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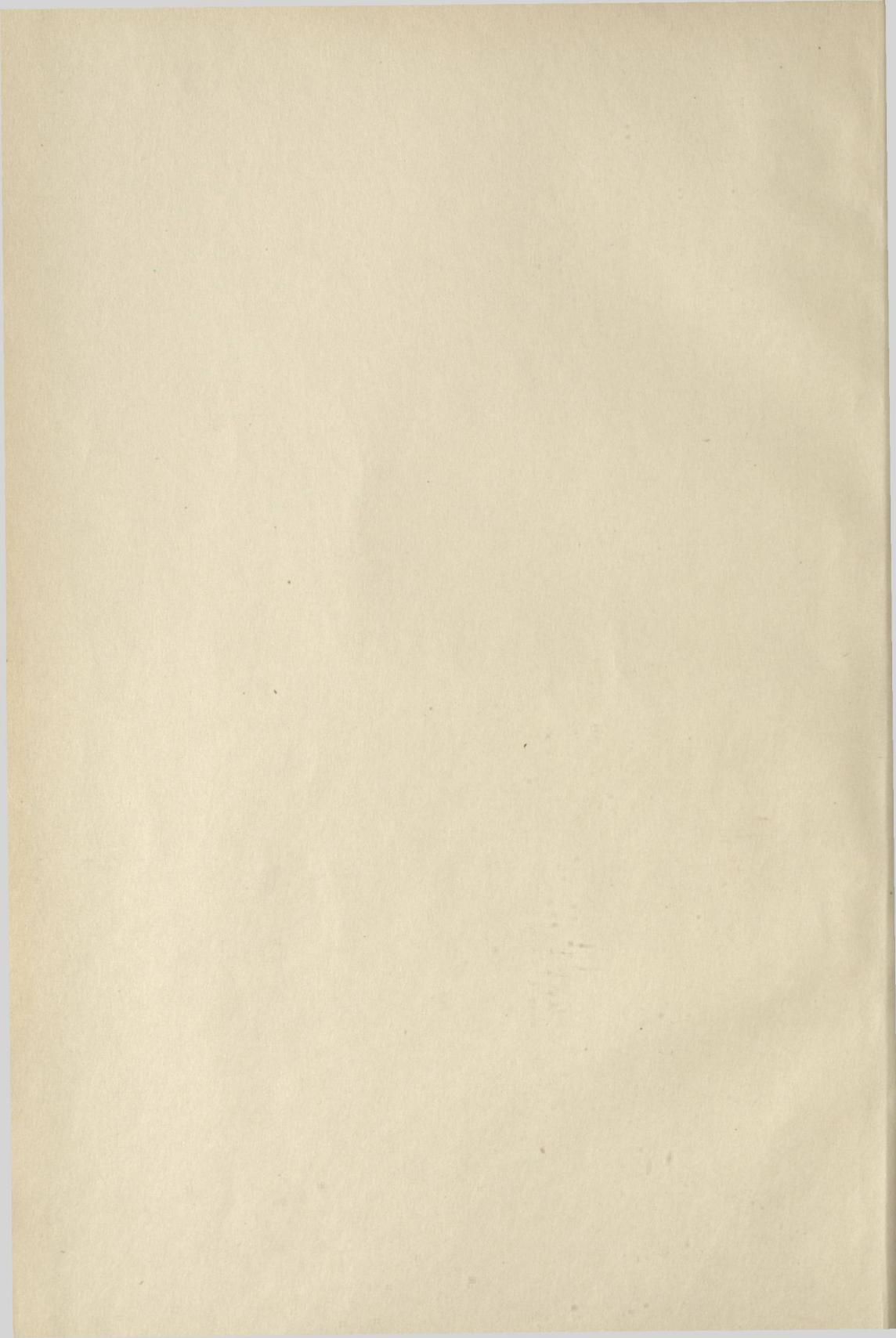
THE STATE OF CALIFORNIA

1901

BILL 5

AN ACT TO AMEND THE CONSTITUTION OF THE STATE OF CALIFORNIA

1901



Second Session, Twentieth Parliament, 10 George VI, 1946.

