of officers.

(a) generally to regulate the duties of the officers of the court and any other matter considered expedient to attain the ends of justice and carry into effect the provisions of the law;

Regulating sittings.

(b) to regulate the sittings of the court or any division thereof, or of any judge of the court sitting in chambers, except in so far as they are regulated by law;

(5) Section 2 (23).

422. Section 585.

423. Sections 586 and 587.

424. Sections 576, 1017 (1), 1020 (5) and 1021 (1), (2), (3), (11) and (13) to (18).

Regulating practice.

(c) to regulate in criminal matters the pleading, practice and procedure in the court including proceedings with respect to *mandamus*, *certiorari*, *habeas corpus*, prohibition, bail and costs, and the proceedings on an application to a summary conviction court to state a case for the opinion of the court with respect to a conviction, order, determination or other proceeding; and

Relating to appeals.

(d) to carry out the provisions of this Act relating to appeals from conviction, acquittal or sentence on indictment, and without restricting the generality of this paragraph,

(i) for furnishing necessary forms and instructions in relation to notices of appeal or applications for leave to appeal to officials or other persons requiring or demanding them,

(ii) for ensuring the accuracy of notes taken at a trial and the verification of any copy or transcript,

(iii) for keeping writings, exhibits or other things connected with the proceedings on the trial,

(iv) for securing the safe custody of property during the period in which the operation of an order with respect to that property is suspended under subsection (1) of section 595, and

(v) for providing that the Attorney General and counsel who acted for the Attorney General at the trial be supplied with certified copies of writings, exhibits and things connected with the proceedings that are required for the purposes of their duties.

Rules to continue.

(3) Where in any province rules of court relating to criminal matters are in force when this Act comes into force, they shall continue in force except in so far as they may be amended or repealed from time to time by the court authorized by this section to make rules.

Publication.

(4) Rules of court that are made under the authority of this section shall be published in the *Canada Gazette*.

Regulations to secure uniformity.

(5) Notwithstanding anything in this section, the Governor in Council may make such provision as he considers proper to secure uniformity in the rules of court in criminal matters, and all uniform rules made under the authority of this subsection shall prevail and have effect as if enacted by this Act.

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PART XIII.

SPECIAL PROCEDURE AND POWERS.

General Powers of Certain Officials.

Officials with powers of two justices.

425. Every judge or magistrate authorized by the law of the province in which he is appointed to do anything that is required to be done by two or more justices may do alone anything that this Act or any other Act of the Parliament of Canada authorizes two or more justices to do.

Preserving order in court.

426. Every judge or magistrate has the same power and authority to preserve order in a court over which he presides as may be exercised by the superior court of criminal jurisdiction of the province during the sittings thereof.

Trial of juveniles to be without publicity.

427. Where an accused is or appears to be under the age of sixteen years, his trial shall take place without publicity, whether he is charged alone or jointly with another person.

Exclusion of public in certain cases.

428. The trial of an accused that is a corporation or who is or appears to be sixteen years of age or more shall be held in open court, but where the court, judge, justice or magistrate, as the case may be, is of opinion that it is in the interest of public morals, the maintenance of order or the proper administration of justice to exclude all or any members of the public from the court room, he may so order.

Information for search warrant.

429. (1) A justice who is satisfied by information upon oath in Form 1, that there is reasonable ground to believe that there is in a building, receptacle or place,

(a) anything upon or in respect of which any offence against this Act has been or is suspected to have been committed,

(b) anything that there is reasonable ground to believe will afford evidence with respect to the commission of an offence against this Act, or

(c) anything that there is reasonable ground to believe is intended to be used for the purpose of committing any offence against the person for which a person may be arrested without warrant,

may at any time issue a warrant under his hand authorizing

425. Section 604.

426. Section 606.

427. Section 644.

428. Sections 645 and 714.

429. Sections 629 and 662.

a person named therein or a peace officer to search the building, receptacle or place for any such thing, and to seize and carry it before the justice who issued the warrant or some other justice for the same territorial division to be dealt with by him according to law.

Endorsement of search warrant.

(2) Where the building, receptacle, or place in which anything mentioned in subsection (1) is believed to be is in some other territorial division, the justice may issue his warrant in like form modified according to the circumstances, and the warrant may be executed in the other territorial division after it has been endorsed, in Form 25, by a justice having jurisdiction in that territorial division.

Form.

(3) A search warrant issued under this section may be in Form 5.

Effect of endorsement.

(4) An endorsement that is made upon a warrant pursuant to subsection (2) is sufficient authority to the peace officers to whom it was originally directed and to all peace officers within the jurisdiction of the justice by whom it is endorsed to execute the warrant and to take the things to which it relates before the justice who issued the warrant or some other justice for the same territorial division.

Execution of search warrant.

430. A warrant issued under section 429 shall be executed by day, unless the justice, by the warrant, authorizes execution of it by night.

Seizure of things not specified.

431. Every person who executes a warrant issued under section 429 may seize, in addition to the things mentioned in the warrant, anything that on reasonable grounds he believes has been obtained by or has been used in the commission of an offence, and carry it before the justice who issued the warrant or some other justice for the same territorial division, to be dealt with in accordance with section 432.

Detention of things seized.

432. (1) Where anything that has been seized under section 431 or under a warrant issued pursuant to section 429 is brought before a justice, he shall, unless the prosecutor otherwise agrees, detain it or order that it be detained, taking reasonable care to ensure that it is preserved until the conclusion of any investigation or until it is required to be produced for the purposes of a preliminary inquiry or trial, but nothing shall be detained under the authority of this section for a period of more than three months after the time of seizure unless, before the expiration of that period, proceedings are instituted in which the subject-matter of detention may be required.

When accused committed for trial.

(2) When an accused has been committed for trial the justice shall forward anything to which subsection (1) applies to the clerk of the court to which the accused has been committed for trial to be detained by him and disposed of as the court directs.

430. Section 630.

431. New.

432. (1) and (2). Section 631.

Disposal of things seized in other cases.

(3) Where a justice is satisfied that anything that has been seized under section 431 or under a warrant issued pursuant to section 429 will not be required for any purpose mentioned in subsection (1) or (2), he may

(a) if possession of it by the person from whom it was seized is unlawful, order it to be forfeited unless he is authorized or required by law to dispose of it in some other way, or

(b) order that it be returned to the person from whom it was seized.

Detention pending appeal, etc.

(4) Nothing shall be disposed of under subsection (3) pending any proceeding in which the right of seizure is questioned, or within thirty days after an order is made under that subsection.

Access to anything seized.

(5) Where anything is detained under subsection (1), a judge of a superior court of criminal jurisdiction or of a court of criminal jurisdiction may, on summary application on behalf of a person who has an interest in what is detained, after three clear days' notice to the Attorney General, order that the person by or on whose behalf the application is made be permitted to examine anything so detained.

Conditions.

(6) An order that is made under subsection (5) shall be made on such terms as appear to the judge to be necessary or desirable to ensure that anything in respect of which the order is made is safeguarded and preserved for any purpose for which it may subsequently be required.

Seizure of explosives.

433. (1) Every person who executes a warrant issued under section 429 may seize any explosive substance that he suspects is intended to be used for an unlawful purpose, and shall, as soon as possible, remove to a place of safety anything that he seizes by virtue of this section and detain it until he is ordered by a judge of a superior court to deliver it to some other person or an order is made pursuant to subsection (2).

Forfeiture.

(2) Where an accused is convicted of an offence in respect of anything seized by virtue of subsection (1), it is forfeited and shall be dealt with as the court that makes the conviction may direct.

Application of proceeds.

(3) Where anything to which this section applies is sold, the proceeds of the sale shall be paid to the Attorney General.

(3) New.

(4) New.

433. Section 633.

PART XIV.

COMPELLING APPEARANCE OF ACCUSED BEFORE A JUSTICE.

Arrest Without Warrant.

By any person.

434. Any one may arrest without warrant a person whom he finds committing an indictable offence.

By peace officer.

435. A peace officer may arrest without warrant

(a) a person who has committed or who, on reasonable and probable grounds, he believes has committed or is about to commit an indictable offence, or

(b) a person whom he finds committing a criminal offence.

By any person on fresh pursuit.

436. Any one may arrest without warrant a person who, on reasonable and probable grounds, he believes

(a) has committed a criminal offence, and

(b) is

(i) escaping from, and

(ii) freshly pursued by,

persons who have lawful authority to arrest that person.

By owner of property.

437. Any one who is

(a) the owner or a person in lawful possession of property, or

(b) a person authorized by the owner or by a person in lawful possession of property,

may arrest without warrant a person whom he finds committing a criminal offence on or in relation to that property.

Delivery to peace officer.

438. (1) Any one who arrests a person without warrant shall forthwith deliver that person to a peace officer, and the peace officer may detain the person until he is dealt with in accordance with this section.

Taking before justice.

(2) A peace officer who receives delivery of and detains a person who has been arrested without warrant or who arrests a person with or without warrant shall, in accordance with the following provisions, take or cause that person to be taken before a justice to be dealt with according to law, namely,

(a) where a justice is available within a period of twenty-four hours after the person has been delivered to or has been arrested by the peace officer, the person shall be taken before a justice before the expiration of that period; and

(b) where a justice is not available within a period of twenty-four hours after the person has been delivered to or has been arrested by the peace officer, the person shall be taken before a justice as soon as possible.

434. Section 646.

435. Sections 647, 648 and 652 (in part).

436. Section 649.

437. Section 650.

438. Section 652 (in part) and new in part.

In what cases justice may receive information.

439. (1) Any one who, upon reasonable and probable grounds, believes that a person has committed an indictable offence may lay an information in writing and under oath before a justice, and the justice shall receive the information where it is alleged that

(a) the person has committed, anywhere, an indictable offence that may be tried in the province in which the justice resides, and that the person

(i) is or is believed to be, or

(ii) resides or is believed to reside,

within the territorial jurisdiction of the justice;

(b) the person, wherever he may be, has committed an indictable offence within the territorial jurisdiction of the justice;

(c) the person has anywhere unlawfully received property that was unlawfully obtained within the territorial jurisdiction of the justice; or

(d) the person has in his possession stolen property within the territorial jurisdiction of the justice.

Form.

(2) An information that is laid under this section may be in Form 2.

Justice to hear informant or witnesses.

440. (1) A justice who receives an information shall

(a) hear and consider, *ex parte*,

(i) the allegations of the informant, and

(ii) the evidence of witnesses, where he considers it desirable or necessary to do so; and

Summons or warrant.

(b) issue, where he considers that a case for so doing is made out, a summons or warrant, as the case may be, to compel the accused to attend before him.

Process compulsory.

(2) No justice shall refuse to issue a summons or warrant by reason only that the alleged offence is one for which a person may be arrested without warrant.

Procedure when witnesses attend.

(3) A justice who hears the evidence of a witness pursuant to subsection (1) shall

(a) take the evidence upon oath, and

(b) cause the evidence to be taken in accordance with section 453 in so far as that section is capable of being applied.

No process in blank.

(4) No justice shall sign a summons or warrant in blank.

Summons.

441. (1) A summons shall

(a) be directed to the accused,

(b) set out briefly the offence in respect of which the accused is charged, and

(c) require the accused to appear at a time and place to be stated therein.

439. Sections 653 and 654.

440. Section 655 (1), (2) and (4).

(4) Sections 658 (3) and 659 (2).

441. (1) to (3). Section 658.

Form.

(2) A summons may be in Form 6.

Service on individual.

(3) A summons shall be served by a peace officer who shall deliver it personally to the person to whom it is directed, or, if that person cannot conveniently be found, shall leave it for him at his last or usual place of abode with some inmate thereof who appears to be at least sixteen years of age.

Service on corporation.

(4) Subject to subsection (5), where an accused is a corporation the summons shall be served by delivering it to the manager, secretary or other executive officer of the corporation, or of a branch thereof.

Service on municipality.

(5) Where an accused is a municipal corporation, the summons may be served by delivering it to the mayor, secretary-treasurer or clerk of the corporation.

Proof of service.

(6) Service of a summons may be proved by the oral evidence, given under oath, of the peace officer who served it or by his affidavit made before a justice.

Contents of warrant to arrest.

442. (1) A warrant shall

(a) name or describe the accused,

(b) set out briefly the offence in respect of which the accused is charged, and

(c) order that the accused be arrested and brought before the justice who issued the warrant or before some other justice having jurisdiction in the same territorial division, to answer to the charge and to be further dealt with according to law.

No return day.

(2) A warrant remains in force until it is executed, and need not be made returnable at any particular time.

Form.

(3) A warrant may be in Form 7.

Formalities of warrant.

443. A warrant that is authorized by this Part shall be signed by a justice and may be directed,

(a) to a peace officer by name,

(b) to a peace officer by name and all other peace officers within the territorial jurisdiction of the justice, or

(c) generally to all peace officers within the territorial jurisdiction of the justice.

Summons not to prevent warrant.

444. (1) A justice may issue a warrant in Form 7 for the arrest of an accused notwithstanding that a summons has already been issued to require the appearance of the accused.

(2) Where

Warrant in default of appearance.

(a) service of a summons is proved and the accused does not appear, or

(4) and (5). Section 782 (1).

442. Sections 659 (1), 660 (2) and (3) and 664.

443. Section 660 (1).

444. (1) Section 660 (4).

(2) Section 660 (5).

(b) it appears that a summons cannot be served because the accused is evading service,

a justice may issue a warrant in Form 8.

Execution of warrant.

445. (1) A warrant may be executed by arresting the accused

Where.

(a) wherever he is found within the territorial jurisdiction of the justice by whom the warrant was issued, or

(b) wherever he is found in Canada, in the case of fresh pursuit.

By whom.

(2) A warrant may be executed by a person who is

(a) the peace officer named in the warrant, or

(b) one of the peace officers to whom it is directed,

whether or not the place in which the warrant is to be executed is within the territory for which the person is a peace officer.

PROCEDURE TO PROCURE ATTENDANCE OF A PRISONER.

446. (1) Where a person who is confined in a prison is required

For preliminary inquiry.

(a) to attend at a preliminary inquiry into a charge against him,

For trial.

(b) to stand his trial upon a charge that may be tried by indictment or on summary conviction, or

As a witness.

(c) to attend to give evidence in a proceeding to which this Act applies,

Judge's order.

a judge of a superior court of criminal jurisdiction or of a county or district court may order in writing that the prisoner be brought before the court, judge, justice, or magistrate before whom his attendance is required, from day to day as may be necessary, if

(d) the applicant for the order sets out the facts of the case in an affidavit and produces the warrant, if any, and

(e) the judge is satisfied that the ends of justice require that an order be made.

Magistrate's order.

(2) A magistrate has the same powers for the purposes of subsection (1) as a judge has under that subsection, where the person whose attendance is required is confined in a prison within the province in which the magistrate has jurisdiction.

Conveyance of prisoner.

(3) An order that is made under subsection (1) or (2) shall be addressed to the person who has custody of the prisoner, and on receipt thereof that person shall

(a) deliver the prisoner to any person who is named in the order to receive him, or

445. Section 661.

446. Sections 662 (4) to (6), 883, 941 and 977.

(b) bring the prisoner before the court, judge, justice or magistrate, as the case may be, upon payment of his reasonable charges in respect thereof.

Detention of prisoner required as witness.

(4) Where the prisoner is required as a witness, the judge or magistrate shall direct, in the order, the manner in which the prisoner shall be kept in custody and returned to the prison from which he is brought.

Detention of prisoner in other cases.

(5) Where the appearance of the prisoner is required for the purposes of paragraph *(a)* or *(b)* of subsection (1), the judge or magistrate shall give appropriate directions in the order with respect to the manner in which the prisoner is

(a) to be kept in custody, if he is committed for trial; or

(b) to be returned, if he is discharged upon a preliminary inquiry or if he is acquitted of the charge against him.

Application of sections respecting sentence.

(6) Sections 621 and 634 apply where a prisoner to whom this section applies is convicted and sentenced to imprisonment by the court, judge, justice or magistrate.

Endorsement of Warrant.

Endorsing warrant.

447. (1) Where a warrant for the arrest of an accused cannot be executed in accordance with section 445, a justice within whose jurisdiction the accused is or is believed to be shall, upon application, and upon proof on oath or by affidavit of the signature of the justice who executed the warrant, authorize the execution of the warrant within his jurisdiction by making an endorsement, which may be in Form 25, upon the warrant.

Effect of endorsement.

(2) An endorsement that is made upon a warrant pursuant to subsection (1) is sufficient authority to the peace officers to whom it was originally directed, and to all peace officers within the territorial jurisdiction of the justice by whom it is endorsed, to execute the warrant and to take the accused before the justice who issued the warrant or before some other justice for the same territorial division.

Coroner's Warrant.

Coroner's warrant.

448. (1) Where a person is alleged, by a verdict upon a coroner's inquisition, to have committed murder or manslaughter but he has not been charged with the offence, the coroner shall

(a) direct, by warrant under his hand, that the person be taken into custody and be conveyed, as soon as possible, before a justice, or

Recognizance.

(b) direct the person to enter into a recognizance before him with or without sureties, to appear before a justice.

Transmitting depositions.

(2) Where a coroner makes a direction under subsection (1) he shall transmit to the justice the evidence taken before him in the matter.

447. Section 662 (1) to (3).

448. Section 667.

PART XV.

PROCEDURE ON PRELIMINARY INQUIRY.

JURISDICTION.

Inquiry by justice.

449. Where an accused who is charged with an indictable offence is before a justice, the justice shall, in accordance with this Part, inquire into that charge and any other charge against that person.

Remand by justice to magistrate in certain cases.

450. (1) Where an accused is before a justice other than a magistrate as defined in Part XVI charged with an offence over which a magistrate, under that Part, has absolute jurisdiction, the justice shall remand the accused to appear before a magistrate having absolute jurisdiction over that offence in the territorial division in which the offence is alleged to have been committed.

Election before justice in certain cases.

(2) Subject to subsection (1), where an accused is before a justice charged with an offence other than an offence that is mentioned in subsection (2) of section 413 the justice shall, if

(a) he is a justice other than a magistrate as defined in Part XVI, and

(b) he orders the accused to appear for trial or commits the accused for trial,

inform the accused of the offence in respect of which the order or committal is made and put the accused to his election in the following words:

> You have the option to elect to be tried by a judge without a jury or by a court composed of a judge and jury. How do you elect to be tried?

Procedure when accused elects trial without jury.

(3) Where an accused is put to his election under subsection (2) the justice shall

(a) endorse on the information a statement showing the nature of the election or that the accused did not elect, and

(b) state in the warrant of committal, if any, that the accused

(i) elected to be tried by a judge without a jury,

(ii) elected to be tried by a court composed of a judge and jury, or

(iii) did not elect.

449. Section 668.

450. Section 796 and new.

POWERS OF JUSTICE.

Bail.

451. A justice acting under this Part may

(a) order that an accused, at any time before he has been committed for trial, be admitted to bail

(i) upon the accused entering into a recognizance in Form 28 before him or any other justice, with sufficient sureties in such amount as he or that justice directs,

(ii) upon the accused entering into a recognizance in Form 28 before him or any other justice and depositing an amount that he or that justice directs, or

(iii) upon the accused entering into his own recognizance in Form 28 before him or any other justice in such amount as he or that justice directs without any deposit;

Adjournment.

(b) adjourn the inquiry from time to time and change the place of hearing, where it appears to be desirable to do so by reason of the absence of a witness, the inability of a witness who is ill to attend at the place where the justice usually sits, or for any other sufficient reason, but no such adjournment shall be for more than eight clear days unless the accused

(i) is at large on bail and he and his sureties and the prosecutor consent to the proposed adjournment, or

(ii) is remanded for observation under subparagraph (i) of paragraph *(c)*;

Remand by order.

(c) remand an accused,

(i) by order in writing, to such custody as the justice directs for observation for a period not exceeding thirty days where, in his opinion, supported by the evidence of at least one duly qualified medical practitioner, there is reason to believe that

(A) the accused is mentally ill, or

(B) the balance of the mind of the accused is disturbed, where the accused is a female person charged with an offence arising out of the death of her newly-born child, or

(ii) orally, to the custody of a peace officer or other person, where the remand is for a period not exceeding three clear days;

Remand by warrant.

(d) remand an accused to custody in a prison, by warrant in Form 14;

Idem.

(e) resume an inquiry before the expiration of a period for which it has been adjourned with the consent of the prosecutor and the accused or his counsel;

Resuming inquiry.

(f) order in writing, in Form 26, that the accused be brought before him, or any other justice for the same territorial division, at any time before the expiration of the time for which the accused has been remanded;

451. Sections 679, 680 and 681.

Issue of warrant.

(g) issue a warrant in Form 8 or 9, as the case may be, for the arrest of an accused

(i) who does not appear pursuant to service of a summons upon him, if service is proved, or

(ii) who does not appear at the time and place to which an inquiry has been adjourned;

Permission to sum up.

(h) grant or refuse permission to the prosecutor or his counsel to address him in support of the charge, by way of opening or summing up or by way of reply upon any evidence that is given on behalf of the accused;

Further evidence.

(i) receive evidence on the part of the prosecutor or the accused, as the case may be, after hearing any evidence that has been given on behalf of either of them;

Inquiry may be private.

(j) order that no person other than the prosecutor, the accused and their counsel shall have access to or remain in the room in which the inquiry is held, where it appears to him that the ends of justice will be best served by so doing; and

Regulating course of inquiry.

(k) regulate the course of the inquiry in any way that appears to him to be desirable and that is not inconsistent with this Act.

Corporation.

452. Where an accused is a corporation, subsections (1) and (2) of section 470 apply, *mutatis mutandis*.

Taking Evidence of Witnesses.

453. (1) When the accused is before a justice holding a preliminary inquiry, the justice shall

Evidence for prosecution to be taken on oath.

(a) take the evidence under oath, in the presence of the accused, of the witnesses called on the part of the prosecution and allow the accused or his counsel to cross-examine them; and

Depositions in writing or by stenographer.

(b) cause a record of the evidence of each witness to be taken by a stenographer appointed by him, or in legible writing, in the form of a deposition, in Form 27.

Reading and signing depositions.

(2) Where a deposition is taken down in writing, the justice shall, in the presence of the accused, before asking the accused if he wishes to call witnesses,

(a) cause the deposition to be read to the witness,

(b) cause the deposition to be signed by the witness, and

(c) sign the deposition himself.

Authentication by justice.

(3) Where depositions are taken down in writing the justice may sign

(a) at the end of each deposition, or

(b) at the end of several or of all the depositions in a manner that will indicate that his signature is intended to authenticate each deposition.

452. New.

453. Sections 682, 683 and 684 (1).

Stenographer to be sworn.

(4) Where the stenographer appointed to take down the evidence is not a duly sworn court stenographer he shall make oath that he will truly and faithfully report the evidence.

Authentication of transcript.

(5) Where the evidence is taken down by a stenographer appointed by the justice, it need not be read to or signed by the witnesses, but the evidence shall be transcribed by the stenographer and the transcript shall be signed by the justice and shall be accompanied by

(a) an affidavit of the stenographer that it is a true report of the evidence, or

(b) a certificate that it is a true report of the evidence if the stenographer is a duly sworn court stenographer.

Accused to be addressed.

454. (1) When the evidence of the witnesses called on the part of the prosecution has been taken down and, where required by this Part, has been read, the justice shall address the accused as follows or to the like effect:

Form of address.

> Having heard the evidence, do you wish to say anything in answer to the charge? You are not bound to say anything, but whatever you do say will be taken down in writing and may be given in evidence against you at your trial. You must clearly understand that you have nothing to hope from any promise of favour and nothing to fear from any threat that may have been held out to you to induce you to make any admission or confession of guilt, but whatever you now say may be given in evidence against you at your trial notwithstanding the promise or threat.

Statement of accused.

(2) Where the accused says anything in answer to the address made by the justice pursuant to subsection (1), his answer shall be taken down in writing and shall be signed by the justice and kept with the evidence of the witnesses and dealt with in accordance with this Part.

Witnesses for accused.

(3) When subsections (1) and (2) have been complied with the justice shall ask the accused if he wishes to call any witnesses.

Depositions of such witnesses.

(4) The justice shall hear each witness called by the accused who testifies to any matter relevant to the inquiry, and for the purposes of this subsection, section 453 applies, *mutatis mutandis*.

Confession or admission of accused.

455. Nothing in this Act prevents a prosecutor giving in evidence at a preliminary inquiry any admission, confession or statement made at any time by the accused that by law is admissible against him.

454. Sections 684 and 686 (1).

455. Section 685.

Remand Where Offence Committed in Another Jurisdiction.

Order that accused be taken before justice where offence committed.

456. (1) Where an accused is charged with an offence alleged to have been committed out of the limits of the jurisdiction in which he has been charged, the justice before whom he is brought may, at any stage of the inquiry after hearing both parties, order that the accused be taken before a justice having jurisdiction in the place where the offence is alleged to have been committed, who shall continue and complete the inquiry.

Procedure.

(2) Where a justice makes an order pursuant to subsection (1) he shall deliver to a peace officer

(a) a warrant in Form 10, and

(b) the information, evidence and recognizances, if any.

Duty of peace officer

(3) The peace officer shall produce the accused to a justice having jurisdiction in the place where the offence is alleged to have been committed and shall deliver to that justice all the writings received by the peace officer pursuant to subsection (2).

Receipt.

(4) A peace officer who complies with subsection (3) and who proves, under oath, the handwriting of the justice who subscribed the writings referred to therein is entitled to receive from the justice to whom he delivers the writings a receipt in respect thereof.

Effect of recognizance.

(5) A recognizance that is delivered by a peace officer to a justice having jurisdiction in the place where the offence is alleged to have been committed shall be deemed to have been taken by the justice to whom it is delivered, and continues in force, unless that justice requires a new recognizance, until the accused is committed for trial or discharged, as the case may be.

Deposition.

(6) The evidence that, pursuant to subsection (3), is delivered by a peace officer to a justice shall be deemed to have been taken by that justice.

Procedure Where Witness Refuses to Testify.

Witness refusing to be examined.

457. (1) Where a person, being present at a preliminary inquiry and being required by the justice to give evidence,

(a) refuses to be sworn,

(b) having been sworn, refuses to answer the questions that are put to him,

(c) fails to produce any writings that he is required to produce, or

(d) refuses to sign his deposition,

without offering a reasonable excuse for his failure or refusal, the justice may adjourn the inquiry and may, by warrant in Form 16, commit the person to prison for a period not exceeding eight clear days or for the period during which the inquiry is adjourned, whichever is the lesser period.

456. Sections 665 (2) and (3) and 666.

457. Section 678.

Further commitment.

(2) Where a person to whom subsection (1) applies is brought before the justice upon the resumption of the adjourned inquiry and again refuses to do what is required of him, the justice may again adjourn the inquiry for a period not exceeding eight clear days and commit him to prison for the period of adjournment or any part thereof, and may adjourn the inquiry and commit the person to prison from time to time until the person consents to do what is required of him.

Saving.

(3) Nothing in this section shall be deemed to prevent the justice from sending the case for trial upon any other sufficient evidence taken by him.

REMEDIAL PROVISIONS.

Irregularity or variance not to affect validity.

458. The validity of any proceeding at or subsequent to a preliminary inquiry is not affected by

(a) any irregularity or defect in the substance or form of the summons or warrant,

(b) any variance between the charge set out in the summons or warrant and the charge set out in the information, or

(c) any variance between the charge set out in the summons, warrant or information and the evidence adduced by the prosecution at the inquiry.

Adjournment if accused misled.

459. Where it appears to the justice that the accused has been deceived or misled by any irregularity, defect or variance mentioned in section 458, he may adjourn the inquiry and may remand the accused or admit him to bail in accordance with this Part.

ADJUDICATION AND RECOGNIZANCES.

460. When all the evidence has been taken by the justice he shall,

Committal.

(a) if in his opinion the evidence is sufficient to put the accused on trial,

(i) commit the accused for trial by warrant in Form 17, or

(ii) order the accused, where it is a corporation, to stand trial in the court having criminal jurisdiction; or

Dismissal.

(b) discharge the accused, if in his opinion upon the whole of the evidence no sufficient case is made out to put the accused on trial.

458. Section 669.

459. Section 670.

460. Sections 687 and 690.

Recognizance of witness.

461. (1) Where an accused is committed for trial or is ordered to stand trial the justice who held the preliminary inquiry may require any witness whose evidence is, in his opinion, material, to enter into a recognizance to give evidence on the trial of the accused.

Form.

(2) The recognizance may be in Form 28, and may be set out at the end of a deposition or be separate therefrom.

Sureties or deposit for appearance of witness.

(3) A justice may, for any reason satisfactory to him, require any witness entering into a recognizance pursuant to this section

(a) to produce one or more sureties in such amount as he may direct, or

(b) to deposit with him a sum of money sufficient in his opinion to ensure that the witness will appear and give evidence.

Witness refusing to be bound.

(4) Where a witness does not comply with subsection (1) or (3) when required to do so by a justice, he may be committed by the justice, by warrant in Form 21, to a prison in the territorial division where the trial is to be held, there to be kept until he does what is required of him or until the trial is concluded.

Discharge.

(5) Where a witness has been committed to prison pursuant to subsection (4), the court before which the witness appears or a justice having jurisdiction in the territorial division where the prison is situated may, by order in Form 35, discharge the witness from custody when the trial is concluded.

Transmission of Record.

To clerk of court.

462. Where a justice commits an accused for trial or orders an accused to stand trial, he shall forthwith send to the clerk or other proper officer of the court by which the accused is to be tried the information, the evidence, the exhibits, the statement, if any, of the accused, the recognizances entered into, and any evidence taken before a coroner, that are in the possession of the justice.

Bail.

463. (1) The following provisions with respect to bail apply where an accused has been committed for trial, namely,

By judge or magistrate.

(a) where an accused is charged with an offence other than an offence punishable with death, or an offence under sections 50 to 53, he may apply to a judge of a county or district court, or a magistrate as defined in section 466, who has jurisdiction in the territorial division in which the accused was committed for trial or is confined; and

461. Sections 692 and 694.

462. Section 695 (1).

463. Sections 697, 698, 700 and 702.

By superior court judge.

(b) where an accused is charged with any offence, or where bail has been refused by a judge of a county or district court or by a magistrate, he may apply to a judge of, or a judge presiding in, a superior court of criminal jurisdiction for the province.

Notice of application.

(2) Where an accused makes an application under subsection (1) he shall give notice thereof to the prosecutor.

(3) The judge or magistrate may, upon production of any material that he considers necessary upon the application, order that the accused be admitted to bail

With sureties.

(a) on entering into a recognizance before a justice with sufficient sureties in such amount as the judge or magistrate directs,

Deposit without sureties.

(b) on entering into his own recognizance before a justice and depositing with the justice such sum of money as the judge or magistrate directs, or

Recognizance of accused.

(c) on entering into his own recognizance before a justice in such amount as the judge or magistrate directs without any deposit,

Order for discharge.

and where the order is complied with the justice shall issue an order for discharge in Form 35, and shall attach to it the order of the judge or magistrate.

Form.

(4) The recognizance mentioned in subsection (3) shall be in Form 28.

Procedure.

(5) A justice who issues an order for discharge under this section shall send it to the keeper of the prison in which the accused is confined and the keeper shall thereupon discharge the accused if he is not in custody for any other reason.

Bail in certain cases.

464. Notwithstanding anything in this Act, no court, judge, justice or magistrate, other than a judge of or a judge presiding in a superior court of criminal jurisdiction for the province in which an accused is charged with an offence punishable with death or an offence under sections 50 to 53 may admit that accused to bail before or after committal for trial.

Judge of superior court may vary.

465. (1) A judge of, or a judge presiding in a superior court of criminal jurisdiction may, upon application,

(a) before an accused is committed for trial,

(i) admit the accused to bail if a justice has no power to grant bail or if bail has been refused by a justice, or

(ii) vary the amount of bail fixed by a justice, or

(b) where an accused is committed for trial, vary an order for bail fixed under subsection (3) of section 463 by a judge of a county or district court or a magistrate.

No application by way of *habeas corpus*.

(2) No application shall be made by way of *habeas corpus* for the purpose of fixing, reviewing or varying bail.

464. Section 699.

465. Section 701.

PART XVI.

INDICTABLE OFFENCES—TRIAL WITHOUT JURY.

Interpretation.

"Judge."

466. In this Part,

(a) "judge" means,

(i) in the province of Ontario, a judge or a junior judge of a county or district court,

(ii) in the province of Quebec, a judge of the sessions of the peace or a district magistrate,

(iii) in the provinces of Nova Scotia, New Brunswick and Prince Edward Island, a judge of a county court,

(iv) in the province of Manitoba, the Chief Justice, or a puisne judge of the Court of Queen's Bench, or a judge of a county court,

(v) in the province of British Columbia, the Chief Justice or a puisne judge of the Supreme Court, or a judge of a county court,

(vi) in the provinces of Saskatchewan and Alberta, a judge of the superior court of criminal jurisdiction of the province, or of a district court, and

(vii) in the province of Newfoundland, a judge of the Supreme Court or of a district court,

(viii) in the Yukon Territory, a judge of the Territorial Court, and

(ix) in the Northwest Territories, a judge of the Territorial Court; and

"Magistrate."

(b) "magistrate" means

(i) a person appointed under the law of a province, by whatever title he may be designated, who is specially authorized by the terms of his appointment to exercise the jurisdiction conferred upon a magistrate by this Part, but does not include two or more justices of the peace sitting together,

(ii) with respect to the Yukon Territory, a police magistrate appointed under the *Yukon Act*, and

(iii) with respect to the Northwest Territories, a police magistrate appointed under the *Northwest Territories Act*.

JURISDICTION OF MAGISTRATES.

Absolute Jurisdiction.

467. The jurisdiction of a magistrate to try an accused is absolute and does not depend upon the consent of the accused where the accused is charged in an information

This Part is derived from Parts XVI and XVIII of the present *Criminal Code*. It is a consolidation and revision of those Parts.

Theft, etc., not over fifty dollars.

(*a*) with

(i) theft,

(ii) obtaining or attempting to obtain money or property by false pretences, or

(iii) unlawfully having in his possession anything, knowing that it was obtained by the commission in Canada of an offence punishable by indictment,

where the property is not a testamentary instrument and where the alleged value of what is alleged to be stolen, obtained, had in possession or attempted to be obtained, does not exceed fifty dollars;

(*b*) with attempted theft; or

(*c*) with an offence under

Obstructing public or peace officer.

(i) paragraph (*a*) of section 110,

Common gaming or betting house.

(ii) section 176,

Book making, pool-selling, etc.

(iii) section 177,

Lotteries, etc.

(iv) section 179,

Cheating at play.

(v) section 181,

Keeping common bawdy-house.

(vi) section 182,

Assaults.

(vii) section 231,

Assaulting public or peace officer.

(viii) paragraph (*a*) of subsection (2) of section 232, or

Fraud in relation to fares.

(ix) section 336.

MAGISTRATE'S JURISDICTION WITH CONSENT.

Trial by magistrate with consent.

468. (1) Where an accused is charged in an information with an indictable offence other than an offence that is mentioned in subsection (2) of section 413, and the offence is not one over which a magistrate has absolute jurisdiction under section 467, a magistrate may try the accused if the accused elects to be tried by a magistrate.

Election.

(2) An accused to whom this section applies shall, after the information has been read to him, be put to his election in the following words:

> You have the option to elect to be tried by a magistrate without a jury; or you may elect to be tried by a judge without a jury; or you may elect to be tried by a court composed of a judge and jury. How do you elect to be tried?

Procedure where accused does not consent.

(3) Where an accused does not elect to be tried by a magistrate, the magistrate shall hold a preliminary inquiry in accordance with Part XV, and if the accused is committed for trial or, in the case of a corporation is ordered to stand trial, the magistrate shall

(a) endorse on the information a statement showing the nature of the election or that the accused did not elect, and

(b) state in the warrant of committal, if any, that the accused

(i) elected to be tried by a judge without a jury,

(ii) elected to be tried by a court composed of a judge and jury, or

(iii) did not elect.

Procedure where accused consents.

(4) Where an accused elects to be tried by a magistrate, the magistrate shall

(a) endorse on the information a record of the election, and

(b) call upon the accused to plead to the charge, and if the accused does not plead guilty the magistrate shall proceed with the trial or fix a time for the trial.

Magistrate may decide to hold preliminary inquiry.

469. (1) Where an accused elects to be tried by a magistrate, but it appears to the magistrate that for any reason the charge should be prosecuted by indictment, he may, at any time before the accused has entered upon his defence, decide not to adjudicate and shall thereupon inform the accused of his decision and continue the proceedings as a preliminary inquiry.

Where value more than fifty dollars.

(2) Where an accused is before a magistrate charged with an offence mentioned in paragraph *(a)* of section 467, and, at any time before the magistrate makes an adjudication, the evidence establishes that the value of what was stolen, obtained, had in possession or attempted to be obtained, as the case may be, exceeds fifty dollars, the magistrate shall put the accused to his election in accordance with subsection (2) of section 468.

Continuing proceedings.

(3) Where an accused is put to his election pursuant to subsection (2), the following provisions apply, namely,

(a) if the accused does not elect to be tried by a magistrate, the magistrate shall continue the proceedings as a preliminary inquiry under Part XV, and, if he commits the accused for trial, he shall comply with paragraphs *(a)* and *(b)* of subsection (3) of section 468; and

(b) if the accused elects to be tried by a magistrate, the magistrate shall endorse on the information a record of the election and continue with the trial.

Corporation.

470. (1) An accused that is a corporation shall appear by its counsel or agent.

Non-appearance of.

(2) Where an accused corporation does not appear pursuant to a summons and service of the summons upon the corporation in accordance with subsection (4) of section 441 is proved, the magistrate

(a) may, if the charge is one over which he has absolute jurisdiction, proceed with the trial of the charge in the absence of the accused corporation, and

(b) shall, if the charge is not one over which he has absolute jurisdiction, hold a preliminary inquiry in accordance with Part XV.

Corporation not electing.

(3) Where an accused corporation appears but does not make any election under subsection (2) of section 468, the magistrate shall hold a preliminary inquiry in accordance with Part XV.

Taking evidence.

471. Where an accused is tried by a magistrate in accordance with this Part, the evidence of witnesses for the prosecutor and the accused shall be taken in accordance with the provisions of Part XV relating to preliminary inquiries.

JURISDICTION OF JUDGES.

Trial by judge with consent.

472. An accused who is charged with an indictable offence other than an offence that is mentioned in subsection (2) of section 413 shall, where he elects under section 450, 468 or 475 to be tried by a judge without a jury, be tried, subject to this Part, by a judge without a jury.

Court of record.

473. (1) A judge who holds a trial under this Part shall, for all purposes thereof and proceedings connected therewith or relating thereto, be a court of record.

Custody of records.

(2) The record of a trial that a judge holds under this Part shall be kept in the court over which the judge presides.

ELECTION.

Duty of judge.

474. (1) Where an accused elects, under section 450 or 468, to be tried by a judge without a jury, a judge having jurisdiction shall,

Notice by sheriff.

(a) upon receiving a written notice from the sheriff stating that the accused is in custody and setting out the nature of the charge against him, or

Notice by clerk of court.

(b) upon being notified by the clerk of the court that the accused is not in custody and of the nature of the charge against him,

fix a time and place for the trial of the accused.

Notice by sheriff, when given.

(2) The sheriff shall give the notice mentioned in paragraph *(a)* of subsection (1) within twenty-four hours after the accused is committed for trial, if he is in custody pursuant to that committal or if, at the time of committal, he is in custody for any other reason.

Duty of sheriff when date set for trial.

(3) Where, pursuant to subsection (1), a time and place is fixed for the trial of an accused who is in custody, the accused

(a) shall be notified forthwith by the sheriff of the time and place so fixed, and

(b) shall be produced at the time and place so fixed.

Duty of accused when not in custody.

(4) Where an accused is not in custody the duty of ascertaining from the clerk of the court the time and place fixed for the trial, pursuant to subsection (1), is on the accused, and he shall attend for his trial at the time and place so fixed.

Further election.

(5) Where an accused has elected under section 450 or 468 to be tried by a judge without a jury he may, at any time before a time has been fixed for his trial or thereafter with the consent in writing of the Attorney General or counsel acting on his behalf, re-elect to be tried by a judge and jury by filing with the clerk of the court an election in writing and the consent, if consent is required, and where an election is filed in accordance with this subsection the accused shall be tried before a court of competent jurisdiction with a jury and not otherwise.

Notice of intention to re-elect.

475. (1) Where an accused elects under section 450 or 468 to be tried by a court composed of a judge and jury, the accused may notify the sheriff in the territorial division in which he is to be tried that he desires to re-elect under this section.

Duty of sheriff.

(2) A sheriff who receives notice pursuant to subsection (1) shall forthwith inform a judge having jurisdiction and the judge shall fix a time and place for the accused to re-elect and shall cause notice thereof to be given to the accused.

Election.

(3) The accused shall attend or, if he is in custody, shall be produced at the time and place fixed under subsection (2) and shall, after the charge upon which he has been committed for trial or ordered to stand trial has been read

Procedure.

to him, be put to his election in the following words:

> You have elected to be tried by a court composed of a judge and jury. Do you now elect to be tried by a judge without a jury?

(4) Where an accused elects under this section to be tried by a judge without a jury, the judge shall proceed with the trial or fix a time and place for the trial.

Limit of time for re-election.

(5) Where an accused does not notify the sheriff in accordance with subsection (1) more than fourteen days before the day fixed for the opening of the sittings or session of the court sitting with a jury by which he is to be tried, no election may be made under this section unless the Attorney General or counsel acting on his behalf consents in writing.

Consent by Crown to re-election in certain cases.

476. Where an accused, being charged with an offence that, under this Part, may be tried by a judge without a jury, is committed for trial or, in the case of a corporation, is ordered to stand trial, within fourteen days of the opening of the sittings or session of the court composed of a judge and jury by which the accused is to be tried,

the accused is not entitled to elect, under section 475, to be tried under this Part by a judge without a jury unless the Attorney General or counsel acting on his behalf consents in writing.

Election deemed to have been made in certain cases.

477. Where an accused is committed for trial or ordered to stand trial for an offence that, under this Part, may be tried by a judge without a jury, he shall, for the purposes of the provisions of this Part relating to election and re-election, be deemed to have elected to be tried by a court composed of a judge and jury if

(a) he did not elect when he was put to his election under section 450 or 468, or

(b) he elected under section 468 to be tried by a magistrate and the magistrate, pursuant to section 469, continued the proceedings as a preliminary inquiry.

TRIAL.

Preferring charge.

478. (1) Where an accused elects, under section 450, 468 or 475, to be tried by a judge without a jury, an indictment in Form 4 shall be preferred by the Attorney General or his agent, or by the Deputy Attorney General, or by any person who has the written consent of the Attorney General, and in the province of British Columbia may be preferred by the clerk of the peace.

What offences may be included.

(2) An indictment that is preferred under subsection (1) may contain any number of counts, and there may be joined in the same indictment

(a) counts relating to offences in respect of which the accused elected to be tried by a judge without a jury and for which the accused was committed for trial, whether or not the offences were included in one information, and

(b) counts relating to offences disclosed by the evidence taken on the preliminary inquiry, in addition to or in substitution for any offence for which the accused was committed for trial.

Consent of Attorney General or accused in certain cases.

(3) An indictment that is preferred under subsection (1) may include an offence that is not referred to in paragraph *(a)* or *(b)* of subsection (2) if the accused consents, and that offence may be dealt with, tried and determined and punished in all respects as if the offence were one in respect of which the accused had been committed for trial, but if that offence was committed wholly in a province other than that in which the accused is before the court, subsection (3) of section 421 applies.

GENERAL.

Discretion of judge or magistrate where more than one accused.

479. Where two or more persons are charged with the same offence the following provisions apply, namely,

(a) if one or more of them, but not all, elect under section 450 to be tried by a judge without a jury, a judge may, in his discretion, decline to fix a time for the trial pursuant to section 474 and may require all the persons to be tried by a court composed of a judge and jury;

(b) if one or more of them, but not all, elect under section 468 to be tried by a magistrate or by a judge without a jury, as the case may be, the magistrate may, in his discretion, decline to record the election and if he does so, shall hold a preliminary inquiry; and

(c) if one or more of them, but not all, elect under section 475 to be tried by a judge without a jury the judge may, in his discretion, require all the persons to be tried by a court composed of a judge and jury.

Attorney General may require trial by jury.

480. The Attorney General may, notwithstanding that an accused elects under section 450, 468 or 475 to be tried by a judge or magistrate, as the case may be, require the accused to be tried by a court composed of a judge and jury, unless the alleged offence is one that is punishable with imprisonment for five years or less, and where the Attorney General so requires, a judge has no jurisdiction to try the accused under this Part and a magistrate shall hold a preliminary inquiry.

Continuance of proceedings when judge or magistrate unable to act.

481. (1) Where an accused elects, under section 450, 468 or 475 to be tried by a judge or magistrate, as the case may be, and the judge or magistrate before whom the trial was commenced dies or is for any reason unable to continue, the proceedings may, subject to the provisions of this section, be continued before another judge or magistrate, as the case may be, who has jursidiction to try the accused under this Part.

Where adjudication made.

(2) Where an adjudication was made by a judge or magistrate before whom the trial was commenced, the judge or magistrate, as the case may be, before whom the proceedings are continued shall, without further election by the accused, impose the punishment or make the order that, in the circumstances, is authorized by law.

Where no adjudication by judge.

(3) Where the trial was commenced before a judge but he did not make an adjudication, the judge before whom the proceedings are continued shall, without further election by the accused, commence the trial again as a trial *de novo*.

Where no adjudication by magistrate.

(4) Where the trial was commenced before a magistrate but he did not make an adjudication, the magistrate before whom the proceedings are continued shall put the accused to his election in accordance with section 468, and the proceedings shall, in all respect, be continued in accordance with this Part as if the accused were appearing before a magistrate for the first time upon the charge laid against him.

Record of plea or verdict of guilty.

482. (1) Where an accused who is tried under this Part pleads guilty to or is found guilty of an offence with which he is charged, the judge or magistrate, as the case may be, shall cause a conviction in Form 31 to be drawn up and shall sentence the accused or otherwise deal with him in the manner authorized by law, and upon request shall make out and deliver to the prosecutor or to the accused a certified copy of the conviction.

Discharge and record of acquittal.

(2) Where an accused who is tried under this Part is found not guilty of an offence with which he is charged, the judge or magistrate, as the case may be, shall immediately discharge him in respect of that offence and shall cause an order in Form 33 to be drawn up, and upon request shall make out and deliver to the accused a certified copy of the order.

Transmission of record by magistrate.

(3) Where an accused elects to be tried by a magistrate under this Part, the magistrate shall transmit the written charge, the memorandum of adjudication and the conviction, if any, into such custody as the Attorney General may direct.

Proof of conviction or dismissal.

(4) A copy of a conviction or of an order, certified by the judge or by the proper officer of the court, or by the magistrate, as the case may be, or proved to be a true copy, is, upon proof of the identity of the person, sufficient evidence in any legal proceedings to prove the conviction of that person or the dismissal of a charge against him, as the case may be, for the offence mentioned therein.

Warrant of committal.

(5) Where an accused other than a corporation is convicted, the judge or magistrate, as the case may be, shall issue or cause to be issued a warrant of committal in Form 18, and section 447 applies in respect of a warrant of committal issued under this subsection.

Adjournment.

483. A judge or magistrate acting under this Part may from time to time adjourn a trial until it is finally terminated.

Application of Parts XV, XVII and XX.

484. The provisions of Part XV relating to bail and transmission of the record by the magistrate where he holds a preliminary inquiry and the provisions of Parts XVII and XX, in so far as they are not inconsistent with this Part apply, *mutatis mutandis*, to proceedings under this Part.

PART XVII.

PROCEDURE BY INDICTMENT.

Preferring Indictment.

Finding indictment.

485. For the purposes of this Part, finding an indictment includes

(a) preferring an indictment, and

(b) presentment of an indictment by a grand jury.

Prosecutor may prefer indictment.

486. The prosecutor may prefer, before a court constituted with a grand jury, a bill of indictment against any person who has been committed for trial at that court in respect of

(a) the charge on which that person was committed for trial, or

(b) any charge founded on the facts disclosed by the evidence taken on the preliminary inquiry.

487. (1) A bill of indictment may be preferred

Attorney General may prefer indictment.

(a) by the Attorney General or anyone by his direction, before the grand jury of any court constituted with a grand jury,

Other person with consent.

(b) by anyone who has the written consent of the Attorney General, or the written consent of a judge of a court constituted with a grand jury, before the grand jury of the court specified in the consent, or

Or by order.

(c) by order of a court constituted with a grand jury, before the grand jury of that court.

Consent need not be averred.

(2) No reference is necessary in an indictment to a consent that is given or an order that is made under this section.

Saving.

(3) No objection shall be taken to an indictment for want of a consent or order required by this section unless it is taken by motion to quash the indictment before the accused is given in charge to the jury.

No indictment except as provided.

488. (1) Except as provided in this Part no bill of indictment shall be preferred.

Criminal information abolished.

(2) No criminal information shall be laid or granted.

No trial on coroner's inquisition.

(3) No person shall be tried upon a coroner's inquisition.

Preferring indictment in certain provinces.

489. (1) In the provinces of Quebec, Manitoba, Saskatchewan, Alberta and British Columbia and in the Yukon Territory and Northwest Territories it is not necessary to prefer a bill of indictment before a grand jury, but it

485. Section 5 (1) *(a)*.

486. Section 872.

487. Section 873 (1) to (3).

488. Sections 873 (4), 940 and new in part.

489. Section 873 (5), (6) and (7).

is sufficient if the trial of an accused is commenced by an indictment in writing setting forth the offence with which he is charged.

Who may prefer.

(2) An indictment under subsection (1) may be preferred by the Attorney General or his agent, by the Deputy Attorney General, or by any person with the written consent of a judge of the court or of the Attorney General or, in any province to which this section applies, by order of the court.

Attorney General may direct stay.

490. The Attorney General or counsel instructed by him for the purpose may, at any time after an indictment has been found and before judgment, direct the clerk of the court to make an entry on the record that the proceedings are stayed by his direction, and when the entry is made all proceedings on the indictment shall be stayed accordingly and any recognizance relating to the proceedings is vacated.

Form of indictment.

491. An indictment is sufficient if it is on paper and is in Form 3 or 4, as the case may be.

General Provisions as to Counts.

Substance of offence.

492. (1) Each count in an indictment shall in general apply to a single transaction and shall contain and is sufficient if it contains in substance a statement that the accused committed an indictable offence therein specified.

(2) The statement referred to in subsection (1) may be

In popular language.

(a) in popular language without technical averments or allegations of matters that are not essential to be proved,

In words of enactment.

(b) in the words of the enactment that describes the offence or declares the matters charged to be an indictable offence, or

Or otherwise.

(c) in words that are sufficient to give to the accused notice of the offence with which he is charged.

Details of circumstances

(3) A count shall contain sufficient detail of the circumstances of the alleged offence to give to the accused reasonable information with respect to the act or omission to be proved against him and to identify the transaction referred to, but otherwise the absence or insufficiency of details does not vitiate the count.

Indictment for treason.

(4) Where an accused is charged with an offence under section 47 or sections 49 to 53, every overt act that is to be relied upon shall be stated in the indictment.

490. Section 962.

491. Sections 843, 844 and 845 (1) and (2).

492. Sections 847 (1) in part, 852, 853 and 855 (2).

Reference to section.

(5) A count may refer to any section, subsection, paragraph or subparagraph of the enactment that creates the offence charged, and for the purpose of determining whether a count is sufficient, consideration shall be given to any such reference.

General provisions not restricted.

(6) Nothing in this Part relating to matters that do not render a count insufficient shall be deemed to restrict or limit the application of this section.

Certain omissions not grounds for objection.

493. No count in an indictment is insufficient by reason of the absence of details where, in the opinion of the court, the count otherwise fulfils the requirements of section 492 and, without restricting the generality of the foregoing, no count in an indictment is insufficient by reason only that

(a) it does not name the person injured or intended or attempted to be injured,

(b) it does not name the person who owns or has a special property or interest in property mentioned in the count,

(c) it charges an intent to defraud without naming or describing the person whom it was intended to defraud,

(d) it does not set out any writing that is the subject of the charge,

(e) it does not set out the words used where words that are alleged to have been used are the subject of the charge,

(f) it does not specify the means by which the alleged offence was committed,

(g) it does not name or describe with precision any person, place or thing, or

(h) it does not, where the consent of a person, official or authority is required before proceedings may be instituted for an offence, state that the consent has been obtained.

Special Provisions as to Counts.

Sufficiency of count charging libel.

494. (1) No count for publishing a blasphemous, seditious or defamatory libel, or for selling or exhibiting an obscene book, pamphlet, newspaper or other written matter, is insufficient by reason only that it does not set out the words that are alleged to be libellous or the writing that is alleged to be obscene.

493. Section 855 (1).

494. Section 861.

Specifying sense.

(2) A count for publishing a libel may charge that the published matter was written in a sense that by innuendo made the publication thereof criminal, and may specify that sense without any introductory assertion to show how the matter was written in that sense.

Proof.

(3) It is sufficient, on the trial of a count for publishing a libel, to prove that the matter published was libellous, with or without innuendo.

Sufficiency of count charging perjury, etc.

495. No count that charges

(a) perjury,

(b) the making of a false oath or a false statement,

(c) fabricating evidence, or

(d) procuring the commission of an offence mentioned in paragraph *(a)*, *(b)* or *(c)*,

is insufficient by reason only that it does not state the nature of the authority of the tribunal before which the oath or statement was taken or made, or the subject of the inquiry, or the words used or the evidence fabricated, or that it does not expressly negative the truth of the words used.

Sufficiency of count relating to fraud.

496. No count that alleges false pretences, fraud or an attempt or conspiracy by fraudulent means, is insufficient by reason only that it does not set out in detail the nature of the false pretence, fraud or fraudulent means.

PARTICULARS.

What may be ordered.

497. (1) The court may, where it is satisfied that it is necessary for a fair trial, order the prosecutor to furnish particulars and, without restricting the generality of the foregoing, may order the prosecutor to furnish particulars

(a) of what is relied upon in support of a charge of perjury, the making of a false oath or of a false statement, fabricating evidence or counselling or procuring the commission of any of those offences;

(b) of any false pretence or fraud that is alleged;

(c) of any alleged attempt or conspiracy by fraudulent means;

(d) setting out the passages in a book, pamphlet, newspaper or other printing or writing that are relied upon in support of a charge of selling or exhibiting an obscene book, pamphlet, newspaper, printing or writing;

(e) further describing any writing or words that are the subject of a charge;

(f) further describing the means by which an offence is alleged to have been committed; or

(g) further describing a person, place or thing referred to in an indictment.

495. Section 862.

496. Section 863.

497. Sections 859 and 860.

Regard to evidence.

(2) For the purpose of determining whether or not a particular is required, the court may give consideration to any evidence that has been taken.

(3) Where a particular is delivered pursuant to this section,

Copy to accused.

(a) a copy shall be given without charge to the accused or his counsel,

Recording.

(b) the particular shall be entered in the record, and

Effect of.

(c) the trial shall proceed in all respects as if the indictment had been amended to conform with the particular.

Ownership of Property.

Ownership.

498. The real and personal property of which a person has, by law, the management, control or custody shall, for the purposes of an indictment or proceeding against any other person for an offence committed on or in respect of the property, be deemed to be the property of the person who has the management, control or custody of it.

Joinder or Severance of Counts.

Count for murder to stand alone.

499. No count that charges an offence other than murder shall be joined in an indictment to a count that charges murder.

Offences may be charged in the alternative.

500. (1) A count is not objectionable by reason only that

(a) it charges in the alternative several different matters, acts or omissions that are stated in the alternative in an enactment that describes as an indictable offence the matters, acts or omissions charged in the count, or

(b) it is double or multifarious.

Application to amend or divide counts.

(2) An accused may at any stage of his trial apply to the court to amend or to divide a count that

(a) charges in the alternative different matters, acts or omissions that are stated in the alternative in the enactment that describes the offence or declares that the matters, acts or omissions charged are an indictable offence, or

(b) is double or multifarious,

on the ground that, as framed, it embarrasses him in his defence.

498. Section 865.

499. Section 856 in part.

500. Sections 854 and 891.

Order.

(3) The court may, where it is satisfied that the ends of justice require it, order that a count be amended or divided into two or more counts, and thereupon a formal commencement may be inserted before each of the counts into which it is divided.

Joinder of counts.

501. (1) Subject to section 499, any number of counts for any number of indictable offences may be joined in the same indictment, but the counts shall be distinguished in the manner shown in Forms 3 and 4.

Each count separate.

(2) Where there is more than one count in an indictment, each count may be treated as a separate indictment.

Separate trial.

(3) The court may, where it is satisfied that the ends of justice require it, direct that the accused be tried separately upon one or more of the counts.

Order for severance.

(4) An order for the separate trial of one or more counts in an indictment may be made before or during the trial, but if the order is made during the trial the jury shall be discharged from giving a verdict on the counts on which the trial does not proceed.

Subsequent procedure.

(5) The counts in respect of which a jury is discharged pursuant to subsection (4) may subsequently be proceeded upon in all respects as if they were contained in a separate indictment.

JOINDER OF ACCUSED IN CERTAIN CASES.

Accessories after the fact.

502. Any one who is charged with being an accessory after the fact to any offence may be indicted, whether or not the principal or any other party to the offence has been indicted or convicted or is or is not amenable to justice.

Trial of persons jointly for having in possession.

503. (1) Any number of persons may be charged in the same indictment with an offence under section 296 or paragraph *(b)* of subsection (1) of section 298, notwithstanding that

(a) the property was had in possession at different times; or

(b) the person by whom the property was obtained

(i) is not indicted with them, or

(ii) is not in custody or is not amenable to justice.

Conviction of one or more.

(2) Where, pursuant to subsection (1), two or more persons are charged in the same indictment with an offence referred to in that subsection, any one or more of those persons who separately committed the offence in respect of the property or any part of it may be convicted.

501. Sections 856 (in part), 857 and 858.

502. Section 849 (1) in part.

503. Sections 849 (1) in part, 849 (2) and 954.

Proceedings before Grand Jury.

Evidence under oath.

504. Every person who appears before a grand jury to give evidence in support of a bill of indictment shall be examined touching the matters in question upon oath to be administered by the foreman of the grand jury or by any member who acts on his behalf.

Endorsing bill of indictment.

505. The name of every witness who is examined or whom it is intended to examine shall be endorsed on the bill of indictment and submitted to the grand jury by the prosecutor, and no other witnesses shall be examined by or before the grand jury unless the presiding judge otherwise orders in writing.

Foreman to initial names.

506. The foreman of the grand jury or any member of the grand jury who acts on his behalf shall write his initials against the name of each witness who is sworn and examined with respect to the bill of indictment.

Proceedings when Person Indicted is at Large.

Bench warrant.

507. (1) Where an indictment has been found against a person who is at large, and that person does not appear or remain in attendance for his trial, the court before which the accused should have appeared or remained in attendance may, whether or not he is bound by recognizance to appear, issue a warrant for his arrest.

Execution.

(2) A warrant issued under subsection (1) may be in Form 15 and may be executed anywhere in Canada.

Change of Venue.

Application, how made.

508. (1) A court before which an accused is or may be indicted, at any term or sittings thereof, or a judge who may hold or sit in that court, may at any time before or after an indictment is found, upon the application of the prosecutor or the accused, order the trial to be held in a territorial division in the same province other than that in which the offence would otherwise be tried if

(a) it appears expedient to the ends of justice, or

(b) a competent authority has directed that a jury is not to be summoned at the time appointed in a territorial division where the trial would otherwise by law be held.

504. Sections 874 and 875.

505. Section 876.

506. Section 877.

507. Section 879.

508. Sections 695 (2), 884, 885 and 887.

Conditions as to expense.

(2) The court or judge may, in an order made upon an application by the prosecutor under subsection (1), prescribe conditions that he thinks proper with respect to the payment of additional expenses caused to the accused as a result of the change of venue.

Transmission of record.

(3) Where an order is made under subsection (1), the officer who has custody of the indictment, if any, and the writings and exhibits relating to the prosecution, shall transmit them forthwith to the clerk of the court before which the trial is ordered to be held, and all proceedings in the case shall be held or, if previously commenced, shall be continued in that court.

Idem.

(4) Where the writings and exhibits referred to in subsection (3) have not been returned to the court in which the trial was to be held at the time an order is made to change the place of trial, the person who obtains the order shall serve a true copy thereof upon the person in whose custody they are and that person shall thereupon transmit them to the clerk of the court before which the trial is to be held.

Order is authority to remove prisoner.

509. An order that is made under section 508 is sufficient warrant, justification and authority to all sheriffs, keepers of prisons and peace officers for the removal, disposal and reception of an accused in accordance with the terms of the order, and the sheriff may appoint and authorize any peace officer to convey the accused to a prison in the territorial division in which the trial is ordered to be held.

AMENDMENT.

Amending defective indictment or count.

510. (1) An objection to an indictment or to a count in an indictment for a defect apparent on the face thereof shall be taken by motion to quash the indictment or count before the accused has pleaded, and thereafter only by leave of the court or judge before whom the trial takes place, and a court or judge before whom an objection is taken under this section may, if it is considered necessary, order the indictment or count to be amended to cure the defect.

Amendment where variance.

(2) A court may, upon the trial of an indictment, amend the indictment or a count thereof or a particular that is furnished under section 497, to make the indictment, count or particular conform to the evidence, where there appears to be a variance between the evidence and

509. Section 886 (1).

510. Sections 845 (3), 847 (2), 889, 890, 893 and 898.

(a) the charge in a count in the indictment as found; or

(b) the charge in a count in the indictment

(i) as amended, or

(ii) as it would have been if it had been amended in conformity with any particular that has been furnished pursuant to section 497.