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THE SENATE OF CANADA

BILL B.

An Act to amend The Opium and Narcotic Drug Act, 1929.

Read a first time, Tuesday, 19th March, 1946.

The Honourable Senator ROBERTSON.

THE SENATE OF CANADA

BILL B.

An Act to amend The Opium and Narcotic Drug Act, 1929.

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

1. Paragraph *(b)* of section two of *The Opium and Narcotic Drug Act, 1929*, chapter forty-nine of the statutes of 1929, is repealed and the following substituted therefor:— 5

“Depart-
ment.”

“(b) ‘Department’ means the Department of National Health and Welfare;”

2. Paragraph *(h)* of section two of the said Act is repealed and the following substituted therefor:— 10

“Minister.”

“(h) ‘Minister’ means the Minister of National Health and Welfare;”

3. Paragraph *(e)* of subsection one of section four of the said Act is repealed and the following substituted therefor:— 15

Sale, etc.,
to minor.

“(e) unlawfully sells, gives away or administers any drug to any minor;”

4. Paragraph *(a)* of subsection one of section eight of the said Act, as enacted by section three of chapter twenty of the statutes of 1932, and paragraph *(b)* of the said sub- 20
section are repealed and the following substituted therefor:—

Preparations
excepted.

“(a) any retail druggist may have in possession or may sell or distribute preparations containing one-eighth grain or less of codeine per tablet or other solid form, or liquid preparations containing one-third grain or 25
less of codeine per fluid ounce, when such preparations are combined with other medicinal ingredients and the maximum dose prescribed for the preparation contains

EXPLANATORY NOTES.

1. SECTION 2(b).

Changing the definition to that of the Department now administering the Act.

2. SECTION 2(h).

Changing the definition to that of the Minister of the Department now administering the Act.

3. SECTION 4(1)(e).

In a recent case involving a minor, charges of either "selling", "giving away" or "distributing" could not have been successfully prosecuted, whereas one of "administering" would have been appropriate. The offence of "distributing to any minor" would be difficult if not impossible to prove in relation to one transaction, in view of the Supreme Court Judgment (C. J. Anglin) in *Rex vs Marino and Yipp*, C.C.C. 56, p. 139, "How could distribution be shown unless more than one sale was proved?"

It would be desirable to substitute the useful word "administers" for the less useful word "distributes".

4. SECTION 8(1)(a).

At the outbreak of war it was necessary, owing to shortage of supplies of narcotics available (particularly codeine), to place everything of a narcotic nature, including preparations with a narcotic content, on a prescription basis by Regulations under the *War Measures Act*, thus nullifying the exemptions indicated in section 8 of *The Opium and Narcotic Drug Act*.

With a view to deciding upon an appropriate peacetime standard for exemption from the prescription requirement, the Department consulted the Advisory Committee of the

- (i) one such ingredient not less in quantity than the amount prescribed by the British Pharmacopoeia as a minimum dose for such ingredient;
- (ii) two such ingredients having a similar action, each not less in quantity than one-half the amount prescribed by the British Pharmacopoeia as a minimum dose for each such ingredient respectively; or 5
- (iii) three such ingredients having a similar action each not less in quantity than one-third the amount prescribed by the British Pharmacopoeia as a minimum dose for each such ingredient respectively. 10

Formula or true test of ingredients to be printed on label.

- (b) no retail druggist shall sell, or offer for sale except pursuant to direction of a physician, any preparation referred to in paragraph (a) of this subsection unless there is printed in a conspicuous place on an inseparable part of the main panel of the label and wrapper of the bottle, box, or other container, and in letters of the same size and visibility as the directions for the use of the preparation, the full formula or true list of medicinal ingredients, and the following words: 'It is unlawful to administer this preparation to a child under two years of age as it contains codeine and is dangerous to its life.' 20 25

5. Subsection two of section eight of the said Act is repealed and the following substituted therefor:—

Sale for administration to child under two years of age.

"(2) No person except a physician shall sell for administration to a child under two years of age, or administer to any such child any preparation containing codeine, the sale of which is permitted by this section." 30

6. Section fifteen of the said Act is repealed and the following substituted therefor:—

Onus of proof on charge of importing, exporting, manufacturing, selling, etc. without license.

"15. Where any person is charged with an offence under paragraphs (a), (d), (e), (f), or (g) of section four of this Act, it shall not be necessary for the prosecuting authority to establish that the accused had not a license from the Minister or was not otherwise authorized to commit the act complained of, and if the accused pleads or alleges that he had such licence or other authority the burden of proof thereof shall be upon the person so charged." 35 40

7. Section twenty-two of the said Act is repealed and the following substituted therefor:—

Judge to grant writ of assistance.

"22. A judge of the Exchequer Court of Canada, or any judge of any of the superior courts in any province of Canada having jurisdiction in the province or place where 45

Canadian Medical Association and the Dominion Council of Health. The standard decided upon is that recommended by both bodies and the appropriate medical and narcotic control officers of the Department. Effective January 1st, 1946, the *War Measures Act* Regulations were relaxed to precisely this standard, so that if same is now included in the *Opium and Narcotic Drug Act* there would be no difference whatever in the present prescription requirements as affecting the public and the Regulations under the *War Measures Act* could be cancelled.

SECTION 8(1)(b).

This is changed to conform to the proposed new paragraph (a) of subsection one of section 8 by the elimination of the redundant words "intended for internal use and" and by the substitution of the word "Codeine", which is now the only drug involved, for the previous words "(insert name of drug)".

5. SECTION 8(2).

Involves the substitution of the word "Codeine" for the previous words "Opium or Morphine", as Codeine is the only drug now involved in any relaxation of the prescription requirement.

6. SECTION 15.

Involves the addition of paragraph (g) of section 4, relative to the cultivation or production of the Opium Poppy or Cannabis (Marihuana) to the subsections in relation to which the burden of proof of possession of a licence is placed upon the accused.

7. SECTION 22.

Changing the reference to the Minister of the Department now administering the Act.

the application is made, shall grant a writ of assistance upon application made to him for that purpose by His Majesty's Attorney General of Canada, or by the Minister of National Health and Welfare or his Deputy, to any person named in such application." 5

Section
repealed.

8. Section twenty-seven A of the said Act, as enacted by section seven of chapter nine of the statutes of 1938, is repealed.

Schedule
amended.

9. The Schedule to the said Act, as enacted by section seven of chapter twenty of the statutes of 1932 and amended 10 by sections eight, nine and ten of chapter nine of the statutes of 1938, is repealed and the following substituted therefor:—

“SCHEDULE

(1) Opium or its preparations, or any opium alkaloids, or their derivatives, or salts or preparations of opium alkaloids or their derivatives, but not including apomorphine;

(2) Coca leaf, crude cocaine, or their preparations, or any coca alkaloids or their derivatives, or salts or preparations of coca alkaloids or their derivatives;

(3) Cannabis Sativa and its preparations;

(4) Eucaine or any salts or compounds thereof; and without in any way limiting the generality of paragraphs (1), (2), (3), and (4) of this Schedule,

(5) Morphine, its derivatives, or any salts or compounds thereof, but not including apomorphine;

(6) Diacetylmorphine and the other esters of morphine and their salts;

(7) Dihydrohydroxycodeinone (of which the substance registered under the name of eucodal is a salt),

Dihydrocodeinone (of which the substance registered under the name of dicodide is a salt),