(3) A court shall, upon the arraignment of an accused, or at any stage of the trial, amend the indictment or a count thereof as may be necessary where it appears

Indictment under wrong Act.

(a) that the indictment has been preferred

(i) under another Act of the Parliament of Canada instead of this Act, or

(ii) under this Act instead of another Act of the Parliament of Canada;

Amending defective statement.

(b) that the indictment or a count thereof

(i) fails to state or states defectively anything that is requisite to constitute the offence,

(ii) does not negative an exception that should be negatived,

Defect in substance.

(iii) is in any way defective in substance,

and the matters to be alleged in the proposed amendment are disclosed by the evidence taken on the preliminary inquiry or on the trial; or

Defect in form.

(c) that the indictment or a count thereof is in any way defective in form.

What to be considered.

(4) The court shall, in considering whether or not an amendment should be made, consider

(a) the matters disclosed by the evidence taken on the preliminary inquiry,

(b) the evidence taken on the trial, if any,

(c) the circumstances of the case,

(d) whether the accused has been misled or prejudiced in his defence by a variance, error or omission mentioned in subsection (2) or (3), and

(e) whether, having regard to the merits of the case, the proposed amendment can be made without injustice being done.

Adjournment if accused prejudiced.

(5) Where, in the opinion of the court, the accused has been misled or prejudiced in his defence by a variance, error or omission in an indictment or a count thereof, the court may, if it is of opinion that the misleading or prejudice may be removed by an adjournment, adjourn the trial to a subsequent day in the same sittings or to the next sittings of the court and may make such an order with respect to the payment of costs resulting from the necessity for amendment as it considers desirable.

Question of law.

(6) The question whether an order to amend an indictment or a count thereof should be granted or refused is a question of law.

Endorsing indictment.

(7) An order to amend an indictment or a count thereof shall be endorsed on the indictment as part of the record and the trial shall proceed as if the indictment or count had been originally found as amended.

Mistakes not material.

(8) A mistake in the heading of an indictment shall be corrected as soon as it is discovered but, whether corrected or not, is not material.

Limitation.

(9) The authority of a court to amend indictments does not authorize the court to add to the overt acts stated in an indictment for treason or for an offence against any provision in sections 49, 50, 51 and 53.

Amended indictment need not be presented to grand jury.

511. Where a grand jury returns a true bill in respect of an indictment and the indictment is subsequently amended in accordance with section 510, it is not necessary, unless the judge otherwise directs, to present the amended indictment to the grand jury, but the indictment, as amended, shall be deemed to be as valid in all respects for all purposes of the proceedings as if it had been returned by the grand jury in its amended form.

Inspection and Copies of Documents.

Right of accused.

512. An accused is entitled, after he has been committed for trial or at his trial,

To inspect.

(a) to inspect without charge the indictment, his own statement, the evidence and the exhibits, if any; and

To receive copies.

(b) to receive, on payment of a reasonable fee not to exceed ten cents per folio of one hundred words, a copy

(i) of the evidence,

(ii) of his own statement, if any, and

(iii) of the indictment,

but the trial shall not be postponed to enable the accused to secure copies unless the court is satisfied that the failure of the accused to secure them before the trial is not attributable to lack of diligence on the part of the accused.

Delivery of documents in case of treason, etc.

513. (1) An accused who is indicted for treason or for being an accessory after the fact to treason is entitled to receive, after the indictment has been found and at least ten days before his arraignment,

(a) a copy of the indictment,

(b) a list of the witnesses to be produced on the trial to prove the indictment, and

(c) a copy of the panel of jurors who are to try him, returned by the sheriff.

511. New.

512. Sections 691, 894, 895 and 896.

513. Section 897.

Details.

(2) The list of the witnesses and the copy of the panel of the jurors referred to in subsection (1) shall mention the names, occupations and places of abode of the witnesses and jurors respectively.

Witnesses to delivery.

(3) The writings referred to in subsection (1) shall be given to the accused at the same time and in the presence of at least two witnesses.

Exception.

(4) This section does not apply to the offence of treason by killing Her Majesty, or to the offence of treason where the overt act alleged is an attempt to injure the person of Her Majesty in any manner or to the offence of being an accessory after the fact in such a case of treason.

Release of exhibits for examination or test.

514. (1) A judge of a superior court of criminal jurisdiction or of a court of criminal jurisdiction may, on summary application on behalf of the accused or the prosecutor, after three days' notice to the accused or prosecutor, as the case may be, order the release of any exhibit for the purpose of a scientific or other test or examination, subject to such terms as appear to be necessary or desirable to ensure the safeguarding of the exhibit and its preservation for use at the trial.

Disobeying order.

(2) Every one who fails to comply with the terms of an order that is made under subsection (1) is guilty of contempt of court and may be dealt with summarily by the judge or magistrate who made the order or before whom the trial of the accused takes place.

Pleas.

Pleas permitted.

515. (1) An accused who is called upon to plead may plead guilty or not guilty, or the special pleas authorized by this Part and no others.

Refusal to plead.

(2) Where the accused refuses to plead or does not answer directly the court shall order the clerk of the court to enter a plea of not guilty.

Allowing time to plead.

(3) An accused is not entitled as of right to have his trial postponed but the court may, if it considers that the accused should be allowed further time to plead, move to quash, or prepare for his defence or for any other reason, adjourn the trial to a later time in the session or sittings of the court, or to the next or any subsequent session or sittings of the court, upon such terms as the court considers proper.

514. Section 695 (3) and (4).

515. Sections 900 and 901 (1) and (2).

Special pleas.

516. (1) An accused may plead the special pleas of

(a) *autrefois acquit*,

(b) *autrefois convict*, and

(c) pardon.

In case of libel.

(2) An accused who is charged with defamatory libel may plead in accordance with sections 520 and 521.

Disposal.

(3) The pleas of *autrefois acquit*, *autrefois convict* and pardon shall be disposed of by the judge without a jury before the accused is called upon to plead further.

Pleading over.

(4) When the pleas referred to in subsection (3) are disposed of against the accused he may plead guilty or not guilty.

Statement sufficient.

(5) Where an accused pleads *autrefois acquit* or *autrefois convict* it is sufficient if he

(a) states that he has been lawfully acquitted or convicted, as the case may be, of the offence charged in the count to which the plea relates, and

(b) indicates the time and place of the acquittal or conviction.

Evidence of identity of charges.

517. Where an issue on a plea of *autrefois acquit* or *autrefois convict* is tried, the evidence and adjudication and the notes of the judge and official stenographer on the former trial and the record transmitted to the court pursuant to section 462 on the charge that is pending before that court, are admissible in evidence to prove or to disprove the identity of the charges.

What determines identity.

518. (1) Where an issue on a plea of *autrefois acquit* or *autrefois convict* to a count is tried and it appears

(a) that the matter on which the accused was given in charge on the former trial is the same in whole or in part as that on which it is proposed to give him in charge, and

(b) that on the former trial, if all proper amendments had been made that might then have been made, he might have been convicted of all the offences of which he may be convicted on the count to which the plea of *autrefois acquit* or *autrefois convict* is pleaded,

the judge shall give judgment discharging the accused in respect of that count.

Allowance of special plea in part.

(2) The following provisions apply where an issue on a plea of *autrefois acquit* or *autrefois convict* is tried, namely,

(a) where it appears that the accused might on the former trial have been convicted of an offence of which he may be convicted on the count in issue, the judge shall direct that the accused shall not be found guilty of any offence of which he might have been convicted on the former trial, and

516. Sections 905 (1) and 906.

517. Section 908.

518. Section 907.

(*b*) where it appears that the accused may be convicted on the count in issue of an offence of which he could not have been convicted on the former trial, the accused shall plead guilty or not guilty with respect to that offence.

Circumstances of aggravation.

519. (1) Where an indictment charges substantially the same offence as that charged in an indictment on which an accused was previously convicted or acquitted, but adds a statement of intention or circumstances of aggravation tending, if proved, to increase the punishment, the previous conviction or acquittal bars the subsequent indictment.

Effect of previous charge of murder or manslaughter.

(2) A conviction or acquittal on an indictment for murder bars a subsequent indictment for the same homicide charging it as manslaughter or infanticide, and a conviction or acquittal on an indictment for manslaughter or infanticide bars a subsequent indictment for the same homicide charging it as murder.

Effect of previous charge of infanticide or manslaughter.

(3) A conviction or acquittal on an indictment for infanticide bars a subsequent indictment for the same homicide charging it as manslaughter, and a conviction or acquittal on an indictment for manslaughter bars a subsequent indictment for the same homicide charging it as infanticide.

Libel, plea of justification.

520. (1) An accused who is charged with publishing a defamatory libel may plead that the defamatory matter published by him was true, and that it was for the public benefit that the matter should have been published in the manner in which and at the time when it was published.

Where more than one sense alleged.

(2) A plea that is made under subsection (1) may justify the defamatory matter in any sense in which it is specified in the count, or in the sense that the defamatory matter bears without being specified, or separate pleas justifying the defamatory matter in each sense may be pleaded separately to each count as if two libels had been charged in separate counts.

Plea in writing.

(3) A plea that is made under subsection (1) shall be in writing, and shall set out the particular facts by reason of which it is alleged to have been for the public good that the matter should have been published.

Reply.

(4) The prosecutor may in his reply deny generally the truth of a plea that is made under this section.

Plea of justification necessary to try truth.

521. (1) The truth of the matters charged in an alleged libel shall not be inquired into in the absence of a plea of justification under section 520 unless the accused is charged with publishing the libel knowing it to be false, in which case evidence of the truth may be given to negative the allegation that the accused knew that the libel was false.

519. Section 909.

520. Section 910.

521. Section 911.

Not guilty, in addition.

(2) The accused may, in addition to a plea that is made under section 520, plead not guilty and the pleas shall be inquired into together.

Effect of plea on punishment.

(3) Where a plea of justification is pleaded and the accused is convicted, the court may, in pronouncing sentence, consider whether the guilt of the accused is aggravated or mitigated by the plea.

Plea of not guilty.

522. Any ground of defence for which a special plea is not provided by this Act may be relied upon under the plea of not guilty.

Defence of Insanity.

Insanity of accused when offence committed.

523. (1) Where, upon the trial of an accused who is charged with an indictable offence, evidence is given that the accused was insane at the time the offence was committed and the accused is acquitted,

(a) the jury, or

(b) the judge or magistrate, where there is no jury,

Special finding.

shall find whether the accused was insane at the time the offence was committed and shall declare whether he is acquitted on account of insanity.

Custody after finding.

(2) Where the accused is found to have been insane at the time the offence was committed, the court, judge or magistrate before whom the trial is held shall order that he be kept in strict custody in the place and in the manner that the court, judge or magistrate directs, until the pleasure of the Lieutenant-Governor of the province is known.

Insanity at time of trial.

524. (1) A court, judge or magistrate may, at any time before verdict, where it appears that there is sufficient reason to doubt that the accused is, on account of insanity, capable of conducting his defence, direct that an issue be tried whether the accused is then, on account of insanity, unfit to stand his trial.

Trial of issue.

(2) For the purposes of subsection (1), the following provisions apply, namely,

(a) where the accused is to be tried by a court composed of a judge and jury,

(i) if the issue is directed before the accused is given in charge to a jury for trial on the indictment, it shall be tried by twelve jurors, or in the Province of Alberta, by six jurors, and

(ii) if the issue is directed after the accused has been given in charge to a jury for trial on the indictment, the jury shall be sworn to try that issue in addition to the issue on which they are already sworn; and

(b) where the accused is to be tried by a judge or magistrate, he shall try the issue and render a verdict.

If sane, trial proceeds.

(3) Where the verdict is that the accused is not unfit on account of insanity to stand his trial, the arraignment or the trial shall proceed as if no such issue had been directed.

522. Section 905 (2).

523. Section 966.

524. Section 967.

If insane, order for custody.

(4) Where the verdict is that the accused is unfit on account of insanity to stand his trial, the court, judge or magistrate shall order that the accused be kept in custody until the pleasure of the Lieutenant-Governor of the province is known, and any plea that has been pleaded shall be set aside and the jury shall be discharged.

Subsequent trial.

(5) No proceeding pursuant to this section shall prevent the accused from being tried subsequently on the indictment.

Insanity of accused to be discharged for want of prosecution.

525. Where an accused who is charged with an indictable offence is brought before a court, judge or magistrate to be discharged for want of prosecution and the accused appears to be insane, the court, judge or magistrate shall proceed in accordance with section 524 in so far as that section may be applied.

Custody of insane persons.

526. Where an accused is, pursuant to this Part, found to be insane, the Lieutenant-Governor of the province may make an order for the safe custody of the accused in the place and in the manner that he may direct.

Prisoner mentally ill.

527. (1) The Lieutenant-Governor of a province may, upon evidence satisfactory to him that a person who is insane, mentally ill, mentally deficient or feeble-minded is in custody in a prison in that province, order that the person be removed to a place of safe-keeping to be named in the order.

Custody in safe-keeping.

(2) A person who is removed to a place of safe-keeping under an order made pursuant to subsection (1) shall, subject to subsections (3) and (4), be kept in that place or in any other place of safe-keeping in which, from time to time, he may be ordered by the Lieutenant-Governor to be kept.

Order for imprisonment or discharge.

(3) Where the Lieutenant-Governor is satisfied that a person to whom subsection (2) applies has recovered, he may order that the person

(a) be returned to the prison from which he was removed pursuant to subsection (1), if he is liable to further custody in prison, or

(b) be discharged, if he is not liable to further custody in prison.

Order for transfer to custody of Minister of Health.

(4) Where the Lieutenant-Governor is satisfied that a person to whom subsection (2) applies has partially recovered, he may, where the person is not liable to further custody in prison, order that the person shall be subject to the direction of the Minister of Health for the province, or such other person as the Lieutenant-Governor may designate, and the Minister of Health or other person designated may make any order or direction in respect of the custody and care of the person that he considers proper.

"Prison".

(5) In this section, "prison" means a prison other than a penitentiary, and includes a reformatory school or industrial school.

525. Section 968.

526. Section 969.

527. Section 970.

Appearance by attorney.

528. Every corporation against which an indictment is found shall appear and plead by counsel or agent.

Notice to corporation.

529. (1) The clerk of the court shall, where an indictment is found against a corporation, cause a notice of the indictment to be served upon the corporation.

Contents of notice.

(2) A notice of an indictment referred to in subsection (1) shall set out the nature and purport of the indictment and advise that, unless the corporation appears and pleads within seven days after service of the notice, a plea of not guilty will be entered for the accused by the court, and that the trial of the indictment will be proceeded with as though the corporation had appeared and pleaded.

How served.

(3) Where a corporation to which this section applies

(a) is a municipal corporation, the notice shall be served by delivering it to the mayor, treasurer or clerk of the corporation, or

(b) is a corporation other than a municipal corporation, the notice shall be served by delivering it to the manager, secretary or other executive officer of the corporation or of a branch thereof.

Procedure on default of appearance.

530. Where a corporation does not appear in the court in which an indictment is found and plead within the time specified in the notice referred to in section 529, the presiding judge may, on proof by affidavit of service of the notice, order the clerk of the court to enter a plea of not guilty on behalf of the corporation, and the plea has the same force and effect as if the corporation had appeared by its counsel or agent and pleaded that plea.

Trial of corporation.

531. Where the corporation appears and pleads to the indictment or a plea of not guilty is entered by order of the court pursuant to section 530, the court shall proceed with the trial of the indictment and, where the corporation is convicted, section 623 applies.

RECORD OF PROCEEDINGS.

How recorded.

532. (1) It is sufficient, in making up the record of a conviction or acquittal on an indictment, to copy the indictment and the plea that was pleaded, without a formal caption or heading.

528. Section 916.

529. Section 918.

530. Section 919.

531. Section 920.

532. Section 914.

Record of proceedings.

(2) The court shall keep a record of every arraignment and of proceedings subsequent to arraignment.

Form of record in case of amendment.

533. Where it is necessary to draw up a formal record in proceedings in which the indictment has been amended, the record shall be drawn up in the form in which the indictment remained after the amendment, without reference to the fact that the indictment was amended.

Juries.

Qualification of juror.

534. (1) A person who is qualified and summoned as a grand or petit juror according to the laws in force for the time being in a province is qualified to serve as a grand or petit juror, as the case may be, in criminal proceedings in that province.

Seven may find bill.

(2) Where the panel of grand jurors is not more than thirteen, seven grand jurors may find a true bill.

Mixed Juries.

Mixed juries in Quebec.

535. (1) In those districts in the province of Quebec in which the sheriff is required by law to return a panel of petit jurors composed one-half of persons who speak the English language and one-half of persons who speak the French language, he shall in his return specify in separate lists those jurors whom he returns as speaking the English language and those whom he returns as speaking the French language, and the names of the jurors summoned shall be called alternately from those lists.

Motion by accused.

(2) In any district referred to in subsection (1) the accused may, upon arraignment, move that he be tried by a jury composed entirely of jurors who speak the language of the accused if that language is English or French.

Order for panel.

(3) Where a motion is made under subsection (2), the judge may order the sheriff to summon a sufficient panel of jurors who speak the language of the accused unless, in his discretion, it appears that the ends of justice are better served by empanelling a mixed jury.

533. Section 915.

534. Section 921.

535. Section 923.

Mixed juries in Manitoba.

536. (1) Where an accused who is arraigned before the Court of Queen's Bench for Manitoba demands a jury composed at least half of persons who speak the language of the accused, if that language is either English or French, he shall be tried by a jury composed at least one-half of the persons whose names stand first in succession upon the general panel and who, not being lawfully challenged, are found, in the judgment of the court, to speak the language of the accused.

When panel exhausted.

(2) Where, as a result of challenges or any other cause there is, in proceedings to which this section applies, a deficiency of persons who speak the language of the accused, the court shall fix another time for the trial, and the sheriff shall remedy the deficiency by summoning, for the time so fixed, the additional number of jurors who speak the language of the accused that the court orders and whose names appear next in succession on the list of petit jurors.

Challenging the Array.

Objection to constitution of grand jury.

537. Where an objection is taken to the constitution of a grand jury it shall be taken by motion to the court, but an indictment shall be quashed pursuant thereto only if the judge is of opinion that

(a) the objection is well founded, and

(b) the accused has suffered or may suffer prejudice in the circumstances of which he complains.

Challenging the array.

538. (1) The accused or the prosecutor may challenge the array of petit jurors only on the ground of partiality, fraud or wilful misconduct on the part of the sheriff or his deputies by whom the panel was returned.

In writing.

(2) A challenge under subsection (1) shall be in writing and shall state that the person who returned the panel was partial or fraudulent or that he wilfully misconducted himself, as the case may be.

Form.

(3) A challenge under this section may be in Form 36.

Trying ground of challenge.

539. Where a challenge is made under section 538, the judge shall determine whether the alleged ground of challenge is true or not, and where he is satisfied that the alleged ground of challenge is true he shall direct a new panel to be returned.

536. Section 924.

537. Section 899 (2).

538. Section 925.

539. Section 926.

Names of jurors on cards.

540. (1) The name of each juror on a panel of petit jurors that has been returned, his number on the panel and the place of his abode, shall be written on a separate card, and all the cards shall, as far as possible, be of equal size.

To be placed in box.

(2) The sheriff or other officer who returns the panel shall deliver the cards referred to in subsection (1) to the clerk of the court who shall cause them to be placed together in a box to be provided for the purpose and to be thoroughly shaken together.

To be drawn by clerk of court.

(3) Where

(a) the array is not challenged, or

(b) the array is challenged but the judge does not direct a new panel to be returned,

the clerk of the court shall, in open court, draw out the cards referred to in subsection (2) one after another, and shall call out the name and number upon each card as it is drawn, until the number of persons who have answered to their names is, in the opinion of the judge, sufficient to provide a full jury after allowing for challenges and directions to stand by.

Juror to be sworn.

(4) The clerk of the court shall swear each member of the jury in the order in which the names of the jurors were drawn.

Drawing additional names if necessary.

(5) Where the number of persons who answer to their names is not sufficient to provide a full jury, the clerk of the court shall proceed in accordance with subsections (3) and (4) until twelve jurors are sworn.

Challenges by accused in Alberta and Territories.

541. Notwithstanding anything in this Act, six jurors shall be sworn in the Province of Alberta and in the Yukon Territory and the Northwest Territories, and in that province and those Territories the accused is entitled to half the number of challenges provided for in section 542, and the prosecutor may not direct more than twenty-four jurors to stand by unless the presiding judge, for special cause to be shown, so orders.

Peremptory challenges by accused. Twenty in certain cases.

542. (1) An accused who is charged with an offence punishable with death is entitled to challenge twenty jurors peremptorily.

Twelve in certain cases.

(2) An accused who is charged with an offence other than an offence punishable with death, for which he may be sentenced to imprisonment for more than five years, is entitled to challenge twelve jurors peremptorily.

Four in other cases.

(3) An accused who is charged with an offence that is not referred to in subsection (1) or (2) is entitled to challenge four jurors peremptorily.

540. Section 927.

541. Sections 933A and 927 (6).

542. Section 932.

Challenge by prosecutor.

543. (1) The prosecutor is entitled to challenge four jurors peremptorily, and may direct any number of jurors who are not challenged peremptorily by the accused to stand by until all the jurors have been called who are available for the purpose of trying the indictment.

Direction to stand by.

Limitation.

(2) Notwithstanding subsection (1), the prosecutor may not direct more than forty-eight jurors to stand by unless the presiding judge, for special cause to be shown, so orders.

Accused to challenge first if required.

(3) The accused may be called upon to declare whether he challenges a juror peremptorily or for cause before the prosecutor is called upon to declare whether he requires the juror to stand by, or challenges him peremptorily or for cause.

Peremptory challenges in case of mixed jury.

544. Where an accused who is charged with an offence for which he is entitled to twenty or twelve peremptory challenges in accordance with this Part is to be tried pursuant to section 535 or 536 by a jury composed one-half of persons who speak the language of the accused, he is entitled to exercise one-half of those challenges in respect of the jurors who speak English and one-half in respect of the jurors who speak French.

Challenges where tried jointly.

545. Where two or more accused persons are jointly charged in an indictment and it is proposed to try them together each may make his challenges in the same manner as if he were to be tried alone.

Standing by in libel cases.

546. A prosecutor other than the Attorney General or counsel acting on his behalf is not entitled, on the trial of an indictment for the publication of a defamatory libel, to direct a juror to stand by.

Challenge for cause.

547. (1) A prosecutor or an accused is entitled to any number of challenges on the ground that

(a) the name of a juror does not appear on the panel, but no misnomer or misdescription is a ground of challenge where it appears to the court that the description given on the panel sufficiently designates the person referred to,

(b) a juror is not indifferent between the Queen and the accused,

(c) a juror has been convicted of an offence for which he was sentenced to death or to a term of imprisonment exceeding twelve months,

543. Section 933.

544. Section 937.

545. Section 938.

546. Section 934.

547. Section 935.

(d) a juror is an alien, or

(e) a juror is physically unable to perform properly the duties of a juror.

No other ground.

(2) No challenge for cause shall be allowed on a ground not mentioned in subsection (1).

Challenge in writing.

548. (1) Where a challenge is made on a ground mentioned in section 547, the court may, in its discretion, require the party that challenges to put the challenge in writing.

Form.

(2) A challenge may be in Form 37.

Denial.

(3) A challenge may be denied by the other party to the proceedings on the ground that it is not true.

Objection that name not on panel.

549. (1) Where the ground of a challenge is that the name of a juror does not appear on the panel, the issue shall be tried by the judge on the *voir dire* by the inspection of the panel, and such other evidence that the judge thinks fit to receive.

Other grounds.

(2) Where the ground of a challenge is one not mentioned in subsection (1), the two jurors who were last sworn, or if no jurors have then been sworn, two persons present whom the court may appoint for the purpose, shall be sworn to determine whether the ground of challenge is true.

If challenge not sustained. If challenge sustained.

(3) Where the finding, pursuant to subsection (1) or (2) is that the ground of challenge is not true, the juror shall be sworn, but if the finding is that the ground of challenge is true, the juror shall not be sworn.

Disagreement of triers.

(4) Where, after what the court considers to be a reasonable time, the two persons who are sworn to determine whether the ground of challenge is true are unable to agree, the court may discharge them from giving a verdict and may direct two other persons to be sworn to determine whether the ground of challenge is true.

Calling jurors who have stood by.

550. (1) Where, as a result of challenges and directions to stand by, a full jury has not been sworn and no names remain to be called, the names of those who have been directed to stand by shall be called again in the order in which their names were drawn and they shall be sworn, unless challenged by the accused, or unless the prosecutor challenges them or shows cause why they should not be sworn.

Other jurors becoming available.

(2) Where, before a juror is sworn pursuant to subsection (1), other jurors in the panel become available, the prosecutor may require the names of those jurors to be put into and drawn from the box in accordance with section 540, and those jurors shall be challenged, ordered to stand by or sworn, as the case may be, before the names of the jurors who where originally ordered to stand by are called again.

548. Section 936.

549. Sections 930 and 931.

550. Section 928.

Panel exhausted, summoning other jurors.

551. (1) Where a full jury cannot be provided notwithstanding that the relevant provisions of this Part have been complied with, the court may, at the request of the prosecutor, order the sheriff or other proper officer forthwith to summon as many persons, whether qualified jurors or not, as the court directs for the purpose of providing a full jury.

Orally.

(2) Jurors may be summoned under subsection (1) by word of mouth, if necessary.

Adding names to panel.

(3) The names of the persons who are summoned under this section shall be added to the general panel for the purposes of the trial, and the same proceedings shall be taken with respect to calling and challenging those persons and directing them to stand by as are provided in this Part with respect to the persons named in the original panel.

Who shall be jury.

552. (1) The twelve jurors, or in the province of Alberta, the Yukon Territory and the Northwest Territories the six jurors, whose names are drawn and who are sworn in accordance with this Part, shall be the jury to try the issues of the indictment, and the names of the jurors so drawn and sworn shall be kept apart until the jury gives its verdict or until it is discharged, whereupon the names shall be returned to the box as often as occasion arises, as long as an issue remains to be tried before a jury.

Returning names to box.

Same jury may try another issue by consent.

(2) The court may try an issue with the same jury in whole or in part that previously tried or was drawn to try another issue, without the jurors being sworn again, but if the prosecutor or the accused objects to any of the jurors or the court excuses any of the jurors, the court shall order those persons to withdraw and shall direct that the required number of names to make up a full jury be drawn and, subject to the provisions of this Part relating to challenges and directions to stand by, the persons whose names are drawn shall be sworn.

Sections directory.

(3) No omission to follow the directions of this section or section 540 or 550 affects the validity of a proceeding.

Juror unable to continue.

553. (1) Where in the course of a trial a member of the jury is, in the opinion of the judge, by reason of illness or some other cause, unable to continue to act, the judge may discharge him.

Trial may continue.

(2) Where in the course of a trial a member of the jury dies or is discharged pursuant to subsection (1), the jury shall, if the prosecutor and the accused consent in writing and if the number of jurors is not reduced below ten, or in the province of Alberta, the Yukon Territory and the Northwest Territories below five, be deemed to remain properly constituted for all purposes of the trial and the trial shall proceed and a verdict may be given accordingly.

551. Section 939.

552. Section 929.

553. Section 929A.

TRIAL.

Continuous trial.

554. (1) The trial of an accused shall proceed continuously subject to adjournment by the court.

Adjournment.

(2) The judge may adjourn the trial from time to time in the same sittings.

Formal adjournment unnecessary.

(3) No formal adjournment of trial or entry thereof is required.

Questions reserved for decision.

(4) The judge, in any case tried without a jury, may reserve his final decision on any question raised at the trial, and his decision, when given, shall be deemed to have been given at the trial.

Taking evidence.

555. On the trial of an accused for an indictable offence the evidence of the witnesses for the prosecutor and the accused shall be taken by a stenographer in accordance with the provisions of Part XV relating to the taking of evidence by stenographers at preliminary inquiries.

Separation of jurors except in capital cases.

556. (1) The judge may, at any time before the jury retires to consider its verdict, permit the members of the jury to separate, but this subsection does not apply where an accused is liable, upon conviction, to be sentenced to death.

Keeping in charge.

(2) Where permission to separate cannot be given or is not given the jury shall be kept under the charge of an officer of the court as the judge directs, and that officer shall prevent the jurors from communicating with anyone other than himself or another member of the jury without leave of the judge.

Saving.

(3) Failure to comply with subsection (2) does not affect the validity of the proceedings.

Empanelling new jury in certain cases.

(4) Where the fact that there has been a failure to comply with this section is discovered before the verdict of the jury is returned the judge may, if he considers that the failure to comply might lead to a miscarriage of justice, discharge the jury and

(a) direct that the accused be tried with a new jury during the same session or sittings of the court, or

(b) postpone the trial on such terms as justice may require.

Refreshment and accommodation.

(5) The judge shall direct the sheriff to provide the jurors who are sworn with suitable and sufficient refreshment, food and lodging while they are together until they have given their verdict.

Accused to be present.

557. (1) Subject to subsection (2), an accused other than a corporation shall be present in court during the whole of his trial.

Exceptions.

(2) The court may

(a) cause the accused to be removed and to be kept out of court, where he misconducts himself by interrupting

554. Sections 945 (1), (2) and (6) and 579.

555. New.

556. Sections 945 (3), (4) and (5), 946 and 959.

557. Sections 942 and 943.

the proceedings so that to continue the proceedings in his presence would not be feasible, or

(b) permit the accused to be out of court during the whole or any part of his trial on such conditions as the court considers proper.

To make defence.

(3) An accused is entitled, after the close of the case for the prosecution, to make full answer and defence personally or by counsel.

Summing up by prosecutor.

558. (1) Where an accused, or any one of several accused being tried together, is defended by counsel, the counsel shall, at the end of the case for the prosecution, declare whether or not he intends to adduce evidence on behalf of the accused for whom he appears and if he does not announce his intention to adduce evidence, the prosecutor may address the jury by way of summing up.

Summing up by accused.

(2) Counsel for the accused or the accused, where he is not defended by counsel, is entitled, if he thinks fit, to open the case for the defence, and after the conclusion of that opening to examine such witnesses as he thinks fit, and when all the evidence is concluded to sum up the evidence.

Accused's right of reply.

(3) Where no witnesses are examined for an accused, he or his counsel is entitled to address the jury last, but otherwise counsel for the prosecution is entitled to address the jury last.

Attorney General's right to reply.

(4) Notwithstanding subsection (3) the Attorney General or counsel acting on his behalf is entitled to reply.

Prosecutor's right of reply where more than one accused.

(5) Where two or more accused are tried jointly and witnesses are examined for any of them, all the accused or their respective counsel are required to address the jury before it is addressed by the prosecutor.

View.

559. (1) The judge may, where it appears to be in the interests of justice, at any time after the jury has been sworn and before they give their verdict, direct the jury to have a view of any place, thing or person, and shall give directions as to the manner in which, and the persons by whom, the place, thing or person shall be shown to the jury, and may for that purpose adjourn the trial.

Directions to prevent communication.

(2) Where a view is ordered under subsection (1), the judge shall give any directions that he considers necessary for the purpose of preventing undue communication by any person with members of the jury, but failure to comply with any directions given under this subsection does not affect the validity of the proceedings.

Who shall attend.

(3) Where a view is ordered under subsection (1) the accused and the judge shall attend.

558. Section 944.

(5) New.

559. Section 958.

Disagreement of jury.

560. (1) Where the judge is satisfied that the jury is unable to agree upon its verdict and that further detention of the jury would be useless, he may in his discretion discharge that jury and direct a new jury to be empanelled during the sittings of the court, or may adjourn the trial on such terms as justice may require.

Discretion not reviewable.

(2) A discretion that is exercised under subsection (1) by a judge is not reviewable.

Proceeding on Sunday, etc., not invalid.

561. The taking of the verdict of a jury and any proceeding incidental thereto is not invalid by reason only that it is done on Sunday or on a holiday.

Evidence on Trial.

Admissions at trial.

562. Where an accused is on trial for an indictable offence he or his counsel may admit any fact alleged against him for the purpose of dispensing with proof thereof.

Evidence of stealing ores or minerals.

563. In any proceeding in respect of theft of ores or minerals, the possession, contrary to any law in that behalf, of smelted gold or silver, gold-bearing quartz, or unsmelted or unmanufactured gold or silver, by an operator, workman or labourer actively engaged in or on a mine, is *prima facie* evidence that the gold, silver or quartz was stolen by him.

Use in evidence of statement by accused.

564. A statement made by an accused under subsection (2) of section 454 and purporting to be signed by the justice before whom it was made may be given in evidence against the accused at his trial without proof of the signature of the justice, unless it is proved that the justice by whom the statement purports to be signed did not sign it.

Children and Young Persons.

Proof of age.

565. (1) In any proceedings to which this Act applies an entry or record of an incorporated society or its officers who have had the control or care of a child or young person at or about the time the child or young person was brought to Canada is *prima facie* evidence of the age of the child or young person if the entry or record was made before the time when the offence is alleged to have been committed.

Inference from appearance.

(2) In the absence of other evidence, or by way of corroboration of other evidence, a jury, judge, justice or magistrate, as the case may be, may infer the age of a child or young person from his appearance.

560. Section 960.

561. Section 961.

562. Section 978.

563. Section 988.

564. Section 1001.

565. Section 984.

Corroboration.

Unsworn evidence of child.

566. No person shall be convicted of an offence upon the unsworn evidence of a child unless the evidence of the child is corroborated in a material particular by evidence that implicates the accused.

Verdicts.

Full offence charged, attempt proved.

567. Where the complete commission of an offence charged is not proved but the evidence establishes an attempt to commit the offence, the accused may be convicted of the attempt.

Attempt charged, full offence proved.

568. (1) Where an attempt to commit an offence is charged but the evidence establishes the commission of the complete offence, the accused is not entitled to be acquitted, but the jury may convict him of the attempt unless the judge presiding at the trial, in his discretion, discharges the jury from giving a verdict and directs that the accused be indicted for the complete offence.

Conviction a bar.

(2) An accused who is convicted under this section is not liable to be tried again for the offence that he was charged with attempting to commit.

Offence charged, part only proved.

569. (1) A count in an indictment is divisible and where the commission of the offence charged, as described in the enactment creating it or as charged in the count, includes the commission of another offence, whether punishable by indictment or on summary conviction, the accused may be convicted

(a) of an offence so included that is proved, notwithstanding that the whole offence that is charged is not proved, or

(b) of an attempt to commit an offence so included.

Conviction for infanticide or manslaughter on charge of murder.

(2) Subject to subsection (3), where a count charges murder and the evidence proves manslaughter or infanticide but does not prove murder, the jury may find the accused not guilty of murder but guilty of manslaughter or infanticide, but shall not on that count find the accused guilty of any other offence.

Conviction for concealing body of child where murder or infanticide charged.

(3) Where a count charges the murder of a child or infanticide and the evidence proves the commission of an offence under section 215 but does not prove murder or infanticide, the jury may find the accused not guilty of murder or infanticide, as the case may be, but guilty of an offence under section 215.

566. Section 1003 (2).

567. Section 949.

568. Section 950.

569. Sections 951 (1) and (2) and 952.

No acquittal unless act or omission not wilful.

570. Where a female person is charged with infanticide and the evidence establishes that she caused the death of her child but does not establish that, at the time of the act or omission by which she caused the death of the child,

(a) she was not fully recovered from the effects of giving birth to the child or from the effect of lactation consequent on the birth of the child, and

(b) the balance of her mind was, at that time, disturbed by reason of the effect of giving birth to the child or of the effect of lactation consequent on the birth of the child,

she may be convicted unless the evidence establishes that the act or omission was not wilful.

Previous Convictions.

No reference to previous conviction.

571. No indictment in respect of an offence for which, by reason of previous convictions, a greater punishment may be imposed shall contain any reference to previous convictions.

Previous conviction.

572. (1) Where an accused is convicted of an offence for which a greater punishment may be imposed by reason of previous convictions, no greater punishment shall be imposed upon him by reason thereof unless the prosecutor satisfies the court that the accused, before making his plea, was notified that a greater punishment would be sought by reason thereof.

Procedure where previous conviction alleged.

(2) Where an accused is convicted of an offence for which a greater punishment may be imposed by reason of previous convictions, the court shall, upon application by the prosecutor and upon being satisfied that the accused was notified in accordance with subsection (1), ask the accused whether he was previously convicted and, if he does not admit that he was previously convicted, evidence of previous convictions may be adduced.

Corporations.

(3) Where, pursuant to section 531, the court proceeds with the trial of an accused corporation that has not appeared and pleaded to an indictment, the court may, if the accused is convicted, make inquiries with respect to previous convictions whether or not the accused was notified that a greater punishment would be sought by reason thereof.

Evidence of character.

573. Where, at a trial, the accused adduces evidence of his good character the prosecutor may, in answer thereto, before a verdict is returned, adduce evidence of the previous conviction of the accused for any offences, including any previous conviction by reason of which a greater punishment may be imposed.

570. New.

571. New.

572. Sections 851 and 963 and new in part.

573. Section 964.

Proof of previous conviction.

574. In any proceedings,

(a) a certificate setting out with reasonable particularity the conviction in Canada of an accused for an indictable offence, purporting to be signed by the person who made the conviction or by the clerk of the court, or

(b) a copy of the summary conviction in Canada of an accused, purporting to be signed by the person who made the conviction or by the clerk of the court to which it was returned,

is, upon proof of the identity of the accused, *prima facie* evidence of the conviction of the accused without proof of the signature or official character of the person by whom it purports to be signed.

Sentence.

Accused found guilty may speak to sentence.

Saving.

575. Where a jury finds an accused guilty, or where an accused pleads guilty, the judge who presides at the trial shall ask the accused whether he has anything to say before sentence is passed upon him, but an omission to comply with this section does not affect the validity of the proceedings.

Sentence justified by any count.

576. Where one sentence is passed upon a verdict of guilty on two or more counts of an indictment, the sentence is good if any of the counts would have justified the sentence.

Woman sentenced to death while pregnant.

Inquiry as to pregnancy.

Arresting execution.

577. (1) A female person who is sentenced to death may move in arrest of execution on the ground that she is pregnant.

(2) Where a motion is made under subsection (1), the court shall direct one or more registered medical practitioners to be sworn to examine the female person together or successively and to determine whether or not she is pregnant.

(3) Where, from the report of a medical practitioner sworn under subsection (2), it appears to the court that a female person to whom this section applies is pregnant, execution shall be arrested until she is delivered of the child or until it is no longer possible in the course of nature that she should be so delivered.

Formal Defects in Jury Process.

Judgment not to be stayed on certain grounds.

578. Judgment shall not be stayed or reversed after verdict upon an indictment

(a) by reason of any irregularity in the summoning or empanelling of the jury, or

(b) because a person who served upon the jury was not returned as a juror by a sheriff or other officer.

574. Section 982.

575. Section 1004.

576. Section 1005.

577. Sections 1008 and 1009.

578. Section 1010.

Directions as to jury or jurors directory.

579. No omission to observe the directions contained in any Act with respect to the qualification, selection, balloting or distribution of jurors, the preparation of the jurors' book, the selecting of jury lists, or the drafting of panels from the jury lists, is a ground for impeaching or quashing a verdict rendered in criminal proceedings.

Saving powers of court.

580. Nothing in this Act alters, abridges or affects any power or authority that a court or judge had immediately before the coming into force of this Act, or any practice or form that existed immediately before the coming into force of this Act, with respect to trials by jury, jury process, juries or jurors, except where the power or authority, practice or form is expressly altered by or is inconsistent with this Act.

579. Section 1011.

580. Section 965.

PART XVIII.

APPEALS—INDICTABLE OFFENCES.

"Court of Appeal."

"Indictment."

"Registrar."

"Sentence."

"Trial court."

581. In this Part,

(a) "court of appeal" means the court of appeal, as defined by paragraph (9) of section 2, for the province or territory in which the trial of a person by indictment is held;

(b) "indictment" includes an information or charge in respect of which a person has been tried for an indictable offence under Part XVI;

(c) "registrar" means the registrar or clerk of the court of appeal;

(d) "sentence" includes an order made under section 628, 629 or 630 and a direction made under section 638; and

(e) "trial court" means the court by which an accused was tried and includes a judge or a magistrate acting under Part XVI.

Procedure abolished.

582. No proceedings other than those authorized by this Part and Part XXIII shall be taken by way of appeal in proceedings in respect of indictable offences.

Right of appeal of person convicted.

583. A person who is convicted by a trial court in proceedings by indictment may appeal to the court of appeal

(a) against his conviction

(i) on any ground of appeal that involves a question of law alone,

(ii) on any ground of appeal that involves a question of fact alone or a question of mixed law and fact, with leave of the court of appeal or upon the certificate of the trial judge that the case is a proper case for appeal, or

(iii) on any ground of appeal not mentioned in sub-paragraph (i) or (ii) that appears to the court of appeal to be a sufficient ground of appeal, with leave of the court of appeal; or

(b) against the sentence passed by the trial court, with leave of the court of appeal or a judge thereof unless that sentence is one fixed by law.

Right of Attorney General to appeal.

584. (1) The Attorney General or counsel instructed by him for the purpose may appeal to the court of appeal

(a) against a judgment or verdict of acquittal of a trial court in proceedings by indictment on any ground of appeal that involves a question of law alone, or

581. Section 1012.

582. Section 1013 (3).

583. Section 1013 (1) and (2).

584. Section 1013 (2), (4) and (5).

(b) with leave of the court of appeal or a judge thereof, against the sentence passed by a trial court in proceedings by indictment, unless that sentence is one fixed by law.

Acquittal.

(2) For the purposes of this section a judgment or verdict of acquittal includes an acquittal in respect of a principal offence where the accused has been convicted of an offence included in the principal offence.

Specifying grounds of dissent.

585. Where an appeal is dismissed by the court of appeal and a judge of that court expresses an opinion dissenting from the judgment of the court, the formal judgment of the court shall specify any grounds in law upon which the dissent, in whole or in part, is based.

PROCEDURE ON APPEALS.

Notice of appeal.

586. (1) An appellant who proposes to appeal to the court of appeal or to obtain the leave of that court to appeal shall give notice of appeal or notice of his application for leave to appeal, in the manner and within the period after the time of the acquittal, conviction or sentence, as the case may be, as may be directed by rules of court.

Extension of time.

(2) The court of appeal or a judge thereof may at any time extend the time within which notice of appeal or notice of an application for leave to appeal may be given, but this subsection does not apply where a sentence of death has been imposed pursuant to a conviction.

Delay in execution of sentence of death or whipping.

(3) Where, pursuant to a conviction, a sentence of death or whipping has been imposed,

(a) the sentence shall not be executed until after the expiration of the time within which notice of appeal or of an application for leave to appeal may be given under this section; and

(b) an appeal or application for leave to appeal from the conviction or sentence shall be heard and determined as soon as practicable, and the sentence shall not be executed until after

(i) the determination of the application, where an application for leave to appeal is finally refused, or

(ii) the determination of the appeal.

Effect of certificate.

(4) The production of a certificate

(a) from the registrar that notice of appeal or notice of application for leave to appeal has been given, or

(b) from the Minister of Justice that he has exercised any of the powers conferred upon him by section 596,

is sufficient authority to suspend the execution of a sentence of death or whipping, as the case may be, and where, pursuant to such suspension, a new time is required to be fixed for execution of the sentence, it may be fixed by the judge who imposed the sentence or any judge who might have held or sat in the same court.

585. Section 1013 (6).

586. Section 1018.

Bail.

587. The chief justice or the acting chief justice of the court of appeal or a judge of that court to be designated by the chief justice or acting chief justice may admit an appellant to bail pending the determination of his appeal.

Report by judge.

588. (1) Where, under this Part, an appeal is taken or an application for leave to appeal is made, the judge or magistrate who presided at the trial shall furnish to the court of appeal, in accordance with rules of court, a report giving his opinion upon the case or upon any matter relating thereto.

Transcript of evidence.

(2) A copy or transcript of

(a) the evidence taken at the trial,

(b) the charge to the jury, if any, and

(c) the reasons for judgment, if any,

shall be furnished to the court of appeal, except in so far as it is dispensed with by order of a judge of that court.

Notes of proceedings.

(3) A copy of the charge to the jury, if any, and any objections that were made to it shall, before the copy or transcript is transmitted to the court of appeal pursuant to subsection (2), be submitted to the judge who presided at the trial, and if the judge refuses to certify that the charge and objections are accurately set out, he shall immediately certify to the court of appeal

(a) the reasons for his refusal, and

(b) the charge that was given to the jury, if any, and any objections that were made to it.

Copies for interested parties.

(4) A party to the appeal is entitled to receive, upon payment of any charges that are fixed by rules of court, a copy or transcript of any material that is prepared under subsections (2) and (3).

Copy for Minister of Justice.

(5) The Minister of Justice is entitled, upon request, to receive a copy or transcript of any material that is prepared under subsections (2) and (3).

Court may order.

589. (1) For the purposes of an appeal under this Part the court of appeal may, where it considers it in the interests of justice,

Production of documents.

(a) order the production of any writing, exhibit, or other thing connected with the proceedings;

Attendance of witnesses.

(b) order any witness who would have been a compellable witness at the trial, whether or not he was called at the trial,

(i) to attend and be examined before the court of appeal, or

(ii) to be examined in the manner provided by rules of court before a judge of the court of appeal,

587. Section 1019.

588. Section 1020 (1) to (4).

589. Section 1021 (1) and (8).

or before any officer of the court of appeal or justice of the peace or other person appointed by the court of appeal for the purpose;

Admission of evidence.

(c) admit, as evidence, an examination that is taken under subparagraph (ii) of paragraph *(b)*;

Reception of evidence.

(d) receive the evidence, if tendered, of any witness, including the appellant, who is a competent but not compellable witness;

Reference to commissioner.

(e) order that any question arising on the appeal that

(i) involves prolonged examination of writings or accounts, or scientific or local investigation, and

(ii) cannot in the opinion of the court of appeal conveniently be inquired into before the court of appeal,

be referred for inquiry and report, in the manner provided by rules of court, to a special commissioner appointed by the court of appeal; and

Acceptance of report.

(f) act upon the report of a commissioner who is appointed under paragraph *(e)* in so far as the court of appeal thinks fit to do so.

Parties entitled to adduce evidence and be heard

(2) In proceedings under this section the parties or their counsel are entitled to examine or cross-examine witnesses and, in an inquiry under paragraph *(e)* of subsection (1), are entitled to be present during the inquiry and to adduce evidence and to be heard.

Other powers.

(3) A court of appeal may exercise in relation to proceedings in the court any powers not mentioned in subsection (1) that may be exercised by the court on appeals in civil matters, and may issue any process that is necessary to enforce the orders or sentences of the court but no costs shall be allowed to the appellant or respondent on the hearing and determination of an appeal or on any proceedings preliminary or incidental thereto.

Execution of process.

(4) Any process that is issued by the court of appeal under this section may be executed anywhere in Canada.

Legal assistance for appellant.

590. A court of appeal or a judge of that court may, at any time, assign counsel to act on behalf of an accused who is a party to an appeal or to proceedings preliminary or incidental to an appeal where, in the opinion of the court or judge, it appears desirable in the interests of justice that the accused should have legal aid and where it appears that the accused has not sufficient means to obtain that aid.

Summary determination of frivolous appeals.

591. Where it appears to the registrar that a notice of an appeal against a conviction, which purports to be on a ground of appeal that involves a question of law alone, does not show a substantial ground of appeal, the registrar may refer the appeal to the court of appeal for summary determination, and, where an appeal is referred under this

590. Section 1021 (4).

591. Section 1021 (10).

section, the court of appeal may, if it considers that the appeal is frivolous or vexatious and can be determined without being adjourned for a full hearing, dismiss the appeal summarily, without calling on any person to attend the hearing or to appear for the respondent on the hearing.

Powers of the Court of Appeal.

592. (1) On the hearing of an appeal against a conviction, the court of appeal

Allowance of appeal against conviction.

(a) may allow the appeal where it is of the opinion that

(i) the verdict should be set aside on the ground that it is unreasonable or cannot be supported by the evidence,

(ii) the judgment of the trial court should be set aside on the ground of a wrong decision on a question of law, or

(iii) on any ground there was a miscarriage of justice;

Dismissal.

(b) may dismiss the appeal where

(i) the court is of the opinion that the appellant, although he was not properly convicted on a count or part of the indictment, was properly convicted on another count or part of the indictment,

(ii) the appeal is not decided in favour of the appellant on any ground mentioned in paragraph *(a)*, or

(iii) notwithstanding that the court is of the opinion that on any ground mentioned in subparagraph (ii) of paragraph *(a)* the appeal might be decided in favour of the appellant, it is of the opinion that no substantial wrong or miscarriage of justice has occurred;

Wrong conclusion on special verdict.

(c) may refuse to allow the appeal where it is of the opinion that the trial court arrived at a wrong conclusion as to the effect of a special verdict, and may order the conclusion to be recorded that appears to the court to be required by the verdict, and may pass a sentence that is warranted in law in substitution for the sentence passed by the trial court; or

Insanity.

(d) may quash a sentence and order the appellant to be kept in safe custody to await the pleasure of the Lieutenant-Governor where it is of the opinion that, although the appellant committed the act or made the omission charged against him, he was insane at the time the act was committed or the omission was made, so that he was not criminally responsible for his conduct.

592. Sections 1013 (5) in part, 1014 and 1016.

Order to be made.

(2) Where a court of appeal allows an appeal under paragraph *(a)* of subsection (1), it shall quash the conviction and

(a) direct a judgment or verdict of acquittal to be entered, or

(b) order a new trial.

Substituting verdict.

(3) Where a court of appeal dismisses an appeal under subparagraph (i) of paragraph *(b)* of subsection (1), it may substitute the verdict that in its opinion should have been found and affirm the sentence passed by the trial court or impose a sentence that is warranted in law.

Appeal from acquittal.

(4) Where an appeal is from an acquittal the court of appeal may

Dismissal.

(a) dismiss the appeal; or

Allowance.

(b) allow the appeal, set aside the verdict and

(i) enter a verdict of guilty with respect to the offence of which, in its opinion, the accused should have been found guilty but for the error in law, and pass a sentence that is warranted in law, or

(ii) order a new trial.

New trial under Part XVI.

(5) Where an appeal is taken in respect of proceedings under Part XVI and the court of appeal orders a new trial under this Part, the following provisions apply, namely,

(a) if the accused, in his notice of appeal or notice of application for leave to appeal, requested that the new trial, if ordered, should be held before a court composed of a judge and jury, the new trial shall be held accordingly;

(b) if the accused, in his notice of appeal or notice of application for leave to appeal, did not request that the new trial, if ordered, should be held before a court composed of a judge and jury, the new trial shall, without further election by the accused, be held before a judge or magistrate, as the case may be, acting under Part XVI, other than a judge or magistrate who tried the accused in the first instance, unless the court of appeal directs that the new trial be held before the judge or magistrate who tried the accused in the first instance; and

(c) if the court of appeal orders that the new trial shall be held before a court composed of a judge and jury it is not necessary, in any province of Canada, to prefer a bill of indictment before a grand jury in respect of the charge upon which the new trial was ordered, but it is sufficient if the new trial is commenced by an indictment in writing setting forth the offence with which the accused is charged and in respect of which the new trial was ordered.

Additional powers.

(6) Where a court of appeal exercises any of the powers conferred by subsection (2) or (4) it may make any order, in addition, that justice requires.

Powers of court on appeal against sentence.

593. (1) Where an appeal is taken against sentence the court of appeal shall, unless the sentence is one fixed by law, consider the fitness of the sentence appealed against, and may upon such evidence, if any, as it thinks fit to require or to receive,

(a) vary the sentence within the limits prescribed by law for the offence of which the accused was convicted, or

(b) dismiss the appeal.

Effect of judgment.

(2) A judgment of a court of appeal that varies the sentence of an accused who was convicted has the same force and effect as if it were a sentence passed by the trial court.

Right of appellant to attend.

594. (1) Subject to subsection (2), an appellant who is in custody is entitled, if he desires, to be present at the hearing of the appeal.

Appellant represented by counsel.

(2) An appellant who is in custody and who is represented by counsel is not entitled to be present

(a) at the hearing of the appeal, where the appeal is on a ground involving a question of law alone,

(b) on an application for leave to appeal, or

(c) on any proceedings that are preliminary or incidental to an appeal,

unless rules of court provide that he is entitled to be present or the court of appeal or a judge thereof gives him leave to be present.

Argument may be oral or in writing.

(3) A convicted person who is an appellant may present his case on appeal and his argument in writing instead of orally, and the court of appeal shall consider any case or argument so presented.

Sentence in absence of appellant.

(4) The power of a court of appeal to impose sentence may be exercised notwithstanding that the appellant is not present.

Restitution of property.

595. (1) Where an order for compensation or for the restitution of property is made by the trial court under section 628, 629 or 630, the operation of the order is suspended

(a) until the expiration of the period prescribed by rules of court for the giving of notice of appeal or of notice of application for leave to appeal, unless the accused waives an appeal, and

(b) until the appeal or application for leave to appeal has been determined, where an appeal is taken or application for leave to appeal is made.

Annulling or varying order.

(2) The court of appeal may by order annul or vary an order made by the trial court with respect to compensation or the restitution of property within the limits prescribed by the provision under which the order was made by the trial court, whether or not the conviction is quashed.

593. Section 1015.

594. Sections 1018 (1) in part, 1021 (6) and 1021 (7).

595. Section 1017.

Powers of Minister of Justice.

Powers of Minister of Justice.

596. The Minister of Justice may, upon an application for the mercy of the Crown by or on behalf of a person who has been convicted in proceedings by indictment,

(a) direct, by order in writing, a new trial before any court that he thinks proper, if after inquiry he is satisfied that in the circumstances a new trial should be directed;

(b) refer the matter at any time to the court of appeal for hearing and determination by that court as if it were an appeal by the convicted person; or

(c) refer to the court of appeal at any time, for its opinion, any question upon which he desires the assistance of that court, and the court shall furnish its opinion accordingly.

Appeals to the Supreme Court of Canada.

Appeal from conviction.

597. (1) A person who is convicted of an indictable offence whose conviction is affirmed by the court of appeal may appeal to the Supreme Court of Canada

In case of dissent.

(a) on any question of law on which a judge of the court of appeal dissents, or

On question of law with leave.

(b) on any question of law, if leave to appeal is granted by a judge of the Supreme Court of Canada within twenty-one days after the judgment appealed from is pronounced or within such extended time as the judge may, for special reasons, allow.

(2) A person

Appeal where acquittal set aside.

(a) who is acquitted of an indictable offence and whose acquittal is set aside by the court of appeal, or

Where joint trial.

(b) who is tried jointly with a person referred to in paragraph *(a)* and is convicted and whose conviction is sustained by the court of appeal,

may appeal to the Supreme Court of Canada on a question of law.

Appeal by Attorney General.

598. (1) Where a judgment of a court of appeal sets aside a conviction pursuant to an appeal taken under paragraph *(a)* of section 583 or dismisses an appeal taken pursuant to paragraph *(a)* of section 584, the Attorney General may appeal to the Supreme Court of Canada

In case of dissent.

(a) on any question of law on which a judge of the court of appeal dissents, or

On question of law with leave.

(b) on any question of law, if leave to appeal is granted by a judge of the Supreme Court of Canada within twenty-one days after the judgment appealed from is pronounced or within such extended time as the judge may, for special reasons, allow.

596. Section 1022 (2).

597. Sections 1023 (1) and (2) and 1025 (1) in part.

598. Sections 1023 (3) and 1025 (1) in part.

Terms.

(2) Where leave to appeal is granted under paragraph *(b)* of subsection (1), the judge may impose such terms as he sees fit.

Notice of appeal.

599. No appeal lies to the Supreme Court of Canada unless notice of appeal in writing is served by the appellant upon the respondent within fifteen days

(a) after the judgment of the court of appeal is pronounced where the appeal may be taken without leave, or

(b) after leave to appeal is granted, where leave is required,

unless further time is allowed by the Supreme Court of Canada or a judge thereof.

Order of Supreme Court of Canada.

600. (1) The Supreme Court of Canada may, on an appeal under this Part, make any order that the court of appeal might have made and may make any rule or order that is necessary to give effect to its judgment.

Hearing of appeal.

(2) An appeal to the Supreme Court of Canada that is not brought on for hearing by the appellant at the session of that court during which the judgment appealed from is pronounced by the court of appeal, or during the next session thereof, shall be deemed to be abandoned, unless otherwise ordered by the Supreme Court of Canada or a judge thereof.

Abandonment.

Appeals by Attorney General of Canada.

Right of Attorney General of Canada to appeal.

601. The Attorney General of Canada has the same rights of appeal in proceedings instituted at the instance of the Government of Canada and conducted by or on behalf of that government as the Attorney General of a province has under this Part.

599. Sections 1023 (4) and 1025 (2).

600. Section 1024.

601. New.

PART XIX.

PROCURING ATTENDANCE OF WITNESSES.

Application.

Application.

602. Except where section 446 applies, this Part applies where a person is required to attend to give evidence in a proceeding to which this Act applies.

Process.

Subpoena.

603. (1) Where a person is likely to give material evidence in a proceeding to which this Act applies, a subpoena may be issued in accordance with this Part requiring that person to attend to give evidence.

Warrant in Form 12.

(2) Where it is made to appear that a person who is likely to give material evidence

(a) will not attend in response to a subpoena if a subpoena is issued, or

(b) is evading service of a subpoena,

a court, justice or magistrate having power to issue a subpoena to require the attendance of that person to give evidence may issue a warrant in Form 12 to cause that person to be arrested and to be brought to give evidence.

Subpoena to be issued in first instance.

(3) Except where paragraph *(a)* of subsection (2) applies, a warrant in Form 12 shall not be issued unless a subpoena has first been issued.

How subpoena issued.

604. (1) Where a person is required to attend to give evidence before a superior court of criminal jurisdiction, a court of appeal or a court of criminal jurisdiction other than a magistrate acting under Part XVI, the subpoena directed to that person shall be issued out of the court before which the attendance of that person is required.

Who may issue.

(2) Where a person is required to attend to give evidence before a magistrate acting under Part XVI, or a summary conviction court under Part XXIV or in proceedings over which a justice has jurisdiction, a subpoena directed to that person shall be issued

(a) by a justice or magistrate, as the case may be, where the person whose attendance is required is within the province in which the proceedings were instituted, or

(b) out of a superior court of criminal jurisdiction or a county or district court of the province in which the proceedings were instituted, where the person whose attendance is required is not within the province.

This Part is derived from the following sections of the present *Criminal Code:*—
604A, 655 (3), 663 (in part), 671 to 677, 693, 711 to 713, 716, 788, 789, 841, 842, 971 to 976, 995 to 1000.

Order of judge.

(3) A subpoena shall not be issued pursuant to paragraph *(b)* of subsection (2), except pursuant to an order of a judge of the court made upon application by a party to the proceedings.

Seal.

(4) A subpoena or warrant that is issued by a court under this Part shall be under the seal of the court and shall be signed by a judge of the court or by the clerk of the court.

Signature.

(5) A subpoena or warrant that is issued by a justice or magistrate under this Part shall be signed by the justice or magistrate.

Form.

(6) A subpoena issued under this Part may be in Form 11.

Contents of subpoena.

605. (1) A subpoena shall require the person to whom it is directed to attend, at a time and place to be stated in the subpoena, to give evidence and, if required, to bring with him any writings that he has in his possession or under his control relating to the subject matter of the proceedings.

Witness to appear and remain.

(2) A person who is served with a subpoena issued under this Part shall attend and shall remain in attendance throughout the proceedings unless he is excused by the presiding judge, justice or magistrate.

Execution or Service of Process.

Service.

606. (1) Subject to subsection (2), a subpoena shall be served in accordance with subsection (3) of section 441.

Personal service.

(2) A subpoena that is issued pursuant to paragraph *(b)* of subsection (2) of section 604 shall be served personally upon the person to whom it is directed.

Proof of service.

(3) Service of a subpoena may be proved by the affidavit of the person who effected service.

Subpoena effective throughout Canada.

607. (1) A subpoena that is issued out of a superior court of criminal jurisdiction, a court of appeal or a court of criminal jurisdiction other than a magistrate acting under Part XVI has effect anywhere in Canada according to its terms.

Subpoena effective throughout province.

(2) A subpoena that is issued by a justice or magistrate has effect anywhere in the province in which it is issued.

Warrant effective throughout Canada.

608. (1) A warrant that is issued out of a superior court of criminal jurisdiction, a court of appeal or a court of criminal jurisdiction other than a magistrate acting under Part XVI may be executed anywhere in Canada.

Warrant effective throughout province.

(2) Subject to subsection (3) of section 610, a warrant that is issued by a justice or magistrate may be executed anywhere in the province in which it is issued.

Defaulting or Absconding Witness.

Warrant for absconding witness.

609. (1) Where a person is bound by recognizance to give evidence in any proceedings, a justice who is satisfied upon information being made before him in writing and under oath that the person is about to abscond or has absconded, may issue his warrant in Form 13 directing a peace officer to arrest that person and to bring him before the court, judge, justice or magistrate before whom he is bound to appear.

Endorsement of warrant.

(2) Section 447 applies, *mutatis mutandis*, to a warrant issued under this section.

Copy of information.

(3) A person who is arrested under this section is entitled, upon request, to receive a copy of the information upon which the warrant for his arrest was issued.

Warrant when witness does not attend.

610. (1) Where a person who has been served with a subpoena to give evidence in a proceeding does not attend or remain in attendance, the court, judge, justice or magistrate before whom that person was required to attend may, if it is established

(a) that the subpoena has been served in accordance with this Part, and

(b) that the person is likely to give material evidence,

issue or cause to be issued a warrant in Form 12 for the arrest of that person.

Warrant where witness bound by recognizance.

(2) Where a person who has been bound by a recognizance to attend to give evidence in any proceeding does not attend or does not remain in attendance, the court, judge, justice or magistrate before whom that person was bound to attend may issue or cause to be issued a warrant in Form 12 for the arrest of that person.

Warrant effective throughout Canada.

(3) A warrant that is issued by a justice or magistrate pursuant to subsection (1) or (2) may be executed anywhere in Canada.

Order where witness arrested under warrant.

611. Where a person is brought before a court, judge, justice or magistrate under a warrant issued pursuant to subsection (2) of section 603, or pursuant to section 609 or 610, the court, judge, justice or magistrate may order that the person

(a) be detained in custody, or

(b) be released on recognizance in Form 28, with or without sureties,

to appear and give evidence when required.

Contempt.

612. (1) A person who, being required by law to attend or remain in attendance for the purpose of giving evidence fails, without lawful excuse, to attend or remain in attendance accordingly is guilty of contempt of court.

Punishment.

(2) A court, judge, justice or magistrate may deal summarily with a person who is guilty of contempt of court under this section and that person is liable to a fine of one hundred dollars or to imprisonment for ninety days or to both, and may be ordered to pay the costs that are incident to the service of any process under this Part and to his detention, if any.

Form.

(3) A conviction under this section may be in Form 34 and a warrant of committal in respect of a conviction under this section may be in Form 22.

Evidence on Commission.

Order for, when witness ill or out of Canada.

613. A party to a proceeding to which this Act applies may apply for an order appointing a commissioner to take the evidence of a witness who

Application for order when witness ill.

(a) is, by reason of

(i) physical disability arising out of illness, or

(ii) some other good and sufficient cause,

not likely to be able to attend at the time the trial is held, or

(b) is out of Canada.

Application where witness is ill.

614. (1) An application under paragraph *(a)* of section 613 shall be made

(a) to a judge of a superior court of the province, or

(b) to a judge of a county or district court in the territorial division where the proceedings are taken.

Evidence of medical practitioner.

(2) An application under subparagraph (i) of paragraph *(a)* of section 613 may be granted on the evidence of a registered medical practitioner.

Reading evidence of witness who is ill.

615. Where the evidence of a witness mentioned in subparagraph (i) of paragraph *(a)* of section 613 is taken by a commissioner appointed under section 614, it may be read in evidence in the proceedings if

(a) it is proved by oral evidence or by affidavit that the witness is, by reason of death or physical disability arising out of illness, unable to attend,

(b) the transcript of the evidence is signed by the commissioner by or before whom it purports to have been taken, and

(c) it is proved to the satisfaction of the court that reasonable notice of the time for taking the evidence was given to the other party, and that the accused or his counsel, or the prosecutor or his counsel, as the case may be, had or might have had full opportunity to cross-examine the witness.

Application for order when witness out of Canada.

616. (1) An application that is made under paragraph *(b)* of section 613 shall be made

(a) to a judge of a superior court of criminal jurisdiction or of a court of criminal jurisdiction before which the accused is to be tried, or

(b) to a magistrate acting under Part XVI, where the accused is to be tried by a magistrate acting under that Part.

Reading evidence of witness out of Canada.

(2) Where the evidence of a witness is taken by a commissioner appointed under this section, it may be read in evidence in the proceedings.

Reading evidence to grand jury.

(3) Subject to section 618, evidence that is taken by a commissioner appointed under this section may, where the presiding judge directs, be read in evidence before a grand jury.

Providing for presence of accused counsel

617. (1) A judge or magistrate who appoints a commissioner may make provision in the order to enable an accused to be present or represented by counsel when the evidence is taken, but failure of the accused to be present or to be represented by counsel in accordance with the order does not prevent the reading of the evidence in the proceedings if the evidence has otherwise been taken in accordance with the order and with this Part.

Return of evidence.

(2) An order for the taking of evidence by commission shall indicate the officer of the court to whom the evidence that is taken under the order shall be returned.

Rules and practice same as in civil cases.

618. Except where otherwise provided by this Part or by rules of court, the practice and procedure in connection with the appointment of commissioners under this Part, the taking of evidence by commissioners, the certifying and return thereof, and the use of the evidence in the proceedings shall, as far as possible, be the same as those that govern like matters in civil proceedings in the superior court of the province in which the proceedings are taken.

Evidence Previously Taken.

Evidence on preliminary inquiry may be read on trial in certain cases.

619. (1) Where, at the trial of an accused, a person whose evidence was given at a previous trial upon the same charge, or whose evidence was taken in the investigation of the charge against the accused or upon the preliminary inquiry into the charge, refuses to be sworn or to give evidence, or if facts are proved upon oath from which it can be inferred reasonably that the person

(a) is dead,

(b) has since become and is insane,
(c) is so ill that he is unable to travel, or
(d) is absent from Canada,

and where it is proved that his evidence was taken in the presence of the accused, it may be read as evidence in the proceedings without further proof, if the evidence purports to be signed by the judge or justice before whom it purports to have been taken, unless the accused proves that it was not in fact signed by that judge or justice or that he did not have full opportunity to cross-examine the witness.

Idem.

(2) Evidence that has been taken on the preliminary inquiry or other investigation of a charge against an accused may be read as evidence in the prosecution of the accused for any other offence upon the same proof and in the same manner in all respects, as it might, according to law, be read in the prosecution of the offence with which the accused was charged when the evidence was taken.

PART XX.

PUNISHMENTS, FINES, FORFEITURES, COSTS AND RESTITUTION OF PROPERTY.

Punishment Generally.

"Court."

620. In this Part, except as provided in section 640, "court" means a court, judge, justice or magistrate and includes a person who is authorized to exercise the powers of a court, judge, justice or magistrate to impose punishment.

Degrees of punishment.

621. (1) Where an enactment prescribes different degrees or kinds of punishment in respect of an offence, the punishment to be imposed is, subject to the limitations prescribed in the enactment, in the discretion of the court that convicts a person who commits the offence.

Discretion as to punishment.

(2) Where an enactment prescribes a punishment in respect of an offence, the punishment to be imposed is, subject to the limitations prescribed in the enactment, in the discretion of the court that convicts a person who commits the offence, but no punishment is a minimum punishment unless it is declared to be a minimum punishment.

Imprisonment in default where term not specified.

(3) Where an accused is convicted of an offence punishable with both fine and imprisonment and a term of imprisonment in default of payment of the fine is not specified in the enactment that prescribed the punishment to be imposed, the imprisonment that may be imposed in default of payment shall not exceed the term of imprisonment that is prescribed in respect of the offence.

Cumulative punishments.

(4) Where an accused

(a) is convicted while under sentence for an offence, and a term of imprisonment, whether in default of payment of a fine or otherwise, is imposed;

(b) is convicted of an offence punishable with both fine and imprisonment, and both are imposed with a direction that, in default of payment of the fine, the accused shall be imprisoned for a term certain; or

(c) is convicted of more offences than one before the same court at the same sittings, and

(i) more than one fine is imposed with a direction in respect of each of them that, in default of payment thereof, the accused shall be imprisoned for a term certain,

620. New.

621. Sections 740, 746, 1028, 1029, 1035 (4), 1054, 1055 and new.

(ii) terms of imprisonment for the respective offences are imposed, or

(iii) a term of imprisonment is imposed in respect of one offence and a fine is imposed in respect of another offence with a direction that, in default of payment, the accused shall be imprisoned for a term certain,

the court that convicts the accused may direct that the terms of imprisonment shall be served one after the other.

Fine in lieu of other punishment.

622. (1) An accused who is convicted of an indictable offence punishable with imprisonment for five years or less may be fined in addition to or in lieu of any other punishment that is authorized, but an accused shall not be fined in lieu of imprisonment where the offence of which he is convicted is punishable by a minimum term of imprisonment.

Fine in addition to other punishment.

(2) An accused who is convicted of an indictable offence punishable with imprisonment for more than five years may be fined in addition to, but not in lieu of, any other punishment that is authorized.

Imprisonment in default of payment.

(3) Where a fine is imposed under this section, a term of imprisonment may be imposed in default of payment of the fine, but no such term shall exceed

(a) two years, where the term of imprisonment that may be imposed for the offence is less than five years, or

(b) five years, where the term of imprisonment that may be imposed for the offence is five years or more.

Fines on corporations.

623. (1) Notwithstanding subsection (2) of section 621, a corporation that is convicted of an offence is liable, in lieu of any imprisonment that is prescribed as punishment for that offence,

(a) to be fined in an amount that is in the discretion of the court, where the offence is an indictable offence, or

(b) to be fined in an amount not exceeding one thousand dollars, where the offence is a summary conviction offence.

Enforcement.

(2) Where a fine that is imposed under subsection (1) is not paid forthwith the prosecutor may, by filing the conviction, enter as a judgment the amount of the fine and costs, if any, in the superior court of the province in which the trial was held, and that judgment is enforceable against the accused in the same manner as if it were a judgment rendered against the accused in that court in civil proceedings.

Commencement of sentence.

624. (1) A sentence commences when it is imposed, except where a relevant enactment otherwise provides or the court otherwise orders.

Time pending appeal.

(2) The time during which a convicted person

(a) is at large on bail, or

(b) is confined in a prison or other place of confinement,

pending the determination of an appeal by that person,

622. Section 1035 (1) and (2).

623. Section 1035 (3). Subclauses (1) *(b)* and (2) are new.

624. Section 1054B.

does not count as part of any term of imprisonment imposed pursuant to his conviction, but paragraph *(b)* is subject to any directions that the court appealed to may give.

When time begins to run.

(3) Notwithstanding subsection (1), a term of imprisonment, whether imposed by a trial court or by the court appealed to, commences or shall be deemed to be resumed, as the case requires,

(a) on the day on which the appeal is determined, where the convicted person is then in custody, and

(b) on the day on which the convicted person is arrested and taken into custody under the sentence, where he is not in custody,

but paragraph *(a)* is subject to any directions that the court appealed to may give.

Where fine imposed.

(4) Notwithstanding subsection (1), where the sentence that is imposed is a fine with a term of imprisonment in default of payment, no time prior to the day of execution of the warrant of committal counts as part of the term of imprisonment.

Application for leave to appeal.

(5) An application for leave to appeal is an appeal for the purposes of this section.

Reduction of imprisonment on part payment.

625. (1) Where a term of imprisonment is imposed in default of payment of a penalty, the term shall, upon payment of a part of the penalty, be reduced by the number of days that bears the same proportion to the number of days in the term as the part paid bears to the total penalty.

Minimum which can be accepted.

(2) No amount offered in part payment of a penalty shall be accepted unless it is sufficient to secure reduction of sentence of one day, or some multiple thereof, and where a warrant of committal has been issued, no part payment shall be accepted until any fee that is payable in respect of the warrant or its execution has been paid.

To whom payment made.

(3) Payment may be made under this section to the person who has lawful custody of the prisoner or to such other person as the Attorney General directs.

Application of money paid.

(4) A payment under this section shall, unless the order imposing the penalty otherwise provides, be applied to the payment in full of costs and charges, and thereafter to payment in full of compensation or damages that are included in the penalty, and finally to payment in full of any part of the penalty that remains unpaid.

"Penalty."

(5) In this section, "penalty" means all the sums of money, including fines, in default of payment of which a term of imprisonment is imposed and includes the costs and charges of committing the defaulter and of conveying him to prison.

Fines and penalties go to provincial treasurer.

626. (1) Where a fine, penalty or forfeiture is imposed or a recognizance is forfeited and no provision, other than this section, is made by law for the application of the proceeds thereof, the proceeds belong to Her Majesty in right of the province in which the fine, penalty or forfeiture

625. Section 1035A.

626. Sections 1036 and 1037.

was imposed or the recognizance was forfeited, and shall be paid by the person who receives them to the treasurer of that province.

Exception.

(2) Where

(a) a fine, penalty or forfeiture is imposed

(i) in respect of a violation of a revenue law of Canada,

(ii) in respect of a breach of duty or malfeasance in office by an officer or employee of the Government of Canada, or

(iii) in respect of any proceedings instituted at the instance of the Government of Canada in which that government bears the costs of prosecution; or

(b) a recognizance in connection with proceedings mentioned in paragraph *(a)* is forfeited,

the proceeds of the fine, penalty, forfeiture or recognizance belong to Her Majesty in right of Canada and shall be paid by the person who receives them to the Receiver General of Canada.

Direction for payment to municipality.

(3) Where a provincial, municipal or local authority bears, in whole or in part, the expense of administering the law under which a fine, penalty or forfeiture is imposed or under which proceedings are taken in which a recognizance is forfeited,

By Lieutenant-Governor.

(a) the Lieutenant-Governor in Council may, from time to time, direct that the proceeds of a fine, penalty, forfeiture or recognizance that belongs to Her Majesty in right of the province shall be paid to that authority, and

By Governor in Council.

(b) the Governor in Council may, from time to time, direct that the proceeds of a fine, penalty, forfeiture or recognizance that belongs to Her Majesty in right of Canada shall be paid to that authority.

Province of Ontario.

(4) Where the proceeds of a fine, penalty, forfeiture or recognizance belong, by virtue of this section, to Her Majesty in right of the Province of Ontario, but a municipal or local authority in that province bears, in whole or in part, the expense of administering the law under which the fine, penalty or forfeiture was imposed or the recognizance was forfeited, the proceeds shall, notwithstanding anything in this section, be paid to that authority.

Recovery of penalties.

627. (1) Where a fine, pecuniary penalty or forfeiture is imposed by law and no other mode is prescribed for the recovery thereof, the fine, pecuniary penalty or forfeiture is recoverable or enforceable in civil proceedings by Her Majesty, but by no other person.

Limitation.

(2) No proceedings under subsection (1) shall be instituted more than two years after the time when the cause of action arose or the offence was committed in respect of which the fine, pecuniary penalty or forfeiture was imposed.

627. Sections 1038 and 1141.

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Compensation for loss of property.

628. (1) A court that convicts an accused of an indictable offence may, upon the application of a person aggrieved, at the time sentence is imposed, order the accused to pay to that person an amount by way of satisfaction or compensation for loss of or damage to property suffered by the applicant as a result of the commission of the offence of which the accused is convicted.

Enforcement.

(2) Where an amount that is ordered to be paid under subsection (1) is not paid forthwith the applicant may, by filing the order, enter as a judgment, in the superior court of the province in which the trial was held, the amount ordered to be paid, and that judgment is enforceable against the accused in the same manner as if it were a judgment rendered against the accused in that court in civil proceedings.

Moneys found on the accused.

(3) All or any part of an amount that is ordered to be paid under subsection (1) may be taken out of moneys found in the possession of the accused at the time of his arrest, except where there is a dispute as to ownership of or right of possession to those moneys by claimants other than the accused.

Compensation to *bona fide* purchasers.

629. (1) Where an accused is convicted of an indictable offence and any property obtained as a result of the commission of the offence has been sold to an innocent purchaser, the court may, upon the application of the purchaser after restitution of the property to its owner, order the accused to pay to the purchaser an amount not exceeding the amount paid by the purchaser for the property.

Enforcement.

(2) Where an amount that is ordered to be paid under subsection (1) is not paid forthwith the applicant may, by filing the order, enter as a judgment, in the superior court of the province in which the trial was held, the amount ordered to be paid, and that judgment is enforceable against the accused in the same manner as if it were a judgment rendered against the accused in that court in civil proceedings.

Moneys found on accused.

(3) All or any part of an amount that is ordered to be paid under subsection (1) may be taken out of moneys found in the possession of the accused at the time of his arrest, except where there is a dispute as to ownership of or right of possession to those moneys by claimants other than the accused.

Order for restitution of property.

630. (1) Where an accused is convicted of an indictable offence the court shall order that any property obtained by the commission of the offence shall be restored to the person entitled to it, if at the time of the trial the property is before the court or has been detained so that it can be immediately restored to that person under the order.

628. Section 1048.

629. Section 1049.

630. Sections 1050 and 795.

Where no conviction.

(2) Where an accused is tried for an indictable offence but is not convicted, and the court finds that an indictable offence has been committed, the court may order that any property obtained by the commission of the offence shall be restored to the person entitled to it, if at the time of the trial the property is before the court or has been detained, so that it can be immediately restored to that person under the order.

When order not to be made.

(3) An order shall not be made under this section in respect of

(a) property to which an innocent purchaser for value has acquired lawful title,

(b) a valuable security that has been paid or discharged in good faith by a person who was liable to pay or discharge it,

(c) a negotiable instrument that has, in good faith, been taken or received by transfer or delivery for valuable consideration by a person who had no notice and no reasonable cause to suspect that an indictable offence had been committed, or

(d) property in respect of which there is a dispute as to ownership or right of possession by claimants other than the accused.

By whom order executed.

(4) An order made under this section shall be executed by the peace officers by whom the process of the court is ordinarily executed.

Saving.

(5) This section does not apply to proceedings against a trustee, banker, merchant, attorney, factor, broker or other agent entrusted with the possession of goods or documents of title to goods, for an offence under section 276, 277, 278 or 282.

Costs to defendant in case of libel.

631. Where judgment is given for the accused in proceedings by indictment for the publication of a defamatory libel, the accused is entitled to recover from the prosecutor costs in a reasonable amount to be fixed by order of the court.

How recovered.

632. Where costs that are fixed under section 631 are not paid forthwith the accused may enter judgment for the amount of the costs by filing the order in the superior court of the province in which the trial was held, and that judgment is enforceable against the prosecutor in the same manner as if it were a judgment rendered against him in that court in civil proceedings.

IMPRISONMENT.

Imprisonment when no other provision.

633. Every one who is convicted of an indictable offence for which no punishment is specially provided is liable to imprisonment for five years.

631. Section 1045.

632. New.

633. Section 1052 (1).

Imprisonment for life or more than two years.

634. (1) Except where otherwise provided, a person who is sentenced to imprisonment for life or for a term of two years or more shall be sentenced to the penitentiary designated by or under the *Penitentiary Act* as the penitentiary for the province, territory or district in which he is convicted.

Imprisonment for term less than two years.

(2) A person who is sentenced to imprisonment

(a) for a term of less than two years, or

(b) for two or more terms of less than two years each, to be served one after the other,

shall, unless a special prison is prescribed by law, be sentenced to imprisonment in a prison or place of confinement within the province in which he is convicted, other than a penitentiary, in which the sentence of imprisonment may be lawfully executed.

Term less than two years.

(3) Where a person who is sentenced to imprisonment in a penitentiary is, before the expiration of that sentence, sentenced to imprisonment for a term of less than two years, he may be sentenced to serve that term in the same penitentiary, and if he is sentenced accordingly, he shall serve that term in that penitentiary, but if the previous sentence of imprisonment in the penitentiary is set aside, he shall serve that term in accordance with subsection (2).

Sentence to penitentiary of person serving sentence elsewhere.

(4) Where a person is sentenced to imprisonment in a penitentiary while he is lawfully imprisoned in a place other than a penitentiary he shall, except where otherwise provided, be sent immediately to the penitentiary and shall serve in the penitentiary the unexpired portion of the term of imprisonment that he was serving when he was sentenced to the penitentiary as well as the term of imprisonment for which he was sentenced to the penitentiary.

Exception.

(5) For the purposes of subsection (2) "penitentiary" does not, until a day to be fixed by proclamation of the Governor in Council, include the penitentiary mentioned in section 82 of the *Penitentiary Act*, chapter 206 of the Revised Statutes of Canada, 1952.

Sentence served according to regulations.

635. (1) A sentence of imprisonment shall be served in accordance with the enactments and rules that govern the institution to which the prisoner is sentenced, and a reference to hard labour in a conviction or sentence shall be deemed to be a reference to the employment of prisoners that is provided for in the enactments or rules.

Hard labour improperly ordered.

(2) A conviction or sentence that imposes hard labour shall not be quashed or set aside on the ground only that the enactment that creates the offence does not authorize the imposition of hard labour, but shall be amended accordingly.

634. Sections 1006 and 1056.

635. New.

Delivery of Accused to Keeper of Prison.

Execution of warrant of committal.

636. A peace officer or other person to whom a warrant of committal authorized by this Act or any other Act of the Parliament of Canada is directed shall convey the person named or described therein to the prison mentioned in the warrant and deliver him, together with the warrant, to the keeper of the prison who shall thereupon give to the peace officer or other person who delivers the prisoner a receipt in Form 39 setting out the state and condition of the prisoner when delivered into his custody.

Recognizances to Keep the Peace.

Binding over person convicted.

637. (1) Where a person is convicted of an offence, the court may

(a) in addition to any sentence that is imposed upon him, in the case of an indictable offence, or

(b) in addition to or in lieu of sentence, in the case of an offence punishable on summary conviction,

order that the person shall, at a time to be fixed by the court, enter into a recognizance, with or without sureties, to keep the peace and be of good behaviour for a term that does not exceed two years, and in default may, by warrant in Form 20, commit him to prison until the recognizance is entered into or the security is given.

Form.

(2) A recognizance under this section may be in Form 28.

Proceedings when in prison two weeks.

(3) Where a person who has been ordered to enter into a recognizance under subsection (1) has remained in prison for two weeks because of his default, he may apply to a judge for review of the order of committal.

Procedure when brought before court.

(4) A judge who receives an application under subsection (3) may order the discharge of the person referred to, forthwith or at a subsequent time, upon notice to such persons as he considers proper, or may make any other order that he considers proper in the circumstances with respect to the number of sureties to be required, the amounts in which they are to be bound and the period during which the person and the sureties are to be bound.

"Judge."

(5) In this section, "judge" means a judge of a superior court of criminal jurisdiction or of a court of criminal jurisdiction for the territorial division in which the prison where the person is confined is situated.

Suspended Sentence and Probation.

Suspension of sentence.

638. (1) Where an accused is convicted of an offence and no previous conviction is proved against him, and it appears to the court that convicts him or that hears an appeal that, having regard to his age, character and ante-

636. Section 704.

637. Sections 748 (1), 1058 and 1059.

638. Section 1081.

cedents, to the nature of the offence and to any extenuating circumstances surrounding the commission of the offence, it is expedient that the accused be released on probation, the court may, except where a minimum punishment is prescribed by law, instead of sentencing him to punishment, suspend the passing of sentence and direct that he be released upon entering into a recognizance in Form 28, with or without sureties,

(a) to keep the peace and be of good behaviour during any period that is fixed by the court, and

(b) to appear and to receive sentence when called upon to do so during the period fixed under paragraph *(a)*, upon breach of his recognizance.

Conditions.

(2) A court that suspends the passing of sentence may prescribe as conditions of the recognizance that

(a) the accused shall make restitution and reparation to any person aggrieved or injured for the actual loss or damage caused by the commission of the offence, and

(b) the accused shall provide for the support of his wife and any other dependents whom he is liable to support,

and the court may impose such further conditions as it considers desirable in the circumstances and may from time to time change the conditions and increase or decrease the period of the recognizance, but no such recognizance shall be kept in force for more than two years.

Requiring person to report.

(3) A court that suspends the passing of sentence may require as a condition of the recognizance that the accused shall report from time to time, as it may prescribe, to a person designated by the court, and the accused shall be under the supervision of that person during the prescribed period.

Report by designated person.

(4) The person designated by the court under subsection (3) shall report to the court if the accused does not carry out the terms on which the passing of sentence was suspended, and the court may order that the accused be brought before it to be sentenced.

Suspending sentence of person previously convicted.

(5) Where one previous conviction and no more is proved against an accused who is convicted, but the previous conviction took place more than five years before the time of the commission of the offence of which he is convicted, or was for an offence that is not related in character to the offence of which he is convicted, the court may, notwithstanding subsection (1), suspend the passing of sentence and make the direction mentioned in subsection (1).

Summons or warrant when recognizance not observed.

639. (1) A court that has suspended the passing of sentence or a justice having jurisdiction in the territorial division in which a recognizance was taken under section 638 may, upon being satisfied by information on oath that the accused has failed to observe a condition of the recognizance,

639. Section 1083 and new.

issue a summons to compel his appearance or a warrant for his arrest.

Return.

(2) A summons under subsection (1) is returnable before the court and an accused who is arrested under a warrant issued under subsection (1) shall be brought before the court or a justice.

Remand for judgment.

(3) A justice before whom a warrant under subsection (1) is returned may remand the accused to appear before the court or admit him to bail upon recognizance, with or without sureties, conditioned upon such appearance.

Sentence.

(4) The court may, upon the appearance of the accused pursuant to this section or subsection (4) of section 638 and upon being satisfied that the accused has failed to observe a condition of his recognizance, sentence him for the offence of which he was convicted.

Magistrate unable to act.

(5) Where the passing of sentence is suspended by a magistrate acting under Part XVI or Part XXIV or by a judge, and thereafter he dies or is for any reason unable to act, his powers under this section may be exercised by any other magistrate or judge, as the case may be, who has equivalent jurisdiction in the same territorial division.

"Court."

640. For the purposes of sections 638 and 639, "court" means

(a) a superior court of criminal jurisdiction,

(b) a court of criminal jurisdiction,

(c) a magistrate acting as a summary conviction court under Part XXIV, or

(d) a court that hears an appeal.

Whipping.

Execution of sentence by whipping.

641. (1) Where a person is liable to be sentenced to be whipped, the court may sentence him to be whipped on one, two or three occasions within the limits of the prison in which he is confined.

Number of strokes to be specified.

(2) A sentence of whipping shall specify the number of strokes to be administered on each occasion.

Supervision.

(3) A sentence of whipping shall be executed under the supervision of the prison doctor or, if he is unable to be present, it shall be executed under the supervision of a duly qualified medical practioner to be named by the Attorney General of Canada, where the sentence is executed in a prison administered by the Government of Canada, or, where the sentence is executed in a prison administered by the government of a province, to be named by the Attorney General of that province.

Instrument to be used.

(4) The instrument to be used in the execution of a sentence of whipping shall be a cat-o'-nine tails, unless some other instrument is specified in the sentence.

640. Section 1026.

641. Section 1060.

When to be used.

(5) A sentence of whipping shall be executed at a time to be fixed by the keeper of the prison in which it is to be executed, but, whenever practicable, a sentence of whipping shall be executed not less than ten days before the expiration of any term of imprisonment to which the convicted person has been sentenced.

Female not to be whipped.

(6) No female person shall be whipped.

Capital Punishment.

Form of sentence.

642. The sentence to be pronounced against a person who is sentenced to death shall be that he shall be hanged by the neck until he is dead.

Sentence of death to be reported to Secretary of State.

643. (1) A judge who sentences a person to death shall appoint a day for the execution of the sentence, and in appointing that day shall allow a period of time that, in his opinion is sufficient to enable the Governor General to signify his pleasure before that day, and shall forthwith make a report of the case to the Secretary of State for the information of the Governor General.

When judge may grant reprieve.

(2) Where a judge who sentences a person to death considers

(a) that the person should be recommended for the royal mercy, or

(b) that, for any reason, it is necessary to delay the execution of the sentence,

the judge or any judge who might have held or sat in the same court may, at any time, reprieve the person for any period that is necessary for the purpose.

Sentence of death in N.W.T. and Yukon.

(3) A judge who sentences a person to death in the Northwest Territories or in the Yukon Territory shall, after appointing a day for the execution of the sentence, in accordance with subsection (1), forthwith forward to the Secretary of State full notes of the evidence taken at the trial and his report upon the case, and the execution of the sentence shall be suspended until the report is received and the pleasure of the Governor General is signified, and where, pursuant to such suspension, a new time is required to be fixed for execution of the sentence, it may be fixed by the judge who imposed the sentence or any judge having equivalent jurisdiction.

Prisoner to be confined apart.

644. (1) A person who is sentenced to death shall be confined in a safe place within a prison apart from all other prisoners.

Who to have access.

(2) No person other than the keeper of the prison and his servants, the prison doctor and a clergyman or minister shall have access to a person who is sentenced to death unless permission is given in writing by a judge of the court by which the sentence was imposed or by the sheriff.

642. Section 1062.

643. Section 1063.

644. Section 1064.

Place of execution.

645. (1) A sentence of death shall be executed within the walls of a prison.

Who shall attend.

(2) The sheriff, the keeper of the prison, the prison doctor and any other persons required by the sheriff shall be present at the execution of a sentence of death.

Who may attend.

(3) A clergyman or minister who desires to attend and any other person whom the sheriff considers it proper to admit may attend the execution of a sentence of death.

Certificate of death.

646. (1) The prison doctor shall, as soon as possible after a sentence of death has been executed, examine the body of the executed person, ascertain the fact of death, and sign and deliver to the sheriff a certificate in Form 40.

Form.

Declaration by sheriff and keeper.

(2) The sheriff, the keeper of the prison and any other persons who are present at the execution of a sentence of death shall, if required by the sheriff, sign a declaration in Form 41.

Form.

Deputies may act.

647. Any duty that is imposed upon a sheriff, keeper of the prison or prison doctor by section 645 may, and in his absence shall, be performed by his lawful deputy or assistant, or by the officer or person who ordinarily acts for him or with him.

Coroner's inquest.

648. (1) A coroner of a district, county or place where a sentence of death is executed shall, within twenty-four hours after the execution of the sentence, hold an inquest on the body of the executed person.

Identity and death.

(2) The jury shall, at the inquest referred to in subsection (1), inquire into and ascertain the identity of the body of the executed person, and whether sentence of death was duly executed.

Inquisition in duplicate.

(3) The coroner shall prepare the inquisition in duplicate and shall deliver one to the sheriff.

Jurors.

(4) No officer of a prison in which a sentence of death is executed and no prisoner confined therein shall be a juror on an inquest referred to in subsection (1).

Where no coroner in Newfoundland.

(5) Where a sentence of death is executed in a district county or place in the province of Newfoundland in which there is no coroner, an inquiry shall, for the purposes of this section, be conducted without the intervention of a jury by a magistrate having jurisdiction in the district, county or place, and for the purposes of this subsection the provisions of section 649 and subsections (1), (2) and (3) of this section apply, *mutatis mutandis*.

Documents to be sent to Secretary of State.

649. Where a sentence of death is executed, the sheriff shall, as soon as possible, send the certificates mentioned in section 646 and the inquisition referred to in subsection (3) of section 648 to the Secretary of State or to the person who, from time to time, is appointed by the Governor in Council to receive them.

645. Sections 1065, 1066 and 1067.

646. Section 1068.

647. Section 1069.

648. Section 1070.

649. Section 1072.

Place of burial.

650. The body of a person who is executed pursuant to a sentence of death shall be buried within the prison in which the sentence was executed, unless the Lieutenant-Governor in Council, the Commissioner of the Yukon Territory or the Commissioner of the Northwest Territories, as the case may be, otherwise orders.

Saving.

651. Failure to comply with sections 643 to 649 does not make the execution of a sentence of death illegal where the execution would otherwise have been legal.

Procedure under other Acts not affected.

652. Sections 643 to 650 do not apply in so far as they are inconsistent with any other Act of the Parliament of Canada that provides for the imposition and execution of a sentence of death.

Regulations.

653. The Governor in Council may make regulations not inconsistent with this Act with respect to the execution of sentences of death.

Disabilities.

Conviction of person holding public office vacates office.

654. (1) Where a person is convicted of treason or of an indictable offence for which he is sentenced to death or to imprisonment for a term exceeding five years and holds, at the time he is convicted, an office under the Crown or other public employment, the office or employment forthwith becomes vacant.

When disability ceases.

(2) A person to whom subsection (1) applies is, until he undergoes the punishment imposed upon him or the punishment substituted therefor by competent authority or receives a free pardon from Her Majesty, incapable of holding any office under the Crown or other public employment, or of being elected or sitting or voting as a member of the Parliament of Canada or of a legislature or of exercising any right of suffrage.

Disability to contract.

(3) No person who is convicted of an offence under section 102, 105 or 361 has, after that conviction, capacity to contract with Her Majesty or to receive any benefit under a contract between Her Majesty and any other person or to hold office under Her Majesty.

Removal of disability.

(4) Where a conviction is set aside by competent authority any disability imposed by this section is removed.

Pardon.

To whom pardon may be granted.

655. (1) Her Majesty may extend the royal mercy to a person who is sentenced to imprisonment under the authority of an Act of the Parliament of Canada, even if the person is imprisoned for failure to pay money to another person.

650. Section 1071.

651. Section 1073.

652. Section 1074.

653. Section 1075.

654. Sections 159, 162 (part), 434 (3) and 1034.

655. Section 1076.

Free or conditional pardon.

(2) The Governor in Council may grant a free pardon or a conditional pardon to any person who has been convicted of an offence.

Effect of free pardon.

(3) Where the Governor in Council grants a free pardon to a person, that person shall be deemed thereafter never to have committed the offence in respect of which the pardon is granted.

Punishment for subsequent offence not affected.

(4) No free pardon or conditional pardon prevents or mitigates the punishment to which the person might otherwise be lawfully sentenced on a subsequent conviction for an offence other than that for which the pardon was granted.

Commutation of sentence.

656. (1) The Governor in Council may commute a sentence of death to imprisonment in the penitentiary for life, or for any term of years not less than two years, or to imprisonment in a prison other than a penitentiary for a period of less than two years.

Notice to authorities.

(2) A copy of an instrument duly certified by the Clerk of the Privy Council or a writing under the hand of the Secretary of State or Under-Secretary of State declaring that a sentence of death is commuted is sufficient notice to and authority for all persons having control over the prisoner to do all things necessary to give effect to the commutation.

Remission by Governor in Council.

657. (1) The Governor in Council may order the remission, in whole or in part, of a pecuniary penalty, fine or forfeiture imposed under an Act of the Parliament of Canada, whoever the person may be to whom it is payable or however it may be recoverable.

Terms of remission.

(2) An order for remission under subsection (1) may include the remission of costs incurred in the proceedings, but no costs to which a private prosecutor is entitled shall be remitted.

Royal prerogative.

658. Nothing in this Act in any manner limits or affects Her Majesty's royal prerogative of mercy.

656. Section 1077.

657. Section 1080.

658. Sections 1084 and 1085.

PART XXI.

PREVENTIVE DETENTION.

Interpretation.

659. In this Part,

"Court." *(a)* "court" means
(i) a superior court of criminal jurisdiction, or
(ii) a court of criminal jurisdiction;

"Criminal sexual psychopath." *(b)* "criminal sexual psychopath" means a person who, by a course of misconduct in sexual matters, has shown a lack of power to control his sexual impulses and who as a result is likely to attack or otherwise inflict injury, pain or other evil on any person, and

"Preventive detention." *(c)* "preventive detention" means detention in a penitentiary for an indeterminate period.

Habitual Criminals.

Application for preventive detention. **660.** (1) Where an accused is convicted of an indictable offence the court may, upon application, impose a sentence of preventive detention in addition to any sentence that is imposed for the offence of which he is convicted if
(a) the accused is found to be an habitual criminal, and
(b) the court is of the opinion that because the accused is an habitual criminal, it is expedient for the protection of the public to sentence him to preventive detention.

Who is habitual criminal. (2) For the purposes of subsection (1), an accused is an habitual criminal if
(a) he has previously, since attaining the age of eighteen years, on at least three separate and independent occasions been convicted of an indictable offence for which he was liable to imprisonment for five years or more and is leading persistently a criminal life, or
(b) he has been previously sentenced to preventive detention.

Criminal Sexual Psychopaths.

Evidence. **661.** (1) Where an accused is convicted of
(a) an offence under
(i) section 136,
Rape.
(ii) section 138,
Carnal knowledge.
Indecent assault on female.
(iii) section 141,
Buggery or bestiality.
(iv) section 147,
Indecent assault on male.
(v) section 148, or
Gross indecency.
(vi) section 149; or

659. Sections 575A and 1054A (8).

660. Sections 575B and 575C (1).

661. Section 1054A (1), (2), (3) and (5).

(b) an attempt to commit an offence under a provision mentioned in paragraph *(a)*,

the court may, upon application, before passing sentence hear evidence as to whether the accused is a criminal sexual psychopath.

Evidence of psychiatrists.

(2) On the hearing of an application under subsection (1) the court may hear any evidence that it considers necessary, but shall hear the evidence of at least two psychiatrists, one of whom shall be nominated by the Attorney General.

Sentence of preventive detention.

(3) Where the court finds that the accused is a criminal sexual psychopath it shall, notwithstanding anything in this Act or any other Act of the Parliament of Canada, sentence the accused to a term of imprisonment of not less than two years in respect of the offence of which he was convicted and, in addition, impose a sentence of preventive detention.

GENERAL.

Notice of application.

662. (1) The following provisions apply with respect to applications under this Part, namely,

(a) an application under subsection (1) of section 660 shall not be heard unless

(i) the Attorney General of the province in which the accused is to be tried consents,

(ii) seven clear days' notice has been given to the accused by the prosecutor specifying the previous convictions and the other circumstances, if any, upon which it is intended to found the application, and

(iii) a copy of the notice has been filed with the clerk of the court or the magistrate, as the case may be; and

(b) an application under subsection (1) of section 661 shall not be heard unless seven clear days' notice thereof has been given to the accused by the prosecutor and a copy of the notice has been filed with the clerk of the court or with the magistrate, where the magistrate is acting under Part XVI.

Hearing of application.

(2) An application under this Part shall be heard and determined before sentence is passed for the offence of which the accused is convicted and shall be heard by the court without a jury.

When proof unnecessary.

(3) For the purposes of section 660, where the accused admits the allegations contained in the notice referred to in paragraph *(b)* of subsection (1), no proof of those allegations is required.

662. Sections 575c (3) and (4) and 1054A (4).

Evidence of character and repute.

663. Without prejudice to the right of the accused to tender evidence as to his character and repute, evidence of character and repute may, where the court thinks fit, be admitted on the question whether the accused is or is not persistently leading a criminal life or is or is not a criminal sexual psychopath, as the case may be.

Commencement of sentence.

664. A sentence of preventive detention shall commence immediately upon the determination of the sentence imposed upon the accused for the offence of which he was convicted, but the Governor in Council may, at any time, commute that sentence to a sentence of preventive detention.

Commutation.

Where to be served.

665. (1) Notwithstanding anything in this Act or any other Act of the Parliament of Canada an accused who is sentenced to preventive detention shall serve in a penitentiary the sentence for the offence of which he was convicted as well as the sentence of preventive detention.

Prison set apart.

(2) An accused who is sentenced to preventive detention may be confined in a penitentiary or part of a penitentiary set apart for that purpose and shall be subject to such disciplinary and reformative treatment as may be prescribed by law.

Review by Minister of Justice.

666. Where a person is in custody under a sentence of preventive detention, the Minister of Justice shall, at least once in every three years, review the condition, history and circumstances of that person for the purpose of determining whether he should be permitted to be at large on licence, and if so, on what conditions.

Appeal.

667. (1) A person who is sentenced to preventive detention under this Part may appeal to the court of appeal against that sentence.

Appeal by Attorney General.

(2) The Attorney General may appeal to the court of appeal against the dismissal of an application for an order under this Part.

Part XVIII applies *re* appeals.

(3) The provisions of Part XVIII with respect to procedure on appeals apply, *mutatis mutandis*, to appeals under this section.

663. Section 575D.

664. Sections 575F, 575G (1) and 1054A (4).

665. (1) New.

(2) Section 575G (2) and (3).

666. Sections 575H and 1054A (7).

667. Section 575E.

PART XXII.

EFFECT AND ENFORCEMENT OF RECOGNIZANCES.

Applications for forfeiture of recognizances.

668. (1) Applications for the forfeiture of recognizances shall be made to the courts, designated in Column II of the Schedule, of the respective provinces designated in Column I of the Schedule.

(2) In this Part,

"Clerk of the Court."

(a) "clerk of the court" means the officer designated in Column III of the Schedule in respect of the court designated in Column II of the Schedule, and

"Schedule."

(b) "Schedule" means the schedule to this Part.

Recognizance binding.

669. Where a person is bound by recognizance to appear before a court, justice or magistrate for any purpose and the session or sittings of that court or the proceedings are adjourned or an order is made changing the place of trial, that person and his sureties continue to be bound by the recognizance in like manner as if it had been entered into with relation to the resumed proceedings or the trial at the time and place at which the proceedings are ordered to be resumed or the trial is ordered to be held.

Responsibility of sureties.

670. (1) Where an accused is bound by recognizance to appear for trial, his arraignment or conviction does not discharge the recognizance, but it continues to bind him and his sureties, if any, for his appearance until he is discharged or sentenced, as the case may be.

Committal or new sureties.

(2) Notwithstanding subsection (1), the court, justice or magistrate may commit an accused to prison or may require him to furnish new or additional sureties for his appearance until he is discharged or sentenced, as the case may be.

Effect of committal.

(3) The sureties of an accused who is bound by recognizance to appear for trial are discharged if he is committed to prison pursuant to subsection (2).

Endorsement on recognizance.

(4) The provisions of section 669 and subsections (1), (2) and (3) of this section shall be endorsed on any recognizance entered into pursuant to this Act.

Effect of subsequent arrest.

671. Where an accused is bound by recognizance to appear for trial, his arrest upon another charge does not vacate the recognizance, but it continues to bind him and his sureties, if any, for his appearance until he is discharged or sentenced, as the case may be, in respect of the offence to which the recognizance relates.

Render of accused by sureties.

672. (1) A surety for a person who is bound by recognizance to appear may, by an application in writing to a court, justice or magistrate apply to be relieved of his obligation under the recognizance, and the court, justice or magistrate shall thereupon issue an order in writing for

This Part is derived from the provisions of sections 1086 to 1119 and 886 (2) of the present *Criminal Code*.

committal of that person to the prison nearest to the place where he was, under the recognizance, bound to appear.

Arrest.

(2) An order under subsection (1) shall be given to the surety and upon receipt thereof he or any peace officer may arrest the person named in the order and deliver him with the order to the keeper of the prison named therein, and the keeper shall receive and imprison him until he is discharged according to law.

Certificate and entry of render.

(3) Where a judge, justice or magistrate who issues an order under subsection (1) receives from the sheriff a certificate that the person named in the order has been committed to prison pursuant to subsection (2), he shall order an entry of the committal to be endorsed on the recognizance.

Discharge of sureties.

(4) An endorsement under subsection (3) vacates the recognizance and discharges the sureties.

Render of accused in court by sureties.

673. A surety for a person who is bound by recognizance to appear may bring that person into the court at which he is required to appear at any time during the sittings thereof and before his trial and the surety may discharge his obligation under the recognizance by giving that person into the custody of the court, and the court shall thereupon commit that person to prison until he is discharged according to law.

Rights of surety preserved.

674. Nothing in this Part limits or restricts any right that a surety has of taking and giving into custody any person for whom, under a recognizance, he is a surety.

Application for bail after render.

675. Where a surety for a person has rendered him into custody and that person has been committed to prison, he may apply to the court, justice or magistrate before whom he was required to appear to be admitted again to bail, and the court, justice or magistrate may

(a) refuse the application, or

(b) allow the application and make any order with respect to the number of sureties and the amount of the bail that is considered proper in the circumstances.

Default to be endorsed.

676. (1) Where, in proceedings to which this Act applies, a person who is bound by recognizance does not comply with a condition of the recognizance, a court, justice or magistrate having knowledge of the facts shall endorse or cause to be endorsed on the back of the recognizance a certificate in Form 29 setting out

(a) the nature of the default,

(b) the reason for the default, if it is known,

(c) whether the ends of justice have been defeated or delayed by reason of the default, and

(d) the names and addresses of the principal and sureties.

Transmission to clerk of court.

(2) A recognizance that has been endorsed pursuant to subsection (1) shall be sent to the clerk of the court and shall be kept by him with the records of the court.

Prima facie evidence.

(3) A certificate that has been endorsed on a recognizance pursuant to subsection (1) is *prima facie* evidence of the default to which it relates.

Transmission of deposit.

(4) Where, in proceedings to which this section applies, the principal or surety has deposited money as security for the performance of a condition of a recognizance, that money shall be sent to the clerk of the court with the defaulted recognizance, to be dealt with in accordance with this Part.

Proceedings in case of default.

677. (1) Where a recognizance has been endorsed with a certificate pursuant to section 676 and has been received by the clerk of the court pursuant to that section,

Judge to fix time for hearing.

(a) a judge of the court shall, upon the request of the clerk of the court or the Attorney General or counsel acting on his behalf, fix a time and place for the hearing of an application for the forfeiture of the recognizance, and

Notice of hearing.

(b) the clerk of the court shall, not less than ten days before the time fixed under paragraph *(a)* for the hearing, send by registered mail to each principal and surety named in the recognizance, directed to him at the address set out in the certificate, a notice requiring him to appear at the time and place fixed by the judge to show cause why the recognizance should not be forfeited.

Order of judge.

(2) Where subsection (1) has been complied with, the judge may, after giving the parties an opportunity to be heard, in his discretion grant or refuse the application and make any order with respect to the forfeiture of the recognizance that he considers proper.

Fieri facias to issue.

(3) Where, pursuant to subsection (2), the judge orders forfeiture of the recognizance, the principal and his sureties become judgment debtors of the Crown, each in the amount that he has pledged himself to pay, and the clerk of the court or, in the province of Quebec, the prothonotary, shall issue a writ of *fieri facias* in Form 30 and deliver it to the sheriff of the territorial division in which the order was made.

Transfer of deposit.

(4) Where a deposit has been made by a person against whom an order for forfeiture of a recognizance has been made, no writ of *fieri facias* shall issue, but the amount of the deposit shall be transferred by the person who has custody of it to the person who is entitled by law to receive it.

81619—30

Levy under writ.

678. (1) Where a writ of *fieri facias* is issued pursuant to section 677, the sheriff to whom it is delivered shall execute the writ and deal with the proceeds thereof in the same manner in which he is authorized to execute and deal with the proceeds of writs of *fieri facias* issued out of superior courts in the province in civil proceedings.

Costs.

(2) Where this section applies the Crown is entitled to the costs of execution and of proceedings incidental thereto that are fixed, in the province of Quebec, by any tariff applicable in the Superior Court in civil proceedings, and in any other province, by any tariff applicable in the superior court of the province in civil proceedings, as the judge may direct.

Committal when writ not satisfied.

679. (1) Where a writ of *fieri facias* has been issued under this Part and it appears from a certificate in a return made by the sheriff that sufficient goods and chattels, lands and tenements cannot be found to satisfy the writ, or that the proceeds of the execution of the writ are not sufficient to satisfy it, a judge of the court may, upon the application of the Attorney General or counsel acting on his behalf, fix a time and place for the sureties to show cause why a warrant of committal should not be issued in respect of them.

Notice.

(2) Seven clear days' notice of the time and place fixed for the hearing pursuant to subsection (1) shall be given to the sureties.

Hearing.

(3) The judge shall, at the hearing referred to in subsection (1), inquire into the circumstances of the case and may in his discretion

(a) order the discharge of the amount for which the surety is liable, or

(b) make any order with respect to the surety and to his imprisonment that he considers proper in the circumstances and issue a warrant of committal in Form 24.

Warrant of committal.

(4) A warrant of committal issued pursuant to this section authorizes the sheriff to take into custody the person in respect of whom the warrant was issued and to confine him in a prison in the territorial division in which the writ was issued or in the prison nearest to the court, until satisfaction is made or until the period of imprisonment fixed by the judge has expired.

"Attorney General."

(5) In this section and in section 677, "Attorney General" means, where subsection (2) of section 626 applies, the Attorney General of Canada.

SCHEDULE

Column I.	Column II.	Column III.
Ontario	The Supreme Court, in respect of a recognizance for the appearance of a person before that court.	The Registrar or Local Registrar of the Supreme Court.
	A judge of the Court of Appeal in respect of a recognizance for the appearance of a person before that court.	The Registrar of the Supreme Court.
	A Court of the General Sessions of the Peace in respect of a recognizance for the appearance of a person before that court, a judge acting under Part XVI, a justice or a magistrate.	Clerk of the Peace.
Quebec	The Superior Court, exercising civil jurisdiction.	The Clerk of the Peace.
Nova Scotia	A judge of the Supreme Court in respect of a recognizance for the appearance of a person before the Supreme Court *in banco*.	The Prothonotary at Halifax.
	A judge of the County Court in respect of a recognizance for the appearance of a person before a judge of the Supreme Court, a judge of the County Court, a judge acting under Part XVI, a justice or a magistrate.	The Clerk of the County Court.
New Brunswick	The Supreme Court	The Registrar of the Supreme Court.
Manitoba	The Court of Queen's Bench	The Clerk or Deputy Clerk of the Crown and Pleas.
British Columbia	The Supreme Court in respect of a recognizance for the appearance of a person before that court or the Court of Appeal.	The District Registrar of the Supreme Court.
	A County Court in respect of a recognizance for the appearance of a person before that court, a judge acting under Part XVI, a justice or a magistrate.	The Clerk of the County Court.
Prince Edward Island	The Supreme Court of Judicature	The Prothonotary.
Saskatchewan	The Court of Queen's Bench in respect of a recognizance for the appearance of a person before that Court or the Court of Appeal.	The Local Registrar of the Court of Queen's Bench.
	A District Court in respect of a recognizance for the appearance of a person before that Court, a judge acting under Part XVI, a justice or a magistrate.	The Clerk of the District Court.
Alberta	The Supreme Court in respect of a recognizance for the appearance of a person before that Court or the Court of Appeal,	The Clerk of the Supreme Court.
	A District Court in respect of a recognizance for the appearance of a person before that Court, a judge acting under Part XVI, a justice or a magistrate.	The Clerk of the District Court.
Newfoundland	The Supreme Court	The Registrar of the Supreme Court.
Yukon Territory	The Territorial Court	The Clerk of the Court
Northwest Territories	The Territorial Court	The Clerk of the Court.

PART XXIII.

EXTRAORDINARY REMEDIES.

Application of Part.

680. This Part applies to proceedings in criminal matters by way of *certiorari*, *habeas corpus*, *mandamus* and prohibition.

Detention of prisoner on inquiry as to legality of imprisonment.

681. Where a person, being in custody by reason that he is charged with or has been convicted of an indictable offence, has instituted proceedings to which this Part applies, before a judge or court having jurisdiction, to have the legality of his imprisonment determined, the judge or court may, without determining the question, make an order for the further detention of that person and direct the judge, justice or magistrate under whose warrant he is in custody, or any other judge, justice or magistrate to take any proceedings, hear such evidence or do any other thing that, in the opinion of the judge or court, will best further the ends of justice.

Where conviction or order not reviewable.

682. No conviction or order shall be removed by *certiorari*

(a) where an appeal was taken, whether or not the appeal has been carried to a conclusion, or

(b) where the defendant appeared and pleaded and the merits were tried, and an appeal might have been taken, but the defendant did not appeal.

Conviction or order remediable, when.

683. (1) No conviction, order or warrant for enforcing a conviction or order shall, on being removed by *certiorari*, be held to be invalid by reason of any irregularity, informality or insufficiency therein, where the court before which or the judge before whom the question is raised, upon perusal of the evidence, is satisfied

(a) that an offence of the nature described in the conviction, order or warrant, as the case may be, was committed,

(b) that there was jurisdiction to make the conviction or order or issue the warrant, as the case may be, and

(c) that the punishment imposed, if any, was not in excess of the punishment that might lawfully have been imposed,

but the court or judge has the same powers to deal with the proceedings in the manner that he considers proper that are conferred upon a court to which an appeal might have been taken.

680. New.

681. Section 1120.

682. Sections 1121, 1122 and 1129.

683. Section 1124.

Correcting punishment.

(2) Where, in proceedings to which subsection (1) applies, the court or judge is satisfied that a person was properly convicted of an offence but the punishment that was imposed is greater than the punishment that might lawfully have been imposed, the court or judge

In case of fine.

(a) shall correct the sentence,

(i) where the punishment is a fine, by imposing a fine that does not exceed the maximum fine that might lawfully have been imposed,

In case of imprisonment.

(ii) where the punishment is imprisonment, and the person has not served a term of imprisonment under the sentence that is equal to or greater than the term of imprisonment that might lawfully have been imposed, by imposing a term of imprisonment that does not exceed the maximum term of imprisonment that might lawfully have been imposed, or

Where both are imposed.

(iii) where the punishment is a fine and imprisonment, by imposing a punishment in accordance with subparagraph (i) or (ii), as the case requires, or

Remitting matter to justice.

(b) shall remit the matter to the judge, justice or magistrate and direct him to impose a punishment that is not greater than the punishment that may be lawfully imposed.

Amendment.

(3) Where an adjudication is varied pursuant to subsection (1) or (2), the conviction and warrant of committal, if any, shall be amended to conform with the adjudication as varied.

Sufficiency of statement.

(4) Any statement that appears in a conviction and is sufficient for the purpose of the conviction is sufficient for the purposes of an information, summons, order or warrant in which it appears in the proceedings.

Irregularities within section 683.

684. Without restricting the generality of section 683, that section shall be deemed to apply where

(a) the statement of the adjudication or of any other matter or thing is in the past tense instead of in the present tense,

(b) the punishment imposed is less than the punishment that might by law have been imposed for the offence that appears by the evidence to have been committed, or

(c) there has been an omission to negative circumstances, the existence of which would make the act complained of lawful, whether those circumstances are stated by way of exception or otherwise in the provision under which the offence is charged, or are stated in another provision.

684. Section 1125.

General order for security by recognizance.

685. (1) A court that has authority to quash a conviction, order or other proceeding on *certiorari* may prescribe by general order that no motion to quash any such conviction, order or other proceeding removed to the court by *certiorari*, shall be heard unless the defendant has entered into a recognizance with one or more sufficient sureties, before one or more justices of the territorial division in which the conviction or order was made, or before a judge or other officer, or has made a deposit to be prescribed with a condition that the defendant will prosecute the writ of *certiorari* at his own expense, without wilful delay, and, if ordered, will pay to the person in whose favour the conviction, order or other proceeding is affirmed, his full costs and charges to be taxed according to the practice of the court where the conviction, order or proceeding is affirmed.

Provisions for forfeiture of recognizance apply.

(2) The provisions of Part XXII relating to forfeiture of recognizances apply to a recognizance entered into under this section.

Effect of order dismissing application to quash.

686. Where a motion to quash a conviction, order or other proceeding is refused, the order of the court refusing the application is sufficient authority for the clerk of the court forthwith to return the conviction, order or proceeding to the court from which or the person from whom it was removed, and for proceedings to be taken with respect thereto for the enforcement thereof.

Conviction, etc., not set aside for want of proof of order in council.

687. (1) No order, conviction or other proceeding shall be quashed or set aside, and no defendant shall be discharged, by reason only that evidence has not been given

(a) of a proclamation or order of the Governor in Council or the Lieutenant-Governor in Council;

(b) of rules, regulations or by-laws, made by the Governor in Council under an Act of the Parliament of Canada or by the Lieutenant-Governor in Council under an Act of the legislature of the province; or

(c) of the publication of a proclamation, order, rule, regulation or by-law in the *Canada Gazette* or in the official gazette for the province.

Judicial notice.

(2) Proclamations, orders, rules, regulations and by-laws mentioned in subsection (1) and the publication thereof shall be judicially noticed.

Warrant of commitment not void for defect in form.

688. No warrant of committal shall, on *certiorari* or *habeas corpus*, be held to be void by reason only of any defect therein, where

(a) it is alleged in the warrant that the defendant was convicted, and

(b) there is a valid conviction to sustain the warrant.

685. Section 1126.

686. Section 1127.

687. Section 1128.

688. Section 1130.

No action against official when conviction, etc., quashed.

689. Where an application is made to quash a conviction, order or other proceeding made or held by a magistrate acting under Part XVI or a justice on the ground that he exceeded his jurisdiction, the court to which or the judge to whom the application is made may in quashing the conviction, order or other proceeding, order that no civil proceedings shall be taken against the justice or magistrate or against any officer who acted under the conviction, order or other proceeding or under any warrant issued to enforce it.

Successive applications for *habeas corpus* not to be made.

690. (1) Where proceedings have been taken in respect of any person by way of *habeas corpus* arising out of a criminal matter and the relief sought has been refused on the merits, no further proceedings by way of *habeas corpus* arising out of that matter shall be taken in respect of that person before that judge or any other judge.

Saving.

(2) Nothing in this section limits or affects any provision of the *Supreme Court Act* that relates to writs of *habeas corpus* arising out of criminal matters.

Appeal in *habeas corpus*, etc.

691. (1) An appeal lies to the court of appeal from a decision granting or refusing the relief sought in proceedings by way of *habeas corpus*, *mandamus*, *certiorari* or prohibition.

Part XVIII applies.

(2) The provisions of Part XVIII apply, *mutatis mutandis*, to appeals under this section.

When appeal to be heard.

(3) Notwithstanding anything in Part XVIII or in rules of court, the appeal of an appellant who has filed notice of appeal shall be heard within seven days after the filing of proof of service of the notice of appeal upon the respondent and, where a notice of appeal is filed when the court of appeal is not sitting, a special sittings of the court of appeal shall be convened for the purpose of hearing the appeal.

689. Section 1131.

690. New.

691. New.

PART XXIV.

SUMMARY CONVICTIONS.

Interpretation.

692. In this Part,

"Informant." *(a)* "informant" means a person who lays an information;

"Information." *(b)* "information" includes

(i) a count in an information, and

(ii) a complaint in respect of which a justice is authorized by an Act of the Parliament of Canada or an enactment made thereunder to make an order;

"Order." *(c)* "order" means any order, including an order for the payment of money;

"Proceedings." *(d)* "proceedings" means

(i) proceedings in respect of offences that are declared by an Act of the Parliament of Canada or an enactment made thereunder to be punishable on summary conviction, and

(ii) proceedings where a justice is authorized by an Act of the Parliament of Canada or an enactment made thereunder to make an order;

"Prosecutor." *(e)* "prosecutor" means an informant or the Attorney-General or their respective counsel or agents;

"Sentence." *(f)* "sentence" includes a direction made under section 638;

"Summary conviction court." *(g)* "summary conviction court" means a person who has jurisdiction in the territorial division where the subject matter of the proceedings is alleged to have arisen and who

(i) is given jurisdiction over the proceedings by the enactment under which the proceedings are taken,

(ii) is a justice or magistrate, where the enactment under which the proceedings are taken does not expressly give jurisdiction to any person or class of persons, or

(iii) is a magistrate, where the enactment under which the proceedings are taken gives jurisdiction in respect thereof to two or more justices; and

"Trial." *(h)* "trial" includes the hearing of a complaint.

Application of part. **693.** (1) Except where otherwise provided by law, this Part applies to proceedings as defined in this Part.

Limitation. (2) No proceedings shall be instituted more than six months after the time when the subject matter of the proceedings arose.

Punishment.

General penalty. **694.** (1) Except where otherwise expressly provided by law, every one who is convicted of an offence punishable on summary conviction is liable to a fine of not more than

692. Sections 705, 706, 707, 708 (5) and new.

693. (1) Section 706.

(2) Section 1142.

694. (1) Section 1052 (2).

five hundred dollars or to imprisonment for six months or to both.

Imprisonment in default where not otherwise specified.

(2) Where the imposition of a fine or the making of an order for the payment of money is authorized by law, but the law does not provide that imprisonment may be imposed in default of payment of the fine or compliance with the order, the court may order that in default of payment of the fine or compliance with the order, as the case may be, the defendant shall be imprisoned for a period of not more than six months.

Time for payment.

(3) A summary conviction court may direct that any fine, pecuniary penalty or sum of money adjudged to be paid shall be paid forthwith or at a time to be fixed by the summary conviction court.

INFORMATION.

Commencement of proceedings.

695. (1) Proceedings under this Part shall be commenced by laying an information in Form 2.

One justice may act before the trial.

(2) Notwithstanding any other law that requires an information to be laid before or to be tried by two or more justices, one justice may

(a) receive the information,

(b) issue a summons or warrant with respect to the information, and

(c) do all other things preliminary to the trial.

Formalities of information.

696. (1) In proceedings to which this Part applies, the information

(a) shall be in writing and under oath, and

(b) may charge more than one offence or relate to more than one matter of complaint, but where more than one offence is charged or the information relates to more than one matter of complaint, each offence or matter of complaint, as the case may be, shall be set out in a separate count.

No reference to previous conviction.

(2) No information in respect of an offence for which, by reason of previous convictions, a greater punishment may be imposed shall contain any reference to previous convictions.

Any justice may act before and after trial.

697. (1) Nothing in this Act or any other law shall be deemed to require a justice before whom proceedings are commenced or who issues process before or after the trial, to be the justice or one of the justices before whom the trial is held.

Two or more justices.

(2) Where two or more justices have jurisdiction with respect to proceedings they shall be present and act together at the trial, but one justice may thereafter do anything that is required or is authorized to be done in connection with the proceedings.

(2) and (3). Section 739.

695. Sections 708 (1) and 710 (in part).

696. Section 710 (in part) and new.

697. Section 708 (2), (3) and (4).

Adjournment.

(3) Subject to section 698, in proceedings under this Part no summary conviction court other than the summary conviction court by which the plea of an accused is taken has jurisdiction for the purposes of the hearing and adjudication, but any justice may

(a) adjourn the proceedings at any time before the plea of the accused is taken, or

(b) adjourn the proceedings at any time after the plea of the accused is taken for the purpose of enabling the proceedings to be continued before the summary conviction court by which the plea was taken.

Waiving jurisdiction.

(4) A summary conviction court before which proceedings under this Part are commenced may, at any time before the trial, waive jurisdiction over the proceedings in favour of another summary conviction court that has jurisdiction to try the accused under this Part.

Idem.

(5) A summary conviction court that waives jurisdiction in accordance with subsection (4) shall name the summary conviction court in favour of which jurisdiction is waived, except where, in the province of Quebec, the summary conviction court that waives jurisdiction is a judge of the sessions of the peace.

Inability of justice to continue.

698. (1) Where a trial under this Part is commenced before a summary conviction court and a justice who is or is a member of that summary conviction court dies or is, for any reason, unable to continue the trial, another justice who is authorized to be, or to be a member of, a summary conviction court for the same territorial division may act in the place of the justice before whom the trial was commenced.