Dihydromorphinone (of which the substance registered under the name of dilaudide is a salt),

Acetyldihydrocodeinone or acetyldemethylodihydrothebaine (of which the substance registered under the name of acedicone is a salt),

Dihydromorphine (of which the substance registered under the name of paramorfan is a salt),

Their esters and the salts of any of these substances and of their esters,

Morphine-N-oxide (registered trade name genomorphine), the morphine-N-oxide derivatives, and the other pentavalent nitrogen morphine derivatives;

8. SECTION 27A.

Removing the exemption of drugs in Part 2 of the Schedule from certain sections of the Act, as, with the full control recommended by the Canadian Medical Association and the Dominion Council of Health, there is no necessity for the Schedule to be divided.

9. SCHEDULE.

(1) With the inclusion of all narcotics in one Schedule, the words "Codeine, Paracodeine, or" are redundant and have been deleted before the word "apomorphine" in this paragraph.

(5) For the same reason the words "Codeine or" are redundant. These words are deleted before the word "apomorphine" in this paragraph.

Omitted from the Schedule is former paragraph (9) which read

"Any plant of any description whatsoever, whether dried or otherwise, which contains Morphine, or any part of any such plant, excepting the seed of the poppy plant".

Paragraph (9) was added to the Schedule by Order in Council under section 24 of the Act, but such action was declared *ultra vires* by the Courts, in which decision the Department of Justice concurred. From the administrative standpoint it is preferable not to have it in the Schedule, as of necessity it takes the Department into the botanical field and away from the chemical analysis of the Dominion Analysts and their Certificates of Analysis which, under section 18, are *prima facie* evidence in Court. Since the nullification of this Order in Council the Department has reverted to the much safer principle of proving the existence of morphine chemically, in whatever circumstances encountered.

(8) Ecgonine, thebaine and their salts, benzylmorphine and the other ethers of morphine, and their salts;

(9) Desomorphine (Dihydrodesoxymorphine);

(10) Ethyl 1-Methyl-4-Phenylpiperidine-4-Carboxylate hydrochloride, under whatever trade name it may be offered for sale or sold, for example, Demerol, Dolantin, Pethidine;

(11) Methyilmorphine (codeine) and its salts;

(12) Dihydrocodeine (Paracodeine).”

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Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL C.

An Act to amend the Export Act.

Read a first time, Tuesday, 19th March, 1946.

The Honourable Senator ROBERTSON.

2nd Session, 20th Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL C.

An Act to amend the Export Act.

R.S., c. 63;
1930, c. 19.

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

Repeal.

1. Sections five and six of the *Export Act*, chapter sixty-three of the Revised Statutes of Canada, 1927, are repealed. 5

EXPLANATORY NOTES.

Sections 5 and 6 of the *Export Act* read as follows:—

- “5. The export in the carcass, or parts thereof, of
(a) deer, except as authorized by regulation of the Governor in Council made under the authority of the Customs Act; and
(b) wild turkeys, quail, partridge, prairie fowl and woodcock;

is hereby declared unlawful and prohibited, and any such article so attempted to be exported may, on reasonable cause of suspicion of intention to export, be seized by any officer of Customs, and, if such intention is proved, shall be dealt with as for breach of the Customs laws; Provided, that this section shall not apply to the export, under such regulations as are made by the Governor in Council, of any carcass or part thereof of any deer raised or bred by any person, company or association of persons upon his or their own lands.

“6. Any person exporting or attempting to export in the carcass, or parts thereof, any deer, wild turkey, quail, partridge, prairie fowl or woodcock, contrary to the provisions of this Act, shall for each such offence incur a penalty of one hundred dollars, and the article so exported or attempted to be exported shall be forfeited and may be seized by any officer of Customs.”

The control of the export of game is now adequately provided for in the *Game Export Act*, being Chapter 17 of the Statutes of 1941. Section 3 (a) of that Act prohibits taking or shipping any game out of the province in which it was killed except under authority of an export permit duly issued under the laws of such province.