Continuing trial.

(2) A justice who, pursuant to subsection (1), acts in the place of a justice before whom a trial was commenced

(a) shall, if an adjudication has been made by the summary conviction court, impose the punishment or make the order that, in the circumstances, is authorized by law, or

(b) shall, if an adjudication has not been made by the summary conviction court, commence the trial again as a trial *de novo*.

Duty of court where common assault is charged.

699. Where a defendant is charged with common assault and, before the defendant enters upon his defence, the summary conviction court is, from the evidence, of the opinion

(a) that the assault complained of was accompanied by an attempt to commit an indictable offence other than common assault or was committed in the course of the commission of an indictable offence other than common assault, or

698. New.

699. Sections 709 and 732.

(b) that the defendant should, for any reason, be prosecuted by indictment,

the summary conviction court shall not adjudicate thereon, but the proceedings shall be continued as for an indictable offence and the defendant shall be informed accordingly.

Summons and Warrant.

Compelling appearance.

700. (1) The provisions of Parts XIV and XV with respect to compelling the appearance of an accused before a justice apply, *mutatis mutandis*, to proceedings under this Part.

Copy of warrant to be served.

(2) Where a warrant is issued in the first instance for the arrest of a defendant, a copy thereof shall be served on the person who is arrested thereunder.

Defects and Objections.

Proceedings not objectionable on certain grounds. Particulars.

701. (1) Sections 492 and 493 apply, *mutatis mutandis*, to informations in respect of proceedings as defined in this Part.

(2) The summary conviction court may, if it is satisfied that it is necessary for a fair trial, order that a particular, further describing any matter relevant to the proceedings, be furnished to the defendant.

Prosecutor need not negative exception, etc.

702. (1) No exception, exemption, proviso, excuse or qualification prescribed by law is required to be set out or negatived, as the case may be, in an information.

Burden of proving exception, etc., on defendant.

(2) The burden of proving that an exception, exemption, proviso, excuse or qualification prescribed by law operates in favour of the defendant is on the defendant, and the prosecutor is not required, except by way of rebuttal, to prove that the exception, exemption, proviso, excuse or qualification does not operate in favour of the defendant, whether or not it is set out in the information.

Process not objectionable on certain other grounds.

703. No information, summons, conviction, order or process shall be deemed to charge two offences or to be uncertain by reason only that it states that the alleged offence was committed

(a) in different modes, or

(b) in respect of one or other of several articles, either conjunctively or disjunctively.

Amending defective information.

704. (1) An objection to an information for a defect apparent on its face shall be taken by motion to quash the information before the defendant has pleaded, and thereafter only by leave of the summary conviction court before which the trial takes place.

700. Section 711.

701. Section 723.

702. Section 717.

703. Section 725.

704. Section 724.

Amendment where variance.

(2) A summary conviction court may, upon the trial of an information, amend the information or a particular that is furnished under section 701, to make the information or particular conform to the evidence if there appears to be a variance between the evidence and

(a) the charge in the information, or

(b) the charge in the information

(i) as amended, or

(ii) as it would have been if amended in conformity with any particular that has been furnished pursuant to section 701.

(3) A summary conviction court may, at any stage of the trial, amend the information as may be necessary if it appears

Information under wrong Act.

(a) that the information has been laid

(i) under another Act of the Parliament of Canada instead of this Act, or

(ii) under this Act instead of another Act of the Parliament of Canada; or

(b) that the information

Defective statement.

(i) fails to state or states defectively anything that is requisite to constitute the offence,

Exception not negatived.

(ii) does not negative an exception that should be negatived, or

Defect in substance.

(iii) is in any way defective in substance,

and the matters to be alleged in the proposed amendment are disclosed by the evidence taken on the trial; or

Defect in form.

(c) that the information is in any way defective in form.

Variance not material

(4) A variance between the information and the evidence taken on the trial is not material with respect to

As to time.

(a) the time when the offence is alleged to have been committed, if it is proved that the information was laid within the prescribed period of limitation, or

As to place.

(b) the place where the subject matter of the proceedings is alleged to have arisen, if it is proved that it arose within the territorial jurisdiction of the summary conviction court that holds the trial.

What to be considered.

(5) The summary conviction court shall, in considering whether or not an amendment should be made, consider

(a) the evidence taken on the trial, if any,

(b) the circumstances of the case,

(c) whether the defendant has been misled or prejudiced in his defence by a variance, error or omission mentioned in subsection (2) or (3), and

(d) whether, having regard to the merits of the case, the proposed amendment can be made without injustice being done.

Adjournment if defendant prejudiced.

(6) Where in the opinion of the summary conviction court the defendant has been misled or prejudiced in his

defence by an error or omission in the information, the summary conviction court may adjourn the trial and may make such an order with respect to the payment of costs resulting from the necessity of amendment as it considers desirable.

TRIAL.

Jurisdiction.

705. Every summary conviction court has jurisdiction to try, determine and adjudge proceedings to which this Part applies in the territorial division over which the person who constitutes that court has jurisdiction.

Non-appearance of prosecutor.

706. Where, in proceedings to which this Part applies, the defendant appears for the trial and the prosecutor, having had due notice, does not appear, the summary conviction court may dismiss the information or may adjourn the trial to some other time upon such terms as it considers proper.

When both parties appear.

707. (1) Where the prosecutor and defendant appear, the summary conviction court shall proceed to hold the trial.

Counsel or agent.

(2) A defendant may appear personally or by counsel or agent, but the summary conviction court may require the defendant to appear personally and may, if it thinks fit, issue a warrant in Form 7 for the arrest of the defendant, and adjourn the trial to await his appearance pursuant thereto.

Appearance by corporation.

(3) Where the defendant is a corporation it shall appear by counsel or agent, and if it does not appear, the summary conviction court may, upon proof of service of the summons, proceed *ex parte* to hold the trial.

Arraignment.

708. (1) Where the defendant appears the substance of the information shall be stated to him, and he shall be asked,

(a) whether he pleads guilty or not guilty to the information, where the proceedings are in respect of an offence that is punishable on summary conviction, or

(b) whether he has cause to show why an order should not be made against him, in proceedings where a justice is authorized by law to make an order.

Conviction or order if charge admitted.

(2) Where the defendant pleads guilty or does not show sufficient cause why an order should not be made against him, as the case may be, the summary conviction court shall convict him or make an order against him accordingly.

Procedure if charge not admitted.

(3) Where the defendant pleads not guilty or states that he has cause to show why an order should not be made against him, as the case may be, the summary conviction court shall proceed with the trial, and shall take the

705. Section 707.

706. Section 719.

707. Section 720.

708. Section 721.

evidence of witnesses for the prosecutor and the defendant in accordance with the provisions of Part XV relating to preliminary inquiries.

Separating trial of counts.

(4) The summary conviction court may, before or during the trial, where it is satisfied that the ends of justice require it, direct that the defendant be tried separately upon one or more of the counts in the information.

Admission by defendant.

(5) A defendant may admit any fact alleged against him for the purpose of dispensing with proof thereof.

Right to make full answer and defence.

709. (1) The prosecutor is entitled personally to conduct his case, and the defendant is entitled to make his full answer and defence.

Examination of witnesses.

(2) The prosecutor or defendant, as the case may be, may examine and cross-examine witnesses personally or by counsel or agent.

On oath.

(3) Every witness at a trial in proceedings to which this Part applies shall be examined under oath.

Adjournment.

710. (1) The summary conviction court may, in its discretion, before or during the trial, adjourn the trial to a time and place to be appointed and stated in the presence of the parties or their respective counsel or agents, but no such adjournment shall, except with the consent of both parties, be for more than eight days.

Security for appearance of defendant.

(2) Where the summary conviction court adjourns a trial it may

(a) permit the defendant to be at large,

(b) commit him by warrant in Form 14 to a prison within the territorial division for which the summary conviction court has jurisdiction or to such other safe custody as the summary conviction court thinks fit, or

(c) discharge the defendant upon his recognizance in Form 28,

(i) with or without sureties, or

(ii) upon depositing such sum of money as the court directs,

conditioned for his appearance at the time and place fixed for resumption of the trial.

Non-appearance of defendant.

(3) Where the defendant does not appear at the time and place appointed for the trial, and service of the summons within a reasonable period before the appearance was required is proved, or does not appear for the resumption of a trial that has been adjourned in accordance with subsection (1), the summary conviction court

Proceeding *ex parte*.

(a) may proceed *ex parte* to hear and determine the proceedings in the absence of the defendant as fully and effectually as if the defendant had appeared, or

Warrant.

(b) may, if it thinks fit, issue a warrant in Form 8 or 9, as the case may be, for the arrest of the defendant, and adjourn the trial to await his appearance pursuant thereto.

709. Sections 715 and 716 (1).

710. Sections 718 and 722.

Non-appearance of prosecutor.

(4) Where the prosecutor does not appear at the time and place appointed for the resumption of an adjourned trial, the summary conviction court may dismiss the information with or without costs.

ADJUDICATION.

Conviction, order or dismissal.

711. When the summary conviction court has heard the prosecutor, defendant and witnesses it shall, after considering the matter, convict the defendant or make an order against him or dismiss the information, as the case may be.

Previous conviction.

712. (1) Where a defendant is convicted of an offence for which a greater punishment may be imposed by reason of previous convictions, no greater punishment shall be imposed upon him by reason thereof unless the prosecutor satisfies the summary conviction court that the defendant, before making his plea, was notified that a greater punishment would be sought by reason thereof.

Procedure where previous conviction charged.

(2) Where a defendant is convicted of an offence for which a greater punishment may be imposed by reason of previous convictions, the summary conviction court shall, upon application by the prosecutor, and upon being satisfied that the defendant was notified in accordance with subsection (1), ask the defendant whether he was previously convicted, and if he does not admit that he was previously convicted, evidence of previous convictions may be adduced.

Where hearing *ex parte*.

(3) A summary conviction court that holds a trial pursuant to subsection (3) of section 710 may, if it convicts the defendant, make inquiries with respect to previous convictions, whether or not the defendant was notified that a greater punishment would be sought by reason thereof.

Proof of previous conviction.

(4) For the purposes of this section, a previous conviction may be proved in the manner prescribed by section 574.

Memo. of conviction or order.

713. (1) Where a defendant is convicted or where an order is made against him, a minute or memorandum of the conviction or order may be made, without fee, but whether or not a minute or memorandum is made, the conviction or order shall be drawn up by the summary conviction court in Form 31 or 32, as the case may be.

Forms.

Warrant of committal.

(2) Where a defendant is convicted or an order is made against him, the summary conviction court shall issue a warrant of committal in Form 18 or 19, and section 447 applies in respect of a warrant of committal issued under this subsection.

Disposal of penalties when joint offenders.

714. Where several persons join in committing the same offence and upon conviction each is adjudged to pay an amount to a person aggrieved, no more shall be paid to that person than an amount equal to the value of

711. Section 726.

712. Sections 721A and 753.

713. Section 727.

714. Section 728.

the property destroyed or injured or the amount of the injury done, together with costs, if any, and the residue of the amount adjudged to be paid shall be applied in the manner in which other penalties imposed by law are directed to be applied.

Order of dismissal.

715. (1) Where the summary conviction court dismisses an information it may, if requested by the defendant, draw up an order of dismissal, and shall give to the defendant a certified copy of the order of dismissal.

Forms.

Effect of certificate.

(2) A copy of an order of dismissal, certified in accordance with subsection (1) is, without further proof, a bar to any subsequent proceedings against the defendant in respect of the same cause.

Costs.

716. (1) The summary conviction court may in its discretion award and order such costs as it considers reasonable and not inconsistent with the fees established by section 744, to be paid

To informant.

(a) to the informant by the defendant, where the summary conviction court convicts or makes an order against the defendant, or

To defendant

(b) to the defendant by the informant, where the summary conviction court dismisses an information.

To be set out.

(2) An order under subsection (1) shall be set out in the conviction, order or order of dismissal, as the case may be.

Costs are part of fine.

(3) Where a fine or sum of money or both are adjudged to be paid by a defendant, and a term of imprisonment in default of payment is imposed, the defendant is, in default of payment, liable to serve the term of imprisonment imposed, and for the purposes of this subsection, any costs that are awarded against the defendant shall be deemed to be part of the fine or sum of money adjudged to be paid.

Where no fine imposed.

(4) Where no fine or sum of money is adjudged to be paid by a defendant, but costs are awarded against the defendant or informant, the person who is liable to pay them is, in default of payment, liable to imprisonment for one month.

Definition.

(5) In this section, "costs" includes the costs and charges, after they have been ascertained, of committing and conveying to prison the person against whom costs have been awarded.

Sureties to Keep the Peace.

Where injury or damage feared.

717. (1) Any person who fears that another person will cause personal injury to him or his wife or child or will damage his property may lay an information before a justice.

Duty of justice.

(2) A justice who receives an information under subsection (1) shall cause the parties to appear before him or before a summary conviction court having jurisdiction in the same territorial division.

715. Section 730.

716. Sections 735 to 738.

717. Section 748 (2) to (5).

Adjudication. (3) The justice or the summary conviction court before which the parties appear may, if satisfied by the evidence adduced that the informant has reasonable grounds for his fears,

Recognizance. *(a)* order that the defendant enter into a recognizance, with or without sureties, to keep the peace and be of good behaviour for any period that does not exceed twelve months, or

Committal in default. *(b)* commit the defendant to prison for a term not exceeding twelve months if he fails or refuses to enter into the recognizance.

Forms. (4) A recognizance and committal to prison in default of recognizance under subsection (3) may be in Forms 28 and 20, respectively.

Procedure. (5) The provisions of this Part apply, *mutatis mutandis*, to proceedings under this section.

Breach of recognizance. **718.** A person bound by recognizance under section 717 who commits a breach of the recognizance is guilty of an offence punishable on summary conviction.

APPEAL.

719. For the purposes of sections 720 to 732, "appeal court" means

P.E. Island, Newfoundland. *(a)* in the Provinces of Prince Edward Island and Newfoundland, the Supreme Court,

Nova Scotia, New Brunswick, Manitoba. *(b)* in the Provinces of Nova Scotia, New Brunswick and Manitoba, the county court of the district or county where the cause of the proceedings arose,

Quebec. *(c)* in the Province of Quebec, the Superior Court,

Ontario. *(d)* in the Province of Ontario, the county court of the district or county or group of counties where the cause of the proceedings arose,

Saskatchewan, Alberta. *(e)* in the Provinces of Saskatchewan and Alberta, the district court of the judicial district or sub-judicial district in which the cause of the proceedings arose,

British Columbia. *(f)* in the Province of British Columbia, the county court of the county in which the cause of the proceedings arose, and

Territories. *(g)* in the Yukon Territory and Northwest Territories, a judge of the Territorial Court.

Appeal. **720.** Except where otherwise provided by law,

By defendant. *(a)* the defendant in proceedings under this Part may appeal to the appeal court

(i) from a conviction or order made against him, or

(ii) against a sentence passed upon him; and

By informant or Attorney General. *(b)* the informant or the Attorney General in proceedings under this Part may appeal to the appeal court

(i) from an order dismissing an information, or

(ii) against a sentence passed upon a defendant,

718. New.

719. Section 749 (1).

720. Section 749 (1).

and the Attorney General of Canada has the same rights of appeal in proceedings instituted at the instance of the Government of Canada and conducted by or on behalf of that government as the Attorney General of a province has under this paragraph.

British Columbia.

721. (1) In the province of British Columbia, an appeal under section 720 shall be heard at the sittings of the appeal court that is held nearest to the place where the cause of the proceedings arose.

Alberta, Saskatchewan.

(2) In the provinces of Alberta and Saskatchewan an appeal under section 720 shall be heard at the sittings of the appeal court that is held nearest to the place where the cause of the proceedings arose, but the judge of the appeal court may, on the application of one of the parties, appoint a place for the hearing of the appeal.

Yukon, N.W. Territories.

(3) In the Yukon Territory and the Northwest Territories, an appeal under section 720 shall be heard at the place where the cause of the proceedings arose or at the place nearest thereto where a court is appointed to be held.

Notice of appeal.

722. (1) Where an appeal is taken under section 720, the appellant shall

Contents.

(a) prepare a notice of appeal in writing setting forth

(i) with reasonable certainty the conviction or order appealed from or the sentence appealed against, and

(ii) the grounds of appeal;

Service.

(b) cause the notice of appeal to be served upon

(i) the summary conviction court that made the conviction or order or imposed the sentence, and

(ii) the respondent,

within thirty days after the conviction or order was made or the sentence was imposed; and

Filing.

(c) file in the office of the clerk of the appeal court

(i) the notice of appeal referred to in paragraph *(a)*, and

(ii) an affidavit of service of the notice of appeal,

not later than seven days after the last day for service of the notice of appeal upon the respondent and the summary conviction court.

Time for service and filing.

(2) In the Northwest Territories, the appeal court may fix, before or after the expiration of the periods fixed by paragraphs *(b)* and *(c)* of subsection (1), a further period not exceeding thirty days within which service and filing may be effected.

Alternative service.

(3) Where the respondent is a person engaged in enforcement of the law under which the conviction or order was made or the sentence was imposed, the appeal court may direct that a copy of the notice of appeal referred to in

721. Section 749 (1).

722. Section 750 *(b)*.

subsection (1) be served upon a person other than the respondent, and where the appeal court so directs, that service shall, for the purposes of this section and section 723, be deemed to be service upon the respondent.

Setting down appeal.

723. (1) Where an appellant has complied with section 722, the appeal court shall set down the appeal for hearing at a regular or special sittings thereof and the clerk of the appeal court shall post, in a conspicuous place in his office, a notice of every appeal that has been set down for hearing and notice of the time when it will be heard.

Exception.

(2) No appeal shall be set down for hearing at a time that is less than ten days after the time when service was effected upon the respondent of the notice referred to in paragraph *(b)* of subsection (1) of section 722, unless the parties or their counsel or agents otherwise agree in writing.

SECURITY BY APPELLANT.

Where appeal from conviction imposing imprisonment.

724. (1) The following provisions apply in respect of appeals to the appeal court, namely,

(a) where an appeal is from a conviction imposing imprisonment without alternative punishment the appellant shall

(i) remain in custody until the appeal is heard, or

(ii) enter into a recognizance;

Where appeal from conviction adjudging imprisonment in default.

(b) where an appeal is from a conviction or order adjudging that a fine or sum of money be paid and imposing a term of imprisonment in default of payment, the appellant shall

(i) remain in custody until the appeal is heard,

(ii) enter into a recognizance, or

(iii) deposit with the summary conviction court the amount of the fine or the sum of money to be paid and an additional amount that, in the opinion of the summary conviction court, is sufficient to cover the costs of the appeal;

Where appeal from conviction adjudging fine but not imprisonment.

(c) where an appeal is from a conviction or order adjudging that a fine or sum of money be paid but not imposing a term of imprisonment in default of payment, the appellant shall comply with subparagraph (ii) or (iii) of paragraph *(b)*; and

Where appeal from dismissal of complaint.

(d) where an appeal is from an order other than an order for the payment of money or is from an order dismissing an information, the appellant shall, unless he is the Attorney General of Canada or of a province, enter into a recognizance in an amount, or deposit with the summary conviction court an amount that, in the opinion of that court, is sufficient to cover the costs of the appeal.

723. New.

724. Section 750 *(c)*.

Formalities of recognizance.

(2) A recognizance under this section

(a) shall be in Form 28,

(b) shall be entered into before a judge of the county or district court, or a justice having jurisdiction in the territorial division in which the conviction or order was made in such amount as the judge or justice directs,

(c) may be required to be entered into with one or more sureties, and

(d) may, where it is not entered into by one or more sureties, be required to be accompanied by a deposit of such sum of money as the summary conviction court that made the conviction or order has directed.

Conditions.

(3) The condition of a recognizance under this section shall be that

(a) the appellant, if he was the defendant in the proceedings before the summary conviction court, will appear personally at the sittings of the appeal court at which the appeal is to be heard,

(b) the appellant, if he was the prosecutor in the proceedings before the summary conviction court, will appear personally or by counsel at the sittings of the appeal court at which the appeal is to be heard,

(c) the appellant will abide the judgment of the appeal court on the appeal, and

(d) the appellant will pay any costs that are awarded against him.

New recognizance.

(4) An appeal court has, with respect to a recognizance that appears to it to be insufficient, defective or invalid, the same powers that a superior court has under subsection (5) of section 735.

Release of appellant.

(5) Where an appellant is in custody an order for discharge in Form 35 shall, when a recognizance is entered into under this section, be issued by the person who takes the recognizance.

Payment of fine not a waiver of appeal.

725. (1) A person does not waive his right of appeal under section 720 by reason only that he pays the fine imposed upon conviction, without in any way indicating an intention to appeal or reserving the right to appeal.

Presumption.

(2) A conviction, order or sentence shall be deemed not to have been appealed against until the contrary is shown.

PROCEDURE ON APPEAL.

Transmission of conviction, etc.

726. (1) Where a summary conviction court is served with a copy of the notice referred to in paragraph *(b)* of subsection (1) of section 722, that court shall transmit the conviction, order or order of dismissal and all other material in its possession in connection with the proceedings to the appeal court before the time when the appeal is to be heard, or within such further time as the appeal court may direct, and the material shall be kept by the clerk of the court with the records of the appeal court.

725. (1) Section 750 *(g)*.

(2) Section 757 (2).

726. (1) Section 757 (1).

Saving.

(2) An appeal shall not be dismissed by the appeal court by reason only that some person other than the appellant failed to comply with the provisions of this Part relating to appeals.

Appellant to furnish transcript of evidence.

(3) Where the evidence upon a trial before a summary conviction court has been taken by a stenographer duly sworn, the appellant shall, unless the appeal court otherwise orders, cause a transcript thereof, certified by the stenographer, to be furnished to the appeal court for use upon the appeal.

Appeal.

727. (1) Where an appeal has been lodged in accordance with this Part from a conviction or order made against a defendant, or from an order dismissing an information, the appeal court shall hear and determine the appeal by holding a trial *de novo*, and for this purpose the provisions of sections 701 to 716, insofar as they are not inconsistent with sections 720 to 732, apply, *mutatis mutandis*.

Former evidence.

(2) The appeal court may, for the purpose of hearing and determining an appeal, permit the evidence of any witness taken before the summary conviction court to be read if that evidence has been authenticated in accordance with section 453, and if

(a) the appellant and respondent consent,

(b) the appeal court is satisfied that the attendance of the witness cannot reasonably be obtained, or

(c) by reason of the formal nature of the evidence or otherwise the court is satisfied that the opposite party will not be prejudiced,

and any evidence that is read under the authority of this subsection has the same force and effect as if the witness had given the evidence before the appeal court.

Appeal against sentence.

(3) Where an appeal is taken against sentence, the appeal court shall, unless the sentence is one fixed by law, consider the fitness of the sentence appealed against, and may upon such evidence, if any, as it thinks fit to require or receive, by order,

(a) dismiss the appeal, or

(b) vary the sentence within the limits prescribed by law for the offence of which the defendant was convicted.

General provisions re appeals.

(4) The following provisions apply in respect of appeals, namely,

(a) where an appeal is based on an objection to an information or any process, judgment shall not be given in favour of the appellant

(i) for any alleged defect therein in substance or in form, or

(ii) for any variance between the information or process and the evidence adduced at the trial,

unless it is shown

(2) New.

(3) New.

727. New in part.

(iii) that the objection was taken at the trial, and

(iv) that an adjournment of the trial was refused notwithstanding that the variance referred to in subparagraph (ii) had deceived or misled the appellant; and

(b) where an appeal is based on a defect in a conviction or order, judgment shall not be given in favour of the appellant, but the court shall make an order curing the defect.

Adjournment.

728. The appeal court may adjourn the hearing of the appeal from time to time as may be necessary.

Dismissal for want of prosecution.

729. The appeal court may, upon proof that notice of an appeal has been given and that the appeal has not been proceeded with or has been abandoned, order that the appeal be dismissed.

Costs.

730. Where an appeal is heard and determined or is abandoned or is dismissed for want of prosecution, the appeal court may make any order with respect to costs that it considers just and reasonable.

To whom costs payable, and when.

731. (1) Where the appeal court orders the appellant or respondent to pay costs, the order shall direct that the costs be paid to the clerk of the court, to be paid by him to the person entitled to them, and shall fix the period within which the costs shall be paid.

Application of deposit.

(2) Where costs are awarded against an appellant who has made a deposit to cover costs, the amount of the deposit shall be applied towards payment of costs.

Certificate of non-payment of costs.

(3) Where costs are not paid in full within the period fixed for payment and the person who has been ordered to pay them has not been bound by a recognizance to pay them, the clerk of the court shall, upon application by the person entitled to the costs, or by any person on his behalf, and upon payment of any fee to which the clerk of the court is entitled, issue a certificate in Form 38 certifying that the costs or a part thereof, as the case may be, have not been paid.

Committal.

(4) A justice having jurisdiction in the territorial division in which a certificate has been issued under subsection (3) may, upon production of the certificate, by warrant in Form 23, commit the defaulter to imprisonment for a term not exceeding one month, unless the amount of the costs and, where the justice thinks fit so to order, the costs of the committal and of conveying the defaulter to prison are sooner paid.

728. Section 751 (3).

729. Section 760 (in part).

730. Sections 755 (1) in part and 760 in part.

731. (1) Section 758.

(2) Section 751 (2).

(3) Section 759 (1).

(4) Section 759 (2).

Enforcement of conviction or order by court of appeal.

732. (1) A conviction or order made by the appeal court may be enforced

(a) in the same manner as if it had been made by the summary conviction court, or

(b) by process of the appeal court.

Enforcement by justice.

(2) Where an appeal taken against a conviction or order adjudging payment of a sum of money is dismissed, the summary conviction court that made the conviction or order or a justice for the same territorial division may issue a warrant of committal as if no appeal had been taken.

Duty of clerk of court.

(3) Where a conviction or order that has been made by an appeal court is to be enforced by a justice, the clerk of the appeal court shall send to the justice the conviction or order and all writings relating thereto, except the notice of intention to appeal and any recognizance

Stated Case.

"Court."

733. For the purposes of sections 734 to 742, "superior court" means the superior court of criminal jurisdiction for the province in which the proceedings in respect of which a case is sought to be stated are carried on.

Application for stated case.

734. (1) A party to proceedings to which this Part applies or the Attorney General may appeal against a conviction, order, determination or other proceeding of a summary conviction court on the ground that

Grounds.

(a) it is erroneous in point of law, or

(b) it is in excess of jurisdiction,

by applying to the summary conviction court to state a case setting forth the facts as found by that court and the grounds on which the proceedings are questioned.

Rules of court, if any, to apply.

(2) An application to state a case shall be made and the case shall be stated within the period and in the manner directed by rules of court, if any, and where there are no rules of court otherwise providing, the following rules apply, namely,

Time and manner of application.

(a) the application

(i) shall be in writing and be directed to the summary conviction court,

(ii) shall be served upon the summary conviction court by leaving with that court a copy thereof within seven clear days after the time when the adjudication that is questioned was made;

When case to be stated.

(b) the case shall be stated and signed by the summary conviction court

(i) within one month after the time when the application was made, and

(ii) after the recognizance referred to in section 735 has been entered into; and

732. Sections 754 (2) and (3), 756 and 757 (4).

733. Section 705 *(e)*.

734. Section 761.

Delivery of stated case.

(c) the appellant shall, within seven clear days after receiving the stated case,

(i) give to the respondent a notice in writing of the appeal with a copy of the stated case, and

(ii) transmit the stated case to the superior court.

Right of Attorney General of Canada to appeal.

(3) The Attorney General of Canada has the same rights of appeal in proceedings instituted at the instance of the Government of Canada and conducted by or on behalf of that government as the Attorney General of a province has under this section.

Recognizance by appellant.

735. (1) The appellant shall, at the time he makes the application and before a case is stated, enter into a recognizance in Form 28 before the summary conviction court or a justice having the same jurisdiction, with or without sureties and in an amount that the summary conviction court or the justice considers proper, conditioned to prosecute his appeal without delay and to submit to the judgment of the superior court and to pay any costs that are awarded against him, or in lieu of furnishing sureties, make a cash deposit as the summary conviction court or the justice may direct.

Justice's fees.

(2) The appellant shall, before the stated case is delivered to him, pay to the summary conviction court or the justice the fees to which they are entitled.

Exception.

(3) Subsections (1) and (2) do not apply where the application is made by the Attorney General of Canada or the Attorney General of a province or by counsel acting on behalf of either of them.

Discharge of appellant from custody.

(4) Where an appellant is in custody the summary conviction court or the justice shall order that he be released if his recognizance contains a further condition that he will appear before that court or another summary conviction court within ten days after the judgment of the superior court has been given, to abide the judgment, unless the judgment from which the appeal is taken is reversed.

New recognizance.

(5) Where the recognizance appears to the superior court to be insufficient, defective or invalid, the superior court may permit the substitution of a new and sufficient recognizance, to be entered into before it and for that purpose may allow such time and make such examination and impose such terms with respect to the payment of costs as it considers just and reasonable, and the substituted recognizance shall, for all purposes, be as valid and effectual as if it had been entered into at the time the appellant made the application and before the case was stated.

Procedure when justice dies or quits office.

736. (1) Where, pending an application for a stated case, a justice who was, or was a member of, the summary conviction court dies, quits office or is unable to act, the appellant may, upon giving notice to the respondent,

735. Section 762 (1), (2) and (3).

736. Section 762 (4) and (5).

Recognizance.

apply to the superior court to state a case, and if a case is thereupon stated it shall be dealt with as if it had been stated by the summary conviction court.

(2) The appellant shall, before a case is stated by the superior court under this section, enter into a recognizance as provided in section 735.

Refusal to state a case.

737. Where a summary conviction court, to which an application to state a case is made, considers that the application is frivolous, it may refuse to state a case and shall, at the request of the appellant, issue to him a certificate of the refusal, but the summary conviction court shall not refuse to state a case where the application is made by or at the direction of the Attorney General of Canada or the Attorney General of a province or counsel acting on behalf of either of them.

Compelling statement of case.

738. (1) Where a summary conviction court refuses to state a case, the appellant may apply to the superior court, upon an affidavit setting out the facts, for an order directing the summary conviction court and the respondent to show cause why a case should not be stated.

Order.

(2) Where an application is made under subsection (1), the superior court may make the order or dismiss the application, with or without payment of costs by the appellant or the summary conviction court, as it considers appropriate in the circumstances.

Case to be stated.

(3) Where an order is made under this section, the summary conviction court shall, upon being served with a copy thereof and upon the appellant entering into a recognizance pursuant to subsection (1) of section 735, state a case accordingly.

No *certiorari* required.

739. No writ of *certiorari* or other writ is required to remove any conviction, order or other determination in relation to which a case is stated for the purpose of obtaining the judgment, determination or opinion of the superior court.

Powers of court hearing appeal.

740. (1) Where a case is stated under this Part, the superior court shall hear and determine the grounds of appeal and may

(a) affirm, reverse or modify the conviction, order or determination,

(b) cause the case to be sent back to the summary conviction court for amendment and deliver judgment after it has been amended, or

(c) remit the matter to the summary conviction court with the opinion of the superior court,

and may make

737. Section 763.

738. Section 764.

739. Section 768.

740. Sections 765 and 766.

(d) any other order in relation to the matter that it considers proper, and

Costs.

(e) any order, with respect to costs, that it considers proper, but except as provided in subsection (2) of section 738, no order for the payment of costs shall be made against a summary conviction court that states a case.

Authority of judge.

(2) The authority and jurisdiction of the superior court to which a case is stated may, where that authority and jurisdiction may be exercised by a judge of that court, subject to any rules of court in relation thereto, be exercised by a judge of the court sitting in chambers as well in vacation as in term time.

Enforcement of adjudication.

741. (1) Where the superior court has rendered its decision on a stated case, the summary conviction court in relation to whose adjudication the case has been stated or a justice exercising the same jurisdiction has the same authority to enforce a conviction, order or determination that has been affirmed, amended or made by the superior court as the summary conviction court would have had if a case had not been stated.

Idem.

(2) An order of the superior court may be enforced by its own process.

Statement of case precludes appeal.

742. (1) Every person for whom a case is stated in respect of an adjudication of a summary conviction court from which he is entitled to an appeal under section 720 shall be taken to have abandoned all his rights of appeal under that section.

No case to be stated when no appeal.

(2) Where it is provided by law that no appeal lies from a conviction or order, no appeal by way of a stated case lies from such a conviction or order.

Appeals to Court of Appeal.

On question of law.

743. (1) An appeal to the court of appeal, as defined in section 581 may, with leave of that court, be taken on any ground that involves a question of law alone, against

(a) a decision of a court in respect of an appeal under section 727, or

(b) a decision of a superior court in respect of a stated case under section 740, except where the superior court to which the case was stated is the court of appeal.

Sections applicable.

(2) Sections 581 to 589 apply, *mutatis mutandis*, to an appeal under this section.

Costs.

(3) Notwithstanding subsection (2), the court of appeal may make any order with respect to costs that it considers proper in relation to an appeal under this section.

741. Section 767.

742. Section 769.

743. Section 769A.

Enforcement of decision.

(4) The decision of the court of appeal may be enforced in the same manner as if it had been made by the summary conviction court before which the proceedings were originally heard and determined.

Fees and Allowances.

Fees and allowances.

744. The fees and allowances mentioned in the Schedule to this Part and no others are the fees and allowances that may be taken or allowed in proceedings before summary conviction courts and justices under this Part.

744. Section 770.

SCHEDULE.

Fees and Allowances that may be Charged by Summary Conviction Courts and Justices.

1.	Information	$1.00
2.	Summons or warrant	0.50
3.	Warrant where summons issued in first instance.	0.30
4.	Each necessary copy of summons or warrant	0.30
5.	Each subpoena or warrant to or for witnesses (A subpoena may contain any number of names. Only one subpoena may be issued on behalf of a party in any proceeding, unless the summary conviction court or the justice considers it necessary or desirable that more than one subpoena be issued.).	0.30
6.	Information for warrant for witness and warrant for witness	1.00
7.	Each necessary copy of subpoena to or warrant for witness	0.20
8.	Each recognizance	1.00
9.	Hearing and determining proceeding	1.00
10.	Where hearing lasts more than two hours	2.00
11.	Where two or more justices hear and determine a proceeding, each is entitled to the fee authorized by item 9.	
12.	Each warrant of committal	0.50
13.	Making up record of conviction or order upon request of a party to the proceedings	1.00
14.	Copy of a writing other than a conviction or order, upon request of a party to the proceedings; for each folio of one hundred words.	0.10
15.	Bill of costs, when made out in detail upon request of a party to the proceedings	0.20
(Items 14 and 15 may be charged only where there has been an adjudication.)		
16.	Attending to remand prisoner	1.00
17.	Attending to take recognizance of bail	1.00

Fees and Allowances that may be Allowed to Peace Officers.

18.	Arresting a person upon a warrant or without a warrant	1.50
19.	Serving summons or subpoena	0.50
20.	Milage to serve summons or subpeona or to make an arrest, both ways, for each mile (Where a public conveyance is not used, reasonable costs of transportation may be allowed.)	0.10

21. Mileage where service cannot be effected, upon proof of a diligent attempt to effect service, each way, for each mile..... $0.10

22. Returning with prisoner after arrest to take him before a summary conviction court or justice at a place different from the place where the peace officer received the warrant to arrest, if the journey is of necessity over a route different from that taken by the peace officer to make the arrest, each way, for each mile.. 0.10

23. Taking a prisoner to prison on remand or committal, each way, for each mile..... 0.10
(Where a public conveyance is not used, reasonable costs of transportation may be allowed. No charge may be made under this item in respect of a service for which a charge is made under item 22.)

24. Attending summary conviction court or justice on summary conviction proceedings, for each day necessarily employed..... 2.00
(No more than $2.00 may be charged under this item in respect of any day notwithstanding the number of proceedings that the peace officer attended on that day before that summary conviction court or justice.)

FEES AND ALLOWANCES THAT MAY BE ALLOWED TO WITNESSES.

25. Each day attending trial..... 4.00

26. Mileage travelled to attend trial, each way, for each mile..... 0.10

FEES AND ALLOWANCES THAT MAY BE ALLOWED TO INTERPRETERS.

27. Each half day attending trial..... 2.50

28. Actual living expenses when away from ordinary place of residence, not to exceed per day.... 10.00

29. Mileage travelled to attend trial, each way, for each mile..... 0.20

PART XXV.

TRANSITIONAL AND CONSEQUENTIAL.

Repeal.

745. The *Criminal Code*, chapter 36 of the Revised Statutes of Canada, 1927, is repealed.

Transitional.

746. (1) Where proceedings for an offence against the criminal law were commenced before the coming into force of this Act, the offence shall, after the coming into force of this Act, be dealt with, inquired into, tried and determined in accordance with this Act, and any penalty, forfeiture or punishment in respect of that offence shall be imposed as if this Act had not come into force, but where, under this Act, the penalty, forfeiture or punishment in respect of the offence is reduced or mitigated in relation to the penalty, forfeiture or punishment that would have been applicable if this Act had not come into force, the provisions of this Act relating to penalty, forfeiture and punishment shall apply.

Idem

(2) Where proceedings for an offence against the criminal law are commenced after the coming into force of this Act the following provisions apply, namely,

(a) the offence, whenever committed, shall be dealt with, inquired into, tried and determined in accordance with this Act;

(b) if the offence was committed before the coming into force of this Act, the penalty, forfeiture or punishment to be imposed upon conviction for that offence shall be the penalty, forfeiture or punishment authorized or required to be imposed by this Act or by the law that would have applied if this Act had not come into force, whichever penalty, forfeiture or punishment is the less severe; and

(c) if the offence is committed after the coming into force of this Act, the penalty, forfeiture or punishment to be imposed upon conviction for that offence shall be the the penalty, forfeiture, or punishment authorized or required to be imposed by this Act.

Interpretation Act.

747. Section 29 of the *Interpretation Act*, chapter 158 of the Revised Statutes of Canada, 1952, is repealed.

Opium and Narcotic Drug Act.

748. Section 25 of the *Opium and Narcotic Drug Act*, chapter 201 of the Revised Statutes of Canada, 1952, is repealed and the following substituted therefor:

Except in cases tried before two justices, no appeals in cases taken under section 4(1), *(a)*, *(d)*, *(e)* and *(f)*.

"**25.** Except in cases tried before two justices of the peace, sections 719 to 732, inclusive, and subsection (2) of section 742 of the *Criminal Code* do not apply to any con-

viction, order or proceedings in respect of any offence under paragraphs *(a)*, *(d)*, *(e)* and *(f)* of subsection (1) of section 4 of this Act."

Canada Evidence Act.

749. Subsection (2) of section 4 of the *Canada Evidence Act*, chapter 307 of the Revised Statutes of Canada, 1952, is repealed and the following substituted therefor:

Wife or husband competent and compellable witness for prosecution.

"(2) The wife or husband of a person charged with an offence against section 33 or 34 of the *Juvenile Delinquents Act* or with an offence against any of the sections 135 to 138, 140, 142 to 147, 149, 155, 156, 157, 159, 164, 184, 186, 189, 234 to 236, 241 to 244, 275, paragraph (c) of section 408 or an attempt to commit an offence under section 138 or 147 of the *Criminal Code*, is a competent and compellable witness for the prosecution without the consent of the person charged."

Combines Investigation Act.

750. (1) Wherever, in the *Combines Investigation Act*, chapter 314 of the Revised Statutes of Canada, 1952, the expression "section 498 or 498A of the *Criminal Code*" or "section 498 or 498A of the *Criminal Code*, chapter 36 of the Revised Statutes of Canada, 1927," appears, the expression "section 411 or 412 of the *Criminal Code*" shall be substituted therefor, and wherever in the said Act the expression "section 498 of the *Criminal Code*" appears there shall be substituted therefor the expression "section 411 of the *Criminal Code*".

Idem.

(2) Subsection (1) of section 18 of the said Act is repealed and the following substituted therefor:

Director may submit statement of evidence.

"**18.** (1) At any stage of an inquiry,

(a) the Director may, if he is of the opinion that the evidence obtained discloses a situation contrary to section 32 or 34 of this Act, or section 411 or 412 of the *Criminal Code*, and

(b) the Director shall, if so required by the Minister, prepare a statement of the evidence obtained in the inquiry which shall be submitted to the Commission and to each person against whom an allegation is made therein."

(3) Subsections (1) and (2) of section 40 of the said Act are repealed and the following substituted therefor:

Procedure for enforcing penalties.

"**40.** (1) Where an indictment is found against an accused, other than a corporation, for any offence against this Act, the accused may elect to be tried without a jury and where he so elects he shall be tried by the judge presiding at the court at which the indictment is found, or the judge presiding at any subsequent sittings of that court, or at any court where the indictment comes on for trial; and in the event of such election being made the proceedings subsequent to the election shall be regulated in so far as

may be applicable by the provisions of the *Criminal Code* relating to the trial of indictable offences by a judge without a jury.

Jurisdiction of courts.

(2) No court other than a superior court of criminal jurisdiction, as defined in the *Criminal Code*, has power to try any offence against section 32 of this Act."

Extradition Act.

751. A reference in item 24 of the First Schedule to the *Extradition Act*, chapter 322 of the Revised Statutes of Canada, 1952, to an offence under a Part of the *Criminal Code*, chapter 36 of the Revised Statutes of Canada, 1927, shall be construed as a reference to the same or the corresponding offence under this Act.

Coming into force

752. This Act shall come into force on a day to be fixed by the Governor in Council.

PART XXVI.

FORMS.

Forms.

753. (1) The forms set out in this Part varied to suit the case or forms to the like effect shall be deemed to be good, valid and sufficient in the circumstances for which, respectively, they are provided.

Seal not required.

(2) No justice is required to attach or affix a seal to any writing or process that he is authorized to issue and in respect of which a form is provided by this Part.

753. Section 1152.

FORM 1.

(*Section 429.*)

Information to obtain a search warrant.

Canada,
Province of ,
(*territorial division*).

This is the information of A. B., of in the said (*territorial division*), (*occupation*), hereinafter called the informant, taken before me.

The informant says that (*describe things to be searched for and offence in respect of which search is to be made*), and that he has reasonable grounds for believing that the said things, or some part of them are in the (*dwelling house, etc.*), of C. D., of in the said (*territorial division*) (*here add the grounds of belief, whatever they may be*).

Wherefore the informant prays that a search warrant may be granted to search the said (*dwelling house, etc.*), for the said things.

Sworn before me
this day of
A.D. ,
at

.....
Signature of Informant.

.....
A Justice of the Peace in and
for .

FORM 2.

(*Sections 439 and 695.*)

Information.

Canada,
Province of ,
(*territorial division*) .

This is the information of C. D., of ,
(*occupation*), hereinafter called the informant.

The informant says that (*if the informant has not personal knowledge state that he has reasonable and probable grounds to believe and does believe and state the offence.*)

Sworn before me
this day of
A.D. ,
at

.....
Signature of Informant.

.....
A Justice of the Peace in and
for .

81619—34

FORM 3.

(*Sections 491 and 501.*)

Heading of Indictment.

Canada,
Province of
(*territorial division*)

In the (*set out name of the court*)

Her Majesty the Queen

against

(*name of accused*)

1. The jurors for Her Majesty the Queen present that

2. The said jurors further present that

FORM 4.

(*Sections 478 and 491.*)

Heading of indictment.

Canada,
Province of
(*territorial division*)

In the (*set out name of the court*)

Her Majesty the Queen

against

(*name of accused*)

(*Name of accused*) stands charged

1. That he (*state offence*).
2. That he (*state offence*).

Dated this day of A.D.

at

.....

(*Signature of signing officer, Agent of Attorney General, etc., as the case may be*).

FORM 5.

(*Section 429.*)

Warrant to search.

Canada,
Province of ,
(*territorial division*) .

To the peace officers in the said (*territorial division*):

Whereas it appears on the oath of A. B., of that there are reasonable grounds for believing that (*describe things to be searched for and offence in respect of which search is to be made*) are in at , hereinafter called the premises;

This is, therefore, to authorize and require you between the hours of (*as the justice may direct*) to enter into the said premises and to search for the said things and to bring them before me or some other justice.

Dated this day of A.D. at .

.....
A Justice of the Peace in and for .

FORM 6.

(*Sections 441 and 700.*)

Summons to a person charged with an offence.

Canada,
Province of ,
(*territorial division*) .

To A. B., of (*occupation*):

Whereas you have this day been charged before me that (*state offence as in the information*):

This is therefore to command you, in Her Majesty's name, to appear before on the day of A.D. , at o'clock in the noon, at or before any justice for the said (*territorial division*) who is there, to answer to the said charge and to be dealt with according to law.

Dated this day of A.D. , at .

.....
A Justice of the Peace in and for .

FORM 7.

(*Sections 442, 444 and 707.*)

Warrant to arrest a person charged with an offence.

Canada,
Province of ,
(*territorial division*) .

To the peace officers in the said (*territorial division*):

Whereas A. B., of , (*occupation*). hereinafter called the accused, has been charged that (*state the offence as in the information*):

This is, therefore, to command you in Her Majesty's name forthwith to arrest the accused and to bring him before or any justice for the said (*territorial division*), to answer to the said charge and to be dealt with according to law.

Dated this day of

A.D. at .

.....
A Justice of the Peace in and for .

FORM 8.

(*Sections 444, 451 and 710*).

Warrant where summons is disobeyed or cannot be served.

Canada,
Province of ,
(*territorial division*) .

To the peace officers in the said (*territorial division*);

Whereas on the day of , A.D. , A. B., of , hereinafter called the accused, was charged that (*state the offence as in the information*);

And Whereas a summons to the accused was issued commanding him, in Her Majesty's name, to appear on the day of A.D., , at o'clock in the noon, at , before me or any justice who should then be there, to answer to the said charge and to be dealt with according to law;

And Whereas it appears (* *or* **);

This is therefore to command you, in Her Majesty's name, forthwith to arrest the said accused and to bring him before me or any justice in and for the said (*territorial division*), to answer to the said charge and to be dealt with according to law.

Dated this day of

A.D. at .

.....
A Justice of the Peace in and for .

* that the accused has failed to appear at the time and place appointed by the said summons and it has been proved that the summons was duly served upon him.

** that the said summons cannot be served upon the accused.

FORM 9.

(*Sections 451 and 710*).

Warrant where accused fails to appear after adjournment.

Canada,
Province of
(*territorial division*)

To the peace officers in the (*territorial division*):

Whereas A. B., of , hereinafter called the accused, appeared before me on the day of A.D., , on a charge that (*state the offence as in the information*);

And Whereas the trial (*or* inquiry, *etc.*) was adjourned to the day of A.D. at ;

And Whereas the accused has failed to appear at the time and place to which the trial (*or* inquiry, *etc.*) was adjourned:

This is therefore to command you, in Her Majesty's name, forthwith to arrest the said accused and to bring him before me or any justice in and for the said (*territorial division*), to answer to the said charge and to be dealt with according to law.

Dated this day of A.D.

at .

.....
A Justice of the Peace in and for .

FORM 10.

(*Section 456.*)

Warrant to convey accused before justice of another territorial division.

Canada,
Province of ,
(*territorial division*) .

To the peace officers in the said (*territorial division*):

Whereas A. B., of hereinafter called the accused, has been charged that (*state place of offence and charge*);

And Whereas I have taken the deposition of X. Y. in respect of the said charge;

And Whereas the charge is for an offence committed in the (*territorial division*);

This is to command you, in Her Majesty's name, to convey the said A. B., before a justice of the (*last-mentioned territorial division*) and to deliver to him the information, the said deposition and this warrant.

Dated this day of A.D.

at .

.....
A Justice of the Peace in and for .

FORM 11.

(Section 604).

Subpœna to a witness.

Canada,
Province of
(territorial division) ,

To E. F., of , *(occupation)*:

Whereas A. B. has been charged that *(state offence as in the information)*, and it has been made to appear that you are likely to give material evidence for (the prosecution *or* the defence);

This is therefore to command you to attend before *(set out court or justice)*, on the day of A.D. , at o'clock in the noon at to give evidence concerning the said charge.*

Dated this day of A.D.

at .

.....
A Justice *or* clerk of the court.

(Seal if required).

---

* *Where a witness is required to produce documents add the following:*
and to bring with you any writings in your possession or under your control that relate to the said charge, and more particularly the following: *(specify any writings required).*

FORM 12.

(*Sections 603 and 610.*)

Warrant for witness.

Canada,
Province of ,
(*territorial division*) .

To the peace officers in the (*territorial division*):

Whereas A. B. of , has been charged that (*state offence as in the information*):

And Whereas it has been made to appear that E. F. of , hereinafter called the witness, is likely to give material evidence for (the prosecution *or* the defence) and that*

This is therefore to command you, in Her Majesty's name, to bring the witness before (*set out court or justice*) on , the day of , A.D. , at o'clock in the noon, at to give evidence concerning the said charge.

Dated this day of A.D.

at

.....
A Justice *or* clerk of the court.

(*Seal if required*).

---

* *Insert whichever of the following is appropriate:*

(*a*) the said E. F. will not attend unless compelled to do so;

(*b*) the said E. F. is evading service of a subpœna;

(*c*) the said E. F. was duly served with a subpœna and has neglected (to attend at the time and place appointed therein *or* to remain in attendance).

(*d*) the said E. F. was bound by a recognizance to attend and give evidence and has neglected (to attend *or* to remain in attendance).

81619—35

FORM 13.

(*Section 609.*)

Warrant to arrest an absconding witness.

Canada,
Province of
(*territorial division*)

To the peace officers in the (*territorial division*):

Whereas A. B. of , has been charged that (*state offence as in the information*);

And Whereas I am satisfied by information in writing and under oath that C. D. of , hereinafter called the witness, is bound by recognizance to give evidence upon the trial of the accused upon the said charge, and that the witness (has absconded *or* is about to abscond):

This is therefore to command you, in Her Majesty's name, to arrest the witness and bring him before (*the court, judge, justice or magistrate before whom the witness is bound to appear*) to be dealt with according to law.

Dated this day of A.D.

at .

.....
A Justice of the Peace in and for .

FORM 14.

(*Sections 451 and 710.*)

Warrant remanding a prisoner.

Canada,
Province of ,
(*territorial division*) .

To the peace officers in the (*territorial division*):

You are hereby commanded forthwith to convey to the (*prison*) at the persons named in the following schedule each of whom has been remanded to the time mentioned in the schedule:

Person charged.	Offence.	Remanded to.

And I hereby command you, the keeper of the said prison, to receive each of the said persons into your custody in the prison and keep him safely until the day when his remand expires and then to have him before me or any other justice at at o'clock in the noon of the said day, there to answer to the charge and to be dealt with according to law, unless you are otherwise ordered before that time.

Dated this day of A.D.
at .

.....
A Justice of the Peace in and
for .

FORM 15.

(*Section 507*).

Warrant for arrest of person against whom indictment has been found.

Canada,
Province of ,
(*territorial division*) .

To the peace officers in (*territorial division*):

Whereas an indictment has been found against A. B., hereinafter called the accused, and the accused has not (appeared *or* remained in attendance) to take his trial on the said indictment before (*set out court*):

You are hereby commanded, in Her Majesty's name, forthwith to arrest the accused and to bring him before the said court to be dealt with according to law.

Dated this day of A.D.
at .

.....
(*Seal*). Clerk of the Court.

FORM 16.

(*Section 457.*)

Warrant of committal of witness for refusing to be sworn or to give evidence.

Canada,
Province of ,
(*territorial division*) .

To the peace officers in the (*territorial division*):

Whereas A. B. of , hereinafter called the accused, has been charged that (*set out offence as in the information*);

And Whereas E. F. of , hereinafter called the witness, attending before me to give evidence for (the prosecution *or* the defence) concerning the charge against the accused (refused to be sworn *or* being duly sworn as a witness refused to answer certain questions concerning the charge that were put to him *or* refused or neglected to produce the following writings, namely *or* refused to sign his deposition) having been ordered to do so, without offering any just excuse for such refusal or neglect:

This is therefore to command you, in Her Majesty's name, to take the witness and convey him safely to the prison at , and there deliver him to the keeper thereof, together with the following precept:

I do hereby command you, the said keeper, to receive the said witness into your custody in the said prison and safely keep him there for the term of days, unless he sooner consents to do what was required of him, and for so doing this is a sufficient warrant.

Dated this day of A.D.

at .

.....
A Justice of the Peace in and
for .

FORM 17.

(*Section 460.*)

Warrant of committal for trial.

Canada,
Province of
(*territorial division*)

To the peace officers in the (*territorial division*) and to the keeper of the (*prison*) at :

Whereas A. B., hereinafter called the accused, stands charged that (*state offence as in the information*);

And Whereas on a preliminary inquiry into that charge the accused (having elected to be tried by a judge without a jury *or* by a court composed of a judge and jury, *or* not having elected, *as the case may be*) was this day committed for trial;

This is therefore to command you, in Her Majesty's name, to take the accused and convey him safely to the (*prison*) at
and there deliver him to the keeper thereof, with the following precept:

I do hereby command you the said keeper to receive the accused into your custody in the said prison and keep him safely there until he is delivered by due course of law.

Dated this day of A.D.

at .

.....
A Justice of the Peace in and for .

FORM 18.

(*Sections 482 and 713* .)

Warrant of committal upon conviction.

Canada,
Province of ,
(*territorial division*) .

To the peace officers in the (*territorial division*) and to the keeper of the (*prison*) at :

Whereas A. B., hereinafter called the accused, was this day convicted upon a charge that (*state offence as in the information*), and it was adjudged that the accused for his offence*

You are hereby commanded, in Her Majesty's name, to take the accused and convey him safely to the (*prison*) at
and deliver him to the keeper thereof, together with the following precept:

You, the said keeper, are hereby commanded to receive the accused into custody in the said prison and imprison him there**

and for so doing this is a sufficient warrant.

Dated this day of A.D.

at .

.....
Clerk of the Court, Justice
or Magistrate.

(*Seal, if required*).

---

* *Use whichever of the following forms of sentence is applicable:*

(*a*) be imprisoned in the (*prison*) at
for the term of ;

(*b*) forfeit and pay the sum of dollars
to be applied according to law, and also pay to
the sum of dollars
in respect of costs and in default of payment of the said sums (forthwith *or within a time fixed, if any*) be imprisoned in the (*prison*) at
for the term of unless the said sums
and costs and charges of the committal and of conveying the accused to the said prison are sooner paid;

(*c*) be imprisoned in (*prison*) at for the term
of , and in addition (*as in (b) above*).

FORM 19.

(*Section 713.*)

Warrant of committal upon an order for the payment of money.

Canada,
Province of ,
(*territorial division*) .

To the peace officers in the (*territorial division*) and to the keeper of the (*prison*) at :

Whereas A. B., hereinafter called the defendant, was tried upon an information alleging that (*set out matter of complaint*), and it was ordered that (*set out the order made*), and in default that the defendant be imprisoned in the (*prison*) at for a term of ;

I hereby command you, in Her Majesty's name, to take the defendant and convey him safely to the (*prison*) at , and deliver him to the keeper thereof together with the following precept:

I hereby command you the keeper of the said prison to receive the defendant into your custody in the said prison and imprison him there for the term of , unless the said amounts and the costs and charges of the committal and of conveying the defendant to the said prison are sooner paid, and for so doing this is a sufficient warrant.

Dated this day of , A.D.

.....
A Justice of the Peace in and for .

FORM 20.

(*Sections 637 and 717.*)

Warrant of committal for failure to furnish recognizance to keep the peace.

Canada,
Province of ,
(*territorial division*) .

To the peace officers in the (*territorial division*) and to the keeper of the (*prison*) at :

Whereas A. B., hereinafter called the accused, has been ordered to enter into a recognizance to keep the peace and be of good behaviour, and has (refused *or* failed) to enter into a recognizance accordingly;

You are hereby commanded, in Her Majesty's name, to take the accused and convey him safely to the (*prison*) at
and deliver him to the keeper thereof together with the following precept:

You, the said keeper, are hereby commanded to receive the accused into your custody in the said prison and imprison him there until he enters into a recognizance as aforesaid or until he is discharged in due course of law.

Dated this day of A.D.

at .

.....
Clerk of the Court, Justice
or Magistrate.

(*Seal, if required*).

FORM 21.

(*Section 461.*)

Warrant of committal of witness for failure to enter into recognizance.

Canada,
Province of ,
(*territorial division*) .

To the peace officers in the (*territorial division*) and to the keeper of the (*prison*) at :

Whereas A. B., hereinafter called the accused, was committed for trial on a charge that (*state offence as in the information*);

And Whereas E. F., hereinafter called the witness, having appeared as a witness on the preliminary inquiry into the said charge, and being required to enter into a recognizance to appear as a witness on the trial of the accused on the said charge, has (failed *or* refused) to do so;

This is therefore to command you, in Her Majesty's name, to take and safely convey the said witness to the (*prison*) at
and there deliver him to the keeper thereof, together with the following precept:

I do hereby command you, the said keeper, to receive the witness into your custody in the said prison and keep him there safely until the trial of the accused upon the said charge, unless before that time the witness enters into the said recognizance.

Dated this day of A.D.

at .

.....
A Justice of the Peace in and
for .

81619—36

FORM 22.

(*Section 612.*)

Warrant of committal for contempt.

Canada,
Province of ,
(*territorial division*) .

To the peace officers in the said (*territorial division*) and to the keeper of the (*prison*) at :

Whereas E. F. of , hereinafter called the defaulter, was on the day of A.D. , at , convicted before for contempt in that he did not attend before to give evidence on the trial of a charge that (*state offence as in the information*) against A. B. of , although (duly subpoenaed *or* bound by recognizance to appear and give evidence in that behalf, *as the case may be*) and did not show any sufficient excuse for his default;

And Whereas in and by the said conviction it was adjudged that the defaulter (*set out punishment adjudged*);

And Whereas the defaulter has not paid the amounts adjudged to be paid; (*delete if not applicable*)

This is therefore to command you, in Her Majesty's name, to take the defaulter and convey him safely to the prison at and there deliver him to the keeper thereof, together with the following precept:

I do hereby command you, the said keeper, to receive the defaulter into your custody in the said prison and imprison him there* and for so doing this is a sufficient warrant.

Dated this day of A.D.
at .

.....
A Justice *or* clerk of the court.

(*Seal, if required*).

---

* *Insert whichever of the following is applicable:*
(*a*) for the term of ;
(*b*) for the term of unless the said sums and the costs and charges of the committal and of conveying the defaulter to the said prison are sooner paid, *or*
(*c*) for the term of and for the term of (*if consecutive so state*) unless the said sums and costs and charges of the committal and of conveying the defaulter to the said prison are sooner paid.

FORM 23.

(*Section 731*)

Warrant of committal in default of payment of costs of an appeal.

Canada,
Province of ,
(*territorial division*) .

To the peace officers of (*territorial division*) and to the keeper of the (*prison*) at :

Whereas it appears that upon the hearing of an appeal before the (*set out court*), it was adjudged that A. B., of , hereinafter called the defaulter, should pay to the Clerk of the Court the sum of dollars in respect of costs;

And Whereas the Clerk of the Court has certified that the defaulter has not paid the sum within the time limited therefor;

I do hereby command you the said peace officers, in Her Majesty's name, to take the defaulter and safely convey him to the (*prison*) at and deliver him to the keeper thereof, together with the following precept:

I do hereby command you, the said keeper, to receive the defaulter into your custody in the said prison and imprison him for the term of , unless the said sum and the costs of the committal and of conveying the defaulter to prison are sooner paid, and for so doing this is a sufficient warrant.

Dated this day of A.D.

at .

.....
A Justice of the Peace in and for .

FORM 24.

(*Section 679.*)

Warrant of committal on forfeiture of a recognizance.

Canada,
Province of ,
(*territorial division*) .

To the sheriff of (*territorial division*) and to the keeper of the (*prison*) at :

You are hereby commanded to take (A. B. and C. D. *as the case may be*) hereinafter called the defaulters, and to convey them safely to the (*prison*) at and deliver them to the keeper thereof, together with the following precept:

You, the said keeper, are hereby commanded to receive the defaulters into your custody in the said prison and imprison them for a period of or until satisfaction is made of a judgment debt of dollars due to Her Majesty the Queen in respect of the forfeiture of a recognizance entered into by on the day of A.D. .

Dated this day of A.D. .

(*Seal*): .....
Clerk of the .

FORM 25.

(*Sections 429 (2), 447 and 713.*)

Endorsement of warrant.

Canada,
Province of ,
(*territorial division*) .

Pursuant to application this day made to me, I hereby authorize the execution of this warrant within the said (*territorial division*).

Dated this day of A.D.
at .

.....
A Justice of the Peace in and
for .

FORM 26.

(*Section 451.*)

Order for accused to be brought before justice prior to expiration of period of remand.

Canada,
Province of ,
(*territorial division*) .

To the keeper of the (*prison*) at :

Whereas by warrant dated the day of A.D. , I committed A. B., hereinafter called the accused, to your custody and required you safely to keep him until the day of A.D. , and then to have him before me or any other justice at at o'clock in the noon to answer to the charge against him and to be dealt with according to law unless you should be ordered otherwise before that time:

Now, therefore, I order and direct you to have the accused before at at o'clock in the noon to answer to the charge against him and to be dealt with according to law.

Dated this day of A.D.

at .

.....
A Justice of the Peace in and for .

FORM 27.

(*Section 453.*)

Deposition of a witness.

Canada,
Province of
(*territorial division*) ,

These are the depositions of X. Y., of , and M. N., of , taken before me, this day of A.D. , at , in the presence and hearing of A. B., hereinafter called the accused, who stands charged (*state offence as in the information*).

X. Y., having been duly sworn, deposes as follows: (*insert deposition as nearly as possible in words of witness.*)

M. N., having been duly sworn, deposes as follows:

I certify that the depositions of X. Y., and M. N., written on the several sheets of paper hereto annexed to which my signature is affixed, were taken in the presence and hearing of the accused (and signed by them respectively, in his presence, *where they are required to be signed by witness*). In witness whereof I have hereto signed my name.

.....
A Justice of the Peace in and for .

FORM 28.

(Sections 451, 461, 463, 611, 637, 638, 669, 670, 710, 717, 724 and 735.)

(N.B. The provisions of sections 669 and 670 (1), (2) and (3) must be endorsed on a recognizance. See section 670 (4)).

Recognizance.

Canada,
Province of ,
(*territorial division*) .

Be it remembered that on this day the persons named in the following schedule personally came before me and severally acknowledged themselves to owe to Her Majesty the Queen the several amounts set opposite their respective names, namely,

Name	Address	Occupation	Amount
A. B.			
C. D.			
E. F.			

to be made and levied of their several goods and chattels, lands and tenements, respectively, to the use of Her Majesty the Queen, if the said A. B. fails in the condition hereunder written.

Taken and acknowledged before me on the day of

A.D. at .

.....
A Justice of the Peace in and for .

---

* *Use whichever of the following conditions is appropriate:*

(a) Whereas the said A. B. has been charged (*state offence as in the information*);

Now, therefore, the condition of the above written recognizance is that if the said A. B. appears before the (*state court, judge or justice*) on the day of A.D. , at o'clock in the noon, at (*place*) to answer to the charge and to be dealt with according to law, the said recognizance is void, otherwise it stands in full force and virtue.

(b) Whereas the said A. B., hereinafter called the accused, was committed to stand his trial before a judge acting under Part XVI, on a charge that: (*set out charge*)

Now, therefore, the condition of the above written recognizance is that if the accused appears before the presiding judge at the time and place fixed for his trial and there surrenders himself and takes his trial on the indictment that is found against him and does not depart the said court without leave, the said recognizance is void, otherwise it stands in full force and virtue.

(c) Whereas the said A. B., hereinafter called the accused, was committed for trial before (*set out court*);

Continued next page

FORM 29.

(*Section 676.*)

Certificate of default to be endorsed on recognizance.

I hereby certify that A. B. has not appeared as required by this recognizance and that by reason thereof the ends of justice have been (defeated *or* delayed, *as the case may be*).

The reason for the default is (*state reason if known*).

The names and addresses of the principal and sureties are as follows:

Dated this day of A.D.

at .

.....
Clerk of the Court, Judge,
Justice *or* Magistrate.

(*Seal, if required*).

Now, therefore, the condition of the above written recognizance is that (if the accused appears at that court, *or* if, having re-elected under Part XVI, he appears before the presiding judge at the time and place fixed for his trial) and takes his trial on the indictment that is found against him and does not depart the said court without leave, the said recognizance is void, otherwise it stands in full force and virtue.

(*d*) Whereas C. D., hereinafter called the accused, was committed for trial on a charge that (*set out charge*);

And Whereas A. B. appeared as a witness on the preliminary inquiry into the said charge;

Now, therefore, the condition of the above written recognizance is that if the said A. B. appears at the time and place fixed for the trial of the accused to give evidence upon the indictment that is found against the accused, the said recognizance is void, otherwise it stands in full force and virtue.

(*e*) The condition of the above written recognizance is that if A. B. keeps the peace and is of good behaviour for the term of commencing on , the said recognizance is void, otherwise it stands in full force and virtue.

(*f*) The condition of the above written recognizance is that if A. B. appears and receives judgment when called upon during the term of commencing on , and during that term keeps the peace and is of good behaviour (*add special conditions as authorized by section 638, where applicable*), the said recognizance is void, otherwise it stands in full force and virtue.

(*g*) Whereas A. B., hereinafter called the appellant, has appealed (against his conviction *or* against an order *or* by way of stated case) in respect of the following matter (*set out offence, subject matter of order or question of law*);

Now, therefore, the condition of the above written recognizance is that if the appellant personally appears at the sittings of the court at which the (appeal *or* stated case) is to be heard and abides the judgment of the said court and pays any costs that are awarded against him, the said recognizance is void, otherwise it stands in full force and virtue.

FORM 30.

(*Section 677.*)

Writ of fieri facias.

Elizabeth II by the Grace of God, etc.

To the sheriff of (*territorial division*), GREETING,

You are hereby commanded to levy of the goods and chattels, lands and tenements of each of the following persons the amount set opposite the name of each:

Name	Address	Occupation	Amount

And you are further commanded to make a return of what you have done in execution of this writ.

Dated this day of A.D.

at .

(*Seal*). ..... Clerk of the .

81619—37

FORM 31.

(*Sections 482 and 713.*)

Conviction.

Canada,
Province of ,
(*territorial division*) .

Be it remembered that on the day of at , A. B., hereinafter called the accused, was tried under Part (XVI *or* XXIV) of the Criminal Code upon the charge that (*state fully the offence of which accused was convicted*), was convicted of the said offence and the following punishment was imposed upon him, namely,*

Dated this day of A.D.

at .

.....
Clerk of the Court, Justice *or*
Magistrate.

(*Seal, if required*).

---

* *Use whichever of the following forms of sentence is applicable:*

(*a*) That the said accused be imprisoned in the (*prison*) at for the term of .

(*b*) That the said accused forfeit and pay the sum of dollars to be applied according to law and also pay to the sum of dollars in respect of costs and in default of payment of the said sums (forthwith *or within a time fixed, if any*) to be imprisoned in the (*prison*) at for the term of unless the said sums and costs and charges of the committal and of conveying the accused to the said prison are sooner paid.

(*c*) That the said accused be imprisoned in the (*prison*) at for the term of and in addition forfeit and pay the sum of dollars to be applied according to law and also pay to the sum of dollars in respect of costs and in default of payment of the said sums (forthwith *or within a time fixed, if any*) to be imprisoned in the (*prison*) at for the term of (*if sentence to be consecutive, state accordingly*) unless the said sums and costs and charges of the committal and of conveying the accused to the said prison are sooner paid.

FORM 32.

(*Section 713.*)

Order against a defendant.

Canada,
Province of
(*territorial division*)

Be it remembered that on the day of A.D. , at , A. B., of , was tried upon an information alleging that (*set out matter of complaint*), and it was ordered and adjudged that (*set out the order made*).

Dated this day of A.D. at .

.....
A Justice of the Peace in and for .

FORM 33.

(*Section 482.*)

Order acquitting accused.

Canada,
Province of
(*territorial division*)

Be it remembered that on the day of A.D. , at A. B., of , (*occupation*), was tried upon the charge that (*state fully the offence of which accused was acquitted*) and was found not guilty of the said offence.

Dated this day of A.D. at .

(*Seal, if required*).

.....
Magistrate *or* Clerk of the Court.

FORM 34.

(*Section 612.*)

Conviction for contempt.

Canada,
Province of
(*territorial division*) ,

Be it remembered that on the day of A.D. , at in the (*territorial division*), E. F. of , hereinafter called the defaulter, is convicted by me for contempt in that he did not attend before (set out court *or* justice) to give evidence on the trial of a charge that (*state fully offence with which accused was charged*), although (duly subpoenaed *or* bound by recognizance to attend to give evidence, *as the case may be*) and has not shown before me any sufficient excuse for his default;

Wherefore I adjudge the defaulter for his said default, (*set out punishment as authorized and determined in accordance with section 612*).

Dated this day of A.D. at .

.....
A Justice *or* clerk of the court *as the case may be.*

(*Seal, if required*).

FORM 35.

(*Sections 461, 463 and 724*).

Order for discharge of a person in custody.

Canada,
Province of
(*territorial division*) ,

To the keeper of the (*prison*) at :

I hereby direct you to release E. F., detained by you under a (warrant of committal *or* order) dated the day of A.D. , if the said E. F. is detained by you for no other cause.

.....
A Judge, Justice *or* Clerk of the Court.

(*Seal, if required*).

FORM 36.

(*Section 538*).

Challenge to array.

Canada,
Province of
(*territorial division*)

The Queen
v.
C. D.

The (prosecutor *or* accused) challenges the array of the panel on the ground that X. Y., (sheriff *or* deputy sheriff), who returned the panel, was guilty of (partiality *or* fraud *or* wilful misconduct) on returning it.

Dated this day of A.D.

at .

.....
Counsel for (prosecutor *or* accused).

FORM 37.

(*Section 548*).

Challenge for cause.

Canada,
Province of
(*territorial division*)

The Queen
v.
C. D.

The (prosecutor *or* accused) challenges G. H. on the ground that (*set out ground of challenge in accordance with section 547(1)*).

.....
Counsel for (prosecutor *or* accused).

FORM 38.

(*Section 731*).

Certificate of non-payment of costs of appeal.

In the Court of .

(*Style of Cause*)

I hereby certify that A. B. (the appellant *or* respondent, *as the case may be*) in this appeal, having been ordered to pay costs in the sum of dollars, has failed to pay the said costs within the time limited for the payment thereof.

Dated this day of A.D.

at .

.....
Clerk of the Court
(*Seal*). of .

FORM 39.

(*Section 636*).

Gaoler's receipt to peace officer for prisoner.

I hereby certify that I have received from X. Y., a peace officer for (*territorial division*) one A. B., together with a (warrant *or* order) issued by (*set out court or justice, as the case may be*).*

Dated this day of A.D.

at .

.....
Keeper of (*prison*).

* (*Add a statement of the condition of the prisoner.*)

FORM 40.

(*Section 646*).

Certificate of execution of sentence of death.

I, A. B., prison doctor of the (*prison*), at hereby certify that I examined the body of C. D. on whom sentence of death was this day executed in the said prison and that I found that the said C. D. was dead.

Dated this day of

A.D. at .

.....
Prison doctor.

FORM 41.

(*Section 646*).

Declaration of sheriff and others.

We, the undersigned, hereby declare that sentence of death was this day executed on C. D., in our presence in the (*prison*) at .

Dated this day of A.D.

at .

Sheriff of .....

Gaoler of .....

.....
.....
.....
} *Others.*

FORM 42.

FIREARM PERMIT.

This permit authorizes.....of

.....to have a.....
(Address) *(insert type of firearm)*

.....elsewhere than in his dwelling house or place of

business for the purpose of.....
(insert purpose for which permit is required)

This permit is valid during the period.....

....
(Date of issue). *(Signature of person authorized to issue permits in Form 42.)*

FORM 43.

PERMIT TO BUY AND SELL FIREARMS AT RETAIL.

This permit authorizes.....
(Insert name of holder of permit)

of.....

to buy and sell firearms at retail.

....
(Date of issue). *(Signature of person authorized to issue permits).*

.....
(Address).

FORM 44.

PERMIT TO CONVEY FIREARM.

This permit authorizes.....to convey

the firearm described herein from.....

(Place of delivery or place of

.....to.....

residence or business) *(Local registrar of firearms)*

and thence to.....

(Place of residence or business)

This permit is valid only during the period.....

....

(Date of Issue) *(Local Registrar of Firearms)*

.....

(Address)

APPLICATION TO REGISTER FIREARM.

Place.....DATE.....

Re.....Certificate No.....

(Name of Applicant) *(If available)*

(Please show full Christian names)

.....

Description of Firearm

Make of Firearm	R or A	Cal.	Model	Ser. No.	No. Shots	Bbl. Lgth.
	( )					

(NOTE: (R) Revolver (A) Automatic)

Obtained by: Purchase ☐ Exchange ☐ Gift ☐ Found ☐

Obtained from.....

Certificate No.....Address.....

Occupation of Applicant.....

Purpose for which firearm required.....

.....

(Signature of Applicant)

Address: .....

Registered under the authority of
section 93 of the Criminal Code of Canada

.....

(Local Registrar of Firearms

....

(Date of issue) *(Address)*

TRANSFER COMPLETED

Date.....Initialled by.....Police Department.....

81619—38

FORM 45.

PERMIT FOR A MINOR TO ACQUIRE FIREARMS.

This permit authorizes.....

of.....

aged.....years, to acquire and have in his possession the firearm, air-gun, air-pistol or ammunition therefor, described as follows:

.....

.....

This permit is valid during the period.....

.....
Date of Issue.

.....
(Signature of person authorized to issue permits).

.....
(Address).

First Session, Twenty-Second Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 8.

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

First reading, November 16, 1953.

THE MINISTER OF RESOURCES AND DEVELOPMENT.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1953

81372

1st Session, 22nd Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 8.

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

R.S., cc. 263, 300, 301.

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

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

Application.

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

Repeal.

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

Coming into force.

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

Explanatory Notes.

The purpose of this Bill is to amend the *Territorial Lands Act* in order that the administration, control and disposition of quartz and placer mining rights in the Yukon shall be brought under the provisions of the Act with resulting uniformity between the Northwest Territories and Yukon Territory. To accomplish this it is necessary to amend section 3 of the Act and also to repeal the *Yukon Quartz Mining Act* and the *Yukon Placer Mining Act*. Upon the repeal of these two Acts, the administration of quartz and placer mining in the Yukon will be brought under the *Territorial Lands Act* and governed by regulations in the same manner as the other resources have been and are now being administered.

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

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

The words underlined are being dropped.

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

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

First Session, Twenty-Second Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 9.

An Act respecting the appointment of Auditors for National Railways.

First reading, November 16, 1953.

THE MINISTER OF TRANSPORT.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1953

81705

1st Session, 22nd Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 9.

An Act respecting the appointment of Auditors for National Railways.

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

Auditors.

1. Notwithstanding the provisions of section 13 of the *Canadian National-Canadian Pacific Act*, chapter 39 of the Revised Statutes of Canada, 1952, respecting the appointment of auditors by joint resolution of the Senate and House of Commons, George A. Touche and Company, of the cities of Toronto and Montreal, chartered accountants, are appointed as independent auditors for the year 1954, to make a continuous audit under the provisions of that section of the accounts of National Railways as defined in that Act.

First Session, Twenty-Second Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 10.

An Act to amend the Pipe Lines Act.

First reading, November 16, 1953.

THE MINISTER OF TRANSPORT.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1953

81709

1st Session, 22nd Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 10.

An Act to amend the Pipe Lines Act.

R.S., c. 211.

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

1. (1) Subsection (1) of section 2 of the *Pipe Lines Act*, chapter 211 of the Revised Statutes of Canada, 1952, is amended by adding thereto, immediately after paragraph *(c)* thereof, the following paragraph:

"Extra-provincial pipe line."

"*(cc)* "extra-provincial pipe line" means a pipe line for the transportation of oil or gas connecting a province with any other or others of the provinces, or extending beyond the limits of a province, and includes all branches, extensions, tanks, reservoirs, pumps, racks, loading facilities, interstation systems of communication by telephone, telegraph or radio, and property real and personal and works connected therewith;"

(2) Section 2 of the said Act is further amended by adding thereto the following subsection:

"Company pipe line" in Parts II, III and IV to include extra-provincial pipe line.

"(3) For the purposes of Parts II, III and IV, the expression "company pipe line" or "line" shall be construed to include an extra-provincial pipe line, and the expression "company" shall be construed to include a person operating an extra-provincial pipe line."

2. The said Act is further amended by adding thereto, immediately after section 10 thereof, the following section:

Operation of extra-provincial pipe line.

"**10A.** No person, other than a person having authority under a Special Act to construct or operate pipe lines for the transportation of oil or gas, shall construct or operate an extra-provincial pipe line, but nothing in this section shall be construed to prohibit or prevent any person from operating a pipe line constructed before the 1st day of October, 1953."

Explanatory Note.

The purpose of the Bill is to give the Board of Transport Commissioners jurisdiction over all companies authorized to construct or operate oil or gas pipe lines connecting two or more provinces or extending beyond the limits of a province, and to require these companies to be authorized by a Special Act of Parliament before constructing or operating any new extra-provincial pipe line.

First Session, Twenty-Second Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 11.

An Act to amend the Canadian Wheat Board Act. (Payment for farm storage).

First reading, November 23, 1953.

Mr. ARGUE.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1953

79886

1st Session, 22nd Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 11.

An Act to amend the Canadian Wheat Board Act. (Payment for farm storage).

R.S., c. 44.

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

1. Subsection 2 of section 25 of the *Canadian Wheat Board Act*, chapter 44 of the Revised Statutes of Canada, 1952, is repealed and the following substituted therefor:

Storage payment.

"(2) The Board shall pay to each producer at the time of delivery of wheat to the Board, in addition to any other payment authorized by this section, a sum per bushel on account of storage of the said wheat on the producer's farm, for such period of storage and for such quantity as the Board in its sole discretion shall fix for the purposes of such storage payment, which sum, however, shall equal the amount payable for storage in a country elevator for the same period according to the country elevator tariff rate filed with the Board of Grain Commissioners."

Explanatory Notes.

Subsection 2 of section 25 at present reads as follows:

"(2) The Board shall, *if directed by regulation*, pay to each producer at the time of delivery of wheat to the Board, in addition to any other payment authorized by this section, a sum per bushel on account of storage of the said wheat on the producer's farm, for such period of storage as the Board in its sole discretion shall fix for the purposes of such storage payment, which sum, however, shall equal the amount payable for storage in a country elevator for the same period according to the country elevator tariff rate filed with the Board of Grain Commissioners."

The only changes made by this Bill are to delete the words "if directed by regulation" from the subsection as it now stands and to insert therein the words underlined on the opposite page.

The effect of this change is to ensure that producers in the designated area will be paid the regular storage charge for grain stored on the farm. The determination of the date from which payment is to commence and the quantity of wheat on which payment is made are left to the Canadian Wheat Board, but the payment of such storage charges to producers is by this new subsection made compulsory.

First Session, Twenty-Second Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 27.

An Act to amend the Children of War Dead (Education Assistance) Act.

First reading, December 4, 1953.

THE MINISTER OF VETERANS AFFAIRS.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1953

81290

1st Session, 22nd Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 27.

An Act to amend the Children of War Dead (Education Assistance) Act.

1952-53, c. 27.

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

1. Subparagraphs (ii) and (iii) of paragraph *(c)* of section 2 of the *Children of War Dead (Education Assistance) Act*, chapter 27 of the statutes of 1952-53, are repealed and the following substituted therefor:

"Student" defined.

"(ii) a child on whose behalf a pension is being paid, pursuant to or by virtue of any of the enactments set out in Schedule B of this Act, other than the *Civilian War Pensions and Allowances Act*, at a rate set out for a child in Schedule B of the *Pension Act*;

(iii) a child on whose behalf a pension is being paid pursuant to or by virtue of the *Civilian War Pensions and Allowances Act*, at a rate set out for a child in Schedule B of the *Pension Act* or Schedule II of the *Civilian War Pensions and Allowances Act*; or

(iv) a child on whose behalf payment of a pension was being made under any of the enactments set out in Schedule A or B of this Act but was, either before or after the coming into force of this Act, discontinued pursuant to the provisions of the enactment under which such payment was being made."

Coming into force

2. This Act shall be deemed to have come into force on the 1st day of July, 1953.

Explanatory Notes.

Paragraph *(c)* of section 2 of the Act reads as follows:

"*(c)* 'student' means

(i) a child on whose behalf a pension is being paid pursuant to any of the enactments set out in Schedule A of this Act in respect of a person who served in the naval, army or air forces of Canada in the war that commenced in August, 1914, or in the war that commenced in September, 1939;

(ii) a child on whose behalf a pension is being paid, pursuant to or by virtue of any of the enactments set out in Schedule B of this Act at a rate set out for a child in Schedule B of the Pension Act; or

(iii) a child on whose behalf payment of a pension was being made under any of the enactments set out in Schedule A or B of this Act but was, either before or after the coming into force of this Act, discontinued *by reason of the child having reached the age of twenty-one years.*"

The proposed amendments are designed to extend the benefits of the Act with respect to certain children presently excluded, namely,

(a) by virtue of the expression "discontinued by reason of the child having reached the age of twenty-one years" as in subparagraph (iii) above;

(b) technically by the fact that sections 34 and 48 of the *Civilian War Pensions and Allowances Act* provide that air raid precautions workers and Voluntary Aid Detachment personnel have their pensions established at a rate other than those prescribed by the *Pension Act.*

First Session, Twenty-Second Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 28.

An Act to amend the National Parks Act.

First reading, December 4, 1953.

THE MINISTER OF RESOURCES AND DEVELOPMENT.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1953

81367

1st Session, 22nd Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 28.

An Act to amend the National Parks Act.

R.S., c. 189.

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

1. Subsection (1) of section 5 of the *National Parks Act*, chapter 189 of the Revised Statutes of Canada, 1952, is repealed and the following substituted therefor:

Administration, management and control.

"**5.** (1) The administration, management and control of the Parks shall be under the direction of the Minister."

2. Subsection (2) of section 6 of the said Act is amended by deleting the word "or" at the end of paragraph (*a*) thereof, by adding the word "or" at the end of paragraph (*b*) thereof and by adding, immediately after the said paragraph (*b*), the following paragraph:

"(*c*) the right of way of telephone, telegraph or electrical transmission lines and any exchange, office, substation or other appurtenance connected therewith,"

3. Paragraphs *(g)*, *(h)*, *(i)* and *(j)* of section 7 of the said Act are repealed and the following substituted therefor:

Leases.

"(*g*) the granting of leases of lots in townsites for the purposes of residence, trade, schools, churches, hospitals and places of entertainment, and of lots in other subdivisions for the purposes of residence during the period beginning on the 1st day of April and ending on the 31st day of October;

Leases outside of townsites and subdivisions.

(*h*) the granting of leases or licences for public lands outside townsites or other subdivisions for the purposes of schools, hospitals, churches, and the entertainment of persons visiting the Parks;

Explanatory Notes.

The principal purposes of the Bill are:

(a) to empower the Governor in Council to authorize the Minister to enter into agreements with a province or any person for the development, operation and maintenance in a Park, of public utility services for use in a Park only;

(b) to empower the Governor in Council to authorize the Minister to enter into agreements with municipalities, water districts and other persons adjacent to a Park for a supply of water for domestic purposes;

(c) to provide for rights of way for telephone, telegraph and electrical transmission lines;

(d) to clarify the authority to establish and survey townsites, subdivisions and cemeteries and to make alterations thereto;

(e) to clarify and expand the power to issue leases and licences of park lands and to authorize the issue of certificates for plots in park cemeteries;

(f) to authorize the Governor in Council to make regulations for use of park lands as camp grounds.

1. Subsection (1) of section 5 presently reads:

"**5.** (1) There shall be a Commissioner of National Parks who, subject to the direction of the Minister, shall control, manage and administer the Parks."

The office of Commissioner was abolished when the Department of Mines and Resources was established.

2. New.

3. (1) Paragraphs *(g)*, *(h)*, *(i)* and *(j)* of section 7 presently read:

"*(g)* the granting of leases of lots in townsites for the purposes of residence or trade and of lots in other subdivisions for purposes of residence during the summer months, and making additions to townsites or other subdivisions and for the alteration and resurvey of the plan of any townsite or other subdivision;

"*(h)* the granting of licences for public lands outside townsites or other subdivisions for the entertainment of persons visiting the Parks;

(i) the granting of permits for

Grazing.
(i) the grazing of horses and cattle,

Removal of sand and gravel.
(ii) the removal of sand, stone and gravel for construction purposes within a Park,

Removal of Timber.
(iii) the cutting and removal of dead or diseased timber and such green timber as may be necessary for the protection and management of forests in a Park,

Use of water.
(iv) the use in the Parks of water for domestic or railway water supply purposes,

Use of mineral water.
(v) the use and disposal of mineral waters for recreational and therapeutic purposes, and

Camp grounds.
(vi) the use of public camp grounds by persons visiting the Parks;

Utilities.
(j) the establishment, operation, maintenance and administration by the Minister of public works and utility services and the use of the same within the Parks, including domestic water supply, sewage, telephone, electric power, natural gas service, streets, street-lighting, sidewalks, fire protection, garbage removal, cemeteries and any other works, improvements or services of a public character;"

(2) The said section 7 is further amended by deleting the word "and" at the end of paragraph *(s)* thereof, and by adding thereto the following paragraphs:

Survey, plans and designation of townsites, etc.
"*(u)* the survey and resurvey of public lands in a Park and the making and alteration of plans thereof, subdividing such lands for townsites, subdivisions or cemeteries and for designating surveyed areas as townsites or subdivisions and the cancellation of such designations;

Plots in cemeteries.
(v) the granting of plots in cemeteries;

Telephone, telegraph, electrical and natural gas services.
(w) authorizing agreements with a province or any person for the development, operation and maintenance in a Park of telephone, telegraph and electrical, other than hydro-electrical, and natural gas services for use only in the Park;

Hydro-electrical power.
(x) authorizing agreements with a province or any person for the development, operation and maintenance in a Park of hydro-electrical power pursuant to the *Dominion Water Power Act* for the use of such power only in the Park; and

Water.
(y) authorizing agreements with municipalities or water districts adjacent to a Park or other persons residing on land adjacent to a Park for the supply of water from the Park for domestic purposes."

"*(i)* the granting of yearly permits for

(i) the grazing of horses and cattle,

(ii) the removal of sand, stone and gravel for construction purposes within a Park,

(iii) the cutting and removal of dead or diseased timber and such green timber as may be necessary for thinning or forest protection,

(iv) the use in the Parks of water for domestic or railway supply purposes, and

(v) the use and disposal of mineral waters for recreational and therapeutic purposes;

"*(j)* the establishment, operation, maintenance and administration by the Department of Resources and Development of public works and utility services and the use of the same within the Parks, including domestic water supply, sewerage, telephone, electric power, streets, street-lighting, sidewalks, fire protection, garbage removal and any other works, improvements or services of a public character;"

(2) *(u)* Part of paragraph *(g)* quoted above and partly new.

(v), *(w)*, *(x)*, *(y)* New.

First Session, Twenty-Second Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 29.

An Act to amend the Customs Act.

First reading, December 7, 1953.

THE MINISTER OF NATIONAL REVENUE.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1953

83151

1st Session, 22nd Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 29.

An Act to amend the Customs Act.

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

1. Section 35 of the *Customs Act*, chapter 58 of the Revised Statutes of Canada, 1952, is amended by adding thereto the following subsection:

Value for duty where market price has declined.

"(6) Notwithstanding anything in this Act, where the market price of any manufactured goods in the country of export has, as the result of the advance of the season or the marketing period, declined to levels that do not reflect in the opinion of the Minister their normal price, the value for duty shall be the amount determined and declared by the Minister to be the average price, weighted as to quantity, at which the like or similar goods were sold for consumption in the country of export during a reasonable period, not exceeding six months, immediately preceding the date of shipment of the goods to Canada."

Coming into force.

2. This Act shall be deemed to have come into force on the 8th day of December, 1953, and to have applied to all goods imported or taken out of warehouse for consumption on or after that day and to have applied to goods previously imported for which no entry for consumption was made before that day.

Explanatory Note.

The purpose of this additional subsection is to supplement and widen the law to provide a fair and reasonable basis of valuation, when, as a result of the advance of the season or marketing period, home market prices of end-of-season and end-of-line products in the country of export have declined below the fair and normal values which would otherwise and ordinarily obtain.

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First Session, Twenty-Second Parliament, 2 Elizabeth II, 1953.

THE SENATE OF CANADA

BILL S.

An Act to amend the Telegraphs Act.

AS PASSED BY THE SENATE, 8th December, 1953.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1953

83146

1st Session, 22nd Parliament, 2 Elizabeth II, 1953.

THE SENATE OF CANADA

BILL S.

An Act to amend the Telegraphs Act.

R.S., c. 262.

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

1. Section 17 of the *Telegraphs Act*, chapter 262 of the Revised Statutes of Canada, 1952, is amended by striking out the word "or" at the end of paragraph *(a)* thereof, by inserting the word "or" at the end of paragraph *(b)* thereof, and by adding thereto the following paragraph:

"*(c)* authorized under the laws of Newfoundland as they existed immediately prior to the expiration of the 31st day of March, 1949, to construct or maintain telegraphic wires or cables, in, upon, under or across any gulf, bay or branch of any sea or any tidal water within the jurisdiction of Newfoundland, or the shore or bed thereof respectively, so as to extend beyond the limits of Newfoundland, and declared by proclamation of the Governor in Council to be subject to this Part."

Explanatory Note.

The purpose of this Bill is to empower the Governor in Council to apply Part III of the *Telegraphs Act* relating to marine electric telegraph companies to any company which, prior to April 1st, 1949, was authorized under the laws of Newfoundland to construct or maintain in Newfoundland waters submarine cables extending beyond the limits of Newfoundland.

First Session, Twenty-Second Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 76.

An Act to amend the Post Office Act.
(Unlawful use of mails.)

First reading, December 10, 1953.

Mr. DUFRESNE.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1953

83270

1st Session, 22nd Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA

BILL 76.

An Act to amend the Post Office Act.
(Unlawful use of mails.)

R.S., c 212.

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

Unlawful use of mails.

1. Subsection (1) of section 7 of the *Post Office Act*, chapter 212 of the Revised Statutes of Canada, 1952, is repealed and the following substituted therefor:

"**7.** (1) Whenever the Postmaster General believes on reasonable grounds that any person

(*a*) is, by means of the mails,

(i) committing or attempting to commit an offence, or

(ii) aiding, counselling or procuring any person to commit an offence,

(*b*) with intent to commit an offence, is using the mails for the purpose of accomplishing his object, or

(*c*) is using the mails for the purpose of distributing literature or propaganda of the Communist Party of Canada or of the Labor Progressive Party of Canada, or of any association, society, group or other organization having similar aims or purposes,

Prohibitory order.

the Postmaster General may make an interim order (in this section called an "interim prohibitory order") prohibiting the delivery of all mail directed to that person (in this section called the "person affected") or deposited by that person in a post office."

Explanatory Notes.

The only change is the insertion of paragraph (*c*), (indicated by a vertical line on the opposite page), in subsection (1) of section 7 of the *Post Office Act* as it now stands.

The purpose of the amendment is to prevent, as much as possible, the dissemination through the mails of subversive propaganda.

First Session, Twenty-Second Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 77.

An Act to amend the Acts respecting the Northwest Territories.

First reading, December 10, 1953.

THE MINISTER OF RESOURCES AND DEVELOPMENT.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1953

81376

1st Session, 22nd Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 77.

An Act to amend the Acts respecting the Northwest Territories.

R.S., cc. 195, 331.

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

PART I.

1. (1) Subsection (4) of section 8 of the *Northwest Territories Act*, chapter 195 of the Revised Statutes of Canada, 1952, is repealed and the following substituted therefor:

Tenure of elected members.

"(4) Unless otherwise provided in this section, an elected member of the Council holds office for three years from the date of the return of the writ after his election."

(2) Subsection (6) of the said section 8 is repealed and the following substituted therefor:

Resignation or death of elected member.

"(6) Where an elected member resigns or dies while in office, the Governor in Council may appoint a member in his stead for the balance of his term of office.

May dissolve Council after two years.

"(7) The Governor in Council may, at any time after the expiration of two years from the date of the return of the writs of election of elected members of the Council, dissolve the Council and cause a new Council to be elected and appointed."

Explanatory Notes.

The *Northwest Territories Act* as contained in chapter 195, R.S.C., 1952, is presently in force. Chapter 331, R.S.C. 1952, the new *Northwest Territories Act*, will come into force on proclamation but cannot be proclaimed until the proposed *Criminal Code* comes into effect. The Bill is divided into two Parts:

Part I amends the *Northwest Territories Act*, chapter 195, R.S.C. 1952.

Part II amends the *Northwest Territories Act*, chapter 331, R.S.C. 1952.

The main purposes of the Bill are:

(a) to provide that the Governor in Council may, after the expiration of two years from the return of the writs of election of elected members of the Council, dissolve the Council and cause a new Council to be elected and appointed; (Part I)—this provision has already been included in chapter 331;

(b) to increase the time within which copies of Ordinances are to be transmitted to the Governor in Council to thirty days; (Part I)—this provision has already been included in chapter 331;

(c) to add provisions relating to reindeer and penalties similar to those already included in chapter 331; (Part I)

(d) to raise the living allowances payable to members of Council to $25 a day; (Part I)—this provision has already been included in chapter 331;

(e) to provide that the Governor in Council may appoint a member of the Council in place of an elected member who resigns; (Both Parts)

(f) to clarify the provisions relating to indemnity and living allowances; (Both Parts)

(g) to authorize the Commissioner in Council to make ordinances to enable the Commissioner to enter into agreements with the Government of Canada; (Both Parts)

(h) to include provisions relating to the holding of land, similar to provisions now in the Yukon Act, chapter 53, 1952-53 statutes; (Both Parts)

(i) to provide form of oath of office and allegiance for magistrates, justices of the peace, etc. (Part II)

PART I.

1. (1) Subsection (4) of section 8 presently reads:

"(4) Subject to subsections (5) and (6), elected members of the Council hold office for three years from the date of the return of the writs after their election."

(2) Subsection (6) presently reads:

"(6) Where an elected member dies while in office, the Governor in Council may appoint a member in his stead for the balance of his term of office."

2. (1) Paragraph *(b)* of subsection (2) of section 12 of the said Act is repealed and the following substituted therefor:

"*(b)* an allowance for living expenses, not exceeding twenty-five dollars for each day he is in attendance at a session of the Council."

(2) The said section 12 is further amended by adding thereto the following subsections:

When member deemed in attendance for purposes of ascertaining indemnity.

"(4) For the purposes of subsection (1), each day on which an elected member is in the place where a session of the Council is held but is because of illness unable to be in attendance at the session shall be deemed to be a day on which he is in attendance at the session.

When member deemed in attendance for purposes of ascertaining living allowance.

(5) For the purpose of ascertaining a member's allowance for living expenses,

(a) each day during a session on which there has been no sitting of the Council in consequence of its having adjourned over that day, and

(b) each day on which the member is in the place where the session is held but is because of illness unable to be in attendance at the session,

shall be deemed to be a day on which he is in attendance at the session."

3. (1) The said Act is further amended by adding thereto immediately after section 16 thereof the following section:

Agreements with Government of Canada.

"**16A.** The Commissioner in Council may make ordinances authorizing the Commissioner to enter into an agreement with the Government of Canada under and for the purposes of any Act of the Parliament of Canada that authorizes the Government of Canada to enter into agreements with the provinces, but no such agreement shall be entered into by the Commissioner without the approval of the Governor in Council."

(2) Subsection (1) shall be deemed to have come into force on the 1st day of December, 1953.

4. Section 17 of the said Act is repealed and the following substituted therefor:

Ordinances to be laid before Parliament.

"**17.** (1) A copy of every ordinance made by the Commissioner in Council shall be transmitted to the Governor in Council within thirty days after the passing thereof and shall be laid before both Houses of Parliament as soon as conveniently may be thereafter.

Disallowance.

(2) Any ordinance or any provision thereof may be disallowed by the Governor in Council at any time within two years after its passage."

5. Part IV of the said Act is repealed and the following substituted therefor:

2. (1) Paragraph *(b)* of subsection (2) of section 12 presently reads:

> "*(b)* an allowance for living expenses not exceeding *fifteen* dollars for each day in which the Council is in session, *but the amount that is paid to a member of the Council pursuant to this paragraph shall not exceed two hundred dollars in respect of any one session.*"

(2) New. These subsections are inserted for the purpose of clarifying the amount of indemnity and living allowance payable to a member.

3. (1) New. This subsection follows section 18 of the new Yukon Act, chapter 53 of the statutes of 1952-53. The purpose of the subsection is to enable the Commissioner in Council to pass Ordinances authorizing the Commissioner to enter into agreements with the Government of Canada.

(2) New. The purpose of this subsection is to make effective an Ordinance of the Northwest Territories Council authorizing the Commissioner to make an agreement with the Government of Canada under the Vocational Training Co-ordination Act.

4. Follows section 15 of the new *Northwest Territories Act*, chapter 331, R.S.C. 1952. Time for transmitting Ordinances is increased to thirty days. Section 17 of chapter 195 presently reads:

> "17. A copy of every Ordinance made by the Commissioner in Council shall be transmitted to the Governor in Council within ten days after the passing thereof and shall be laid before both Houses of Parliament as soon as conveniently may be thereafter; and any such Ordinance or any provision thereof may be disallowed by the Governor in Council at any time within two years after its passage."

5. Sections 113 to 117 (Part IV) of chapter 195 respecting sale of arms and ammunition were never proclaimed and were not re-enacted in the new *Northwest Territories Act*, chapter 331, and are accordingly being repealed. New provisions are added relating to

(a) reindeer, which were inserted in chapter 331, R.S.C. 1952;

and

(b) lands, which is similar to the provision in section 45 of the *Yukon Act*, chapter 53, 1952-53 statutes, and permits the Territories to acquire the beneficial use of certain lands and the Commissioner to hold such lands for the use of the Territories.

"PART IV.

Reindeer.

Regulations respecting reindeer.

113. (1) The Governor in Council may make regulations,

(a) authorizing the Minister to enter into agreements with Eskimos or Indians, or persons with Eskimo or Indian blood living the life of an Eskimo or Indian, for the herding of reindeer that are the property of Her Majesty, such agreements, if deemed advisable by the Minister, to include provisions for the transfer of such portions of the herds as may be therein specified to the herders upon satisfactory completion of the agreements;

(b) for the control, management, administration and protection of reindeer in the Territories, whether they are the property of Her Majesty or otherwise;

(c) for the sale of reindeer and the slaughter or other disposal of surplus reindeer and the carcasses thereof; and

(d) controlling or prohibiting the transfer or shipment by any means of reindeer or their carcasses or parts thereof, whether they are the property of Her Majesty or otherwise, from any place in the Territories to any other place within or without the Territories.

Seizure.

(2) Where a peace officer or any person who is a game officer under any ordinance has reasonable grounds for believing that any reindeer or part thereof has been taken, killed, transferred, shipped or had in possession in violation of the regulations or that any vessel, vehicle, aeroplane, firearm, trap or other article or thing has been used in violation of the regulations, he may, in the Territories, without a warrant, effect seizure thereof.

Forfeit re.

(3) Every seizure made under subsection (2) shall be reported as soon as practicable to a justice of the peace who may, upon satisfying himself that the reindeer or part thereof or the vessel, vehicle, aeroplane, firearm, trap or other article or thing has been taken, dealt with or used in violation of the regulations, declare it to be forfeited to Her Majesty and, upon such declaration, it is forfeited.

Application of the *Game Export Act.*

(4) The *Game Export Act* applies to reindeer or the carcasses or part thereof and for that purpose, "game" under that Act shall be deemed to include such reindeer, carcasses or part thereof, "killed" to include the taking or capture of or dealing in live reindeer and "export permit" to include a permit or licence issued under the regulations made pursuant to this section.

Lands.

Power to hold lands.

114. The following properties, namely,

(a) lands acquired before or after the coming into force of this Act with territorial funds;

(b) public lands, the administration of which has before or after the coming into force of this Act been transferred by the Governor in Council to the Territories; and

(c) all roads, streets, lanes and trails on public lands;

are and remain vested in Her Majesty in right of Canada, but the right to the beneficial use or to the proceeds thereof is hereby appropriated to the Territories and is subject to the control of the Commissioner in Council; and any such lands, roads, streets, lanes or trails may be held by and in the name of the Commissioner for the beneficial use of the Territories.

Offence and Penalty.

Offence and penalty.

115. Every person who violates a provision of this Act or the regulations for which no other penalty is provided in this Act is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding one year or to both fine and imprisonment."

PART II.

6. Subsection (5) of section 8 of the *Northwest Territories Act*, chapter 331 of the Revised Statutes of Canada, 1952, is repealed and the following substituted therefor:

Resignation or death of elected member.

"(5) Where an elected member resigns or dies while in office, the Governor in Council may appoint a member in his stead for the balance of his term of office."

7. (1) Paragraph *(b)* of subsection (2) of section 12 of the said Act is repealed and the following substituted therefor:

"*(b)* an allowance for living expenses not exceeding twenty-five dollars for each day he is in attendance at a session of the Council."

(2) The said section 12 is further amended by adding thereto the following subsections:

When member deemed in attendance for purposes of ascertaining indemnity.

"(4) For the purposes of subsection (1), each day on which an elected member is in the place where a session of the Council is held but is because of illness unable to be in attendance at the session shall be deemed to be a day on which he is in attendance at the session.

PART II

6. Subsection (5) of section 8 presently reads:

"(5) Where an elected member dies while in office, the Governor in Council may appoint a member in his stead for the balance of his term of office."

7. (1) Paragraph *(b)* of subsection (2) of section 12 presently reads:

"*(b)* an allowance for living expenses, not exceeding twenty-five dollars for each day in which the Council is in session."

(2) New. See note on subsection (2) of section 2 of the Bill.

When member deemed in attendance for purposes of ascertaining living allowance.

(5) For the purpose of ascertaining a member's allowance for living expenses,

(a) each day during a session on which there has been no sitting of the Council in consequence of its having adjourned over that day, and

(b) each day on which a member is in the place where the session is held but is because of illness unable to be in attendance at the session,

shall be deemed to be a day on which he is in attendance at the session."

8. The said Act is further amended by adding thereto immediately after section 14 thereof the following section:

Agreements with Government of Canada.

"**14A.** The Commissioner in Council may make ordinances authorizing the Commissioner to enter into an agreement with the Government of Canada under and for the purposes of any Act of the Parliament of Canada that authorizes the Government of Canada to enter into agreements with the provinces, but no such agreement shall be entered into by the Commissioner without the approval of the Governor in Council."

9. The said Act is further amended by adding thereto, immediately after section 37 thereof, the following heading and section:

"Oaths of Office.

Oaths of Office.

37A. Every police magistrate and justice of the peace appointed under this Act and every person appointed under section 37 shall, before assuming the duties of his office, take and subscribe to such oaths of office and allegiance in such manner as the Governor in Council may prescribe."

10. Section 40 of the said Act and the heading thereto is repealed and the following substituted therefor:

"Lands.

Power to hold lands.

40. The following properties, namely,

(a) lands acquired before or after the coming into force of this Act with territorial funds;

(b) public lands, the administration of which has before or after the coming into force of this Act been transferred by the Governor in Council to the Territories; and

(c) all roads, streets, lanes and trails on public lands;

are and remain vested in Her Majesty in right of Canada, but the right to the beneficial use or to the proceeds thereof is hereby appropriated to the Territories and is subject to the control of the Commissioner in Council; and any such lands, roads, streets, lanes or trails may be held by and in the name of the Commissioner for the beneficial use of the Territories."

8. New. This section inserts in the Northwest Territories Act, chapter 331, R.S.C., 1952, the same provision being inserted in chapter 195, R.S.C., 1952, by section 3 of this Bill.

9. New. Similar to section 42 of the *Yukon Act*, chapter 53 of the 1952-53 statutes.

10. Section 40 presently reads:

"**40.** Subject to any Ordinance respecting them, all roads, streets, lanes and trails on public lands are subject to the direction, management and control of the Commissioner."

New section follows the provision in the *Yukon Act*, chapter 53, 1952-53 statutes.

78.

First Session, Twenty-Second Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 78.

An Act to approve the Financial Agreement between Canada and the United Kingdom, signed on the thirteenth day of August, 1953.

First reading, December 10, 1953.

THE MINISTER OF FINANCE.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1953

80700

1st Session, 22nd Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 78.

An Act to approve the Financial Agreement between Canada and the United Kingdom, signed on the thirteenth day of August, 1953.

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

Short title.

1. This Act may be cited as the *United Kingdom Financial Agreement Act, 1953.*

Agreement approved.

2. The Agreement between the Government of Canada and the Government of the United Kingdom of Great Britain and Northern Ireland set out in the Schedule is approved.

SCHEDULE.

FINANCIAL AGREEMENT BETWEEN THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF THE UNITED KINGDOM.

The Government of Canada and the Government of the United Kingdom of Great Britain and Northern Ireland agree to the following terms and conditions respecting the repayment of the outstanding balance of the loan made to the Government of the United Kingdom under *The War Appropriation (United Kingdom Financing) Act, 1942*, which shall supersede all previous arrangements with respect to the loan:

(a) the outstanding balance of the loan as at the date of this Agreement will be reduced to $150,000,000 by the repayment of a lump sum forthwith;

(b) the remainder of the said balance will be repaid by quarterly instalments of $7,500,000 payable on March 1st, June 1st, September 1st, and December 1st annually, the first instalment to be paid on March 1st, 1954, and the final instalment on December 1st, 1958;

(c) the loan will continue to be free of interest until final redemption on December 1st, 1958.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective governments, have signed this Agreement.

SIGNED in duplicate at Ottawa, this thirteenth day of August, 1953.

FOR THE GOVERNMENT OF CANADA:
(Sgd.) D. C. Abbott,
Minister of Finance.

FOR THE GOVERNMENT OF THE UNITED KINGDOM:
(Sgd.) J. Thomson,
Deputy, for United Kingdom High Commissioner.

79

First Session, Twenty-Second Parliament, 2 Elizabeth II, 1953.

THE SENATE OF CANADA

BILL 79 B.

An Act respecting the Boundary between the Provinces of Ontario and Manitoba.

AS PASSED BY THE SENATE, 9th DECEMBER, 1953.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1953

82069

1st Session, 22nd Parliament, 2 Elizabeth II, 1953.

THE SENATE OF CANADA.

BILL B.

An Act respecting the Boundary between the Provinces of Ontario and Manitoba.

Preamble.

WHEREAS the interprovincial boundary between the Provinces of Ontario and Manitoba has been surveyed and marked on the ground by commissioners appointed for the purpose in accordance with the descriptions in the Schedule to the Act of the Parliament of the United Kingdom known as the *Canada (Ontario Boundary) Act, 1889*, and in the Acts of the Parliament of Canada known as *The Manitoba Boundaries Extension Act, 1912*, chapter 32 of the statutes of 1912, *The Ontario Boundaries Extension Act*, chapter 40 of the statutes of 1912, and *An Act to amend The Manitoba Boundaries Extension Act, 1912, and The Ontario Boundaries Extension Act*, chapter 16 of the statutes of 1950, which boundary line as so surveyed and marked is described in the Schedule;

AND WHEREAS, the legislatures of the Provinces of Ontario and Manitoba having consented thereto, it is desirable that the boundary so surveyed and marked on the ground be declared the boundary between the Provinces of Ontario and Manitoba;

NOW THEREFORE, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short title.

1. This Act may be cited as the *Ontario-Manitoba Boundary Act, 1953*.

Boundary declared.

2. The boundary line surveyed and marked on the ground by commissioners appointed in 1897, 1921, 1929 and 1931 to delimit the boundary between the Provinces of Ontario and Manitoba and described in the Schedule is hereby declared to be the boundary line between the Provinces of Ontario and Manitoba, and in so far as the boundary line so described increases, diminishes or otherwise alters the limits of those Provinces, their limits are increased, diminished or otherwise altered accordingly.

Coming into force.

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

Explanatory Notes.

The Boundary Line between the Provinces of Ontario and Manitoba was determined by the various statutes enumerated in the preamble to this Bill.

Owing to the fact that certain developments were taking place along the Boundary, and that mining claims were being staked very close thereto, and that prospectors and mining companies could not tell in which of the two Provinces their claims were situated, it became necessary to survey and mark on the ground the Boundary Line between the two Provinces.

For this purpose, Commissioners were appointed by the parties concerned and the Boundary Line was surveyed and marked on the ground in its entirety.

Once the survey was completed, the Provinces have requested that an Act of the Federal Government be passed declaring that the Boundary, as surveyed and marked on the ground, be declared the true and unalterable boundary between their respective provinces. To that effect, the Legislatures of the Provinces of Ontario and Manitoba passed Acts of Consent, as required by section 3 of the *British-North America Act, 1871*.

It is to give effect to the request of the Provinces of Ontario and Manitoba that this Bill is being introduced.

SCHEDULE.

Description by Metes and Bounds of the Boundary Line between the Province of Ontario and the Province of Manitoba.

Commencing at the most northerly point on the International Boundary between Canada and the United States at the northwest angle of the Lake of the Woods, as established by Dr. Tiarks and David Thompson under the direction of the commissioners appointed under Article VII of the Treaty of Peace and Amity between His Britannic Majesty and the United States of America signed at Ghent the 24th December, 1814, and confirmed by Article II of the Ashburton Treaty of 1842, said most northerly point being styled the Initial Point on the official plan of survey of the boundary between the Provinces of Ontario and Manitoba from Lake of the Woods to Winnipeg River, which said Initial Point may be more particularly known and described as being seventy-two chains and fifty links, more or less, due north of the most northerly point on the International Boundary at the northwest angle of the Lake of the Woods as determined by Article I of the Treaty between His Britannic Majesty in respect of the Dominion of Canada and the United States for the Further Demarcation of the Boundary between Canada and the United States, signed at Washington on February 24th, 1925, which said Initial Point is also one hundred and fifty chains and one link, more or less, due north from an iron post extending four feet above ground and planted about five chains northerly from the north bank of the Northwest Angle River, bearing the following inscriptions:—"October 20th, 1818" on the south side, and on the north side the words "convention of London" said post having been planted by the International Boundary Commissioners in 1872 to mark the boundary between the Dominion of Canada and the United States of America; which said Initial Point is also one hundred and ten chains and sixty-two links, more or less, due north from an iron post extending four feet above the ground bearing similar inscriptions and planted by the same authority as the above mentioned post.

Thence from said Initial Point due north astronomically along the boundary between the Provinces of Ontario and Manitoba, as marked on the ground by the commissioners appointed for the purpose in 1897 and 1921, a distance of two hundred and thirty-eight miles, thirteen chains and twenty-eight links, more or less, to a point at the centre of the road allowance on the north side of the twelfth Base Line of the system of Dominion land surveys, said point being thirty chains and fifty-seven links due north from a concrete monument on said boundary, which said monument is about three feet high above the ground and bearing the following inscriptions: on the east side, "No. 218 ONTARIO", and on the west side, "No. 218 MANITOBA", the said point being marked by a concrete monument about three feet high above the ground and bearing the following inscriptions: on the southeast side, "No. 220 ONTARIO", and on the northwest side, "No. 220

MANITOBA", said boundary from the Initial Point to the Winnipeg River being marked at intervals of approximately one mile in length by iron posts and mounds, each post bearing the number corresponding to the number of miles which it is distant from said Initial Point on the south side, the letters "MAN" for Manitoba on the west side and the letters "ONT" for Ontario on the east side, and from the Winnipeg River northerly to the point marked by the monument bearing the inscriptions, on the southeast side "No. 220 ONTARIO", and on the northwest side "No. 220 MANITOBA", the said boundary being marked at intervals of approximately six miles in length by concrete monuments bearing brass plates on which are the following inscriptions: on the east side, the number of the monument and the word "ONTARIO" and on the west side the number of the monument and the word "MANITOBA", said boundary from the Winnipeg River to the point marked by the monument bearing the inscriptions, on the southeast side, "No. 220 ONTARIO", and on the northwest side, "No. 220 MANITOBA" being also marked at intervals of approximately one mile in length with special posts and mounds, the posts bearing the inscriptions "Interprovincial Boundary" "Ontario-Manitoba", each post having also marked on it the number of the monument, the number of the bench mark and the year of the survey.

That part of the said boundary which lies between the Lake of the Woods and Winnipeg River is shown on the official plan of the survey of said boundary dated 30th April, 1898, and signed by Elihu Stewart, D.L.S., and B. J. Saunders, O.L.S., the commissioners appointed in 1897, and that part of said boundary lying between the Winnipeg River and the twelfth Base Line aforesaid being shown on a series of sixteen plans of survey published in atlas form in 1925 and signed by the Surveyor-General of Dominion Lands, and the Director of Surveys for the Province of Ontario, as the commissioners appointed in 1921, all of which plans are of record in the Department of Mines and Technical Surveys at Ottawa.

Thence in a right line on an initial azimuth of 44° 25′ 50″ along the boundary between the Provinces of Ontario and Manitoba, as marked on the ground by the commissioners appointed in 1929, a distance of eighty-seven miles, fifty-five chains and thirty-two and eight-tenths links more or less to the most eastern point of Island Lake, the said point being fixed on the ground in the year 1930 and being marked by a concrete monument bearing the following inscriptions: on the southeast side, "No. 295 ONTARIO", and on the northwest side, "No. 295 MANITOBA" and situated in about North Latitude 53° 44′ 19″ ·42 and in about West Longitude 93° 39′ 14″ ·91; said boundary from the point marked by the monument bearing the inscription on the southeast side "No. 220 ONTARIO", and on the northwest side "No. 220 MANITOBA" to the most eastern point of Island Lake being marked at intervals of approximately one mile in length by special posts and mounds, each post having marked on it the number of the post and the year of survey, and said portion of the boundary being also marked at intervals of approximately six miles in length by concrete monuments bearing brass plates on which

are the following inscriptions: on the southeast side, the number of the monument and the word "ONTARIO", and on the northwest side, the number of the monument and the word "MANITOBA"; thence in a right line on an initial azimuth of 38° 40′ 34″ along the said boundary a distance of two hundred and eighty-two miles, thirty-three chains and fifty-seven and one-tenth links more or less to the Terminal Point marked by a concrete monument about four feet high above the ground and bearing the following inscriptions: on the southeast side, "No. 457A ONTARIO", and on the northwest side, "No. 457A MANITOBA", the said point being twenty-one and four-tenths feet due west astronomic from the point where the eighty-ninth meridian of west longitude intersects the southern shore of Hudson Bay, as the latter point was fixed by the Geodetic Survey of Canada in the year 1929; said boundary from the most eastern point of Island Lake to the said Terminal Point being marked at intervals of from one mile to three miles in length by special posts of the same type as the special posts above described as marking the boundary from the point marked by the monument bearing the inscriptions, on the southeast side, "No. 220 ONTARIO", and on the northwest side, "No. 220 MANITOBA", to the most eastern point of Island Lake, and said portion of the boundary being also marked at intervals of from five miles to twenty-five miles in length by concrete monuments bearing brass plates on which are the following inscriptions: on the southeast side, the number of the monument and the word "ONTARIO", and on the northwest side, the number of the monument and the word "MANITOBA"; and as said boundary is shown on three plans of the Ontario-Manitoba Boundary, namely (1) from monument No. 220 on the twelfth Base Line to monument No. 295 at east end of Island Lake; (2) from monument No. 295 at east end of Island Lake to monument No. 356; and (3) from monument No. 356 to monument No. 457A at Hudson Bay; duly approved by the three Commissioners appointed in 1931 on the 26th day of January, 1953, and of record in the Department of Mines and Technical Surveys at Ottawa.

80.

First Session, Twenty-Second Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 80.

An Act respecting the Canadian Forces.

First reading, December 10th, 1953.

THE MINISTER OF NATIONAL DEFENCE.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1953

81635

1st Session, 22nd Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 80.

An Act respecting the Canadian Forces.

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

Short Title.

Short title.

1. This Act may be cited as the *Canadian Forces Act, 1954*.

PART I.

Defence Services Pension Act.

R.S., c. 310.

2. Section 44A of the *Defence Services Pension Act*, chapter 63 of the Revised Statutes of Canada, 1952, is repealed and the following substituted therefor:

"Service."

"**44A.** For the purpose of computing a pension under any of Parts I to III with respect to an officer, "service" in any such Part, in addition to any periods specified in Parts I to III, includes any continuous period of full-time service of six months or more in the naval, army or air forces of His Majesty raised in Canada other than the forces as defined in such Part, under such circumstances and to such extent as the Governor in Council may by regulation prescribe, but such service may not be counted as service under any other provision of any of such Parts, except to the extent prescribed by paragraph *(e)* of section 7, subparagraph (ii) of paragraph *(e)* of section 36 or subparagraph (iii) of paragraph *(d)* of section 40, for the purpose of determining eligibility for pension."

3. The said Act is further amended by adding thereto, immediately after section 44A thereof, the following section:

Regulations.

"**44B.** (1) The Governor in Council may make regulations

(a) prescribing the extent to which and the manner in which any person in receipt of a pension under any of Parts I to III who, after his retirement from the

Explanatory Notes.

1. The title and form of this Bill follow the precedent set by *The Canadian Forces Act, 1950*, *The Canadian Forces Act, 1951*, *The Canadian Forces Act, 1952*, and *The Canadian Forces Act, 1953*.

2. This clause would enable the Governor in Council to prescribe the circumstances under which full-time service in the reserves will count for pension. For example, under the law as it now stands, certain regular force officers who formerly served on a full-time basis with the reserves cannot have that service counted as pensionable service as they were not in receipt of the same rate of pay as regular force officers. Section 44A now reads:

"44A. For the purpose of computing a pension under any of Parts I to III with respect to an officer, "service" in any such Part, in addition to any periods specified in Parts I to III, includes any continuous period of full-time service of six months or more in the naval, army or air forces of His Majesty raised in Canada other than the forces as defined in such Part, if

(a) during such period he received the pay of his rank as though he were in the forces as defined in such Part, and

(b) he is otherwise eligible for a pension under such Part,

but such service may not be counted as service under any other provision of any such Parts, except to the extent prescribed by paragraph *(e)* of section 7, subparagraph (ii) of paragraph *(e)* of section 36 or subparagraph (iii) of paragraph *(d)* of section 40, for the purpose of determining eligibility for pension."

3. This clause, by enacting section 44B (1) *(a)*, would enable the Governor in Council to make regulations prescribing the extent to which and the manner in which a pensioner in receipt of a pension under Parts I to III of the Act may have his pension increased by reason of a period of further service in the forces or in the public service of Canada. This amendment is similar to a provision now contained in Part V of the Act.

forces, is appointed to a position in the public service of Canada or is appointed to or enlists in the naval, army or air forces of Canada, may count that additional service for the purpose of computing his pension under such Part; and

(b) providing for payment out of the Consolidated Revenue Fund, upon the death of any person in respect of whom any pension or compassionate allowance becomes payable under any of Parts I to III and upon application to the Minister by or on behalf of any successor thereunder to whom any such pension or allowance becomes payable, of the whole or any part of such portion of the succession duties payable by that successor as is determined in accordance with the said regulations to be attributable to that pension or allowance, and prescribing the amounts by which and the circumstances under which any such pension or allowance shall be reduced.

Part V not to apply.

(2) Notwithstanding anything in Part V of this Act, that Part does not apply in respect of any service that, by virtue of any regulation made pursuant to paragraph *(a)* of subsection (1), any person described in that paragraph elects to count for the purpose of computing his pension under any of Parts I to III."

4. Subparagraph (vi) of paragraph *(i)* of subsection (1) of section 45 of the said Act is repealed and the following substituted therefor:

"(vi) any continuous period of full-time service of six months or more in the naval, army or air forces of His Majesty raised in Canada other than the forces, under such circumstances and to such extent as the Governor in Council may by regulation prescribe, but such service may not be counted as service under any other subparagraph of this paragraph."

5. (1) Section 50 of the said Act is amended by adding thereto, immediately after subsection (1) thereof, the following subsection:

Widow's pension to be resumed.

"(1a) Where payment of any widow's pension under this Part has been discontinued by reason of her remarriage and she again becomes a widow, payment of that pension shall, to the extent that she is otherwise entitled under this Part to receive the same, be resumed."

Effective date.

(2) Where payment of any pension to which a widow was entitled under Part V of the *Defence Services Pension Act*, chapter 63 of the Revised Statutes of Canada, 1952 or Part V of *The Defence Services Pension Act*, chapter 133 of the Revised Statutes of Canada, 1927 was discontinued by reason of the remarriage of the widow and, prior to the coming into force of this Act, she again became a widow,

This clause, by enacting section 44B (1), *(b)*, would enable the Governor in Council to make regulations providing for payment from the Consolidated Revenue Fund of succession duties payable by a widow or child under Parts I to III of the Act, in respect of the widow's pension or the child's compassionate allowance; and the manner in which such pension or allowance shall be reduced in consequence of such payment. This provision would be similar to section 30 *(ac)* of the *Public Service Superannuation Act.*

4. This clause would make an amendment to Part V of the Act similar in effect to that proposed in clause 2. The provision that would be repealed by this clause reads:

"(vi) any continuous period of full-time service of six months or more in the naval, army or air forces of His Majesty raised in Canada other than the forces, if

(A) *the contributor during such period received the pay of his rank as though he were a member of the forces, and*

(B) *the contributor is otherwise eligible for pension under this Part,*

but such service may not be counted as service under any other subparagraph of this paragraph."

5. This clause would incorporate in Part V of the Act the principle now contained in Parts I to III under which a widow who is in receipt of a pension and has re-married and again becomes a widow may have her pension resumed.

the said pension shall be deemed to have become payable to her under such Part at the time she again became a widow, to the extent that she was, at that time, otherwise entitled under such Part to receive the same.

6. Section 61 of the *Defence Services Pension Act*, chapter 63 of the Revised Statutes of Canada, 1952, is amended by striking out the word "and" at the end of paragraph *(i)* thereof and by adding immediately thereafter the following paragraph:

"*(ia)* providing for payment out of the Permanent Services Pension Account in the Consolidated Revenue Fund, upon the death of a contributor and upon application to the Minister by or on behalf of any successor thereunder to whom a pension becomes payable under this Part, of the whole or any part of such portion of the succession duties payable by that successor as is determined in accordance with the said regulations to be attributable to that pension, and prescribing the amounts by which and the manner in which any such pension shall be reduced; and"

7. Section 68 of the said Act is repealed and the following substituted therefor:

Recovery of debit balance in pay account of former member.

"**68.** (1) Any debit balance in the pay account of a former member of the forces may be recovered from any pension or gratuity to which he is entitled under this Part or from any amount that becomes payable under this Part to his service estate, whether such debit balance existed in his pay account on the date of his retirement or is ascertained subsequently thereto.

Idem.

(2) Recovery of a debit balance pursuant to this section shall be effected in such manner and to such extent as the Governor in Council by regulation prescribes, but, in the case of a former member of the forces who is entitled to a pension or gratuity under this Part, recovery shall not be effected unless such former member is given notice of the existence of the debit balance and the amount thereof."

PART II.

National Defence Act.

8. (1) Subsection (1) of section 11 of the *National Defence Act*, chapter 184 of the Revised Statutes of Canada, 1952, is repealed and the following substituted therefor:

Delivery of materiel for sale.

"**11.** (1) The Governor in Council may authorize the Minister to deliver to any department or agency of the Government of Canada any materiel that has not been declared surplus and is not immediately required for the

6. This clause would incorporate in Part V of the Act the same provision as that proposed in clause 3 for Parts I to III for payment of succession duties on widow's and children's pension.

7. This clause would allow recovery of a debit balance in the pay account of a deceased serviceman who leaves no widow or child out of monies payable under the *Defence Services Pension Act* to his service estate. At present section 68 applies only to debit balances in the pay accounts of former members of the forces who are living. Section 68 of the Act now reads:

"**68.** (1) Any debit balance in the pay account of a former member of the forces may be recovered from any pension or gratuity to which he is entitled under this Part, whether such debit balance existed in his pay account on the date of his retirement or is ascertained subsequent thereto.

(2) Recovery of a debit balance pursuant to this section shall be effected in such manner and to such extent as the Governor in Council may by regulation prescribe, but recovery shall not be effected unless the former member is given notice of the existence of the debit balance and the amount thereof."

8. Subclause (1) would make it possible for materiel to be sold to international welfare organizations under section 11. Sales can now be made under section 11 only to "countries". Subsection (1) of section 11 of the *National Defence Act* now reads:

"**11.** (1) The Governor in Council may authorize the Minister to deliver to any department or agency of the Government of Canada any materiel that has not been declared surplus and that is not immediately required for the use of the Canadian Forces or the Defence Research Board or for any other purpose under this Act, for sale to such countries on such terms as the Governor in Council may determine."

use of the Canadian Forces or the Defence Research Board or for any other purpose under this Act, for sale to such countries or international welfare organizations on such terms as the Governor in Council may determine."

(2) Section 11 of the said Act is further amended by adding thereto the following subsection:

Refund of taxes.

"(5) Where any taxes or duties imposed under the laws of Canada have been paid, out of any appropriation for the Department, on or in respect of any materiel sold under this section, and all or part of such taxes or duties was not recovered from the purchaser, there shall be credited to the special account established under this section an amount equal to the unrecovered taxes or duties as determined by the Minister of National Revenue."

9. Subsection (2) of section 40 of the said Act is amended by striking out the word "and" at the end of paragraph *(c)* thereof, adding the word "and" to the end of paragraph *(d)* thereof, and adding thereto the following paragraph:

"*(e)* in the case of an officer or man dying out of Canada, all other personal property belonging to the deceased situate out of Canada if in the opinion of the person authorized to administer service estates the total value of such other property does not exceed ten thousand dollars."

10. Section 56 of the said Act is amended by adding thereto, immediately before subsection (8) thereof, after the heading *Persons Accompanying Canadian Forces*, the following subsections:

Definition of "Persons Accompanying Canadian Forces."

"(7a) For the purposes of this section, but subject to any limitations prescribed by the Governor in Council, a person accompanies a unit or other element of the Canadian Forces that is on service or active service if such person

(a) participates with that unit or other element in the carrying out of any of its movements, manoeuvres, duties in aid of the civil power, duties in a disaster, or warlike operations,

(b) is accommodated or provided with rations at his own expense or otherwise by that unit or other element in any country or at any place designated by the Governor in Council,

(c) is a dependant out of Canada of an officer or man serving beyond Canada with that unit or other element, or

(d) is embarked on a vessel or aircraft of that unit or other element.

Subclause (2) would extend the principle of section 11 to provide for crediting to the special account of duties and taxes paid out of the Defence Services Appropriation in respect of materiel sold under that section.

9. This clause would enable the Governor in Council to make regulations for the administration of assets such as household furnishings and bank accounts situated abroad of Canadian servicemen who die abroad, provided that the value of such assets does not exceed $10,000. The purpose of this provision is to facilitate the settlement of small service estates with the least possible inconvenience to the beneficiaries of deceased servicemen.

10. This clause would define the class of persons who are subject to the Code of Service Discipline as persons accompanying the forces although not members of the forces. It provides that dependants who are subject to the Code of Service Discipline must be tried and other civilians who are subject to that Code may be tried by a general court martial consisting of a person with adequate legal qualifications appointed by the Minister.

Trial of persons accompanying Canadian Forces.

(7b) Notwithstanding anything in this Act, where a person mentioned in subsection (7a) is to be tried by a court martial

(a) he shall, if he comes within paragraph *(c)* of that subsection, and

(b) he may, if he comes within paragraph *(a)*, *(b)* or *(d)* of that subsection,

be tried by a General Court Martial consisting of a person, designated by the Minister, who is or has been a judge of a superior court in Canada, or is a barrister or advocate of at least ten years' standing at the bar of any province of Canada, and, subject to such modifications and additions as the Governor in Council may prescribe, the provisions of this Act and the regulations relating to trials of accused persons by General Courts Martial and to their conviction, sentence and punishment are applicable to trials by a General Court Martial established under this subsection, and to the conviction, sentence and punishment of persons so tried."

11. Section 112 of the said Act is repealed and the following substituted therefor:

False answers or false information.

"**112.** Every person who knowingly

(a) makes a false answer to any question set forth in any document required to be completed in relation to his enrolment, or

(b) furnishes any false information or false document in relation to his enrolment,

is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment."

12. The said Act is amended by adding thereto, immediately after section 117 thereof, the following section:

Conspiracy.

"**117A.** Every person who conspires with any other person, whether or not such other person is subject to the Code of Service Discipline, to commit an offence under the Code of Service Discipline is guilty of an offence and is liable to imprisonment for a term not exceeding seven years or to less punishment."

13. Subsection (3) of section 118 of the said Act is repealed and the following substituted therefor:

General.

"(3) An act or omission constituting an offence under section 63, or a contravention by any person of

(a) any of the provisions of this Act;

(b) any regulations, orders or instructions published for the general information and guidance of that Service of the Canadian Forces to which that person belongs, or to which he is attached or seconded; or

11. Section 112 of the Act establishes the offence of making a false answer on enrolment. The amendment would extend the scope of the section to include the further offences of furnishing false information or false documents in relation to enrolment. Section 112 of the *National Defence Act* now reads:

"**112.** Every person who knowingly makes a false answer to any question set forth in any document required to be completed in relation to his enrolment is guilty of an offence and on conviction is liable to imprisonment for less than two years or to less punishment."

12. This clause would create an offence of conspiring with others to commit a breach of the Code of Service Discipline. The proposed amendment has been adapted from section 573 of the *Criminal Code* which reads:

"**573.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who, in any case not hereinbefore provided for, conspires with any person to commit any indictable offence."

13. Subsection (1) of Section 63 of the Act permits persons who aid, abet, counsel or procure the commission of an offence to be charged only with the offence committed by the principal offender. The proposed amendment would permit a charge being laid against such persons for having committed the offence of conduct to the prejudice of good order and discipline. Section 63 (1) of the *National Defence Act* reads:

"**63.** (1) Every person is a party to and guilty of an offence who
(a) actually commits it;
(b) does or omits an act for the purpose of aiding any person to commit the offence;
(c) abets any person in commission of the offence; or
(d) counsels or procures any person to commit the offence."

(c) any general, garrison, unit, station, standing, local or other orders,

is an act, conduct, disorder or neglect to the prejudice of good order and discipline."

1952-53, c. 24, s. 5 (1).

14. Section 119A of the said Act is amended by adding thereto the following subsection:

Contravention of customs laws.

"(5) Where an act or omission constituting an offence under subsection (1) contravenes the customs laws applicable in the place where the offence was committed, any officer appointed under the regulations for the purposes of this section may seize and detain any goods by means of or in relation to which he reasonably believes the offence was committed, and if any person is convicted of the offence under subsection (1) such goods may, in accordance with regulations made by the Governor in Council, be forfeited to Her Majesty and may be disposed of as provided by those regulations."

15. The said Act is further amended by adding thereto, immediately after section 183A thereof, the following heading and section:

"RESTITUTION OF PROPERTY.

Restitution of property in case of conviction.

183B. (1) Where a person is convicted of an offence under the Code of Service Discipline, the service tribunal shall order that any property obtained by the commission of the offence shall be restored to the person apparently entitled to it, if at the time of the trial the property is before the service tribunal or has been detained, so that it can be immediately restored to that person under the order.

Where no conviction, but offence committed.

(2) Where an accused is tried for an offence but is not convicted, and it appears to the service tribunal that an offence has been committed, the service tribunal may order that any property obtained by the commission of the offence shall be restored to the person apparently entitled to it, if at the time of the trial the property is before the service tribunal or has been detained, so that it can be immediately restored to that person under the order.

Exceptions.

(3) An order shall not be made under this section in respect of

(a) property to which an innocent purchaser for value has acquired lawful title,

(b) a valuable security that has been paid or discharged in good faith by a person who was liable to pay or discharge it, or

(c) a negotiable instrument that has, in good faith, been taken or received by transfer or delivery for valuable consideration by a person who had no notice

14. This clause would enable Canada to carry out its obligations in respect of the enforcement of the customs laws of certain countries where the Canadian Forces are serving.

15. This clause would remove any doubt as to the authority of service tribunals to restore stolen property to the rightful owners. The amendment has been adapted from the *Criminal Code*.

and no reasonable cause to suspect that an offence had been committed.

Execution of order for restitution.

(4) An order made under this section shall be executed by the persons by whom the process of the service tribunal is ordinarily executed."

16. The said Act is further amended by adding thereto, immediately after section 217 thereof, the following section and heading:

"DEPENDANTS.

Arrest of dependants.

217A. The dependants, as defined by regulation, of members of the Canadian Forces on service or active service in any place out of Canada who are alleged to have committed an offence under the laws applicable in such place may be arrested by such officers and men as are appointed under section 129 and may be handed over to the appropriate authorities of such place."

PART III.

VISITING FORCES (NORTH ATLANTIC TREATY) ACT.

17. Section 16 of the *Visiting Forces (North Atlantic Treaty) Act*, chapter 284 of the Revised Statutes of Canada, 1952, is repealed and the following substituted therefor:

Claims against associated states.

"**16.** For the purposes of subsection (1) of section 3 of the *Crown Liability Act*

(a) a tort committed by a member of a visiting force while acting within the scope of his duties or employment shall be deemed to have been committed by a servant of the Crown while acting within the scope of his duties or employment;

(b) property owned, occupied, possessed or controlled by a visiting force shall be deemed to be owned, occupied, possessed or controlled by the Crown; and

(c) a service motor vehicle of a visiting force shall be deemed to be owned by the Crown."

PART IV.

SENATE AND HOUSE OF COMMONS ACT.

18. Section 37 of the *Senate and House of Commons Act*, chapter 249 of the Revised Statutes of Canada, 1952, is repealed and the following substituted therefor:

Days on reserve force service not computed.

"**37.** In the calculation of any deduction from any member's sessional allowance on account of absence, days that

16. This clause is required because, under certain international arrangements, foreign authorities are precluded from arresting dependants of Canadian service personnel and hence arrest in such cases must be effected by Canadian authorities.

17. This clause embodies consequential amendments made necessary by the enactment of the *Crown Liability Act*. Section 16 of the *Visiting Forces (North Atlantic Treaty) Act* now reads:

> "**16.** *For the purposes of paragraph (c) of subsection* (1) *of section* 18 *of the Exchequer Court Act, negligence in Canada of a member of a visiting force while acting within the scope of his duties or employment shall be deemed to be negligence of an officer or servant of the Crown while acting within the scope of his duties or employment.*"

Section 18 (1) *(c)* of the *Exchequer Court Act*, mentioned in the provision quoted above, was repealed by the *Crown Liability Act*.

18. This clause would amend section 37 of the *Senate and House of Commons Act* so that it will relate to duty performed in all three Services and not be restricted to annual training with the army. The section now reads:

> "**37.** In the calculation of any deduction from any member's sessional allowance on account of absence, days which were spent by such member *on duty with his corps in a regularly organized militia camp or in travelling between Ottawa and such camp shall not be computed.*"

were spent by such member on service as an officer or man of the reserve forces while on any training or other duty authorized by regulations or orders made under the *National Defence Act*, shall not be computed.

PART V.

The Canadian Forces Act, 1950.

19. (1) Subsection (1) of section 6 of *The Canadian Forces Act, 1950*, chapter 2 of the statutes of 1950-51, is repealed and the following substituted therefor:

Special provisions respecting pensions.

"**6.** (1) Subject to subsection (2), the Governor in Council may direct that *The Defence Services Pension Act* or any Part thereof shall not, except under such circumstances and in such manner as the Governor in Council prescribes, apply to any officer or man, or class of officers or men, who, subsequently to the 5th day of July, 1950, are appointed, transferred or posted to, or enlisted or enrolled in or serving with, any force designated by the Governor in Council as a special force for the purposes of this section."

Coming into force.

(2) This section shall be deemed to have come into force on the day on which *The Canadian Forces Act, 1950* came into force, and any direction made by the Governor in Council pursuant to subsection (1) of section 6 of that Act shall be deemed to have been made pursuant to subsection (1) of section 6 of that Act as enacted by this section.

19. This clause is necessary in order to establish pension rights under the *Defence Services Pension Act* in respect of the service in the Korean theatre of members of the Special Force who were released from the Canadian Forces and who have subsequently re-enrolled in the regular forces. Section 6 (1) of *The Canadian Forces Act, 1950*, now reads:

"**6.** (1) Subject to subsection two, the Governor in Council may direct that *The Defence Services Pension Act* or any Part thereof shall not apply to any officer or man, or class of officers or men, who, subsequent to the fifth day of July, nineteen hundred and fifty, are appointed, transferred or posted to, or enlisted or enrolled in or serving with, any force designated by the Governor in Council as a special force for the purposes of this section."

First Session, Twenty-Second Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 81.

An Act to amend the British North America Acts, 1867 to 1952, with respect to the Quorum of the House of Commons.

First reading, December 11, 1953.

Mr. KNOWLES.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1953

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1st Session, 22nd Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 81.

An Act to amend the British North America Acts, 1867 to 1952, with respect to the Quorum of the House of Commons.

Preamble.

WHEREAS section thirty-seven of *The British North America Act, 1867*, provided that the House of Commons would consist in the beginning of one hundred and eighty-one members and this number has now been greatly increased;

AND WHEREAS section forty-eight of *The British North America Act, 1867*, states that the quorum of the House of Commons shall consist of at least twenty members; AND WHEREAS this number is manifestly too small having regard to the increased membership of the House; AND WHEREAS for these reasons it is expedient to correct this discrepancy between membership and quorum;

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

1. Section 48 of *The British North America Act, 1867*, chapter three of the Statutes of the United Kingdom of Great Britain and Ireland, 1867, is repealed and the following substituted therefor:

Quorum of the House of Commons.

"**48.** The presence of at least thirty members of the House of Commons shall be necessary to constitute a meeting of the House for the exercise of its powers; and for that purpose the Speaker shall be reckoned as a member."

Short title and citation.

2. This Act may be cited as the *British North America Act, 1954*, and the *British North America Acts, 1867 to 1952*, and this Act may be cited together as the *British North America Acts, 1867 to 1954*.

Explanatory Note.

The purpose of this bill, as explained in the preamble, is to increase the quorum of the House of Commons in proportion to the increase in the membership of that House since 1867. The original membership was 181, with 20 as a quorum. The present membership being 265 members the proposed increase to a quorum of 30 members merely maintains the proportion originally established.

First Session, Twenty-Second Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 82.

An Act to amend the War Service Grants Act.

First reading, December 11, 1953.

THE MINISTER OF VETERANS AFFAIRS.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1953

81455

1st Session, 22nd Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 82.

An Act to amend the War Service Grants Act.

R.S., c. 289.

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

1. Section 9 of the *War Service Grants Act*, chapter 289 of the Revised Statutes of Canada, 1952, is repealed and the following substituted therefor:

Other persons to whom credit may be made available.

"**9.** (1) Where a member dies without having used all of the re-establishment credit for which he is eligible under this Act, any unused portion thereof may, in the discretion of the Minister, be made available to

(a) the widow of the member, in the case of a male member;

(b) any dependent children of the member, in the case of a male or female member, if the member dies without leaving any widow or widower or if the widow or widower is dead or cannot be found or it appears to the Minister that she or he has abandoned the children; or

(c) the dependent mother of the member, in the case of a male or female member, if there is no person described in paragraph *(a)* or *(b)* to whom the said credit may be made available.

Child or mother presumed dependent.

(2) For the purposes of this section a child or mother of a member shall be presumed to be a dependent child or mother if, in the opinion of the Minister, such child or mother was, at the time of the member's death, wholly or substantially dependent upon such member for support.

Credit may be made available to person designated by Minister.

(3) Any credit made available to the widow, child or mother of a member pursuant to subsection (1) may, with the approval of the Minister, be made available to such other person for the benefit of the widow, child or mother as the Minister designates, in such manner and, in any case where there is more than one child, in such shares as the Minister may determine.

Explanatory Notes.

1. Section 9 of the *War Service Grants Act* reads as follows:

"**9.** (1) Where a male member who has deferred his application for re-establishment credit dies after discharge, but before he has used his re-establishment credit in full, his widow, or, in case he leaves no widow, his mother, if the mother in the opinion of the Minister or such person as the Minister may designate, was wholly dependent on the member immediately prior to his death, is eligible for the unused credit, unless, in the opinion of the Minister, the delay in the use of such credit was not due to advice given by, or on behalf of, the Minister.

(2) Where a female member who has deferred her application for re-establishment credit dies after discharge, but before she has used her re-establishment credit in full, her mother, if the mother, in the opinion of the Minister or such person as the Minister may designate, was wholly dependent on the member immediately prior to her death, is eligible for the unused credit, unless, in the opinion of the Minister, the delay in the use of such credit was not due to advice given by, or on behalf of, the Minister.

(3) No credit shall be made available under this section to a widow or mother unless she is resident in Canada and the Minister is satisfied that the credit will be used for one or more of the purposes specified in section 12.

(4) With the consent of the Minister the credit for which a widow or mother is eligible under this section may be made available to such person as the Minister may designate, to be used for the benefit of the widow or mother, as the case may be, for such of the purposes authorized by or under this Act as the person so designated may in his discretion determine.

(5) Where no widow or mother is eligible for the credit under this section the credit shall cease to exist.

(6) Where, before using the credit for which she is eligible under this section, a widow or mother dies or a widow remarries, the credit shall cease to exist.

At present the Act does not allow re-establishment credit to become available to the children of the deceased but only to the widow and to a dependent mother of the deceased. Administrative experience indicates the desirability of making the credit available to children in certain circumstances and particularly where the children are orphans or where they have been abandoned by the surviving parent. The new section retains unimpaired the eligibility of a widow in the normal case, but introduces dependent children in priority to the eligibility of a widow who has abandoned the children and in priority to any eligibility of a dependent mother.

Conditions.

(4) No credit shall be made available pursuant to subsection (1)

(a) to the widow of a member after her remarriage, or

(b) to the widow, child or mother of a member, unless he or she is resident in Canada and the Minister is satisfied that the credit will be used for one or more of the purposes specified in section 12.

"Child" defined.

(5) In this section the expression "child" means a child, including a natural child, stepchild or adopted child, who is under twenty-one years of age, or any such child who is twenty-one or more years of age and who is in receipt of a pension under the *Pension Act*."

2. (1) Subsection (1) of section 12 of the said Act is amended by striking out the portion thereof that precedes paragraph *(a)* and substituting therefor the following:

Purposes for and time within which available.

"**12.** (1) All or any part of the re-establishment credit may, within a period of fifteen years from the 1st day of January, 1945, or the date of his discharge, whichever is the later, be made available to or for the member of the forces eligible therefor when it is shown to the satisfaction of the Minister that such credit is to be used for".

(2) Subparagraph (ii) of paragraph *(a)* of subsection (1) of section 12 of the said Act is repealed and the following substituted therefor:

"(ii) not under the *National Housing Act*, in an amount not exceeding two-thirds of the difference between the appraised value of the home as approved by the Minister or the purchase price, whichever is the lower, and the amount of the encumbrance thereon, assumed or created by the member;"

(3) Section 12 of the said Act is further amended by adding thereto, immediately after subsection (2) thereof, the following subsections:

Unused credit may be used to obtain insurance.

"(3) Notwithstanding the provisions of section 3 of the *Veterans Insurance Act* fixing a time within which the Minister may enter into a contract of insurance under that Act, the Minister may enter into a contract of insurance under that Act after the expiration of the time so fixed but within the period of fifteen years referred to in subsection (1) of this section with any member of the forces who, at the time the contract is entered into, has not used all of the re-establishment credit for which he is eligible under this Act and is otherwise eligible under the *Veterans Insurance Act* for such contract, and upon the making of any such contract there shall be applied against the member's re-establishment credit or the unused portion thereof an amount equal to the amount of the first regular monthly premium payable under the contract or any greater amount

2. Subsection (1) of section 12 of the Act reads as follows

"**12.** (1) All or any part of the re-establishment credit may, within a period of ten years from the 1st day of January, 1945, or the date of his discharge, whichever is the later, be made available to or for the member of the forces eligible therefor when it is shown to the satisfaction of the Minister that such credit is to be used for:

(a) the acquisition of a home

(i) under the *National Housing Act*, in an amount not exceeding two-thirds of the difference between the total cost of the home and the amount of the loan made under that Act; or

(ii) not under the *National Housing Act*, in an amount not exceeding two-thirds of the difference between the appraised value of the house as approved by the Minister or the purchase price, whichever is the lower, and the amount of the encumbrance thereon, assumed or created by the member;

(b) the repair or modernization of his home;

(c) the reduction or discharge of indebtedness under any agreement for sale, mortgage or other encumbrance on his home, in an amount not exceeding twice the amount that the member himself contributes or has contributed to such purpose;

(d) the purchase of furniture and household equipment for his domestic use in an amount not exceeding ninety percentum of the purchase price of the furniture or household equipment or the payment of the full cost of repair of such articles;

(e) the provision of working capital for his business;

(f) the purchase of tools, instruments or equipment for his business or the cost of repair of such articles;

(g) the purchase of a business by him in an amount not exceeding two-thirds of the difference between the purchase price and any indebtedness incurred for the purpose of the purchase of such business, if the payment of such difference entitles the purchaser to immediate possession;

(h) the payment of premiums under any insurance scheme established by the Government of Canada, including:—

(i) payment of premiums pursuant to any contract of insurance to which he is a party under the *Returned Soldiers' Insurance Act*, the *Veterans Insurance Act* or the *Civil Service Insurance Act*,

(ii) payment under subsection two of section forty-nine of the *Royal Canadian Mounted Police Act* of a deficiency in deduction from his pay as an officer of the Royal Canadian Mounted Police,

(iii) payment of contributions in respect of his service as a constable of the Royal Canadian Mounted Police under section 69, 80, 83 or 84 of the *Royal Canadian Mounted Police Act*,

(iv) payment of contributions under section 5 of the *Civil Service Superannuation Act* in respect of his service in the Civil Service prior to becoming a contributor under that Act,

(v) payment under subsection (2) of section 9 of the *Defence Services Pension Act* of a deficiency in deduction from his pay as an officer as defined in that Act, and

(vi) payment of the purchase price of an annuity purchased by him under the *Government Annuities Act*;

(i) payment of fees and the purchase of special equipment including instruments, books, tools and other equipment required for educational and vocational training other than educational and vocational training provided by the laws of Canada for members of the forces; and

(j) any other purpose authorized by the Governor in Council."

In subsection (1) of the amendment the availability of credit extended from 10 years to 15 years after the time now fixed by the Act.

The amendment in subparagraph (ii) of paragraph *(a)* of subsection (1) corrects an error that has been found in the statute as revised. It substitutes "home" for "house" thus bringing back the original meaning of the subparagraph.

Subsection (3) of the new section 12 provides a means whereby any member of the forces who has failed to take advantage of the *Veterans Insurance Act* before his rights thereunder have expired by effluxion of time but who still has unused re-establishment credit, may obtain a contract of insurance and use some of that re-establishment credit to apply against premiums due for the insurance.

that the member, in writing to the Minister, directs to be so applied, except that in no case shall the amount so applied exceed the total amount of the premiums that, under the contract, the member would be required to pay were he to pay those premiums for the full term contemplated by the contract.

Amount applied to be held in trust.

(4) Any amount applied pursuant to subsection (3) against the member's re-establishment credit or the unused portion thereof or any amount made available to a member under subsection (1) for the payment of premiums pursuant to any contract of insurance under the *Veterans Insurance Act* or the *Returned Soldiers' Insurance Act* to which such member is a party shall be held in trust for that member and shall be used for the payment of the premiums referred to in subsection (3) or the premiums referred to in this subsection, as the case may be, as and when they fall due, except that

(a) if the member requests, in writing to the Minister, that any unused portion specified by him of the amount so held in trust be withdrawn from such use, or

(b) if the member dies or his contract is surrendered as a result of which any portion of the amount so held in trust remains unused,

such unused portion may, subject to this Act, again be made available as though it formed part of his unused re-establishment credit."

3. Section 13 of the said Act is amended by adding thereto the following subsection:

Time limit for making of adjustments.

"(2) On and after the 1st day of January, 1957, no member of the forces may become eligible under subsection (1) for a grant of any of the benefits under the *Veterans' Land Act* by virtue of an adjustment made pursuant to subsection (1)."

4. Section 19 of the said Act is repealed and the following substituted therefor:

Payment to be made only upon application

"**19.** (1) Payment of any gratuity or grant of any credit authorized by this Act shall be made only upon application therefor by or on behalf of the member of the forces claiming such gratuity or credit, or, in the case of a deceased member, by or on behalf of any person eligible under this Act in respect of such member to receive the gratuity or credit.

Time limit for applications for gratuity.

(2) No application under this Act for the payment of a gratuity shall be received after the 31st day of December, 1954, except that any such application made after that date but within the period of fifteen years referred to in subsection (1) of section 12 by or on behalf of, or in respect of, a member whose service included overseas service may be received and acted upon by the Minister if the Minister is satisfied of the existence of circumstances justifying the delay in making the application."

Subsection (4) provides that any moneys allocated for the purpose of paying premiums and which are not used prior to the veteran's death or his surrender of the contract, will be restored to the re-establishement credit account.

3. Section 13 of the Act now reads as follows:

"**13.** Where there has been made available to or on behalf of a member of the forces all or any part of the re-establishment credit under the provisions of section 8, he is not eligible for a grant of any of the benefits under the *Veterans' Land Act*, or any educational, vocational or technical training benefits provided under the *Veterans Rehabilitation Act*, except subject to a compensating adjustment in an amount which, in the opinion of the Minister, is equivalent to the re-establishment credit already made available to him or on his behalf; if a member has been granted any of the aforesaid benefits, the amount of which as determined by the Minister is less than the amount of any re-establishment credit that would otherwise be available to him, the difference between the amount of such re-establishment credit and such amount of any of the aforesaid benefits may be made available to him under section 12."

The amendment set out in this clause is to provide the 1st of January, 1957, as a time limit in which a member of the forces may take advantage of the benefits of the *Veteran's Land Act* as a result of an adjustment made pursuant to section 13.

4. Section 19 of the present Act reads as follows:

"**19.** Payment of any gratuity or grant of any credit authorized by this Act shall only be made upon application therefor by or on behalf of the member of the forces claiming such gratuity or credit; such application shall be made at such times and in such manner as the Minister may from time to time prescribe."

The only new features contained in the proposed amendment are the requirement of an application by any person eligible to receive the gratuity or credit in the case of a deceased member of the forces (see subsection (1)) and to provide that the 31st of December, 1954, shall be the last date upon which an applicant for gratuity may be considered except that in the case of persons with overseas service the Minister may extend the time for making application but not beyond the period of 15 years from the 1st day of January, 1945, or the date of discharge from the forces, whichever is the later.

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First Session, Twenty-Second Parliament, 2 Elizabeth II, 1953.

THE SENATE OF CANADA

83

BILL C.

An Act to amend the Explosives Act.

AS PASSED BY THE SENATE, 10th DECEMBER, 1953.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1953

82600

1st Session, 22nd Parliament, 2 Elizabeth II, 1953.

THE SENATE OF CANADA

BILL C.

An Act to amend the Explosives Act.

R.S., c. 102.

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

1. Paragraph *(d)* of section 2 of the *Explosives Act*, chapter 102 of the Revised Statutes of Canada, 1952, is repealed and the following substituted therefor:

"Factory."

"*(d)* "factory" means any building, structure, premises or land in or upon which the manufacture or any part of the process of manufacture of an explosive is carried on, the site on which such building, structure or premises are situated, and all other buildings, structures or premises within such site;"

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

Application of Act.

"**3.** (1) This Act does not apply to or in respect of any explosives under the direction or control of the Minister of National Defence."

Idem.

(2) Subject to subsection (1), Her Majesty in right of Canada and each province is bound by this Act."

3. (1) Paragraph *(b)* of section 4 of the said Act is repealed and the following substituted therefor:

"*(b)* prescribing the form and duration of licences, permits and certificates issued under this Act, the terms and conditions upon which such licences, permits and certificates shall be issued, the fees to be paid therefor, and providing for the cancellation and suspension of such licences, permits and certificates;"

(2) Paragraph *(l)* of section 4 of the said Act is repealed and the following substituted therefor:

"*(l)* limiting the amount of authorized explosives that may be kept in places other than licensed factories

Explanatory Notes.

The purpose of this Bill is to amend certain sections of the *Explosives Act* in order to remove difficulties that have arisen in its administration.

1. The purpose of this amendment is to broaden the definition of "factory" to include the site on which the manufacture of explosives is carried on and any building, structure or premises on such site. The present paragraph *(d)* reads as follows:

> "*(d)* "factory" means any building, structure or premises in which the manufacture or any part of the process of manufacture of an explosive, is carried on, and any building or place where any ingredient of an explosive is stored during the process of manufacture, and any building or place within a factory site in which a finished explosive is stored;"

2. Section 3 of the present Act reads as follows:

> "**3.** This Act applies to the possession, storing, sale or offering for sale, making, manufacture or importation of explosives by or on behalf of Her Majesty in right of Canada or any province except explosives under the direction or control of the Minister of National Defence."

It has been misconstrued as making the Act applicable only to Her Majesty. The amendment makes it clear that this section makes the Act applicable to the Crown in addition to the subject.

3. (1) The present paragraph *(b)* of section 4 reads as follows:

> "*(b)* prescribing the form and duration of licences, permits and certificates issued under this Act, the terms and conditions upon which such licences, permits and certificates shall be issued, and the fees to be paid therefor;"

This amendment will authorize regulations to provide for the suspension or cancellation of licences, permits and certificates, as for example, where the holder thereof fails to comply with any provision of the Act, the regulations or the terms or conditions of licences, permits or certificates.

(2) It is intended to amend paragraph *(l)* of section 4 by adding the word "conditions". Paragraph *(l)* now reads as follows:

> "*(l)* limiting the amount of authorized explosives that may be kept in places other than licensed factories and licensed magazines, and prescribing the manner in which it shall be handled and stored in such places;"

and licensed magazines, and prescribing the manner in and conditions upon which it shall be handled and stored in such places;"

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

Authorized explosives only.

"**5.** (1) Except as provided by the regulations, no person shall have in his possession, import, store, use, make or manufacture, whether wholly or in part, sell or offer for sale, any explosive that is not an authorized explosive."

5. Subsection (2) of section 9 of the said Act is repealed and the following substituted therefor:

No import without permit.

"(2) Except as provided by the regulations, no person shall import any explosive into Canada without a permit issued under this section."

6. Section 10 of the said Act is repealed.

7. Paragraph *(a)* of subsection (2) of section 11 of the said Act is repealed and the following substituted therefor:

"*(a)* a plan, satisfactory to the Minister, drawn to scale, of the proposed factory, magazine or premises and of the site on which such factory, magazine or premises is situated and of all buildings, structures or premises thereon or proposed to be erected thereon and also of the lands adjacent thereto and all buildings, structures or premises thereon with a statement of the uses to which such site, buildings, structures or premises are or are to be put and the exact distances between the several buildings, structures or premises marked thereon;"

8. Sections 15 and 16 of the said Act are repealed.

9. (1) Paragraph *(b)* of subsection (1) of section 20 of the said Act is repealed and the following substituted therefor:

"*(b)* fails to comply with any order, direction or requirement of an inspector made in pursuance of this Act or any regulation, in respect of which no appeal has been taken under subsection (2),

(bb) fails to comply with any order, direction or requirement of an inspector made in pursuance of this Act or any regulation, as amended or confirmed by the Minister pursuant to subsection (2), or"

4. By this amendment, it is intended to cover by regulations the exceptions provided for in sections 10 and 15, and others as they may arise. The words "offer for sale" have also been added. The present section 5(1) reads as follows:

"**5.** (1) *Except as provided in this Act*, no person shall have in his possession, import, store, use, make or manufacture, whether wholly or in part, or sell, any explosive that is not an authorized explosive."

5. This amendment will subject the importation of small arms ammunition to the same restrictions as other explosives. The present section 9(2) reads as follows:

"(2) No person shall import any explosive into Canada, *other than safety cartridges*, without a permit issued under this section.'

6. See notes opposite section 4. Section 10 reads as follows:

"**10.** The Minister may issue a special permit to import, for the purpose of chemical analysis or scientific research, an amount not exceeding two pounds of any explosive specified in such permit."

7. With the exception of the words underlined, which were added to conform with the new definition of "factory", there are no material changes. Paragraph *(a)* of the present section 11(2) reads as follows:

"*(a)* a plan, satisfactory to the Minister, drawn to scale, of the proposed factory, magazine or premises and of the *land* on which such factory, magazine or premises is situated and of all buildings thereon or proposed to be erected thereon and also of the lands adjacent thereto and all buildings thereon with a statement of the uses to which such *lands* and buildings are put and the exact distances between the several buildings marked thereon;"

8. See notes opposite sections 3 and 4. Sections 15 and 16 read as follows:

"**15.** The Minister may issue a permit to manufacture for experimental or testing purposes only, and not for sale, any new explosive, upon such conditions and subject to such restrictions as are fixed by the Minister.

16. Where the holder of any licence, permit or certificate issued pursuant to this Act, has been charged with any violation of any provision of this Act or any regulation, the Minister may forthwith suspend the licence, permit or certificate of such holder until the said charge or charges has or have been disposed of, and in the event of the conviction of such holder on such charge or charges the Minister may cancel such licence, permit or certificate."

9. The present section 20 reads as follows:

"**20.** (1) Every person who

(a) fails to permit an inspector to enter upon any property, or to inspect, examine or make inquiries in pursuance of his duties,

(b) fails to comply with any order, direction or requirement of an inspector made in pursuance of this Act or any regulation, or

(c) in any manner whatsoever, obstructs an inspector in the execution of his duties under this Act,

is guilty of an offence and is liable on summary conviction to a fine not exceeding five hundred dollars, or to imprisonment for a term not exceeding six months or to both fine and imprisonment.

(2) Subsection (2) of section 20 of the said Act is repealed and the following substituted therefor:

Appeal to Minister.

"(2) A person who is dissatisfied with an order, direction or requirement of an inspector made in pursuance of this Act or any regulation may, within fifteen days from the day on which the order, direction or requirement was made, submit the facts respecting the order, direction or requirement to the Minister for his consideration and decision, and the Minister may confirm, revoke or amend the order, direction or requirement.

Certificate of Minister prima facie proof that no appeal taken.

"(3) In any prosecution under paragraph *(b)* of subsection (1) for failure to comply with an order, direction or requirement of an inspector, a certificate purporting to have been signed by or on behalf of the Minister stating that no appeal in respect of the order, direction or requirement has been taken under subsection (2), shall be received in evidence as prima facie proof of that fact.

Certificate of Minister prima facie proof of order, etc., as confirmed or amended.

"(4) In any prosecution under paragraph *(bb)* of subsection (1) for failure to comply with an order, direction or requirement of an inspector as amended or confirmed by the Minister, a certificate purporting to have been signed by or on behalf of the Minister stating

(a) that the Minister has amended or confirmed the order, direction or requirement of the inspector, and

(b) the terms of the order, direction or requirement as amended or confirmed,

shall be received in evidence as prima facie proof of the matters set forth in the certificate.

10. The said Act is further amended by adding thereto, immediately after section 21, the following section:

Offences in respect to application.

"**21**A. Every person who,

(a) in or with respect to an application for a licence, permit or certificate under this Act, submits any false or misleading information or makes any false or misleading statement, or

(b) makes an application for a licence, permit or certificate that by reason of any non-disclosure of facts is false or misleading,

is guilty of an offence."

11. Section 24 of the said Act is amended by adding thereto the following subsection:

Peace officer may arrest person committing offence.

"(2) Any peace officer may without warrant arrest any person whom he finds committing or whom he on reasonable ground suspects of having committed an offence against this Act."

"(2) An *owner or operator* who is dissatisfied with an order, direction or requirement of an inspector may, *before he is convicted under this section for failure to comply with such order, direction or requirement*, submit the facts with respect to such order, direction or requirement to the Minister for his consideration and decision, and the Minister may, before such conviction, revoke or amend the order, direction or requirement."

Under paragraph *(b)* of subsection (1) of the present section failure to comply with any order, direction or requirement of an inspector, made in pursuance of the Act, or any regulation is an offence. However, if a person is dissatisfied with an order, direction or requirement of an inspector, he may, before he is convicted, submit the facts to the Minister for his consideration and decision, and the Minister may before such conviction, revoke or amend the order, direction or requirement. The amendment now provides for a time limit to submit an appeal. If, on appeal, the Minister confirms or amends the order the person must comply with the amended or confirmed order. The certificate of the Minister to the effect that an appeal was not entered within the time limit constitutes prima facie proof of that fact. A certificate of the Minister to the effect that the order has been confirmed or amended by him, and the terms of such order, direction or requirement as confirmed or amended in the certificate also constitutes prima facie proof of those facts.

10. New. Some licences, permits or certificates have been issued on the basis of false or misleading information by applicants. This section creates a number of offences in order to prevent the repetition of such occurrences.

11. New. This amendment authorizes peace officers to arrest without warrant a person whom they find committing or whom they reasonably suspect is committing an offence against the Act. Some provincial peace officers were doubtful as to their authority to do this under the present Act.

12. Section 25 of the said Act is repealed and the following substituted therefor:

Disclosure of confidential information.

"**25.** Any person employed under this Act who without due authority from the Minister discloses any confidential information is guilty of an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty dollars or to imprisonment for a term not exceeding three months, and is not thereafter eligible for employment in the service of Her Majesty."

13. Section 28 of the said Act is repealed and the following substituted therefor:

Certain powers of Minister may be delegated.

"**28.** The powers conferred upon the Minister by sections 6, 7, 9 and 12 and subsection (2) of section 27 may be exercised by any person designated by the Minister.

12. No material changes. The present section 25 reads as follows:

"**25.** Any *official* employed under this Act who without due authority from the *Department* discloses any confidential information is guilty of an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty dollars or to imprisonment for a term not exceeding three months and is not thereafter eligible for employment in the service of Her Majesty."

13. This amendment gives the Minister authority to designate the person or persons who may exercise the powers given him by sections 6, 7, 9, 12 and subsection (2) of section 27. The present section 28 reads as follows:

"**28.** The powers conferred upon the Minister by sections 6, 7 and 9 may be exercised by such person or persons as the *Governor in Council* may from time to time designate."

First Session, Twenty-Second Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 84.

An Act respecting Flags of Canada.

First reading, December 14, 1953.

MR. ARSENAULT.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1953

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1st Session, 22nd Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 84.

An Act respecting Flags of Canada.

WHEREAS Canada is an autonomous community, among the members of the Commonwealth of Nations, with them united by a common allegiance to the Crown;

WHEREAS the Union Jack constitutes a symbol of this proud association of Canada with the United Kingdom and the other nations of the Commonwealth;

AND WHEREAS it is also desirable than Canada should in addition possess a distinctive national flag;

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

Short title.

1. This Act may be cited as the *National Flag of Canada Act.*

Duty to prepare a design.

2. It shall be the duty of the Secretary of State for Canada to prepare an entirely new design for a suitable distinctive national flag for Canada and to submit the same for the approval of the Governor in Council.

Report to Parliament.

3. The Secretary of State for Canada shall, within thirty days of the opening of the next session of Parliament, report thereto the approved design of the said flag.

Approval and issuance of Royal Proclamation.

4. Notwithstanding any royal prerogatives and anything contained in any Act of the Parliament of the United Kingdom such design for a national flag, after it has been approved by a joint resolution of the Senate and House of Commons, shall be submitted for approval to Her Majesty the Queen and for the issuance of a Royal Proclamation under the Great Seal of Canada respecting such ensign, armorial flags and banners as Her Majesty shall be pleased to appoint.

Explanatory Note.

As it is desirable that Canada should possess a distinctive national flag, this Bill suggests a procedure for accomplishing that purpose.

First Session, Twenty-Second Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 101.

An Act respecting Benefits for Members of the Canadian Forces.

First reading, December 16, 1953.

THE MINISTER OF VETERANS AFFAIRS.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1953

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1st Session, 22nd Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 101.

An Act respecting Benefits for Members of the Canadian Forces.

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

Short Title.

Short title.

1. This Act may be cited as the *Veterans Benefit Act, 1954*.

Interpretation.

2. In this Act,

Definitions. "Canadian Forces."

(a) "Canadian Forces" means the forces referred to in section 15 of the *National Defence Act;*

"Minister."

(b) "Minister" means the Minister of Veterans Affairs;

"Service in a theatre of operations."

(c) "service in a theatre of operations" means any service of a member of the Canadian Forces from the time of his departure at any time prior to July 27, 1953 from Canada or the United States of America, including Alaska, to participate in military operations undertaken by the United Nations to restore peace in the Republic of Korea, until

(i) he next returns to Canada or the United States of America, including Alaska;

(ii) he is next posted to a unit that is not participating in such operations;

(iii) the unit with which he is serving, having ceased to participate in such operations, arrives at the place to which it has been next assigned; or

(iv) October 31st, 1953;

whichever is the earliest;

"Special force."

(d) "special force" means the Royal Canadian Navy Special Force, Canadian Army Special Force and the Royal Canadian Air Force Special Force, as constituted from time to time by the Minister of National Defence; and

Explanatory Notes.

2. Section 2 of the *Veterans Benefit Act, 1951*, hereinafter referred to as 'the Act' reads as follows:

"2. In this Act,

(a) "special force" means the Royal Canadian Navy Special Force, Canadian Army Special Force and the Royal Canadian Air Force Special Force, as constituted from time to time by the Minister of National Defence; and

(b) "service in a theatre of operations" means such service as the Governor in Council may designate from time to time."

It is considered advisable to have a statutory definition of "Canadian Forces" and of "unit" as now contained in the *Veterans Benefit Regulations, 1951*, hereinafter referred to as "the Regulations" and to put into statutory form the present definition of "service in a theatre of operations" as that expression is defined in the Regulations.

"Unit."

(e) "unit" means a unit or other element of the Canadian Forces organized by or under the authority of the Minister of National Defence.

War Service Grants Act.

Application of R.S., c. 289.

3. (1) The *War Service Grants Act* applies to members of the Canadian Forces described in paragraphs *(a)*, *(b)* and *(c)* of subsection (2) as specified in this section.

"Member of the forces."

(2) The expressions "member" and "member of the forces", as defined in paragraph *(j)* of section 2 of the said Act, include

(a) every person who was enrolled for the purpose of serving in the special force and who has been on service in a theatre of operations;

(b) every officer or man of the reserve forces who has been on service in a theatre of operations on the strength of the special force; and

(c) every member of the regular forces who has been on service in a theatre of operations on the strength of the special force.

"Discharge."

(3) The expression "discharge", as defined in paragraph *(e)* of section 2 of the said Act, means, in the case of a person described in paragraph *(a)* of subsection (2) of this section, honourable termination of his service in the special force otherwise than by reason of engagement in the regular forces, and in the case of a person described in paragraph *(b)* or *(c)* of subsection (2) of this section means,

(a) honourable termination of his service in or with the regular forces, including, in the case of an officer or man of the reserve forces, return to reserve status; and

(b) in any case where his service in or with the regular forces has not been terminated,

(i) if his service in a theatre of operations has been honourably terminated and immediate leave has been granted to him, the reporting by him to a unit on the expiration of such leave,

(ii) if his service in a theatre of operations has been honourably terminated without immediate leave having been granted to him, the commencement by him, pursuant to orders, of further duty in a unit other than a unit of the special force, and

(iii) if he has been evacuated on medical grounds from a theatre of operations for the purpose of further medical treatment, his admission to a hospital in Canada.

"Pay and allowances."

(4) The expression "pay and allowances", as defined in paragraph *(n)* of section 2 of the said Act, means the

3. This section is a statutory re-enactment of section 7 of the Veterans Benefit Regulations, 1951.

following pay and allowances prescribed by the regulations under section 36 of the *National Defence Act*:

(a) pay of rank, including group pay and progressive pay;

(b) if marriage allowance is being paid, marriage allowance and separated family's allowance at the rates applicable to an officer or man in receipt of subsistence allowance and not occupying married quarters; and

(c) subsistence allowance, whether or not it is being paid to the officer or man concerned, at the rates applicable in Canada.

"Service."

(5) The expression "service", as defined in paragraph *(p)* of section 2 of the said Act, means time served in the Canadian Forces.

Ss. (1) and (2) of s. 3 of R.S., c. 289.

(6) For the purposes of this section, subsections (1) and (2) of section 3 of the said Act are deemed to read as follows:

Gratuity payable to member of the forces.

"**3.** (1) Subject to the provisions of this Act, every member of the forces is, upon discharge, entitled to be paid a war service gratuity at the rate of fifty cents a day for each day of paid service in a theatre of operations.

Supplemental gratuity.

"(2) In addition to the amount mentioned in subsection (1), every member of the forces is, upon discharge, entitled to be paid for each period of one hundred and eighty-three days of paid service in a theatre of operations, and proportionately for any less period, an amount equal to seven days' pay and allowances at the rate payable to or in respect of such member at the termination of his last such period of service preceding discharge."

Ss. (1) of s. 5 of R.S., c. 289.

(7) For the purposes of this section, subsection (1) of section 5 of the said Act is deemed to read as follows:

Payment of gratuity in case of death of member.

"**5.** (1) Where a member of the forces dies while on service or after discharge but before he has been paid his gratuity in full, payment of the gratuity or the unpaid balance thereof shall be made to

(a) any person to or on behalf of whom marriage allowance was payable immediately prior to such member's death or discharge;

(b) any person who, in the opinion of the Minister, was eligible to be paid such marriage allowance immediately prior to such member's death or discharge;

(c) any person on whose behalf, in the opinion of the Minister, marriage allowance would have been payable immediately prior to such member's death or discharge, had not such person been a member of the forces; or

(d) any person who, in the opinion of the Minister, was wholly or substantially dependent upon such member at the time of such member's death;

and where there is no person to whom payment may be made under paragraph *(a)*, *(b)*, *(c)* or *(d)*, the gratuity shall form part of the deceased member's service estate or, at the option of the Minister, shall be paid to such person as the Minister directs."

Application of R.S., c. 281.

4. (1) The *Veterans Rehabilitation Act*, except sections 4 and 5 thereof, applies to members of the Canadian Forces described in paragraphs *(a)*, *(b)*, *(c)* and *(d)* of subsection (2), and their dependants, as specified in this section.

"Veteran."

(2) The expression "veteran", as defined in paragraph *(m)* of section 2 of the said Act, includes

(a) every person who was enrolled for the purpose of serving in the special force, who has been on service in a theatre of operations and who has been honourably discharged from such force;

(b) every officer or man of the reserve forces who has been on service in a theatre of operations on the strength of the special force and whose service with the regular forces has been honourably terminated, and for the purposes of that Act such termination is deemed to be a discharge;

(c) every member of the regular forces who, prior to the 27th day of July, 1953, served in a theatre of operations on the strength of the special force, and who has been honourably discharged from the regular forces; and

(d) every person who is in receipt of a pension under the *Pension Act*, having become eligible for such pension by virtue of section 5 of *The Veterans Benefit Act, 1951* or by virtue of section 5 of this Act.

"Period of service."

(3) The expression "period of service", as defined in paragraph *(i)* of section 2 of the said Act, means

(a) in the case of a person described in paragraph *(a)* of subsection (2) of this section, the period of his service in the Canadian Forces, prior to the 1st day of November, 1953, under the terms of his enrolment for service in the special force;

(b) in the case of a person described in paragraph *(b)* of subsection (2) of this section, the period of his service with the regular forces on or after the 5th day of July, 1950 and prior to the 1st day of November, 1953, except that for the purpose of computing benefits under that Act, such period is deemed not to exceed eighteen months unless he has served on the strength of the special force in a theatre of operations for a longer period;

(c) in the case of a person described in paragraph *(c)* of subsection (2) of this section, the period of his service on the strength of the special force, prior to the 1st day of November, 1953; and

(d) in the case of a person described in paragraph *(d)* of subsection (2) of this section, the total of any or all kinds of service described in paragraphs *(a)*, *(b)* and *(c)* of this subsection;

This section re-enacts section 4 of the Regulations as amended by Order in Council, P.C. 1953-1816 of the 19th of November, 1953, under which rehabilitation benefits were extended to former members of the regular forces who served before July 27, 1953, in a theatre of operations. This section also provides that benefits shall cease to accumulate after October 31, 1953.

Subsections (3), (4) and (5) are also taken from Order in Council, P.C. 1953-1816.

but does not include any period of absence without leave or leave of absence without pay, or time served while undergoing sentence of imprisonment or detention, or any period of service in respect of which pay is forfeited.

Ss. (3) and (4) of s. 7 of R.S., c. 281.

(4) For the purposes of this section, subsections (3) and (4) of section 7 of the said Act are deemed to read as follows:

Time within which application to be made.

"(3) Except as hereinafter otherwise provided, no allowance may be paid under this section unless application therefor is made by the veteran within twelve months from the 31st day of October, 1953, or from the date of his discharge, whichever is the later.

Additional time for applying in certain cases.

(4) Where a veteran has been a patient in or receiving any treatment from a hospital or health institution or has been delayed in entering business by reason of licensing or rationing laws or by reason of scarcity of the commodities or equipment required by him, he is entitled to such additional time for applying for benefits under this section as is necessary under those circumstances."

Ss. (2) of s. 8 of R.S., c. 281.

(5) For the purposes of this section, subsection (2) of section 8 of the said Act is deemed to read as follows:

Time within which application to be nade.

"(2) No allowance may be paid under this section unless application therefor is made by the veteran within twelve months from the 31st day of October, 1953, or from the date of his discharge, whichever is the later, but where a veteran has been a patient in or receiving any treatment from a hospital or health institution during any period within the said twelve months, the time during which he may make application is extended by such period."

S. 26 of R.S., c. 281.

(6) For the purposes of this section, section 26 of the said Act is deemed to read as follows:

Persons deemed to have been discharged as of October 31, 1956.

"**26.** A person who is an officer or man in any of the regular forces and who has been on service in or on the strength of the special force is deemed for the purposes of this Act to have been discharged from the regular forces on the 31st day of October, 1956."

Pension Act.

Application of R.S., c. 207.

5. (1) Subject to subsection (2), the *Pension Act* applies to and in respect of

(a) every person who was enrolled for the purpose of serving in the special force, in respect of his service in the Canadian Forces under the terms of such enrolment, and

(b) every officer and man of the regular forces or reserve forces, in respect of his service in a theatre of operations on the strength of the special force,

as though such service were military service rendered

5. This section re-enacts section 5 of the Act.

during World War II within the meaning of that Act and as though the service described in paragraph (v) of section 2 of that Act included service in a theatre of operations on the strength of the special force.

Saving provision.

(2) Subsection (2) of section 13 of the said Act does not apply to or in respect of any death or disability for which a pension is payable by virtue of subsection (1) of this section.

VETERANS' LAND ACT.

Application of R.S., c. 280.

6. (1) The *Veterans' Land Act* applies to members of the Canadian Forces included under subsection (2) in the expression "veteran" therein referred to.

"Veteran."

(2) The expression "veteran", as defined in paragraph *(d)* of section 2 of the said Act, includes every person described in paragraphs *(a)*, *(b)*, *(c)* and *(d)* of subsection (2) of section 4 of this Act.

Persons qualified to participate.

(3) Where any contract has been entered into under section 10, subsection (9) of section 11, or section 23 of the said Act, or any grant has been made under section 38 or 39 of the said Act, with or to any person described in paragraph *(a)*, *(b)*, *(c)* or *(d)* of subsection (2) of section 4 of this Act in respect of his service during the war declared by His Majesty on the 10th day of September, 1939, and the contract or the agreement relating to the grant is rescinded or otherwise terminated prior to his discharge referred to in subsection (2) of section 4 of this Act and,

(a) in the case of the contract, prior to the expiration of the ten year period referred to in subsection (4) of section 10 of the said Act, or

(b) in the case of the agreement relating to the grant, prior to the expiration of the period after which, under the agreement, he is not required to repay the grant,

such person is qualified to participate in the benefits of the said Act if he pays to The Director, The Veterans' Land Act, the amount of any loss sustained by the Crown by reason of such contract or grant, as determined by the Minister.

Persons not qualified to receive additional benefits.

(4) Except as provided in subsection (3), no person described in paragraph *(a)*, *(b)*, *(c)* or *(d)* of subsection (2) of section 4 of this Act who has entered into a contract with the Director under section 10, subsection (9) of section 11, or section 23 of the said Act or has received any grant under section 38 or 39 of the said Act is qualified to receive any additional benefits under that Act by virtue of this section.

6. This section is a statutory re-enactment of section 6 of the Regulations and makes the qualifying factors the same as pertain to the *Veterans Rehabilitation Act* under section 4 of this Act.

Application of R.S., c. 279.

7. (1) The *Veterans Insurance Act* applies to members of the Canadian Forces described in paragraphs *(a)*, *(b)*, *(c)* and *(d)* of subsection (2), and their dependants, as specified in this section.

"Veteran."

(2) The expression "veteran", as defined in paragraph *(k)* of subsection (1) of section 2 of the said Act, includes

(a) every person who was enrolled for the purpose of serving in the special force, who has been on service in a theatre of operations and who has been discharged from such force;

(b) every officer or man of the reserve forces who has been on service in a theatre of operations on the strength of the special force, and whose service with the regular forces has been terminated;

(c) every member of the regular forces who has been on service in a theatre of operations on the strength of the special force and who has been discharged from the regular forces; and

(d) every person described in paragraph *(d)* of subsection (2) of section 4 of this Act.

"Discharge from service."

(3) The expression "discharge from service", as defined in paragraph *(d)* of subsection (1) of section 2 of the said Act, means, in the case of a person described in paragraph *(b)* of subsection (2) of this section, termination of his service with the regular forces.

Subpara. (iii) of para. *(b)* of ss. (1) of s. 3 of R.S., c. 279.

(4) For the purposes of this section, subparagraph (iii) of paragraph *(b)* of subsection (1) of section 3 of the said Act is deemed to read as follows:

"(iii) a person who is a member of the regular forces and has been on service in a theatre of operations on the strength of the special force,".

Minister may enter into contract with widow.

(5) Where any person described in paragraph *(a)*, *(b)*, *(c)* or *(d)* of subsection (2) of this section or subsection (4) of this section who is eligible for insurance under the *Veterans Insurance Act* by virtue of this section dies without having obtained any contract of insurance thereunder, the Minister may enter into a contract of insurance under that Act with the widow of such person at any time prior to the expiration of the period during which such person, had he lived, would have been eligible for a contract of insurance under that Act.

Idem.

(6) Where any person who served in a theatre of operations on the strength of the special force has died prior to the coming into force of this Act and prior to the termination of his service with the special force or the regular forces, the Minister may enter into a contract of insurance under the *Veterans Insurance Act* with the widow of such person as though that person had died subsequently to the coming

7. This section contains a statutory re-enactment of section 5 of the Regulations and additionally provides benefits of the *Veterans Insurance Act* for members of the regular forces who have served in a theatre of operations and for their widows. It also fixes October 31, 1958, as the last date upon which a person is eligible for a contract of insurance."

into force of this Act and as though he had been discharged from the said force or forces or his service therewith had been terminated immediately prior to his death.

Time limit.

(7) No contract of insurance may be entered into by the Minister under the said Act with any person described in paragraph *(a)*, *(b)*, *(c)* or *(d)* of subsection (2) of this section or subsection (4) of this section after the 31st day of October, 1958.

Reinstatement in Civil Employment Act.

Application of R.S., c. 236.

8. (1) The *Reinstatement in Civil Employment Act* applies to and in respect of

(a) every person who was enrolled for the purpose of serving in the special force;

(b) every officer or man of the reserve forces who served on the strength of the special force;

(c) every person who since the 5th day of July, 1950, was enrolled or, being a member of the special force, has re-engaged for service with the regular forces and has served with the regular forces for a period not exceeding three years;

(d) every officer or man of the reserve forces who since the 5th day of July, 1950, was called out for service with the regular forces and has served with the regular forces for a period not exceeding three years; and

(e) every person who, since the 5th day of July, 1950,

(i) was enrolled, or

(ii) being a member of the special force, has re-engaged, or

(iii) being an officer or man of the reserve forces, was called out

for service with the regular forces, and whose term of engagement with the regular forces did not exceed three years but who remained in the service for more than three years by reason of delay in obtaining his discharge or by reason of the operation of subsection (3) of section 31 of the *National Defence Act*, and whose service with the regular forces has been terminated,

as though his service on the strength of the special force, in the case of a person described in paragraph *(a)* or *(b)* of this subsection, and as though his service with the regular forces, in the case of a person described in paragraph *(c)*, *(d)* or *(e)* of this subsection, were "service in His Majesty's forces" within the meaning of paragraph (*i*) of section 2 of that Act.

"Discharge" and "termination of service."

(2) The expressions "discharge" and "termination of service" as used in that Act mean,

8. This section is a re-enactment of section 4 of the Act together with new provisions as set out in paragraph *(e)*.

(a) in the case of a person described in paragraph *(a)* of subsection (1), termination, by way of re-engagement or otherwise, of his service in the Canadian Forces under the terms of his enrolment for service in the special force;

(b) in the case of a person described in paragraph *(b)* of subsection (1), termination, by way of return to reserve status or otherwise, of his service with the regular forces within one year from the date on which he ceased to serve on the strength of the special force; and

(c) in the case of a person described in paragraph *(c)*, *(d)* or *(e)* of subsection (1), termination of his service with the regular forces.

VETERANS' BUSINESS AND PROFESSIONAL LOANS ACT.

Application of R.S., c. 278.

9. (1) The *Veterans' Business and Professional Loans Act* applies to members of the Canadian Forces included under subsection (2) in the expression "veteran" therein referred to.

"Veteran."

(2) The expression "veteran", as defined in paragraph *(k)* of section 2 of the said Act, includes every person described in paragraphs *(a)*, *(b)*, *(c)* and *(d)* of subsection (2) of section 4 of this Act who is a resident of Canada and is domiciled in Canada and has received or is entitled to a gratuity under the *War Service Grants Act* by virtue of section 7 of the regulations under *The Veterans Benefit Act, 1951* or by virtue of section 3 of this Act, and

(a) has not elected to take any of the benefits available to him under the *Veterans' Land Act* by virtue of section 6 of the regulations under *The Veterans Benefit Act, 1951* or by virtue of section 6 of this Act, or

(b) having so elected, has received no such benefit or has repaid to The Director, The Veterans' Land Act, the amount by which any benefit received by him under the *Veterans' Land Act*, as determined under section 13 of the *War Service Grants Act*, exceeds the amount of his re-establishment credit under that Act.

CIVIL SERVICE ACT.

Application of R.S., c. 48.

10. (1) Sections 27, 28 and 29 of the *Civil Service Act* apply to every person who

(a) has served in or on the strength of the special force and, at the commencement of such service, was domiciled in Canada or was a Canadian citizen;

(b) has served in a theatre of operations; and

9. This section is a statutory re-enactment of section 10 of the Regulations.

10. This section is a statutory re-enactment of section 8 of the Regulations.

(c) has not, by reason of misconduct, ceased so to serve;

as though that person were a veteran within the meaning of that Act.

Idem. (2) Paragraph *(a)* of subsection (2) of section 28 and section 29 of the said Act apply to every person who

(a) is in receipt of a pension under the *Pension Act*, having become eligible for such pension by virtue of section 5 of *The Veterans Benefit Act, 1951*, or by virtue of section 5 of this Act;

(b) at the commencement of his service in or on the strength of the special force, was domiciled in Canada or was a Canadian citizen;

(c) has, from causes attributable to his service in or on the strength of the special force, lost the capacity for physical exertion to such an extent as to render him unfit efficiently to pursue the vocation that he was pursuing before such service; and

(d) has not been successfully re-established in some other vocation.

PUBLIC SERVICE SUPERANNUATION ACT.

Application of 1952-53, c. 47. **11.** (1) The *Public Service Superannuation Act* applies, in such manner and to such extent as the Governor in Council may prescribe, to and in respect of every person who was enrolled for the purpose of serving in the special force, and every officer and man of the regular forces or the reserve forces who served on the strength of the special force, as though his service on the strength of the special force were active service in the forces during World War II within the meaning of that Act.

Coming into force. (2) This section shall be deemed to have come into force on the day on which the *Public Service Superannuation Act* came into force.

UNEMPLOYMENT INSURANCE ACT.

Application of Part V of R.S., c. 273. **12.** (1) Part V of the *Unemployment Insurance Act*, except sections 102, 105 and 106 thereof, applies to members of the Canadian Forces described in paragraphs *(a)* to *(d)* of subsection (2) as specified in this section.

"Veteran." (2) The expression "veteran", as defined in paragraph *(c)* of section 101 of the said Act, includes

(a) every person who was enrolled for the purpose of serving in the special force and who has been discharged from such force for any reason other than re-engagement with the regular forces;

(b) every officer or man of the reserve forces who has served on the strength of the special force and whose service with the regular forces has been terminated;

11. Section 6 of the *Veterans Benefit Act, 1951*, reads as follows:

> "**6.** Subsections four and seven of section seven A of the *Civil Service Superannuation Act* apply to and in respect of every person who is enrolled for the purpose of serving in the special force, and every officer and man of the reserve forces serving on the strength of the special force, as though his service on the strength of the special force were service in the forces during World War II within the meaning of that Act."

The benefits given by that section are being conserved by the new *Public Service Superannuation Act.* Subsection (1) of section 11 of this Act is designed to ensure that by appropriate regulations made by the Governor in Council persons eligible for those benefits can be dealt with under the new Act.

The *Civil Service Superannuation Act* is repealed on the coming into force of the *Public Service Superannuation Act.* Subsection (2) of section 11 is intended to span any interval that may elapse between the repeal of the *Civil Service Superannuation Act* and the coming into force of this Act.

12. This section re-enacts section 7 of the Act except subsection (6) thereof and provides a statutory re-enactment of section 9 of the Regulations.

(c) every member of the regular forces who has been on service in a theatre of operations on the strength of the special force and who has been discharged from the regular forces on medical grounds for a disability related to his service in a theatre of operations; and

(d) every person who, since the 5th day of July, 1950,

(i) was enrolled, or

(ii) being a member of the special force, has re-engaged, or

(iii) being an officer or man of the reserve forces, was called out

for service with the regular forces, and who has served with the regular forces for a period not exceeding three years (or whose term of engagement with the regular forces did not exceed three years but who remained in the service for more than three years by reason of delay in obtaining his discharge or by reason of the operation of subsection (3) of section 31 of the *National Defence Act*), and whose service with the regular forces has been terminated,

and, in the case of a person described in paragraph *(b)* or *(d)* of this subsection, such termination of service with the regular forces is deemed for the purposes of the *Unemployment Insurance Act* to be a discharge.

"Period of service."

(3) The expression "period of service", as defined in paragraph *(b)* of section 101 of the said Act, means,

(a) in the case of a person described in paragraph *(a)* of subsection (2) of this section, the period of his service in the special force;

(b) in the case of a person described in paragraph *(b)* or *(c)* of subsection (2) of this section, the period of his service in a theatre of operations on the strength of the special force; and

(c) in the case of a person described in paragraph *(d)* of subsection (2) of this section, the period of his service in the special force, together with the period of his service in the regular forces during the term for which he was enrolled or called out or for which he re-engaged, as the case may be,

but does not include any period of absence without leave or leave of absence without pay, or time served while undergoing sentence of imprisonment or detention, or any period of service in respect of which pay is forfeited.

Application of s. 103 of R.S., c. 273.

(4) Section 103 of the said Act applies to every person described in paragraphs *(a)* to *(d)* of subsection (2) of this section in the following manner, namely, upon the discharge of any such person there shall be credited to the Fund out of moneys appropriated by Parliament for the purpose, the amount of the combined contributions of the

employer and employed person under that Act at the combined weekly rate of ninety-six cents for a period equal to the period of service of such person up to a maximum period of

(a) five years, in the case of a person described in paragraph *(a)* or subparagraph (ii) of paragraph *(d)* of subsection (2) of this section; or

(b) three years, in any other case;

and for the purposes of that Act, except section 102 thereof, such person is deemed to have been *bona fide* employed in insurable employment during the said period of service and all contributions are deemed to have been paid under that Act in respect of such person during the said period of service, but where the period of service of such person exceeds ninety-one days and such combined contributions, when added to any contribution made with respect to him prior to such period of service, provide less than ninety days' benefit upon discharge, there shall be credited to the Fund for such purpose contributions in an amount sufficient to provide ninety days' benefit for such person upon his discharge.

Existing rights preserved.

13. Nothing in this Act shall be held to prejudice any right, benefit or privilege that any person had, under any of the enactments to which this Act applies, prior to the coming into force of this Act.

Repeal.

14. *The Veterans Benefit Act, 1951*, chapter 62 of the statutes of 1951, is repealed.

13. This section re-enacts the provisions of subsection (2) of section 3 and subsection (2) of section 8 of the Act.

102.

First Session, Twenty-Second Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 102.

An Act to Promote the Construction of New Houses, the Repair and Modernization of existing Houses, and the Improvement of Housing and Living Conditions.

First Reading, December 16, 1953.

THE MINISTER OF PUBLIC WORKS.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1953

83831

1st Session, 22nd Parliament, 2 Elizabeth II, 1953.

THE HOUSE OF COMMONS OF CANADA.

BILL 102.

An Act to Promote the Construction of new Houses, the Repair and Modernization of existing Houses, and the Improvement of Housing and Living Conditions.

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

Short Title.

Short title.

1. This Act may be cited as the *National Housing Act, 1954*.

Interpretation.

Definitions.

2. In this Act,

"Approved instalment credit agency".

(1) "approved instalment credit agency" means a corporation, other than a bank, authorized to lend money to a purchaser of goods or to purchase obligations representing loans or advances to a purchaser of goods, and approved by the Governor in Council for the purpose of making loans under Part IV;

"Approved lender".

(2) "approved lender" means a lender approved by the Governor in Council for the purpose of making loans under this Act;

"Approved loan".

(3) "approved loan" means a loan in respect of which the Corporation has given an undertaking pursuant to subsection (2) of section 6;

"Bank".

(4) "bank" means a bank to which the *Bank Act* or the *Quebec Savings Banks Act* applies;

"Borrowers' charges".

(5) "borrowers' charges" means charges, prescribed by the Governor in Council, advanced by an approved lender in accordance with normal mortgage practices to safeguard the interests of the mortgagee and the Corporation;

Explanatory Notes.

This Bill when enacted will replace the *National Housing Act* that is now in force. A large part of the Bill consists of a repetition of the provisions of the existing Act. The Bill, however, does contain an important departure from the principles of the existing Act. The system of joint lending established under the previous Housing Acts will be terminated and there will be substituted for such system one pursuant to which Central Mortgage will insure loans made to assist in the financing of new residential construction.

Section 2. The definitions contained in this section are substantially those contained in the existing *National Housing Act*. Pursuant to the definition, the term "lender" is used instead of "lending institution". It has been extended to include banks as lenders.

"Builder". (6) "builder" means a person who builds houses for sale or for rent;

"Co-operative housing project". (7) "co-operative housing project" means a housing project built by a co-operative association incorporated under the laws of Canada or of any province;

"Corporation". (8) "Corporation" means the Central Mortgage and Housing Corporation established by the *Central Mortgage and Housing Corporation Act;*

"Cost of construction". (9) "cost of construction" means the aggregate of

(i) the cost or appraised value of the land, whichever is the lesser, or, in the case of land acquired by gift or devise, the appraised value of the land,

(ii) actual expenditure for building,

(iii) the architectural, legal and other expenses and carrying charges necessary to complete the house or housing project,

(iv) where work is done by the owner, such amount as the Corporation may fix as the value of the said work, and

(v) land development costs and carrying charges;

"Cost of construction of a family housing unit". (10) "cost of construction of a family housing unit" means the portion of the total cost of construction of a housing project that is attributable to the particular unit, the total cost being apportioned among the various family housing units on the basis of the relative housing accommodation provided by each unit;

"Cost of conversion". (11) "cost of conversion" means the aggregate of

(i) the cost of acquiring the land and building or the appraised value thereof, whichever is the lesser,

(ii) the actual expenditure for converting the building into a housing project, and

(iii) the architectural, legal and other expenses necessary to complete the project;

"Family housing unit". (12) "family housing unit" means a unit providing therein living, sleeping, eating, food preparation and sanitary facilities for one family, with or without other essential facilities shared with other family housing units;

"Family of low income". (13) "family of low income" means a family that receives a total family income that, in the opinion of the Corporation, is insufficient to permit it to rent housing accommodation adequate for its needs at the current rental market in the area in which the family lives;

"Farm". (14) "farm" means land used for any tillage of the soil, including live stock raising, dairying, and fruit growing;

"Guaranteed home extension loan". (15) "guaranteed home extension loan" or "guaranteed home improvement loan" means a home extension loan or a home improvement loan made in accordance with section 24;

"Home extension loan".

(16) "home extension loan" means a loan or a purchase of obligations representing loans or advances of money made by a bank or approved instalment credit agency for the purpose of financing the alteration of, or the making of additions to, an existing home to add one or more family housing units thereto, but does not include a farm improvement loan as defined in the *Farm Improvement Loans Act;*

"Home improvement loan".

(17) "home improvement loan" means a loan or a purchase of obligations representing loans or advances of money made by a bank or approved instalment credit agency for the purpose of financing repairs, alterations and additions to a home, but does not include a farm improvement loan as defined in the *Farm Improvement Loans Act,* or a home extension loan;

"House".

(18) "house" means a building, together with the land upon which it is situated, intended for human habitation comprising not more than two family housing units;

"Housing project".

(19) "housing project" means a project, together with the land upon which it is situated, consisting of one or more one-family dwellings, or one or more multiple-family dwellings or a combination of one-family and multiple-family dwellings, together with any public space, recreational facilities, commercial space and other buildings appropriate to the project;

"Insured loan".

(20) "insured loan" means a loan in respect of which an insurance policy has been issued under this Act and is in force;

"Lender".

(21) "lender" means a loan, insurance, trust or other company or corporation, trustee of trust funds, building society, credit union or other co-operative credit society authorized to lend money on the security of real or immovable property and a bank;

"Lending value".

(22) "lending value" means the value for lending purposes of the house or housing project determined by the Corporation;

"Limited-dividend housing company".

(23) "limited-dividend housing company" means a company incorporated to construct, hold and manage a low-rental housing project, the dividends payable by which are limited by the terms of its charter or instrument of incorporation to five per cent per annum or less;

"Low-rental housing project".

(24) "low-rental housing project" means a housing project undertaken to provide decent, safe and sanitary housing accommodation complying with standards approved by the Corporation, to be leased to families of low income or to such other persons as the Corporation, under agreement with the owner, designates, having regard to the existence of a condition of shortage, overcrowding or congestion of housing;

"Metropolitan area".
(25) "metropolitan area" means a city together with one or more adjacent municipalities in close economic relationship with the city;

"Minister".
(26) "Minister" means the Minister of Public Works;

"Mortgage".
(27) "mortgage" includes hypothec;

"Multiple-family dwelling".
(28) "multiple-family dwelling" means a house containing two or more family housing units;

"Municipality".
(29) "municipality" means an incorporated city, metropolitan area, town, village, county, township, district, rural municipality or other municipality;

"Official community plan".
(30) "official community plan" means a master plan of community development and land utilization prepared by a local planning authority and legally adopted by or on behalf of a municipality;

"One-family dwelling".
(31) "one-family dwelling" means a house consisting of one family housing unit not attached to or forming part of any other house;

"Owner".
(32) "owner" includes the lessee under a lease having a term extending beyond the maturity date of a mortgage thereon for a number of years sufficient in the opinion of the Corporation to provide adequate security for an insured loan;

"Rent reduction fund".
(33) "rent reduction fund" means a fund into which contributions, donations, gifts and bequests may be made by the government of a province or by a municipality, social agency, foundation, trust, estate or person for the purpose of reducing the rental of a family housing unit to permit such unit to be occupied by a family of low income;

"Rental housing project".
(34) "rental housing project" means a housing project built for rental purposes;

"Semi-detached dwelling".
(35) "semi-detached dwelling" means a family housing unit joined by a common or party wall to one other family housing unit; and

"Title".
(36) "title" in relation to a loan secured by a mortgage on a long-term lease means the entire interest of the lessee.

Authority To Lend.

Powers of approved lenders.
3. Notwithstanding any restrictions on its power to lend or invest money contained in any other statute or law, any approved lender subject to the jurisdiction of Parliament may

(a) in accordance with this Act make insurable loans on the security of a first mortgage in favour of the lender;

(b) purchase from the Corporation any obligation to the Corporation that is secured by a first mortgage and is insured by the Corporation;

Section 3. This section authorizes lenders to make loans referred to in section 7. The section makes the loans transferable from one lending institution to another and permits approved lenders to administer loans on behalf of holders of loans who are not approved lenders.

(*c*) sell or purchase insured loans together with the security taken in respect thereof;

(*d*) pledge with the Corporation or an approved lender an insured loan to secure the repayment of money borrowed, and borrow money from the Corporation or an approved lender on the security of an insured loan;

(*e*) administer an insured loan for and on behalf of the holder thereof; and

(*f*) upon such terms and conditions as are agreed upon by the Corporation and the approved lender, act as agent for the Corporation in the making or administration of loans that the Corporation is authorized to make.

INTEREST.

G. in C. may prescribe interest.

4. (1) Subject to subsection (2), the Governor in Council may by regulation prescribe the maximum rate of interest payable by a borrower in respect of a loan made under this Act.

Maximum interest.

(2) The rate of interest prescribed under subsection (1) shall not exceed the interest rate on long term Government bonds

(*a*) by more than two and one-quarter per cent in respect of loans made under Part I;

(*b*) by more than two and one-quarter per cent in respect of loans made under section 15;

(*c*) by more than one-half of one per cent in respect of loans made under section 16; and

(*d*) by more than one and one-half per cent in respect of loans made under section 17.

"Interest rate on long term Government bonds" defined.

(3) In this section "interest rate on long term Government bonds" means the rate of interest return that would be yielded in the market by Government of Canada bonds that, at the time the maximum rate of interest is prescribed under subsection (1), would mature in twenty years, such return to be determined by the Governor in Council on the basis of the yields of the most comparable issues of Government of Canada bonds outstanding in the market.

RIGHTS AND OBLIGATIONS OF THE CORPORATION.

Rights and obligations of the Corporation.

5. Every right or obligation acquired or incurred by the Corporation under this Act, whether in its name or in the name of Her Majesty, is a right or obligation of Her Majesty.

Section 5. This section is included to give assurance to approved lenders that the insurance is in fact the obligation of the Government of Canada.

PART I.

Insured Mortgage Loans.

Insurance of Loans.

Insurance of loans.

6. (1) The Corporation may issue an insurance policy in respect of a loan that is insurable under the provisions of this Act.

Advance undertaking.

(2) The Corporation may prior to the issue of an insurance policy in respect of a loan give an approved lender an undertaking that it will issue the insurance policy if the loan is fully advanced in accordance with this Act.

Instalment loans.

(3) Where an approved loan is to be made by instalments and the lender has requested that the instalments be insured under this Act, the aggregate of the instalments approved by the Corporation shall, if the insurance fee in respect thereof has been paid, be deemed to be an insured loan.

Issue of policy.

(4) Where an approved loan is fully advanced by an approved lender in accordance with this Act and the insurance fee in respect thereof has been paid, the Corporation shall at the request of the lender issue to the lender an insurance policy in respect of the loan.

Where loan not fully advanced.

(5) Where the Corporation is satisfied that an approved loan cannot be fully advanced in accordance with this Act, and instalments of the loan approved by the Corporation have been made, the Corporation shall at the request of the lender issue to the lender an insurance policy in respect of the aggregate of all instalments approved by the Corporation in respect of which the insurance fee has been paid.

Insurance fee.

(6) There shall be charged to the borrower at the time of the making of an approved loan or an instalment thereof an insurance fee, which shall be collected by the approved lender and, subject to subsection (7), remitted to the Corporation, as follows:

(a) in respect of a loan to a home owner or to a builder who intends to sell the house to a home purchaser or to the person who owns the farm or to a co-operative housing association,

(i) if the loan is an instalment loan, a fee of two per cent of the amount of each instalment, and

(ii) if the loan is not an instalment loan, a fee of one and three-quarters per cent of the amount of the loan; and

(b) in respect of a loan to assist in the construction of a rental housing project or in the alteration of an existing residential structure to add one or more family housing units thereto,

(i) if the loan is an instalment loan, a fee of two and one-half per cent of the amount of each instalment, and

Section 6. Insurance of Loans. Under this section the Corporation will be giving an undertaking to insure a loan when it is made. This undertaking will be given at the time the loan is first approved. When the loan is fully advanced a policy of insurance will be issued, to be held by the approved lender. This insurance policy will be transferred when the loan is transferred. If a loan is sold to some one other than an approved lender, the administration of the loan must be retained in the hands of an approved lender.

(ii) if the loan is not an instalment loan, a fee of two and one quarter per cent of the amount of the loan.

(7) In the case of an instalment loan that is not insured by the Corporation until it is fully advanced, the approved lender shall remit to the Corporation one and three-quarters per cent of the amount of the loan if it is a loan mentioned in paragraph *(a)* of subsection (6), and two and one-quarter per cent of the amount of the loan if it is a loan mentioned in paragraph *(b)* of subsection (6).

Sale of loan.

(8) An insurance policy issued under this Act in respect of a loan ceases to be in force if the loan is sold to a person other than an approved lender unless the loan continues to be administered by an approved lender in accordance with the regulations.

Insurable loans.

7. (1) Subject to section 8, a loan is insurable if

(a) it was made

(i) for the purpose of assisting in the construction of a house, co-operative housing project or rental housing project, or

(ii) for the alteration of an existing residential structure to add one or more family housing units thereto,

according to sound standards of construction approved by the Corporation;

(b) it was made to

(i) the person (in this Act called the "home owner") who owns the house and intends to occupy it or one of the family housing units thereof,

(ii) a builder who intends to sell the house to a person (in this Act called the "home purchaser") who will own and occupy the house or one of the family housing units thereof,

(iii) the person who owns the farm upon which the house has been built,

(iv) the co-operative housing association that owns the co-operative housing project, or

(v) the person who owns the rental housing project;

(c) when made to a home owner who is a person engaged in the production of defence supplies as defined in the *Defence Production Act* (in this section called a "defence worker"), or to a builder who intends to sell the house to a home purchaser who is a defence worker, it was for the aggregate of

(i) 90% of the lending value, and

(ii) the amount of the insurance fee paid in respect of the loan;

(d) when made to a home owner or builder who intends to sell the house to a home purchaser, it was for the aggregate of

(i) 90% of the first $8,000 of the lending value or any part thereof,

Section 7. This section sets out the requirements that make a loan insurable. It deals with all types of insurable loans. Under the previous Act home ownership loans were dealt with in Part I, rental housing loans dealt with under Part II, and rural housing loans dealt with under Part III.

(ii) 70% of the amount by which the lending value exceeds $8,000, and

(iii) the amount of the insurance fee paid in respect of the loan;

(e) when made in respect of a house containing two family housing units to a home owner or to a builder for sale to a home purchaser, it was for the aggregate of

(i) 90% of the first $8,000 of one-half of the lending value or any part thereof,

(ii) 70% of the amount by which one-half of the lending value exceeds $8,000,

(iii) 80% of the other one-half of the lending value,

(iv) the amount of the insurance fee paid in respect of the loan;

(f) when made in respect of a house containing two family housing units to a home owner who is a defence worker or to a builder for sale to a home purchaser who is a defence worker, it was for the aggregate of

(i) 90% of the first one-half of the lending value,

(ii) 80% of the other one-half of the lending value, and

(iii) the amount of the insurance fee paid in respect of the loan;

(g) when made to a co-operative housing association in respect of houses, it was for the aggregate of

(i) 90% of the first $8,000 of the lending value of each house or any part thereof,

(ii) 70% of the amount by which the lending value of each house exceeds $8,000,

(iii) the amount of the insurance fee paid in respect of the loan;

(h) when made to a co-operative housing association in respect of houses that contain two family housing units, it was for the aggregate of

(i) 90% of the first $8,000 of one-half of the lending value of each house or any part thereof,

(ii) 70% of the amount by which one-half the lending value of each house exceeds $8,000,

(iii) 80% of one-half of the lending value of each house, and

(iv) the amount of the insurance fee paid in respect of the loan;

(i) when made to a co-operative housing association in respect of multiple family dwellings, it was for the aggregate of

(i) 80% of the lending value of the multiple family dwellings, and

(ii) the amount of the insurance fee paid in respect of the loan;

(j) when made to assist in the construction of a rental housing project, it did not exceed the aggregate of

(i) 80% of the lending value of the project, and
(ii) the amount of the insurance fee paid in respect of the loan,

and was not less than the lesser of the maximum loan permitted by regulations or 70% of the lending value of the rental housing project;

(k) when made to assist in the alteration of an existing residential structure to add one or more family housing units thereto, it did not exceed the aggregate of

(i) the lesser of 70% of the lending value of the structure and land upon which it is situated when the alteration is completed, or the amount of the cost of the alterations and the amount necessary to discharge all encumbrances on the title to the land, and

(ii) the amount of the insurance fee paid in respect of the loan;

(l) when made to assist in the construction of a house on a farm, it did not exceed the aggregate of

(i) the lesser of $10,000 or two-thirds of the appraised value of the farm, determined by appraising the value of the land, exclusive of buildings, and adding thereto the appraised increase in value of such land attributable to existing buildings and the construction of the house, and

(ii) the amount of the insurance fee paid in respect of the loan;

(m) it bears interest at a rate agreed upon between the borrower and the lender not in excess of the rate prescribed by the Governor in Council under section 4;

(n) it is secured by a first mortgage in a form prescribed by the Corporation on the house or housing project in favour of the approved lender, except where the loan is made to a lessee of land, in which case the loan is secured by a first mortgage or an assignment of the leasehold interest of the lessee, and such additional security, assignments, assurances and agreements as have been required by the Corporation;

(o) when made to a home owner or to a builder who intends to sell the house to a home purchaser or to a person who owns the farm upon which the house has been built, or to a co-operative housing association, it is

(i) for a term of at least twenty-five years but not more than thirty years, or

(ii) for a term less than twenty-five years if the borrower so requested in writing or if permitted by the regulations;

(p) when made to assist in the construction of a rental housing project, it is for a term not in excess of twenty-five years;

(q) it was made on such terms as to payment of principal, interest and taxes by monthly instalments or otherwise as may be determined by regulation;

(r) it was advanced to the borrower on completion of construction as determined by the Corporation, or in such instalments during the course of construction of the house or housing project as have been determined by the Corporation;

(s) it was made on such other terms and conditions as were agreed upon between the approved lender and the Corporation; and

(t) it was made on such terms and in accordance with such conditions in addition to those specified in the preceding paragraphs as may be prescribed by regulation.

Addition of borrowers' charges.

(2) With the approval of the Corporation, borrower's charges may be added to the principal of an insured loan.

Lesser loans.

(3) Notwithstanding anything in this section, a loan mentioned in paragraph *(c)*, *(d)*, *(e)*, *(f)*, *(g)*, *(h)*, or *(i)* of subsection (1) may be for an amount less than the amount specified therein but not less than the lesser of

(a) 70% of the lending value of the house or housing project, or

(b) the maximum loan permitted by regulation,

if a loan for such lesser amount is requested in writing by the borrower or is made in such other circumstances as may be prescribed by regulation.

Conditions of insurance.

8. (1) A loan to a co-operative housing association is not insurable unless

(a) the instrument of incorporation of the co-operative housing association and its by-laws are approved by the Corporation;

(b) the Corporation is satisfied that

(i) in the case of a project that will continue to be owned and managed by the co-operative association after completion of construction, at least eighty per cent of the family housing units of the project will be occupied by members or shareholders of the co-operative association; or

(ii) in the case of a project consisting of houses that on completion of construction are to be conveyed to members or shareholders of the association, at least eighty per cent of the members or shareholders will each own a house; and

(c) in the first instance, repayment of the loan is secured by a first mortgage on all the family housing units in the project.

Co-operative housing project.

(2) When the construction of a co-operative housing project consisting of houses has reached a stage satisfactory to the Corporation and the co-operative association conveys

a house in the project to a member or shareholder of the association, the first mortgage or other security may be discharged in respect of the house and a new mortgage or other security taken in favour of the approved lender from the member or shareholder in an amount equal to the portion of the loan made in respect of the house in the first instance, and such amount shall be deemed to be a loan to a home owner and is insurable.

Insurance Settlement.

Payment by Corporation upon conveyance of property.

9. (1) Where an approved lender holding or administering an insured loan secured by mortgage acquires title to the mortgaged property by foreclosure or otherwise, after default has occurred under the mortgage, and the title is conveyed to the Corporation, clear of all encumbrances except as provided for by regulation and within the time prescribed by regulation, the Corporation shall pay to the approved lender the aggregate of the following:

(a) the principal owing on the mortgage at the date of the commencement of foreclosure proceedings or at the date of acquisition otherwise than by foreclosure;

(b) approved borrowers' charges made before and after the date of commencement of foreclosure proceedings or the date of acquisition otherwise than by foreclosure;

(c) interest at the mortgage interest rate on each amount specified in paragraphs *(a)* and *(b)*

(i) for the period (hereinafter in this section called the "default period") for which interest thereon was due or accrued, and unpaid, at the time of the conveyance to the Corporation, or

(ii) for a period of six months,

whichever is the shorter period;

(d) where the default period in respect of any amount specified in paragraph *(a)* or *(b)* is in excess of six months, additional interest at the mortgage interest rate less two on each such amount and on the amount specified in paragraph *(c)*

(i) for the period of such excess, or

(ii) for a period of twelve months,

whichever is the shorter period, if immediately after the mortgage account had gone into default in an amount equal to three monthly payments of principal, interest and taxes where the loan is repayable monthly, or in an amount equal to the quarterly, semi-annual or annual payment where the loan is repayable quarterly, semi-annually or annually, the approved lender holding or administering the loan satisfied the Corporation that adequate steps were being taken in respect of the said account; and

Section 9. This section sets out what will be paid to an approved lender in respect of a loan that has gone into default. Under the section, in order to qualify for payment, the approved lender must secure title to the mortgaged property and convey such title to Central Mortgage. The approved lender will then be paid the following:—

(a) 98% of the sum of the principal outstanding at the date of conveyance and the interest owing up to six months at the mortgage interest rate;

(b) borrowers' charges;

(c) additional interest owing for an additional period of not more than twelve months at the mortgage interest rate less two. This additional amount is payable subject to proper notification being given to the Corporation when the loan is in default up to a certain amount;

(d) an acquisition fee of $125 and taxable legal disbursements.

(e) an acquisition fee of one hundred and twenty-five dollars and such taxable legal disbursements as may be approved by the Corporation;

less two per cent of the amounts specified in paragraphs *(a)* and *(c)* and, in calculating the amount payable by the Corporation under this subsection, amounts received for the credit of the mortgage account during the default period shall be credited at the date of the receipt thereof first to interest then owing on the mortgage account, and secondly to the amount owing on the mortgage account as principal, including borrowers' charges.

Conditions to payment.

(2) No payment shall be made under subsection (1) unless

(a) at the time of the conveyance of the property to the Corporation the property is unoccupied, or

(b) the property is occupied by such person and under such terms and conditions as may be determined by regulation.

Transfer of security.

(3) At the time of conveying the mortgaged property to the Corporation, any outstanding right to or in respect of the loan or any security therefor shall be transferred to the Corporation.

Payment without conveyance in special cases.

(4) Notwithstanding anything in this section, where default has occurred under a mortgage to secure an insured loan and the Corporation is of opinion that foreclosure or other acquisition of the title to the mortgaged property would unduly increase the loss in respect of the loan, the Corporation and the holder of the loan may, upon such terms and conditions as they may agree upon, fix and determine the amount of loss in respect of the insured loan, and the Corporation may pay such amount in lieu of the amount specified in subsection (1), if all rights to and in respect of the loan and any security therefor are transferred to the Corporation.

Mortgage Insurance Reserve Fund.

Mortgage Insurance Reserve Fund.

10. (1) The Corporation shall establish a fund to be known as the "Mortgage Insurance Reserve Fund", in this Act called the "Fund", to which shall be credited all insurance fees received by the Corporation under this Act.

Assets of the Fund.

(2) Property acquired by the Corporation under section 9, and investments made out of the Fund under subsection (3) of this section shall be assets of the Fund.

Investments out of Fund.

(3) The Corporation may invest any part of the Fund in obligations of or guaranteed by Canada.

Payments out of Fund.

(4) All payments required to be made by the Corporation under section 9 shall be made out of the Fund.

Advances out of C.R.F.

(5) At the request of the Corporation the Minister may, out of the Consolidated Revenue Fund, advance to the

Corporation upon terms and conditions approved by the Governor in Council, such amounts as the Minister considers necessary to enable the Corporation to discharge its obligations under section 9.

Corporation Investments.

Investments by Corporation.

11. (1) The Corporation may out of its capital, out of the reserve fund established under section 30 of the *Central Mortgage and Housing Corporation Act*, or out of moneys appropriated by section 22 for the purpose

(a) purchase all right or interest of the holder of an insured loan and take an assignment of the mortgage and other security taken in respect thereof; and

(b) make loans to an approved lender on such terms and conditions, including the rate of interest, as the Corporation may determine upon the security of an assignment of or an agreement to assign insured loans held by the approved lender.

Sale of obligations

(2) The Corporation may sell to an approved lender any obligation to the Corporation that is secured by a first mortgage and assign the security held by the Corporation in respect thereof.

Insurance of obligations sold.

(3) When the Corporation has sold an obligation pursuant to subsection (2) it may issue an insurance policy in respect thereof to the purchaser and such obligation shall be deemed to be an insured loan and the Corporation shall, at the time of the sale, credit the Fund with one and three-quarters per cent of the amount of the obligation at the time of sale if it is in respect of a house, and two and one-quarter per cent thereof if it is in respect of a rental housing project.

Regulations.

Regulations by Governor in Council.

12. (1) The Governor in Council may by regulation

(a) determine the maximum loan that may be made in respect of a house or housing project;

(b) determine the minimum period of amortization of an insured loan;

(c) subject to sections 4 and 6, determine the maximum charges that may be made by an approved lender or holder of an insured loan in respect of the making and administration thereof;

(d) prescribe the form of the insurance policy that may be issued in respect of an insured loan and of the mortgage that shall be taken in respect thereof;

(e) prescribe such other forms as may be required in connection with the making or administration of an insured loan; and

(f) make provision for any matters concerning which he deems regulations are necessary or desirable to carry out the purposes or provisions of this Part.

By Corporation.

(2) The Corporation may

(a) prescribe sound standards of construction;

(b) prescribe the procedures to be followed in authorizing advances by an approved lender to a borrower; and

(c) prescribe such forms as may be required in connection with the making or administration of a loan and have not been provided for by regulation pursuant to subsection (1).

Maximum Insurance.

Aggregate maximum of $2,000,000,000

13. Notwithstanding anything in this Act, the aggregate amount of all loans in respect of which insurance policies have been issued under this Act shall not exceed two billion dollars.

PART II.

Housing for Rental Purposes and Land Assembly.

Contract guaranteeing rentals from rental housing projects.

14. (1) Subject to this section, the Corporation may enter into contracts with builders to guarantee, in consideration of the payments specified in subsection (4), an annual return of rentals from rental housing projects after completion thereof of an amount to be determined by the Corporation, for a total period not exceeding thirty years.

Undertaking.

(2) The Corporation may give to a builder an undertaking that the Corporation will enter into a contract with the builder under subsection (1) if the builder builds a rental housing project in accordance with this section.

Conditions.

(3) No contract shall be entered into pursuant to subsection (1) unless

(a) the project is completed and is built in an area satisfactory to the Corporation and in accordance with standards of construction approved by the Corporation, and

(b) the project consists of eight or more family housing units and is designed to provide housing accommodation of a size and type prescribed by the Corporation.

Terms of contract.

(4) The terms of a contract entered into under subsection (1) shall provide

(a) that the builder shall pay to the Corporation each year during the period of the guarantee

(i) one and three-quarters per cent of the return of rentals guaranteed for the first year after the com-

Sections 14 and 15. These sections are the same as the corresponding sections in the existing Act, with the exception that the fee payable by the builder for his rental insurance is set forth in the new legislation. Previously this fee was set forth in the regulations made by the Governor in Council.

pletion of the project when the term of the guarantee is ten years,

(ii) two per cent of the return of rentals guaranteed for the first year after the completion of the project when the term of the guarantee is twenty years, and

(iii) two and one-quarter per cent of the return of rentals guaranteed for the first year after the completion of the project when the term of the guarantee is thirty years;

(b) that the builder or subsequent owner will provide efficient management of the rental housing project;

(c) that the rent to be charged in respect of each unit of the project shall not exceed, during the first three years after the completion of the unit, an amount to be determined by the Corporation;

(d) that when an amount has been paid by the Corporation under the contract referred to in subsection (1) equal to the amount of rentals guaranteed for the first year of the contract the Corporation may purchase the project from the owner thereof at a price that shall not exceed the estimated cost of construction as determined by the Corporation less two and one-half per cent per annum thereof from the time of completion of the project to the date of purchase;

(e) that the contract, with the approval of the Corporation, may be assigned to subsequent owners; and

(f) for such other matters as the Corporation may deem necessary or desirable to give effect to the purposes or provisions of this section.

Maximum guarantee.

(5) The annual return of rentals, guaranteed by the Corporation under this section shall not exceed eighty-five per cent of the annual rental of the units of the project determined by the Corporation under paragraph *(c)* of subsection (4).

Alteration of terms of contract.

(6) The Corporation and the builder or subsequent owner may by agreement alter any term of a contract made under subsection (1) but in no case shall the total guarantee period exceed thirty years in the case of any one project.

Regulations.

(7) The Governor in Council may by regulation prescribe the maximum guarantee in respect of a room or unit and may make provision for any matters for which he deems regulations are necessary or desirable to carry out the purposes or provisions of this section.

Loans for rental housing projects.

15. (1) Notwithstanding any restrictions on its power to lend or invest money contained in any other statute or law, any approved lender subject to the jurisdiction of Parliament, may lend on the security of a first mortgage in favour

of the approved lender an amount not exceeding eighty-five per cent of the estimated cost as determined by the Corporation of a rental housing project, the rentals of which are guaranteed by the Corporation pursuant to section 14 or in respect of which an undertaking has been given under subsection (2) of section 14.

Form of mortgage.

(2) The mortgage referred to in subsection (1) shall be in such form as the Corporation may approve and shall

(a) bear interest at a rate not in excess of a rate prescribed by the Governor in Council,

(b) be for a term not in excess of twenty years, and

(c) provide for repayment in each year during the term of the mortgage of two and one-half per cent of the principal amounts advanced under the mortgage and the balance of the principal at the end of the term.

Loans to limited-dividend housing corporations.

16. (1) The Corporation may, with the approval of the Governor in Council, make a loan to a limited-dividend housing company for the purpose of assisting in the construction of a low-rental housing project or in the purchase of existing buildings and the land upon which they are situate and their conversion into a low-rental housing project.

Interest, amount and term of loan.

(2) A loan made under the authority of this section shall bear interest at a rate prescribed by the Governor in Council, shall not exceed ninety per cent of the lending value of the project, shall be for a term not exceeding the useful life of the project to be fixed by the Corporation and in any case not exceeding fifty years from the date of completion of the project and shall be secured by a first mortgage upon the project in favour of the Corporation.

Security.

Conditions under which loans may be made.

(3) A loan may be made under this section only to a limited-dividend housing company that has entered into a contract with the Corporation on the terms set out in subsection (4), to construct a low-rental housing project or to convert existing buildings into a low-rental housing project if

(a) evidence satisfactory to the Corporation has been furnished of the need for the project by reason of shortage, overcrowding, congestion or the sub-standard character of existing housing accommodation in the municipality or the metropolitan area in which the project is to be situated;

(b) the area in which the project is to be situated has in the opinion of the Corporation been adequately planned;

(c) zoning regulations are in the opinion of the Corporation sufficient to assure the suitability of the area for

Section 16. This section carries forward the limited dividend provisions of the *National Housing Act.* In this connection attention is called to the definitions of "family of low income" and "low rental housing project".

the project throughout the term of the loan and to provide reasonable safeguards for the security of the loan;

(d) adequate municipal services are available or are to be supplied forthwith to residents of the area;

(e) the project for which a loan is requested will provide a sufficient number of family housing units to assure, in the opinion of the Corporation, reasonable economies in the construction or conversion thereof;

(f) the organization and management of the company are in the opinion of the Corporation such as to assure competent and independent administration in the planning, construction or conversion and operation of the project;

(g) adequate care has, in the opinion of the Corporation, been exercised to assure economical and suitable design and sound construction of a type of project that will assure the minimum practicable expenditures for repairs and maintenance during the term of the loan, and in the case of the conversion of existing buildings, if the cost of conversion is, in the opinion of the Corporation, reasonable;

(h) the terms of acquisition by the company of the land upon which the project is to be constructed or of the buildings that are to be converted are satisfactory to the Corporation;

(i) the terms of the contract made by the company with a contractor for the construction of the project or the conversion of the buildings are satisfactory to the Corporation;

(j) the company, in the opinion of the Corporation, has or is able to provide funds sufficient, when added to the proceeds of the loan made by the Corporation, to pay the entire cost of the construction or conversion and ensure the completion of the project; and

(k) the powers given to the company and activities or transactions that are permitted by its charter or other instrument of incorporation are satisfactory to the Corporation.

Terms of contract.

(4) A contract with a limited-dividend housing company entered into under this section shall provide that

(a) the maximum ratio between the rentals to be charged and the probable family income of the lessees of each family housing unit shall be such ratio as the Corporation may deem fair and reasonable or shall make such other provision for maintaining the low-rental character of the project as the Corporation may agree to;

(b) the company may receive contributions to a rent reduction fund from any province, municipality, social agency, trust, or person and shall use such fund solely for the purpose of reducing the rentals that otherwise would be charged;

(c) the company shall maintain books, records and accounts in a form satisfactory to the Corporation, shall permit the inspection of such books, records and accounts by a representative of the Corporation at any time and shall make such annual or other reports to the Corporation in such form and containing such particulars as the Corporation may require;

(d) the company shall furnish efficient management of the low-rental housing project, maintain the project in a satisfactory state of repair, and permit representatives of the Corporation to inspect the project at any time;

(e) the company shall make to the Corporation promptly on the due dates the payments required to be made in order to pay the interest on and amortize the loan during the term thereof;

(f) the amount of surplus earnings to be used or set aside for reserves, maintenance, repairs, possible decline in rentals or other contingencies shall be limited in such manner as may be agreed upon; and at the end of the term of the loan the amount of such surplus earnings so set aside and at that time unexpended shall be paid to such person or expended in such manner as is provided in the contract or as the Corporation may direct;

(g) except with the consent of the Corporation and on such terms and conditions as the Corporation may approve the project or any part thereof shall not be sold or otherwise disposed of during the term of the loan; and

(h) the Corporation shall have the right, in the event of the company failing to maintain the low-rental character of the project or otherwise committing a breach of the contract, to declare the unpaid principal of the loan due and payable forthwith or to increase the interest payable thereafter on the unpaid balance of the said loan to such rate as the Governor in Council may determine.

Contract with limited-dividend housing company, terms.

(5) A contract with a limited-dividend housing company entered into under this section may also provide

(a) that the Corporation shall have the right to designate persons other than families of low incomes to whom housing accommodation provided by the project may be leased,

(*b*) that the Corporation shall have the right to prescribe the extent and manner in which depreciation and maintenance reserves shall be estimated and used, and

(*c*) for such other measures to be taken by the Corporation and the company as the Corporation may deem necessary or desirable to give effect to the purposes or provisions of this Act.

Loans to borrowers engaged in mining, lumbering, logging, or fishing.

17. (1) The Corporation may with the approval of the Governor in Council, make a loan to a borrower engaged in the mining, lumbering, logging or fishing industry, to assist in the construction of low or moderate-cost housing projects in areas or localities that are adjacent to or connected with the operations of the borrower.

"Borrower" defined.

(2) For the purpose of this section the expression "borrower" means an incorporated company engaged in the mining, lumbering, logging or fishing industry, and includes a company (in this section referred to as a "subsidiary company") incorporated for the purpose of owning, constructing and managing a housing project all the share capital of which, except directors' qualifying shares, is owned by an incorporated company (in this section referred to as the "parent company") engaged in the mining, lumbering, logging or fishing industry.

Interest, amount and term of loan.

(3) A loan made under this section shall bear interest at a rate prescribed by the Governor in Council, shall not exceed eighty per cent of the lending value of the project, shall be for a term not exceeding the useful life of the project to be fixed by the Corporation and in any case not exceeding fifteen years from the date of completion of the project.

Security.

(4) The loan shall be secured by a first mortgage on the land upon which the project is built in favour of the Corporation or, where the land is not owned by the borrower or the housing units are of a portable nature, by a first charge on the project and the interest of the borrower in the land upon which it is built in a form satisfactory to the Corporation or such other security as the Corporation may deem necessary to safeguard the interests of the Corporation.

Prior conditions.

(5) The Corporation shall prior to the approval of a loan under this section by the Governor in Council satisfy itself

(*a*) that the area in which the project is to be built has a productive period sufficient to justify the proposed term of the loan, and

(*b*) that the proposed project is necessary to house persons in the area and those who may move into the area to provide necessary labour in connection with the operations of the borrower.

Section 17. This section makes provisions for loans to primary producers, the same as in the existing Act.

Terms of contract.

(6) A loan may be made under this section only to a borrower who has entered into a contract with the Corporation on the terms set out in subsection (7) to provide low or moderate-cost housing accommodation adjacent to or connected with the operations of the borrower, if

(a) evidence satisfactory to the Corporation has been furnished of the need for such housing accommodation in connection with the said operations;

(b) the area in which the project is to be situated is, in the opinion of the Corporation, suitable for the project;

(c) the project for which the loan is requested will provide a sufficient number of family housing units of a class and kind to ensure, in the opinion of the Corporation, reasonable economies in the construction and operation thereof;

(d) evidence satisfactory to the Corporation has been provided that the project will be competently planned, constructed, administered and operated;

(e) adequate care has, in the opinion of the Corporation, been exercised, to assure economical and suitable design and sound construction appropriate to and in accordance with the area in which the project is built;

(f) the terms of acquisition by the borrower of the land upon which the project is to be constructed or the lease by which the land is made available for the project, are satisfactory to the Corporation;

(g) the terms of the contract made by the borrower with a contractor for the construction of the project, are satisfactory to the Corporation;

(h) evidence satisfactory to the Corporation has been provided that the borrower has or is able to provide funds sufficient when added to the proceeds of the loan made by the Corporation to ensure the completion of the project;

(i) the powers given to the borrower by its charter or instrument of incorporation are satisfactory to the Corporation; and

(j) in the case of a subsidiary company, repayment of the loan and the performance of the contract made by it pursuant to this section are guaranteed by the parent company.

Further provisions of contract.

(7) A contract with a borrower shall provide that

(a) the borrower shall make to the Corporation promptly on the due dates the payments required to be made in order to pay the interest on and amortize the loan during the term thereof;

(b) the borrower shall furnish efficient management of the project and maintain the project in a satisfactory state of repair and permit representatives of the Corporation to inspect the project at any time;

(c) moneys invested in the project by the borrower shall not produce a return above operating expenses greater than the rate of interest agreed to be paid by the borrower on the loan made by the Corporation and that any return in excess of this amount shall be used as the Corporation determines for the benefit of the occupants of the housing units of the project;

(d) the borrower may receive contributions to a rent reduction fund and shall use such fund solely for the purpose of reducing the rentals that otherwise would be charged;

(e) the amount of surplus earnings to be used or set aside for reserves, maintenance, repairs, possible decline in rentals or other contingencies shall be determined by the Corporation;

(f) the Corporation shall have the right, in the event of the borrower failing to maintain the low or moderate rental character of the project or otherwise committing a breach of contract, to declare the unpaid principal of the loan due and payable forthwith or to increase the interest payable thereafter on the unpaid balance of the loan at such a rate as the Governor in Council may determine;

(g) the borrower shall maintain books, records and accounts in a form satisfactory to the Corporation, shall permit the inspection of such books, records and accounts by a representative of the Corporation at any time and shall make such annual or other reports to the Corporation in such form and containing such particulars as the Corporation may require;

(h) the borrower may rent the housing units to its employees or to other persons living in the community adjacent to or connected with its operations at rentals to be approved by the Corporation;

(i) the borrower during the term of the loan may with the approval of the Corporation, and upon terms and conditions satisfactory to the Corporation, sell under agreement for sale or lease and option, units of the project to prospective home owners; and

(j) in the event of a sale referred to in paragraph *(i)* the Corporation may undertake that when the home owner has fulfilled the terms of the agreement for sale it will discharge its mortgage claim or charge upon the unit purchased by the prospective home owner.

Powers of Corporation.

(8) The Corporation may

(a) prescribe the manner in which the cost of the project shall be calculated or estimated and determine the lending value for the purpose of this section;

(b) prescribe the standards of construction and the type of project in respect of which a loan is made under this section;

(c) prescribe the information to be given by an applicant for a loan under this section;

(d) prescribe the conditions and procedures under which the proceeds of any loan under this section may be advanced to the borrower;

(e) prescribe the circumstances in which additional security may be taken for any loans under this section; and

(f) make provision for any other matters deemed necessary or desirable to carry out the purposes or provisions of this section and to safeguard the interests of the Corporation.

Regulations by Governor in Council.

18. (1) The Governor in Council may by regulation make provision for any matters concerning which he deems regulations are necessary or desirable to carry out the purposes or provisions of this Part.

Power of Corporation to determine administrative matters.

(2) The Corporation may prescribe

(a) the manner in which the cost of construction of a rental housing project or a low-rental housing project or the cost of converting existing buildings into a low-rental housing project shall be calculated or estimated and by whom and in what manner an appraisal of any rental housing project shall be made;

(b) sound standards of construction and the arrangements that shall be made to assure adequate supervision of any construction or conversion in respect of which a loan is made under this Part;

(c) the information to be given by an applicant for a loan under this Part;

(d) the conditions and procedures under which the proceeds of any loan under this Part may be advanced to a builder or a limited-dividend housing company;

(e) the circumstances in which a chattel mortgage, an assignment of rents or other security, may be taken as additional security for any loans made under this Part; and

(f) the books, accounts and records to be maintained by a limited dividend housing company to which a loan is made under this Part and the manner in which and by whom they shall be audited, and the form of the annual or any other report to be made to the Corporation.

Life insurance companies investment.

19. (1) Notwithstanding any restriction on its power to lend or invest money contained in any other statute or law, any life insurance company subject to the jurisdiction of

Section 19. The provisions, pursuant to which Housing Enterprises was established, have been deleted from this section; otherwise it is a repetition of the existing section 19.

Parliament may, subject to the conditions hereinafter stated, invest its funds to an aggregate amount not exceeding five per cent of its total assets in Canada allowed by the Superintendent of Insurance under section 77 of the *Canadian and British Insurance Companies Act*, in the purchase of land and the construction thereon of a low cost or moderate cost rental housing project, including such buildings or such accommodation for retail stores, shops, offices and other community services, but not including hotels, as the company may deem proper and suitable for the convenience of the tenants of such rental housing project, and thereafter may hold, maintain, repair, alter, demolish, reconstruct, manage, collect or receive income from, sell or convey, in whole or in part, land so acquired and the improvements thereon.

Conditions of investment under subsection (1).

(2) The conditions under which an investment referred to in subsection (1) may be made are as follows:

(a) the project shall, in the discretion of the Corporation, be constructed in accordance or in harmony with an official community plan satisfactory to it;

(b) the project shall be designed to provide housing accomodation for families of low or moderate income and the Corporation may prescribe a maximum average cost per room or per family housing unit provided thereby, or per person to be accommodated;

(c) the company shall submit to the Corporation an application in a form to be prescribed by it and accompanied by the following;

(i) a map showing the location of the land and of the structures thereon, the purchase of which is deemed by the company to be necessary to the project,

(ii) a plan and specifications prepared by an architect showing the buildings or improvements to be constructed thereon pursuant to the project,

(iii) an estimate of the cost of the entire project prepared by an architect or engineer and approved by the company,

(iv) an estimate of the rentals of the family housing units and the other facilities to be provided necessary to assure a minimum return of six per cent per annum upon the cost of the entire project after payment of all taxes, insurance, cost of operation and maintenance, and an annual amount sufficient to amortize the cost of construction of the project less the cost of the land, within a period representing the estimated useful life of the project but not in any case exceeding fifty years from the date of completion of the project, and

(v) such other information or material as the Corporation may require; and

(d) the investment is approved by the Corporation.

Guarantee to life insurance company.

(3) Where a life insurance company agrees with the Corporation

(a) to maintain separate books and records relating to a rental housing project in which the company invests under this section satisfactory to the Corporation and open to its inspection at any time,

(b) to establish a reserve on account of the project comprising all net earnings in any year after its completion in excess of seven per cent per annum on the cost of the project, and

(c) to repay out of the reserve any advances made by the Corporation under the guarantee hereinafter mentioned,

the Corporation shall guarantee to the company, for as long as it retains ownership of the whole or any part of the project, a net return in any year after the completion of the project of three per cent per annum of the cost of the project for a period not exceeding the estimated useful life of the project and in any case not exceeding fifty years.

"Net return in any year" defined.

(4) For the purpose of this section "net return in any year" means an amount equal to annual net earnings derived from the project computed by deducting from the total annual revenues therefrom all expenses of the year in respect thereof, including provision for taxes, insurance, repairs and maintenance, interest and an amount sufficient to amortize the cost of construction of the project, including the cost of the land, over the estimated useful life of the project.

Two or more companies join in project.

(5) Two or more life insurance companies may join in the development, ownership and management of a rental housing project under this section.

Approved lenders designated.

(6) The Governor in Council may for the purposes of this section designate

(a) an approved lender subject to the jurisdiction of Parliament, and in such case subsections (1) to (5) and section 20 *mutatis mutandis* apply to the approved lender, except that the amount of its funds that may be invested shall not exceed five per cent of its assets in Canada at such amount as is approved by the Governor in Council for the purposes of this section, and

(b) an approved lender that is not subject to the jurisdiction of Parliament but is empowered to make investments referred to in this section, and in such case subsections (2) to (5) and section 20 *mutatis mutandis* apply to the lender, but the amount of

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investments in respect of which guarantees may be given under this section shall not exceed five per cent of its assets in Canada at such amount as is approved by the Governor in Council for the purposes of this section.

Regulations.

(7) The Governor in Council may make regulations to provide for any matters concerning which he deems regulations are necessary or desirable to carry out the purposes or provisions of this section.

Power of Corporation to determine administrative matters.

(8) The Corporation may

(a) prescribe the manner in which the cost of a rental housing project shall be calculated for the purposes of this section and may adjust the cost in the event of the sale of a portion of a rental housing project or an addition thereto,

(b) prescribe the manner in which the net earnings shall be calculated for the purposes of this section, and

(c) take such other measures as the Corporation may deem necessary or desirable to give effect to the purposes or provisions of this section and to safeguard the interests of the Corporation.

Insurance company may acquire land.

(9) Prior to the approval of an investment pursuant to paragraph *(d)* of subsection (2) a life insurance company subject to the jurisdiction of Parliament may, notwithstanding any restriction on its power to invest money contained in any other statute or law, with the approval of the Corporation, purchase land for the purpose of making an investment under subsections (1) and (2) and may hold and manage the land upon such terms and conditions as the Corporation may specify.

Aggregate principal amount guaranteed.

20. The aggregate principal amount of investments that may be guaranteed by the Corporation under this Part shall not exceed one hundred and twenty-five million dollars.

Company may invest funds in purchase of land for housing development.

21. (1) Notwithstanding any restriction on its power to lend or invest money contained in any other statute or law, any life insurance, trust or loan company subject to the jurisdiction of Parliament, (in this section called "company") may, subject to the conditions hereinafter set out, invest its funds in the purchase and improvement of land to be used for a residential housing development to an aggregate amount that, when added to the aggregate amount invested by the said company under section 19, does not exceed the limitation on the investment imposed by or

pursuant to section 19 and subject to the provisions of this section may hold, maintain, repair, alter, demolish, improve, manage, collect or receive income from, sell or convey, in whole or in part, land so acquired and the improvements thereon.

Conditions of investment.

(2) The conditions under which an investment referred to in subsection (1) may be made, are as follows:

(a) the land shall, in the opinion of the Corporation, be suitable for a residential housing development;

(b) the purchase price of the said land shall be satisfactory to the Corporation;

(c) the improvements to be effected and the cost thereof shall be satisfactory to the Corporation;

(d) the company shall submit to the Corporation an application in a form satisfactory to the Corporation containing such information and accompanied by such material as the Corporation may prescribe;

(e) the investment shall first be approved in writing by the Corporation; and

(f) the company shall enter into an agreement with the Corporation in accordance with subsection (3).

In case of agreement with the Corporation

(3) Where a company agrees with the Corporation

(a) to acquire land and effect improvements thereon in accordance with this section,

(b) to maintain separate books and records relating to the land, the expenses incurred in respect thereof, the improvements made thereon and sales made thereof satisfactory to the Corporation and open to its inspection at any time, and

(c) to sell the land at such price as the Corporation may determine and on terms and conditions satisfactory to the Corporation or as may be set out in the agreement,

Corporation to guarantee return and interest.

the Corporation shall guarantee to the company for so long as it retains ownership of the whole or any part of the land in which an investment is made pursuant to this section but not longer than the time specified in the agreement, which shall not exceed five years from the date of acquisition of the land by the company, the return of an amount equal to the company's investment in the land, together with interest thereon at a rate specified in the agreement but not in excess of three per cent per annum compounded annually.

Further provisions of agreement.

(4) The agreement referred to in subsection (3) may also provide

(a) that the company shall plan the development of the land in a manner satisfactory to the Corporation and as a condition of the sale of the land shall receive an undertaking from the purchaser that any structures erected upon the land shall conform to the plan of the area and shall comply with standards of construction prescribed by the Corporation under this Act, and

(b) for such other measures to be taken by the Corporation and the company as the Corporation may deem necessary or desirable to give effect to the purposes or provisions of this section, and to safeguard the interests of the Corporation.

Corporation to determine amount of interest, investment and amount recovered.

(5) At the end of the time specified in the agreement referred to in subsection (3), or when all the land has been sold by the company, whichever is the earlier, the Corporation shall

(a) determine the aggregate amount of the investment by the company in the land and the interest thereon at the rate specified in the agreement compounded annually, and

(b) determine the amount recovered by the company out of the land from sales thereof or otherwise.

When Corporation to pay excess.

(6) If the aggregate amount determined pursuant to paragraph *(a)* of subsection (5) exceeds the amount determined pursuant to paragraph *(b)* of that subsection, the Corporation shall pay to the company the amount of such excess, and the company shall transfer and convey to the Corporation all the unsold portion of the land.

When company to pay excess.

(7) If the amount determined pursuant to paragraph *(b)* of subsection (5) exceeds the amount determined pursuant to paragraph *(a)* of that subsection the company shall pay the amount of such excess to the Corporation.

Companies may join in purchase of land.

(8) Two or more companies may join in the purchase and improvement of land for a residential housing development under this section.

"Investment" defined.

(9) For the purpose of this section "investment" includes the purchase price of the land, moneys expended on the installation of services, the laying out and construction of streets, sidewalks, lanes and the development of park areas, public space and facilities appropriate to a residential housing development, and such carrying charges and other expenses incurred by the company in respect of the land as may be approved by the Corporation, including taxes, insurance, repairs and maintenance.

Governor in Council may designate lender as companies.

(10) The Governor in Council may designate as a company, for the purposes of this section,

(a) an approved lender subject to the jurisdiction of Parliament, and in such case subsections (1) to (9) *mutatis mutandis* apply to the lender, but the amount

of its funds that may be invested shall not exceed five per cent of its assets in Canada or such amount as is approved by the Governor in Council for the purposes of this section, and

(b) an approved lender that is not subject to the jurisdiction of Parliament, but is empowered to make investments referred to in this section, and in such case subsections (1) to (9) *mutatis mutandis* apply to the lender, but the amount of investments in respect of which guarantees may be given under this section shall not exceed five per cent of its assets in Canada or such amount as is approved by the Governor in Council for the purposes of this section.

Regulations.

(11) The Governor in Council may make regulations to provide for any matters concerning which he deems regulations are necessary or desirable to carry out the purposes or provisions of this section.

Corporation may take necessary measures.

(12) The Corporation may take such measures as it deems necessary or desirable to give effect to the purposes or provisions of this section and to safeguard the interests of the Corporation.

Advances out of C.R.F. to make loans and pay losses.

22. (1) The Minister may, upon terms and conditions approved by the Governor in Council, out of the Consolidated Revenue Fund, not exceeding in the aggregate two hundred and fifty million dollars,

(a) advance moneys to the Corporation for the purpose of making loans under this Part and under section 40, and

(b) reimburse the Corporation for losses sustained in respect of loans made under this Part,

(c) advance moneys to the Corporation not in excess of twenty-five million dollars for the purposes of subsection (1) of section 11.

(2) The Minister may, out of the Consolidated Revenue Fund, reimburse the Corporation for payments made by it under any guarantee given under this Part.

PART III.

Housing Redevelopment.

Grants to municipalities for clearance of slum areas.

23. (1) In order to assist in the clearance, replanning, rehabilitation and modernization of slum areas or blighted or substandard areas in any municipality, the Minister, with the approval of the Governor in Council, may enter into an agreement with the municipality providing for the payment of a grant to the municipality in order to assist in defraying the cost to the municipality of acquiring and clearing, whether by condemnation proceedings or otherwise, an area of land suitable either as a location for a low cost or moderate cost rental housing project or for any federal, provincial or municipal public purpose.

Agreement with municipality.

(2) An agreement entered into under subsection (1) shall provide

(a) that the municipality will acquire and clear the area at an estimated cost to be fixed by the agreement and that the area will be developed in accordance or in harmony with an official community plan satisfactory to the Minister;

(b) that the municipality will sell the area, or some other area of a size sufficient to house at least the same number of persons as are living in the area to be cleared,

(i) to a limited-dividend housing company or a life insurance company for the construction thereon of a rental housing project under section 16 or 19, or

(ii) to the government of the province in which the area is situated and the Corporation jointly for the construction thereon of a rental housing project under section 36;

(c) for the payment by the Minister of a grant to the municipality in accordance with this section; and

(d) such other provisions as the Minister deems necessary or advisable for the proper carrying out of the purposes and provisions of this section.

Conditions of grant.

(3) No grant shall be paid to a municipality under this section unless

(a) the government of the province in which the area is situated has approved the acquisition and clearance thereof by the municipality;

(b) the cost of acquisition and clearance, including cost of condemnation proceedings, less the amount of the grant under this section in respect thereof, is borne by the municipality or jointly by the municipality and the government of the province; and

(c) the cleared area, or some other area of a size sufficient to house at least the same number of persons as were living in the cleared area,

Section 23. This section is the same as section 22 of the existing Act.

(i) has been sold or agreed to be sold to a limited-dividend housing company or a life insurance company that has agreed to construct thereon a rental housing project under section 16 or 19 at a price that in the opinion of the Minister will enable the housing units of the project to be leased to tenants on a fair and reasonable basis, or

(ii) has been sold or agreed to be sold jointly to the Corporation and the province, the government of which has entered into an agreement with the Government of Canada under section 36 for the construction of houses thereon for sale or for rent.

Amount of grant.

(4) A grant under this section shall not exceed one-half of the amount by which the lesser of

(a) the cost of acquisition and clearance, including cost of condemnation proceedings, as estimated in the agreement between the Minister and the municipality, or

(b) the actual cost of acquisition and clearance, including cost of condemnation proceedings,

exceeds

(c) the price at which the area was sold, where it was sold for the construction thereon of a housing project under section 16, 19 or 36, or

(d) the value of the area after clearance, where some other area was sold for the construction thereon of a housing project under section 16, 19 or 36.

Limitation on cost of project under s. 36 in slum area.

(5) Where a project is undertaken under section 36 in a slum, blighted or substandard area, for the purpose of calculating the Corporation's share of the capital cost of the project, the cost of acquisition of the land for the project shall be an amount that in the opinion of the Minister represents a fair and reasonable price for the land, not including any amount in respect of the cost of clearing the land.

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(6) Grants under this section shall be paid out of the Consolidated Revenue Fund but the aggregate amount thereof shall not exceed twenty million dollars.

Regulations.

(7) The Governor in Council may make regulations respecting the manner in which costs are to be determined for the purposes of this section and providing for such other matters as may be deemed necessary and desirable for the carrying out of the purposes or provisions of this section.

PART IV.

Home Improvement Loans and Home Extension Loans.

Corporation to pay losses upon terms prescribed.

24. (1) The Corporation shall, subject to this section and sections 25 and 26, pay to a bank or to an approved instalment credit agency the amount of loss sustained by it as a result of a home improvement loan, or a home extension loan, if

(a) the loan was made pursuant to an application in the form prescribed by regulation, signed by the borrower, stating the purpose for which the proceeds of the loan were to be expended;

(b) the application stated that the borrower was the owner of the home in respect of which the loan was to be expended;

(c) a responsible officer of the bank or of the approved instalment credit agency certified that he had scrutinized and checked the application for the loan with the care required of him by the bank or the agency in the conduct of its ordinary business;

(d) in the case of a home improvement loan, the principal amount of the loan did not exceed two thousand five hundred dollars in the case of a one-family dwelling, or two thousand five hundred dollars for the first family housing unit and an additional twelve hundred and fifty dollars for every other family housing unit in the case of a multiple-family dwelling;

(e) in the case of a home extension loan, the principal amount did not exceed thirty-seven hundred and fifty dollars for the first family housing unit, which was to be added to the existing home as a result of the expenditure of the loan and twelve hundred and fifty dollars for each additional family housing unit so to be added;

(f) the loan was repayable in full by the terms thereof in not more than three years if the principal amount of the loan did not exceed, in the case of a home improvement loan, twelve hundred and fifty dollars for a one-family dwelling or for each family housing unit in a multiple-family dwelling or, in the case of a home extension loan, twelve hundred and fifty dollars for each family housing unit to be comprised within the multiple-family dwelling, and in not more than five years in the case of any other loan;

(g) the loan was repayable by the terms thereof in monthly instalments;

(h) the rate of interest on the loan did not exceed the rate prescribed by the Governor in Council as long as the borrower was not in default;

Part IV. This Part is the same as the existing Part IV, except that provision has been made for the payment by the borrower of an insurance fee of 1% of the amount of the loan.

(i) the bank or approved instalment credit agency received from the borrower and remitted to the Corporation at the time of the making of the loan an insurance fee equal to one per cent of the amount of the loan;

(j) except as provided in paragraph *(i)*, no fee, service charge or charge of any kind other than interest, was by the terms of the loan payable so long as the borrower was not in default;

(k) in the case of a home extension loan, the plans and specifications of the additions or alterations to be financed by the loan were approved by or on behalf of the Corporation before the loan was made;

(l) no security by way of endorsement (other than that of the husband or wife of the owner) or otherwise was taken if the loan was made to an owner who occupied a one-family dwelling in respect of which the loan was to be expended so long as the borrower was not in default or except as provided by regulation in any other case; and

(m) the loan was made on such terms and in accordance with such conditions in addition to those specified in the preceding paragraphs as may be prescribed by the regulations.

Termination of operation of this section by notice.

(2) The Corporation may, with the approval of the Governor in Council, by notice to a bank or an approved instalment credit agency, terminate the operation of this section in respect of home improvement loans or home extension loans, such termination to be effective after a time set out in the notice but not earlier than at least twenty-four hours after receipt of the notice at the head office of the bank or agency, and the Corporation is not liable under this Part to make any payment to the bank or agency in respect of any of such loans made after that time; but termination under this section does not relieve the Corporation of any liability imposed on it under this Part, in respect of a home improvement loan or home extension loan made by the bank or agency before the time of termination.

Notice only operative as to specified loans.

(3) A notice given by the Corporation under subsection (2) may terminate the operation of this section in respect only of home improvement loans or in respect only of home extension loans or in respect of any class thereof, as may be specified in the notice.

Amount of payment for which Corporation liable.

25. The Corporation is not liable under this Part to pay to a bank or an approved instalment credit agency an amount in excess of five per cent of the aggregate principal amount of the guaranteed home improvement loans and guaranteed home extension loans made by the bank or agency.

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No liability on excess of $125,000,000.

26. The Corporation is not liable under this Part to make any payment to a bank or approved instalment credit agency in respect of loss sustained by it as a result of a home improvement loan or a home extension loan made after the aggregate principal amount of guaranteed home improvement loans and guaranteed home extension loans equals one hundred and twenty-five million dollars.

Regulations.

27. The Governor in Council may, on the recommendation of the Minister, make regulations,

(a) to define for the purposes of this Part the following expressions:

(i) "owner" with power to include as owners, life-tenants, persons holding property under agreements for sale, or under long term leases, and any other person having rights approximating ownership,

(ii) "repairs, alterations and additions",

(iii) "home", and

(iv) "responsible officer";

(b) to prescribe a form of application for guaranteed home improvement loans or guaranteed home extension loans;

(c) to prescribe in respect of guaranteed home improvement loans or guaranteed home extension loans

(i) the security if any, to be taken by the bank or the approved instalment credit agency making the loan, for the repayment thereof,

(ii) the terms of repayment and other terms not inconsistent with this Part upon which the said loans are to be made, or

(iii) conditions to the liability of the Corporation under this Part in respect of home improvement loans or home extension loans in addition to but not inconsistent with the conditions set out in paragraphs *(a)* to *(k)* of subsection (1) of section 24;

(d) to prescribe forms of notes, agreements, certificates and other documents to be used in connection with guaranteed home improvement loans or guaranteed home extension loans, or as are considered necessary or advisable for the effective operation of this Part;

(e) to provide that in the event of an actual or impending default in the repayment of a guaranteed home improvement loan or a guaranteed home extension loan, the bank or the approved instalment credit agency that made the loan, may, notwithstanding anything contained in this Part, alter or revise with the approval of the borrower by way of extension of time or otherwise any of the terms of the loan, or any agreement in connection therewith, and that the alteration or revision

shall not discharge the liability of the Corporation in respect thereof under this Part;

(f) to prescribe in the event of default in the repayment of a guaranteed home improvement loan or a guaranteed home extension loan, the legal or other measures to be taken by the bank or the approved instalment credit agency and the procedure to be followed for the collection of the amount of the loan outstanding, the disposal or realization of any security for the repayment thereof held by the bank or agency, and the rate of interest to be charged on overdue payments;

(g) to prescribe the method of determination of the amount of the loss sustained by a bank or approved instalment credit agency as the result of a guaranteed home improvement loan or guaranteed home extension loan;

(h) to prescribe the steps to be taken by a bank or an approved instalment credit agency to effect collection on behalf of the Corporation of any guaranteed home improvement loan or guaranteed home extension loan in respect of which payment has been made by the Corporation to the bank or agency under this Part, and to provide that in the event of neglect by the bank or agency to take the said steps, the amount of the said payment may be recovered by the Corporation;

(i) to require reports to be made periodically to the Corporation by a bank or approved instalment credit agency in respect of guaranteed home improvement loans or guaranteed home extension loans made by it; and

(j) to make provision for any other matter which he deems necessary or advisable to carry out the purposes or provisions of this Part.

False statement or unauthorized use of loans.

Offence.

28. (1) Any person who makes a statement in an application for a home improvement loan or a home extension loan that is false in any material respect or who uses the proceeds of the said loan for a purpose other than that stated in his application for the loan, is guilty of an offence under this Part and liable on summary conviction to a fine of not less than fifty dollars and not more than five hundred dollars.

Pecuniary penalty in addition to fine.

(2) When any person is convicted of an offence under this section, there shall be imposed on him, in addition to any fine, a penalty equal to such amount of the loan made to him in respect of which the offence was committed as has not been repaid by him, with interest thereon to the date of payment, and such penalty shall be paid to the bank or approved instalment credit agency by which the loan was made, or if payment has been made by the Corpora-

tion under this Part to the bank or agency in respect of the loan, the penalty shall be paid to the Receiver General of Canada, and such payment discharges the liability of such person to repay the loan.

Subrogation of the rights of bank or agency to the Corporation.

29. (1) Where payment is made by the Corporation to a bank or an approved instalment credit agency under this Part in respect of any loss sustained by the bank or agency as a result of a loan, the bank or agency shall execute a receipt in favour of the Corporation in a form prescribed by regulation, and the Corporation is thereupon subrogated in and to all the rights of the bank or agency in respect of the loan, and, without limiting the generality of the foregoing, all rights and powers of the bank or agency in respect of the loan, and in respect of any judgment in respect thereof obtained by the bank or agency and in respect of any security taken by the bank or agency for the repayment thereof, thereupon are vested in the Corporation, and the Corporation is entitled to exercise all the rights and privileges that the bank or agency had or might exercise in respect of the loan, judgment or security, and to commence or continue any action or proceeding in respect thereof and to execute any document necessary by way of release, transfer, sale or assignment thereof, or in any way to realize thereon.

Evidence of receipt to Corporation for losses paid to bank or agency.

(2) A document purporting to be a receipt executed under subsection (1) in the form prescribed by the regulations and purporting to be signed on behalf of a bank or an approved instalment credit agency is evidence of the payment by the Corporation to the bank or agency under this Part in respect of the loan therein mentioned, and of the execution of the said document on behalf of the bank or agency.

Amounts payable out of Consolidated Revenue Fund.

30. At the request of the Corporation the Minister may, out of the Consolidated Revenue Fund, advance to the Corporation, upon terms and conditions approved by the Governor in Council, such amounts as the Minister considers necessary to enable the Corporation to discharge its obligations under this Part.

PART V.

Housing Research and Community Planning.

Investigation into housing conditions.

31. It is the responsibility of the Corporation to cause investigations to be made into housing conditions and the adequacy of existing housing accommodation in Canada or in any part of Canada and to cause steps to be taken for the distribution of information leading to the construction or provision of more adequate and improved housing accommodation and the understanding and adoption of community plans in Canada.

General and special powers of Corporation.

32. For the purpose of carrying out its responsibility under this Part, the Corporation may cause

(a) investigations to be made into housing conditions and the adequacy of existing housing accommodation in Canada or in any part of Canada and into measures that may be taken for the improvement thereof;

(b) studies to be made of investigations into housing conditions and housing accommodation made elsewhere than in Canada and into measures and plans or proposals taken or adopted or proposed elsewhere than in Canada for the improvement thereof;

(c) investigations to be made into the factors affecting the cost of construction of housing accommodation and measures that may be taken to secure economies and increased efficiency in the said construction;

(d) plans and designs to be prepared for houses that have a low cost of construction and in the opinion of the Corporation will provide suitable accommodation and arrangements to be made for the sale or distribution of the plans and designs in such manner as it sees fit;

(e) information to be prepared and distributed and public lectures to be delivered to promote an understanding of the advisability of, and the principles underlying land, community and regional planning;

(f) studies to be made of land utilization and community planning and arrangements to be made for the furnishing of information and advice with regard to the establishment of community planning agencies, and the planning of regional areas, communities and subdivisions, in co-operation with any local or other authority having jurisdiction over community planning and land subdivisions or otherwise with a view to promoting co-ordination between local community planning and the development of public services; and

Part V. This Part is, for the most part, the same as Part V of the existing Act, with the exception that provision has been made pursuant to which the Corporation may construct houses for experimental purposes. The provisions of section 25 of the existing Act have been brought forward and made part of this Part.

(g) generally such steps to be taken as it may deem necessary or advisable to promote construction of housing accommodation that in its opinion is sound and economical and to encourage the development of better housing and sound community planning.

33. (1) The Corporation may, with the approval of the Governor in Council,

Technical research and investigation.

(a) cause to be prepared and undertaken, directly or in co-operation with other departments or agencies of the Government of Canada or the government of any province or with any municipality, university, educational institution or person, programmes of technical research and investigation into the improvement and development of methods of construction, standards, materials, equipment, fabrication, planning, designing and other factors involved in the construction or provision of improved housing accommodation in Canada and co-ordinate the said programmes or measures with other similar programmes or measures undertaken in Canada;

Tests.

(b) enter into contracts for the production or development of materials, equipment or component parts for houses through the pilot-plant stage of production or development and for the testing of such materials, equipment or component parts;

Publication and distribution of results of tests.

(c) undertake the publication, and the distribution of publications, co-ordinating the results of the said technical research, investigations, programmes and testing in such forms as may be most useful to the public or to the building industry;

Competitions.

(d) conduct competitions to secure plans, designs and specifications that in his opinion are suitable for housing to be constructed at low cost, and purchase the said plans or otherwise compensate persons taking part in the said competitions;

Promotion of training in the construction or designing of houses.

(e) make provision, in such manner as it deems advisable or in co-operation with any other department or agency of the Government of Canada, with the government of any province or with any university, educational institution or person, for promoting training in the construction or designing of houses, in land planning or community planning or in the management or operation of housing projects;

Contract with manufacturer of component parts of houses for experimental production.

(f) enter into a contract with a manufacturer of plumbing or heating equipment or other component parts of houses for the experimental production of the said equipment or component parts in accordance with standardized designs that, in the opinion of the Corporation, may be manufactured or produced at low cost; and

(g) construct housing units for experimental purposes upon land owned or to be acquired by the Corporation for such purpose.

Guarantee to manufacturer.

(2) The Corporation may, with the approval of the Governor in Council, enter into a contract with a manufacturer referred to in paragraph *(f)* of subsection (1), to underwrite or guarantee the sale, at such price as may be agreed upon and specified in the contract, of the equipment or component parts referred to in that subsection, manufactured or produced for installation or use in farm or rural homes if the manufacturer manufactures or produces the equipment or component parts in such volume as may be agreed upon and specified in the contract and the Corporation may, with the said approval, enter into contracts with the manufacturer or any other person for the sale or distribution of the equipment or component parts in such manner as it may deem advisable.

Advisory Committees.

34. The Corporation may, with the approval of the Minister, for the purpose of assisting it in carrying out its responsibilities under this Act, appoint such advisory committees as it may deem advisable and may pay the reasonable travelling and living expenses incurred by the members of the advisory committees while attending the meetings thereof.

Payments out of C.R.F.

35. The Minister may pay any expenditure incurred under or in carrying out the provisions of this Part, out of the Consolidated Revenue Fund to an aggregate amount not exceeding five million dollars.

PART VI.

Federal-Provincial Projects.

Corporation may undertake projects jointly with provinces.

36. (1) The Corporation may pursuant to agreements made between the Government of Canada and the government of any province undertake jointly with the government of the province or any agency thereof projects for the acquisition and development of land for housing purposes and for the construction of houses for sale or for rent.

Agreements with provinces.

(2) An agreement referred to in subsection (1) shall provide that the capital cost of the project and the profits or losses thereon shall be shared seventy-five per cent by the Corporation and twenty-five per cent by the government of the province or an agency thereof and shall contain such other provisions as are considered necessary or advisable to give effect to the purposes and provisions of this section, and notwithstanding section 18 of the *Central Mortgage and Housing Corporation Act*, shall be executed on behalf of the Government of Canada by the Minister with the approval of the Governor in Council.

Expenditures paid out of special account or appropriations.

(3) Out of moneys appropriated by Parliament for the purposes of this section or out of the special account established by subsection (4) the Minister

(a) may advance to the Corporation for the purpose of meeting the Corporation's share of the capital cost of projects undertaken under this section such amounts as may be requested by the Corporation, on such terms and conditions as are approved by the Minister of Finance, and the Corporation shall give to the Minister in respect of such advances debentures or other evidences of indebtedness as the Minister may require, and

(b) shall reimburse the Corporation for losses sustained by it as a result of the sale or operation of any of the projects undertaken by the Corporation under this section and for its share of preliminary costs and expenses of investigation of projects that are abandoned.

Special account established.

(4) There shall be established a special account in the Consolidated Revenue Fund to which shall be credited out of the Consolidated Revenue Fund the sum of fifty million dollars.

Restoration of special account.

(5) Out of moneys appropriated by Parliament for the purposes of this section there shall be credited to the special account established by subsection (4) an amount equal to the amounts paid out of the special account in the fiscal year immediately preceding the fiscal year during which the appropriation was made.

Part VI. This Part is a repetition of the federal-provincial provisions of the existing Act, as set forth in section 46. There is a slight change in paragraph *(b)* of subsection (3) of section 36, to make provision for preliminary expenses when a project is not proceeded with.

Regulations.

(6) The Governor in Council may make regulations with respect to the projects that may be undertaken by the Corporation under this section prescribing

(a) the type of land that may be acquired for housing purposes and the maximum purchase price that may be paid for such land;

(b) the type, maximum costs and rentals of housing units that may be constructed;

(c) the number of housing units for which commitments may be given;

(d) the rates of interest and amortization that may be charged against the capital costs of a project undertaken under this section;

(e) the conditions under which family housing units may be sold or leased; and

(f) any other matters deemed necessary or advisable to carry out the purposes or provisions of this section.

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PART VII.

General.

Powers of Corporation.

37. (1) The Corporation may, out of moneys advanced to it under subsection (7),

(a) acquire land or housing projects by way of purchase, lease or otherwise;

(b) install services in and effect improvements to or in respect of land acquired by it and develop and lay out such land for housing purposes;

(c) construct, convert, or improve housing projects; and

(d) acquire building materials and equipment and other personal property for use in connection with housing projects.

Idem.

(2) The Corporation may

(a) hold, operate, manage, heat, maintain, supervise, alter, renovate, add to, improve, repair, demolish, and salvage properties acquired by the Corporation;

(b) acquire from Her Majesty the leasehold or other interest of Her Majesty in houses or housing projects;

(c) sell, lease, exchange or otherwise dispose of real or personal property acquired by it pursuant to this Act or the *Central Mortgage and Housing Corporation Act;*

(d) obtain the participation of municipalities in housing projects; and

(e) enter into contracts to carry out and do other acts or things incidental to the purposes of this section.

Transfer of Crown lands to Corporation.

(3) The Governor in Council may by order transfer to the Corporation any lands or interest therein vested in Her Majesty and thereupon the lands or interest therein so transferred shall be deemed to be vested in the Corporation on a date to be fixed in the order.

Lands acquired pursuant to Loan.

(4) Whenever lands are acquired in the name of Her Majesty pursuant to this Act, the *National Housing Act,* chapter 188 of the Revised Statutes of Canada, 1952, *The Dominion Housing Act, 1935,* or *The National Housing Act, 1938,* the lands shall be deemed to be vested in the Corporation.

Property subject to *Central Mortgage and Housing Corporation Act.*

(5) Property acquired by the Corporation pursuant to this section and the proceeds of sale thereof and the revenue therefrom are subject to the provisions of the *Central Mortgage and Housing Corporation Act.*

Corporation may pay certain taxes.

(6) When real or immovable property is acquired by the Corporation or Her Majesty pursuant to this Act or the *Central Mortgage and Housing Corporation Act,* the Corporation may pay to a municipality or other taxing authority an amount equivalent to the taxes that might be levied in respect of the property or of the interest of the Corporation or of Her Majesty therein by the said authority if the

Section 37. This section repeats existing section 45.

property or interest were not so acquired, and may enter into such agreements as may be necessary to give effect to the provisions of this subsection.

Advances.

(7) The Minister may, out of moneys appropriated by Parliament for the purposes of subsection (1), make advances to the Corporation, on such terms and conditions as are approved by the Minister of Finance, and the Corporation shall give to the Minister in respect of such advances, debentures or other evidences of indebtedness as the Minister may require.

Contracts for houses to be sold to prospective home owners.

38. (1) The Corporation may enter into contracts with builders to encourage the construction of houses to be sold to prospective home owners.

Conditions.

(2) A contract may be entered into under subsection (1) only with respect to houses the construction of which is assisted by loans made pursuant to this Act, and such contract shall provide that,

(a) the builder shall finance the construction of the said houses under the provisions of this Act,

(b) the builder shall offer each of the said houses for sale at a price not in excess of the price fixed in the contract, and

(c) the Corporation shall, in consideration of the payment by the builder of such amount as the Governor in Council may prescribe, agree to purchase from the builder within one year from the date of completion thereof at a price fixed in the contract, any house built pursuant to the contract that remains unsold.

Further conditions.

(3) A contract with a builder entered into under this section may also provide,

(a) that during such period as the Corporation requires, the builder shall offer the houses for sale only to veterans or persons engaged in the production of defence supplies as defined in the *Defence Production Act*, and

(b) that such other things shall be done as the Corporation deems necessary in order to carry out the intent of this section and to safeguard the interests of the Corporation.

"Veteran" defined.

(4) For the purpose of this section the expression "veteran" means a person who had been paid or is entitled to be paid a war service gratuity under the *War Service Grants Act*.

Section 38. This section repeats existing section 9, which makes provision for the integrated housing plan.

Purchases deemed loans.

(5) For the purposes of section 22 moneys expended for purchases under paragraph *(c)* of subsection (2) shall be deemed to be loans made under Part II, and losses resulting from such purchases shall be deemed to be losses in respect of loans made under Part II.

Newfoundland veterans.

(6) A person who served on active service

(a) in any of the naval or army forces of Newfoundland or, having been recruited in Newfoundland, in any of the naval, army or air forces raised in Newfoundland by or on behalf of the United Kingdom, or

(b) in any other naval, army or air forces of His Majesty and at the time of his enlistment therein was domiciled in Newfoundland,

shall be deemed to be a veteran for the purposes of this section.

Corporation may execute documents.

39. (1) Where title to real or other immovable property is acquired by the Corporation in the name of Her Majesty or the Corporation, either solely, or jointly with any other person, or where the Corporation is authorized to sell or dispose of real or other immovable property of Her Majesty, the Corporation may sell or otherwise dispose of such property and may grant, discharge or release easements, servitudes and other rights in respect thereof, and for such purpose the Corporation may execute and deliver, either in its own name or in the name of Her Majesty, deeds, grants, conveyances, transfers, easements, releases, discharges or other documents.

Sale for cash or on deferred payment plan.

(2) A sale of real or other immovable property by the Corporation may be either for cash or on a deferred payment plan, and the Corporation may take such security by way of agreement for sale, mortgage or otherwise, as it deems advisable in order to safeguard the interests of Her Majesty or the Corporation.

Corporation may take steps to safeguard mortgage.

(3) Where the Corporation has made a loan pursuant to this Act, the Corporation, to protect the mortgage security, may make supplementary loans to the borrower and take such other measures and steps as may be required in accordance with normal mortgage practice to safeguard the interests of the Corporation.

Section 39. This section is a repetition of existing section 5, with the exception of subsection (3) of section 5, which is not applicable.

Where loans not available Corporation may lend.

40. (1) Where in the opinion of the Corporation a loan is not being made available to a person pursuant to Part I or section 15, the Corporation may make a loan to such person to assist in the construction of a house or housing project on the same terms and conditions and subject to the same limitations as those upon which a loan may be made to such person under the provisions of Part I or section 15.

Insurance.

(2) When the Corporation makes a loan under this section pursuant to the provisions of Part I, it shall collect from the borrower an insurance fee in the same amount as an approved lender would collect from the borrower if the loan were made by an approved lender.

Insurance fees credited to Fund.

(3) The Corporation shall credit the amount of any insurance fee collected pursuant to subsection (2) to the Mortgage Insurance Reserve Fund, and any loss incurred by the Corporation in respect of such loan when held by the Corporation shall be charged to the Fund.

Loan in name of Corporation on approved lender.

(4) When a loan is made under this section on behalf of the Corporation by an approved lender pursuant to an agreement made under paragraph *(f)* of section 3 the mortgage taken in respect thereof may be taken in the name of the Corporation or in the name of the approved lender as determined by the said agreement.

Regulations.

41. In addition to the authority elsewhere in this Act conferred upon him, the Governor in Council may make regulations for any purpose for which regulations are to be made under this Act.

Annual Report.

Report to the Minister.

42. (1) Within ten weeks after the end of the fiscal year of the Corporation, the Corporation shall make a report to the Minister with regard to the administration of this Act and the loans made under this Act during the preceding calendar year, and with regard to the administration of loans made under the *National Housing Act*, chapter 188 of the Revised Statutes of Canada, 1952, *The Dominion Housing Act, 1935*, and *The National Housing Act, 1938*.

To be laid before Parliament.

(2) The report shall be laid before Parliament within fourteen days after the receipt thereof by the Minister or, if Parliament is not then sitting, on any of the first fourteen days next thereafter that Parliament is sitting, and the laying of such report before Parliament shall be deemed to be a sufficient compliance with the provisions of section 41 of the *National Housing Act*, chapter 188 of the Revised Statutes of Canada, 1952, and section 28 of *The National Housing Act, 1938*.

Section 40. This section authorizes the Corporation to make direct loans where loans are not being made by approved lenders. This section corresponds to section 43 of the existing Act.

Coming into Force, Transitional and Repeal.

Each Part to come into force upon proclamation.

43. (1) Each Part of this Act shall come into force upon a day to be fixed by proclamation of the Governor in Council, and such proclamation may limit the type of loan to be made under any Part or the areas in which such loans may be made.

Termination and limitation of loans.

(2) The Governor in Council may by proclamation fix and determine a day on and after which or a period during which no loans under any Part or Parts or no loans in excess of a stipulated maximum amount may be made.

Coming into force of ss. 1 to 5.

(3) Sections 1 to 5 shall come into force on the day that Part I comes into force.

Termination of former Act.

(4) On and after the day that Part I comes into force no loan shall be made under Part I, section 13, Part III or section 43 of the *National Housing Act*, chapter 188 of the Revised Statutes of Canada, 1952, (hereinafter in this section referred to as the "former Act"), unless the loan was approved by the Corporation prior to that day.

Idem.

(5) On and after the day on which Part II comes into force no loan shall be made under Part II of the former Act, unless the loan was approved by the Corporation prior to that day, and no guarantee shall be entered into by the Corporation under section 19 or 21 of the former Act.

Idem.

(6) On and after the day on which Part III comes into force no grant shall be made under section 22 of the former Act.

Idem.

(7) The Corporation is not liable under Part IV of the former Act to make any payment to a bank or approved instalment credit agency in respect of loss sustained by it as a result of a home improvement or a home extension loan made after Part IV of this Act comes into force.

Idem.

(8) Part V of the former Act is repealed on the day that Part V of this Act comes into force.

Idem.

(9) Section 46 of the former Act is repealed on the day that Part VI of this Act comes into force, but the amount standing to the credit of the Special Account established by subsection (4) of section 46 of the former Act shall, in addition to the amounts provided for in section 36 of this Act, be credited to the Special Account established by subsection (4) of section 36 of this Act, and any agreement made under subsection (1) of section 46 of the former Act shall, for the purposes of subsection (3) of section 36 of this Act, be deemed to have been made under Part VI of this Act.

First Session, Twenty-Second Parliament, 2 Elizabeth II, 1953-54.

THE HOUSE OF COMMONS OF CANADA.

BILL 167.

An Act to amend an Act respecting the National Battlefields at Quebec.

First reading, January 14, 1954.

THE MINISTER OF NORTHERN AFFAIRS AND NATIONAL RESOURCES.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1954

83594

1st Session, 22nd Parliament, 2 Elizabeth II, 1953-54.

THE HOUSE OF COMMONS OF CANADA.

BILL 167.

An Act to amend an Act respecting the National Battlefields at Quebec.

1908, cc. 57, 58; 1910, c. 41; 1911, c. 5; 1914, c. 46; 1925, c. 47; 1928, c. 36; 1938, c. 23; 1947-48, c. 62.

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

1. Subsection (1) of section 8 of *An Act respecting the National Battlefields at Quebec*, chapter 57 of the statutes of 1908, is repealed and the following substituted therefor:

Payment of $125,000 a year for four years authorized.

"**8.** (1) The Minister of Finance is hereby authorized to pay out of the Consolidated Revenue Fund of Canada to the Commission the sum of one hundred and twenty-five thousand dollars a year for a period not exceeding four years from the 1st day of April, 1954, to be expended by the Commission for the purposes and subject to the provisions of this Act."

Effective date.

2. This Act shall come into force on the 1st day of April, 1954.

Explanatory Notes.

The National Battlefields Commission was established by chapter 57 of the statutes of 1908.

The purpose of this Bill is to increase the amount that may be paid to the Commission from $100,000 to $125,000 during each of the four years commencing April 1st, 1954. Administrative and maintenance costs have increased substantially in recent years. As well, the area for which the Commission is responsible has been added to. Therefore, the yearly grant of $100,000 authorized by Parliament in 1948 is not sufficient to enable the Commission adequately to carry out its functions.

1. Subsection (1) of section 8 of said chapter 57 presently reads:

"8. (1) The Minister of Finance is hereby authorized to pay out of the Consolidated Revenue Fund of Canada to the Commission the sum of *one hundred thousand* dollars a year for a period not exceeding *ten* years from the first day of April, *nineteen hundred and forty-eight*, to be expended by the Commission for the purposes and subject to the provisions of this Act."

2. Effective date.

First Session, Twenty-Second Parliament, 2 Elizabeth II, 1953-54.

THE HOUSE OF COMMONS OF CANADA.

BILL 168.

An Act to amend the Post Office Act.

First reading, January 15, 1954.

THE POSTMASTER GENERAL.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1954

83728

1st Session, 22nd Parliament, 2 Elizabeth II, 1953-54.

THE HOUSE OF COMMONS OF CANADA

BILL 168.

An Act to amend the Post Office Act.

R.S., c. 212.

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

1. Section 10 of the *Post Office Act*, chapter 212 of the Revised Statutes of Canada, 1952, is repealed and the following substituted therefor:

Rates on letters.

"**10.** The rates of postage on letters posted in Canada for delivery in Canada are:

(a) on each letter for delivery within the postal area in which it is posted, four cents for the first ounce or fraction of an ounce, and two cents for each additional ounce or fraction of an ounce, and

(b) on each letter posted within one postal area for delivery in another postal area, five cents for the first ounce or fraction of an ounce, and three cents for each additional ounce or fraction of an ounce."

Coming into force.

2. This Act shall come into force on the 1st day of April, 1954.

Explanatory Notes.

Section 10 of the *Post Office Act*, chapter 212 of the Revised Statutes of Canada, 1952, at present reads as follows:

"**10.** The rates of postage on letters posted in Canada for delivery in Canada are:

(a) on each letter for delivery within the postal area in which it is posted, *three* cents for the first ounce or fraction of an ounce, and *one cent* for each additional ounce or fraction of an ounce, and

(b) on each letter posted within one postal area for delivery in another postal area *and on each letter posted or delivered on a rural mail route, four* cents for the first ounce or fraction of an ounce, and *two* cents for each additional ounce or fraction of an ounce."

The purpose of this amendment is to increase the rate of postage on letters posted in Canada for delivery in Canada.

169

First Session, Twenty-Second Parliament, 2 Elizabeth II, 1953-54.

THE SENATE OF CANADA

BILL M2.

169

An Act respecting Victorian Order of Nurses for Canada.

AS PASSED BY THE SENATE, 21st JANUARY, 1954.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA. 1954

82503

1st Session, 22nd Parliament, 2 Elizabeth II, 1953-54.

THE SENATE OF CANADA

BILL M[2].

An Act respecting Victorian Order of Nurses for Canada.

Preamble.

WHEREAS Victorian Order of Nurses for Canada, a body politic and corporate incorporated by Royal Charter, dated the 28th day of December, 1897, has by its petition prayed that it be enacted as hereinafter set forth and it is expedient to grant the prayer of the petition: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Incorporation.

1. (1) Victorian Order of Nurses for Canada, created by Royal Charter, dated the 28th day of December, 1897, as amended by supplementary charters, dated July 22nd, 1911, April 24th, 1923, July 25th, 1929 and July 22nd, 1936, and Order in Council P.C. 106 of January 3rd, 1947, has existed since the said 28th day of December, 1897, and shall continue to exist as a corporation with the objects, powers, attributes and privileges herein contained.

Revocation.

(2) The provisions of the said Royal Charter and of the said supplementary charters and Order in Council are hereby revoked, but such revocation shall not in any way affect the corporate existence of the Order, and the Order shall continue to be the same corporation as that constituted by the said Royal Charter, and the rights and liabilities of the Order except as modified by this Act, shall not be affected by the said revocation, and the Order shall be the owner of and shall continue to be entitled to its property and assets and to be subject to its undertakings and liabilities.

Name.

2. The name of the Corporation shall be Victorian Order of Nurses for Canada, herein referred to as "the Order".

Head office.

3. The head office of the Order shall be at the city of Ottawa in the province of Ontario.

Powers.

4. The Order may:

May hold property.

(a) hold real and personal estate and receive grants and devises of the same: Provided that the annual value of the real estate so held, granted or devised shall not exceed in the whole one hundred thousand dollars per annum;

Proviso.

Appoint, etc., officers.

(b) appoint honorary, general and district officers, define their duties and fix the amount of their compensation;

Establish branches.

(c) provide for the constitution and define the powers of branches or associations of the Order in or within any province of or other area within Canada; and

Make rules and regulations.

(d) from time to time make rules, regulations and by-laws for the governing of the Order and the management of its affairs.

Order may establish, etc., nursing services and assist in training.

5. The Order may:

(a) establish, maintain and carry on a visiting nursing service in Canada, and to that end engage and direct the activities of nurses and undertake the care of the sick in their homes; demonstrate nursing methods, and aid in the prevention of disease and the maintenance of health;

Nurses.

(b) assist in training nurses in public health nursing;

(c) establish, maintain and elevate standards of nursing service;

(d) promote the formation of provincial, local and other corporations or organizations having the same or similar names and objects;

(e) create branches of the Order and authorize other corporations or organizations to operate as branches of the Order and withdraw such authority;

Uniforms, etc.

(f) select and appropriate such uniforms, badges and emblems as it may see fit and as are not in use by other bodies and to determine by whom and how the same may be used.

Members.

6. The Order shall have the following members:

(a) life members who are elected by the Board of Governors;

(b) members who are members of provincial or local boards or committees of the Order or members of boards or committees named by the Board of Governors;

(c) supporting members, being persons who subscribe to the funds of the Order and are elected by the Board of Governors at each general meeting;

(d) such other members as may from time to time be appointed by the Board of Governors.

Grand president and patron.

7. A grand president of the Order and a patron may be appointed from time to time by the Board of Governors.

Board of Governors.

8. The general control of the Order shall be vested in a Board of Governors constituted as follows:

(a) (i) each branch, as defined by by-law, shall elect from among the members of the Order at least one governor in the manner prescribed by by-law and each branch shall elect an additional governor for every twenty full-time nurses employed;

(ii) the first election shall be completed during the month of January following the coming into force of this Act and succeeding elections shall be conducted in accordance with the by-laws of the Order.

(b) (i) official provincial medical associations may each appoint one governor;

(ii) the registered nurses' association of each province may appoint one governor;

(iii) the Canadian Medical Association may appoint one governor;

(iv) the Canadian Nurses' Association may appoint one governor.

By-laws.

9. (1) The by-laws of the Order presently in force shall remain effective until replaced by others in accordance with the provisions of this Act.

Officers.

(2) The present officers and governors shall continue in office until replaced by others in accordance with the provisions of this Act.

Meeting of Board of Governors.

(3) A meeting of the Board of Governors shall be held at least once in each year.

General meeting.

10. A general meeting of members of the Order shall be held immediately after each annual meeting of the Board of Governors to receive and consider the report and recommendations of the Board of Governors and to transact such other business as may be brought before the meeting.

Council of nurses.

11. There shall be a council of nurses to consist of such members and to have such duties and responsibilities as may be provided by by-law, in order to provide a means of communication between the nurses and the governing bodies of the Order.

Investment of funds.

12. Subject always to the terms of any trust relating thereto, the Order may from time to time invest all or any of its funds or moneys in such manner as it may deem advisable.

Board of management.

13. The Board of Governors may from time to time delegate all or any of its powers to a board of management appointed by the Board of Governors consisting of members of the Order and may empower such board to delegate its powers to such committees or sub-committees of the Order as the board of management may deem expedient.

170

First Session, Twenty-Second Parliament, 2 Elizabeth II, 1953-54.

THE SENATE OF CANADA

BILL T3.

170

An Act respecting The Associated Canadian Travellers.

AS PASSED BY THE SENATE, 21st JANUARY, 1954.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1954

83055

1st Session, 22nd Parliament, 2 Elizabeth II, 1953-54.

THE SENATE OF CANADA

BILL T[3].

An Act respecting The Associated Canadian Travellers.

Preamble. 1939, c. 60.

WHEREAS The Associated Canadian Travellers has by its petition prayed that it be enacted as hereinafter set forth, and it is expedient to grant the prayer of the petition: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Section 4 of An Act to incorporate The Associated Canadian Travellers, being chapter 60 of the statutes of 1939, is repealed and the following substituted therefor:

Qualifications for membership.

"**4.** Any male person over the full age of eighteen years may, subject to the terms of the duly enacted by-laws of the Association from time to time in effect, become a member of the Association, provided that the Association shall, upon the acquisition of the affairs of the Letters Patent Association mentioned in the next following section, admit all persons who are at the time of such acquisition members in good standing of the said Letters Patent Association as then constituted."

2. Subparagraph (ii) of paragraph *(d)* of subsection (1) of section 5 of the said Act is repealed and the following substituted therefor:

"(ii) A personal accident and sickness fund for providing benefits in the event of the death of, or injury to, a member by accident, and for providing indemnity during the incapacity of a member arising out of accident or sickness."

Explanatory Notes.

1. Section 4 presently reads as follows:

"4. Any *white* male person over the full age of eighteen years may, subject to the terms of the duly enacted by-laws of the Association from time to time in effect, become a member of the Association provided that the Association shall, upon the acquisition of the affairs of the Letters Patent Association mentioned in the next following section, admit all persons who are at the time of such acquisition members in good standing of the said Letters Patent Association as then constituted."

The change is desired to remove the discrimination presently existing in the section.

2. Section 5 (1) *(d)* (ii) presently reads as follows:

"(ii) A personal accident and sickness fund for providing benefits in the event of death from any cause whatever, or of injury by accident, of a member, and for providing indemnity during the incapacity of a member arising out of accident or sickness."

The change is desired for the purpose of removing the anomaly of having benefits from an accident and sickness fund paid in the event of "death from any cause whatever" as presently provided, and limiting such benefits to death by accident.

171.

First Session, Twenty-Second Parliament, 2 Elizabeth II, 1953-54.

THE HOUSE OF COMMONS OF CANADA.

BILL 171.

An Act to amend the Senate and House of Commons Act.

First reading, January 26, 1954.

THE PRIME MINISTER.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1954

86058

1st Session, 22nd Parliament, 2 Elizabeth II, 1953-54.

THE HOUSE OF COMMONS OF CANADA.

BILL 171.

An Act to amend the Senate and House of Commons Act.

R.S., c. 249.

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

1. (1) Section 32 of the *Senate and House of Commons Act*, chapter 249 of the Revised Statutes of Canada, 1952, is repealed and the following substituted therefor:

Salaries of Speakers and Deputy Speaker.

"**32.** The following salaries shall be paid, respectively:

(a) to the Speaker of the Senate, the sum of nine thousand dollars per annum;

(b) to the Speaker of the House of Commons, the sum of nine thousand dollars per annum; and

(c) to the Deputy Speaker of the House of Commons, the sum of six thousand dollars per annum."

Coming into force.

(2) This section shall be deemed to have come into force on the 1st day of April, 1954.

2. (1) Sections 33, 34 and 35 of the said Act are repealed and the following substituted therefor:

Sessional allowance.

"**33.** (1) For the sessions of each Parliament there shall be paid to every member of the Senate and House of Commons a sessional allowance at the rate of eight thousand dollars per annum.

Commencement.

(2) For the purposes of this section, a person shall be deemed to have become a member of the Senate on the day he is summoned to the Senate, and a person shall be deemed to have become a member of the House of Commons on the day last fixed for the election of a member of the House of Commons for the electoral district represented by him.

Explanatory Notes.

The purpose of this bill is to increase the salaries of the Speaker of the Senate and the Speaker and the Deputy Speaker of the House of Commons, the sessional allowances of members of the Senate and of the House of Commons and the annual allowances of the Leader of the Government in the Senate, the Leader of the Opposition in the Senate and the Leader of the Opposition in the House of Commons.

The bill also provides that the sessional allowances of members of the Senate and of the House of Commons shall be paid on a monthly basis.

1. Section 32 of the *Senate and House of Commons Act*, chapter 249 of the Revised Statutes of Canada, 1952, at present reads as follows:

"**32.** The following salaries shall be payable respectively:
(a) to the Speaker of the Senate, the sum of *six* thousand dollars per annum;
(b) to the Speaker of the House of Commons, the sum of *six* thousand dollars per annum; and
(c) to the Deputy Speaker of the House of Commons, the sum of *four* thousand dollars per annum."

2. Sections 33, 34 and 35 of the Act read as follows:

"**33.** *For every session of Parliament that extends over a period of sixty-five days or more, there shall be payable to every member of the Senate and House of Commons attending at such session, a sessional allowance of four thousand dollars and no more.*

Dissolution of House of Commons.

"**34.** For the purposes of the allowances payable under section 33 and section 44, a person who, immediately before a dissolution of the House of Commons, was a member thereof shall be deemed to continue to be a member of the House of Commons until the date of the next following general election.

How allowance paid.

"**35.** The sessional allowances payable under section 33 shall be paid in monthly instalments on the last day of each month."

Coming into force.

(2) This section shall be deemed to have come into force on the 12th day of November, 1953, but there shall be deducted from the amounts payable to a member of the Senate or the House of Commons under section 33 of the *Senate and House of Commons Act*, as amended by this Act, any sessional allowance paid under the *Senate and House of Commons Act* to such member subsequent to the 12th day of November, 1953, and prior to the day on which this Act was assented to.

Repeal.

3. Sections 39 and 40 of the said Act are repealed.

4. (1) Sections 42 and 43 of the said Act are repealed and the following substituted therefor:

Allowance to Leader of Opposition.

"**42.** To the member occupying the recognized position of Leader of the Opposition in the House of Commons there shall be paid, in addition to his sessional allowance, an annual allowance of fifteen thousand dollars.

Additional annual allowance to the Leader of the Government and the Leader of the Opposition in the Senate.

"**43.** To the member of the Senate occupying the recognized position of Leader of the Government in the Senate there shall be paid in addition to his sessional allowance an annual allowance of ten thousand dollars, and to the member of the Senate occupying the recognized position of Leader of the Opposition in the Senate there shall be paid in addition to his sessional allowance an annual allowance of six thousand dollars; but if the Leader of the Government is in receipt of a salary under the *Salaries Act*, the annual allowance shall not be paid."

Coming into force.

(2) This section shall be deemed to have come into force on the 1st day of April, 1954.

"**34.** *A member is not entitled to the said sessional allowance for less than fifty days attendance; but the allowance for any less number of days shall be twenty-five dollars for each day's attendance.*

"**35.** *The said allowance may be paid on the last day of each month, to the extent of twenty dollars for each day's attendance, but the remainder shall be retained by the clerk or accountant of the proper House, until the close of the session, when the final payment shall be made.*"

3. Sections 39 and 40 of the Act read as follows:

"**39.** *(1) Whenever any person is a member of either House for fifty days or more during any session, extending over a period of sixty-five days or more, though such person may be a member for a part only of such session, he is entitled to his sessional allowance, subject to the deduction aforesaid for non-attendance as a member, and subject also to a deduction of twenty-five dollars for each day of such session before he was elected or appointed, or after he ceased to be a member, as the case may be.*

(2) If he is a member for less than fifty days, he is entitled only to twenty-five dollars for each day's attendance at such session, whatever may be the length thereof.

(3) A member of either House for a part only of a session who becomes during the session a member of the other House, is not entitled to more than four thousand dollars for the session.

"**40.** *In every session of Parliament covering a period of less than sixty-five days, there shall be payable to every member of the Senate and House of Commons attending at such session, twenty-five dollars for each day's attendance.*"

These sections are considered no longer to be required in view of the provisions in the proposed new sections 33 and 35.

4. Sections 42 and 43 of the Act read as follows:

"**42.** To the member occupying the recognized position of Leader of the Opposition in the House of Commons, there shall be payable in addition to his sessional allowance an annual allowance of *ten* thousand dollars.

"**43.** To the member of the Senate occupying the recognized position of Leader of the Government in the Senate there shall be payable in addition to his sessional allowance an annual allowance of *seven* thousand dollars, and to the member of the Senate occupying the recognized position of Leader of the Opposition in the Senate there shall be payable in addition to his sessional allowance an annual allowance of *four* thousand dollars; but if the Leader of the Government is in receipt of a salary under the *Salaries Act*, the annual allowance aforesaid shall not be payable."

172.

First Session, Twenty-Second Parliament, 2 Elizabeth II, 1953-54.

THE HOUSE OF COMMONS OF CANADA.

BILL 172.

An Act to amend the Salaries Act.

First reading, January 26, 1954.

THE PRIME MINISTER.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1954

86054

1st Session, 22nd Parliament, 2 Elizabeth II, 1953-54.

THE HOUSE OF COMMONS OF CANADA.

BILL 172.

An Act to amend the Salaries Act.

R.S., c. 243.

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

1. Sections 4 and 5 of the *Salaries Act*, chapter 243 of the Revised Statutes of Canada, 1952, are repealed and the following substituted therefor:

Salaries of Ministers.

"**4.** The salaries of the following Ministers, members of the Queen's Privy Council for Canada, are as follows:

	Per annum $
The Member of the Queen's Privy Council holding the recognized position of First Minister	25,000
The Minister of Justice and Attorney General	15,000
The Minister of National Defence	15,000
The Minister of National Revenue	15,000
The Minister of Finance	15,000
The Minister of Transport	15,000
The Minister of Public Works	15,000
The President of the Queen's Privy Council for Canada	15,000
The Minister of Fisheries	15,000
The Postmaster General	15,000
The Minister of Agriculture	15,000
The Secretary of State of Canada	15,000
The Minister of Trade and Commerce	15,000
The Minister of Labour	15,000
The Secretary of State for External Affairs	15,000
The Minister of National Health and Welfare	15,000
The Minister of Veterans Affairs	15,000
The Minister of Northern Affairs and National Resources	15,000
The Minister of Mines and Technical Surveys	15,000
The Minister of Citizenship and Immigration	15,000
The Associate Minister of National Defence	15,000

Explanatory Notes.

1. Sections 4 and 5 of the *Salaries Act*, chapter 243 of the Revised Statutes of Canada, 1952, at present read as follows:

"**4.** The salaries of the following Ministers, members of the Queen's Privy Council for Canada, are as follows:

	Per Annum
	$
The Member of the Queen's Privy Council holding the recognized position of First Minister	*15,000*
The Minister of Justice and Attorney General	*10,000*
The Minister of National Defence	*10,000*
The Minister of National Revenue	*10,000*
The Minister of Finance	*10,000*
The Minister of Transport	*10,000*
The Minister of Public Works	*10,000*
The President of the Queen's Privy Council for Canada	*10,000*
The Minister of Fisheries	*10,000*
The Postmaster General	*10,000*
The Minister of Agriculture	*10,000*
The Secretary of State of Canada	*10,000*
The Minister of Trade and Commerce	*10,000*
The Minister of Labour	*10,000*
The Secretary of State for External Affairs	*10,000*
The Minister of National Health and Welfare	*10,000*
The Minister of Veterans Affairs	*10,000*
The Minister of Resources and Development	*10,000*
The Minister of Mines and Technical Surveys	*10,000*
The Minister of Citizenship and Immigration	*10,000*

Salary of Solicitor General.

"**5.** The salary of the Solicitor General of Canada is fifteen thousand dollars per annum."

Repeal.

2. Section 6 of the said Act is repealed.

1952-53, c. 6, s. 2.

3. Section 6A of the *National Defence Act*, chapter 184 of the Revised Statutes of Canada, 1952, is amended by striking out the words "and shall be paid a salary of ten thousand dollars per annum" in the fifth and sixth lines thereof.

Coming into force.

4. This Act shall be deemed to have come into force on the 1st day of April, 1954.

"5. The salary of the Solicitor General of Canada is *ten* thousand dollars per annum."

2. Section 6 of the Act reads as follows:

"6. *The salary of the Secretary of the Governor General is two thousand four hundred dollars per annum.*"

For some time, the salary of the Secretary of the Governor General has consisted of the statutory salary of two thousand four hundred dollars plus an additional amount voted yearly by Parliament. It is now proposed that, as of and from April 1st, 1954, the full salary be provided each year by Parliamentary appropriation.

3. Section 6A of the *National Defence Act*, chapter 184 of the Revised Statutes of Canada, 1952, as amended by chapter 6 of the statutes of 1952-53, reads as follows:

"6A. The Governor General may at any time by commission under the Great Seal appoint an Associate Minister of National Defence who shall exercise and perform such of the powers, duties and functions of the Minister as may be assigned to him by the Governor in Council *and shall be paid a salary of ten thousand dollars per annum*; during the period that a person holds office as Associate Minister of National Defence under this section, the number of Associate Ministers of National Defence who may be appointed under section 6 shall be reduced by one."

First Session, Twenty-Second Parliament, 2 Elizabeth II, 1953-54.

THE HOUSE OF COMMONS OF CANADA.

BILL 173.

An Act to amend the Currency, Mint and Exchange Fund Act.

First reading, January 28, 1954.

MR. ADAMSON.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1954

85940

1st Session, 22nd Parliament, 2 Elizabeth II, 1953-54.

THE HOUSE OF COMMONS OF CANADA.

BILL 173.

An Act to amend the Currency, Mint and Exchange Fund Act.

R.S., c. 315.

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

1. The *Currency, Mint and Exchange Fund Act*, chapter 315 of the Revised Statutes of Canada, 1952, is amended by adding thereto, immediately after section 4 thereof, the following section:

Gold Coins.

"**4A.** (1) When the par value of the dollar is not established in terms of gold and no parity is being maintained, then newly mined Canadian gold may be coined at the Royal Canadian Mint and such coins shall be designated as to standard of weight and fineness only as specified in Part 1A of the Schedule.

Not to be legal tender.

(2) Such gold coins designated as to weight and fineness only shall not be legal tender but may be freely held, bought, sold, imported or exported by any person. The price of such coins shall be arrived at by normal process of trade and their day to day price may be decided on the recognized Canadian commodity and stock exchanges. The cost of refining and minting these coins shall be borne by the Canadian mine submitting the gold."

2. The Schedule to the said Act is amended by inserting therein immediately after Part I thereof the following:

Explanatory Notes.

The purpose of this amendment is to allow Canadian gold to be sold freely in Canada and thereby restore gold as a prime medium of exchange within the boundaries of a country not practicing exchange control or other currency restrictions and thereby establish a price for gold which can be maintained in a free economy, and upon which an eventual return to a gold parity may be established.

By allowing individual Canadians to hold gold freely, it provides a means by which they may protect themselves from further inflation.

The form of gold coin described in Part Ia of the Schedule to this amendment contains 1 ounce Troy of fine gold, 480 grains or 31·103 grams of a fineness of 900. The fineness and remedy are the same as that contained in the respective Acts at a time when a gold parity with respect to the Canadian dollar was being maintained.

"PART IA

Gold Coins

I Description		II Standards		III Remedy Allowance		IV Least Current Wt.
Denomination	Composition	Standard Weight	Standard Fineness	Weight per piece	Millesimal fineness	
		Grains		Grains		
Beaver	Gold	533·3·	Nine-tenths fine; or millesimal fineness, 900	·53	1	531 gr.

The standards specified in Column II are deemed to be satisfied with respect to a coin of a description specified in Column I if the coin does not vary in weight or fineness in an amount greater than the amount set opposite the description of the coin in Column III, and a coin that has been in circulation shall not be deemed to fall below the standard weight applicable thereto by reason only that its weight has diminished by abrasion through ordinary use if its weight is not less than the least current weight applicable thereto in Column IV."

174

First Session, Twenty-Second Parliament, 2 Elizabeth II, 1953-54.

THE SENATE OF CANADA

BILL Q5. 174

An Act respecting The Great Lakes Reinsurance Company.

AS PASSED BY THE SENATE, 28th JANUARY, 1954.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1954

82499

1st Session, 22nd Parliament, 2 Elizabeth II, 1953-54.

THE SENATE OF CANADA

BILL Q5.

An Act respecting The Great Lakes Reinsurance Company.

Preamble. 1951 (1st Session), c. 69.

WHEREAS The Great Lakes Reinsurance Company, a company incorporated by Act of the Parliament of Canada, has by its petition prayed that it be enacted as hereinafter set forth, and it is expedient to grant the prayer of the petition: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Section 3 of chapter 69 of the statutes of 1951 (First Session), is repealed and the following substituted therefor:—

Capital stock.

"**3.** The capital stock of the Company shall be two million dollars."

Explanatory Note.

The purpose of this Bill is to increase the capital stock of the Company.

The present Act reads as follows:

"**3.** The capital stock of the Company shall be five hundred thousand dollars."

First Session, Twenty-Second Parliament, 2 Elizabeth II, 1953-54.

THE HOUSE OF COMMONS OF CANADA.

BILL 175.

An Act to amend the Navigable Waters Protection Act.
(Protection of rivers.)

First reading, January 29, 1954.

MR. CAMPBELL.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1954

86316

1st Session, 22nd Parliament, 2 Elizabeth II, 1953-54.

THE HOUSE OF COMMONS OF CANADA.

BILL 175.

An Act to amend the Navigable Waters Protection Act.
(Protection of rivers.)

R.S., c. 193.

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

1. Section 18 of the *Navigable Waters Protection Act*, chapter 193 of the Revised Statutes of Canada, 1952, is repealed and the following substituted therefor:

Sawdust, etc., prohibited from being thrown in.

"**18.** No owner or tenant of any saw-mill, or other industrial plant, or any workman therein or other person shall throw or cause to be thrown, or suffer or permit to be thrown any sawdust, edgings, slabs, bark or rubbish of any description whatsoever into any river, stream or other water, any part of which is navigable or which flows into any navigable water."

Explanatory Note.

The only change consists in the insertion in section 18 of the words "or other industrial plant" underlined on the opposite page. This amendment merely enlarges the scope of the original Act.

First Session, Twenty-Second Parliament, 2 Elizabeth II, 1953-54.

THE HOUSE OF COMMONS OF CANADA.

BILL 176.

An Act to amend the Members of Parliament Retiring Allowances Act.

First reading, February 1, 1954.

THE PRIME MINISTER.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1954

86534

1st Session, 22nd Parliament, 2 Elizabeth II, 1953-54.

THE HOUSE OF COMMONS OF CANADA.

BILL 176.

An Act to amend the Members of Parliament Retiring Allowances Act.

R.S., c. 329.

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

1. Section 6 of the *Members of Parliament Retiring Allowances Act*, chapter 329 of the Revised Statutes of Canada, 1952, is repealed and the following substituted therefor:

Members' contributions.

"**6.** A member shall, by reservation from his sessional indemnity, contribute to the Consolidated Revenue Fund six per cent of the first four thousand dollars payable to him by way of sessional indemnity in each period of twelve months, commencing with the day he became a member."

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

"*(a)* a contribution equal to

(i) six per cent of the amount received by the member by way of sessional indemnity in respect of that session if it was held prior to the commencement of the 7th session of the 21st Parliament, or

(ii) the withdrawal allowance paid to the member in respect of that session if it was held after the end of the 6th session of the 21st Parliament,"

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

"*(a)* unless, at the time when the contribution is to be paid, the total amount of the contributions that have been or elected to be paid by him is less than four thousand dollars; or"

Explanatory Notes.

1. Section 6 of the *Members of Parliament Retiring Allowances Act*, chapter 329 of the Revised Statutes of Canada, 1952, reads as follows:

"**6.** A member shall, by reservation from his sessional indemnity, contribute to the Consolidated Revenue Fund six per cent of *all amounts that are payable to him by way of sessional indemnity.*"

2. Subsection (1) of section 8 of the Act reads as follows:

"**8.** (1) Where a member elects, pursuant to section 7, to contribute in respect of a previous session, he shall pay into the Consolidated Revenue Fund, in a lump sum or otherwise, at the option of the member,

(a) a contribution equal to six per cent of the amount received by the member by way of sessional indemnity in respect of that session,

(b) except in respect of the portion of that contribution specified in paragraph *(c)*, interest on that contribution at the rate of four per cent per annum, compounded annually, from the day on which the final payment by way of sessional indemnity was made to the member in respect of that session to the day on which he makes his election, and

(c) in respect of the portion of that contribution equal to an amount that the member has previously paid as a contribution in respect of that session and that has been taken into account in the payment to him of a withdrawal allowance under this Act, interest on that portion at the rate of four per cent per annum, compounded annually, from the date of payment to the day on which he makes his election."

3. Subsection (1) of section 9 of the Act reads as follows:

"**9.** (1) Notwithstanding anything in this Act no contribution shall be paid under this Act by a member

(a) unless, at the time when the contribution is to be paid, the total amount of the contributions that have been or elected to be paid by him is less than *the amount that, at that time, is payable by way of sessional indemnity to a member who attends all the sittings of the House of Commons at a session that extends over a period of sixty-five days or more;* or

(b) in respect of any session in the course of which he was expelled from the House of Commons."

First Session, Twenty-Second Parliament, 2 Elizabeth II, 1953-54.

THE HOUSE OF COMMONS OF CANADA.

BILL 177.

An Act to amend the Patent Act.

First reading, February 2, 1954.

THE SECRETARY OF STATE.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1954

86297

1st Session, 22nd Parliament, 2 Elizabeth II, 1953-54.

THE HOUSE OF COMMONS OF CANADA.

BILL 177.

An Act to amend the Patent Act.

R.S., c. 203.

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

1. Subsections (1) and (2) of section 75 of the *Patent Act*, chapter 203 of the Revised Statutes of Canada, 1952, are repealed and the following substituted therefor:

Tariff of fees.

"**75.** (1) The following fees are payable before an application for any of the purposes herein mentioned shall be received by the Commissioner, that is to say:

On filing an application for patent	$30.00
On grant of patent, payable on pain of forfeiture within six months from the date of notice of the allowance of patent	30.00
On asking reinstatement of an abandoned application under section 32	25.00
On filing an amendment after allowance of an application for patent	10.00
On lodging a caveat	10.00
On asking to register a judgment pro tanto	4.00
On asking information re a pending application under section 11	10.00
On asking to register an assignment or any other document affecting or relating to a patent	5.00
On asking to attach a disclaimer to a patent	5.00
On asking entry of appointment of representative under section 31, subsection (3)	5.00
On each claim exceeding twenty in number: under section 36, subsection (3)	1.00

Explanatory Notes.

1. Subsections (1) and (2) of section 75 of the *Patent Act*, chapter 203 of the Revised Statutes of Canada, 1952, at present read as follows:

"**75.** (1) The following fees are payable before an application for any of the purposes herein mentioned shall be received by the Commissioner, that is to say:

On filing an application for patent	*$25 00*
On grant of patent, payable on pain of forfeiture within six months from the date of notice of the allowance of patent	*25 00*
On asking reinstatement of an abandoned application under section 32	*20 00*
On filing an amendment after allowance of an application for patent	*5 00*
On lodging a *caveat*	10 00
On asking to register a judgment *pro tanto*	4 00
On asking information *re* a pending application under section 11	*5 00*
On asking to register an assignment or any other document affecting or relating to a patent	*3 00*
On asking to attach a disclaimer to a patent	5 00
On asking entry of appointment of representative under section 31, subsection (3)	5 00
On each claim exceeding twenty in number: under section 36, subsection (3)	1 00
On petition to reissue a patent after surrender	*40 00*
On filing an application or petition under sections 41, 47 or 67 or 68	
For each patent mentioned therein	10 00
On asking for a certified typewritten or photostat copy of patent with specification, not exceeding twenty pages, exclusive of drawings	4 00
For every copy of drawings, per sheet	0 25
For uncertified photostat or blue print copy of any paper or drawing, per sheet	0 25
On office copies of documents, not abovementioned the following charges shall be made, the minimum charge being $1.00:	
For every single or first folio of one hundred words certified copy	0 25
For every such subsequent folio, fractions of or under one-half not being counted, and of one-half or more being counted as a folio	0 10

On petition to reissue a patent after surrender..... 50.00

On filing an application or petition under sections 41, 47 or 67 or 68.....

For each patent mentioned therein..... 10.00

On asking for a certified typewritten or photostat copy of patent with specification, not exceeding twenty pages, exclusive of drawings..... 4.00

For every copy of drawings, per sheet..... 0.25

For uncertified photostat or blue print copy of any paper or drawing, per sheet..... 0.25

On office copies of documents, not abovementioned the following charges shall be made, the minimum charge being $1.00: For every single or first folio of one hundred words certified copy..... 0.25

For every such subsequent folio, fractions of or under one-half not being counted, and of one-half or more being counted as a folio..... 0.10

Forfeited applications.

"(2) A forfeited application may be restored and a patent granted thereon on application to the Commissioner within six months from the incurrence of the forfeiture, on payment with the application for restoration, in addition to the fee payable on the grant of the patent, of a further fee of thirty dollars and the restored application is subject to amendment and re-examination."

Transitional.

2. Where the fee prescribed for any matter by the *Patent Act* as amended by this Act (in this section called the new fee) is greater than the fee prescribed for that matter under the *Patent Act* as in force immediately prior to the coming into force of this Act (in this section called the old fee) and a person, on any day within six months after the coming into force of this Act, pays the old fee in respect of such matter, he shall be deemed to have paid the new fee on that day if he pays the difference between the new fee and the old fee within a time fixed by the Commissioner.

Coming into force.

3. This Act shall come into force on the 1st day of April, 1954.

(2) A forfeited application may be restored and a patent granted thereon on application to the Commissioner within six months from the incurrence of the forfeiture, on payment with the application for restoration, in addition to the fee payable on the grant of the patent, of a further fee of *twenty* dollars and the restored application is subject to amendment and re-examination."

198

First Session, Twenty-Second Parliament, 2 Elizabeth II, 1953-54.

THE SENATE OF CANADA

BILL S5.

198

An Act respecting Commerce Mutual Fire Insurance Company.

AS PASSED BY THE SENATE, 3rd FEBRUARY, 1954.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1954

85549

1st Session, 22nd Parliament, 2 Elizabeth II, 1953-54.

THE SENATE OF CANADA

BILL S[5].

An Act respecting Commerce Mutual Fire Insurance Company.

Preamble. 1927, c. 90.

WHEREAS Commerce Mutual Fire Insurance Company, a corporation incorporated by chapter 90 of the statutes of 1927, has by its petition prayed that it be enacted as hereinafter set forth, and it is expedient to grant the prayer of the petition: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Name changed.

1. The name of "Commerce Mutual Fire Insurance Company", and in French "La Compagnie d'Assurance Mutuelle du Commerce contre l'Incendie", hereinafter called "the Company", is hereby changed to "The Commerce General Insurance Company", and in French "La Compagnie d'Assurance Generale de Commerce", but such change in name shall not in any way impair, alter or affect the rights or liabilities of the Company, nor in any way affect any suit or proceeding now pending, or judgment existing, either by, or in favour of, or against the Company, which, notwithstanding such change in the name of the Company, may be prosecuted, continued, completed and enforced as if this Act had not been passed.

Rights saved.

Coming into force.

2. This Act shall come into force on the first day of January, one thousand nine hundred and fifty-five.

Explanatory Note.

The purpose of this Bill is to change the name of "Commerce Mutual Fire Insurance Company", and in French "La Compagnie d'Assurance Mutuelle du Commerce contre l'Incendie", a company incorporated by chapter 90 of the statutes of 1927, to that of "The Commerce General Insurance Company", and in French "La Compagnie d'Assurance Generale de Commerce".