Through changed conditions, the provisions of sections 5 and 6 of the *Export Act* have become undesirable. They prevent non-resident sportsmen from taking home with them woodcock, partridge or prairie fowl lawfully killed by them in Canada.

The Ninth Conference of Provincial and Dominion Wildlife officials held at Ottawa on April 6th and 7th, 1942, requested by resolution that sections 5 and 6 of the *Export Act* be repealed.

THE SENATE OF CANADA

BILL D.

An Act to amend the Criminal Code. (Race meetings).

Read a first time, Wednesday, 20th March, 1946.

The Honourable Senator ROBERTSON.

OTTAWA

EDMOND CLOUTIER

PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

THE SENATE OF CANADA

BILL D.

An Act to amend the Criminal Code. (Race meetings).

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

1. The first twenty lines (as far as the word "Provided" in the twentieth line) of subsection two of section two hundred and thirty-five of the *Criminal Code*, chapter Thirty-six of the Revised Statutes of Canada, 1927, are repealed and the following substituted therefor:—

"(2). The provisions of this section and of section two hundred and twenty-seven and of subsections one and two of section two hundred and twenty-nine, shall not extend to any person or association by reason of his or their becoming the custodian or depository of any money, property or valuable thing staked or to be paid to the winner of any lawful race, sport, game or exercise, or to be paid to the owner of any horse engaged in any lawful race, or to be paid to the winner of any bets between not more than ten individuals or to a private bet between individuals not engaged in any way in a business of betting, or to bets made or records of bets made through the agency of a pari-mutuel system only as hereinafter provided, upon, the race-course of any association incorporated in any manner before the twentieth day of March, one thousand nine hundred and twelve, other than an association empowered by its charter to conduct only trotting and pacing races or to maintain and operate a driving park or of any association incorporated after that date by special Act of the Parliament of Canada or of the Legislature of any province of Canada, during the actual progress of a race-meeting conducted by such association upon races being run thereon."

R. S., c. 36;
1930, c. 11;
1931, c. 28;
1932, cc. 7, 8,
9, 28;
1932-33, cc.
25, 53;
1934, cc. 11,
47;
1935, cc. 36,
56;
1936, c. 29;
1938, c. 44;
1939, (1st
Sess.) c. 30;
1943-44, c. 23;
1944-45, c. 35.

Betting,
pool-selling
and book-
making.

EXPLANATORY NOTES.

1. This provision excludes racing associations empowered by their charter to conduct only trotting and pacing races and to operate a driving park from the provisions of subsection two of section 235 of the *Criminal Code*.

2. Section two hundred and thirty-five of the said Act, as amended by sections one and two of chapter fifty-six of the statutes of 1935, by section thirteen of chapter forty-four of the statutes of 1938 and by section one of this Act, is further amended by adding thereto, immediately after subsection (2a), the following subsection: 5

Provisions
not applicable
in certain
cases.

“(2b). The provisions of subsection one of this section and of section two hundred and twenty-seven and of subsections one and two of section two hundred and twenty-nine shall not, if the Minister of Agriculture so determines in a particular case, extend to 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 the provisions aforesaid do not extend to the operation of a pari-mutuel system with respect to running races on the race-courses of both such associations and if both race-courses are in the same province.” 10 15

3. The proviso of subsection three of section two hundred and thirty-five, as enacted by subsection two of section one of chapter fifty-six of the statutes of 1935, is repealed and the following substituted therefor:— 20

Trotting
or pacing
race.

“Provided also that as to the race meetings at which there are trotting or pacing races exclusively, no such race meeting continues for more than fourteen days on which racing may be carried on.” 25

2. The underlined words are new. The new subsection (2b) provides for the transfer of race meetings from one race track to another race track within the same province.

3. This amendment provides for more than one racing association to hold trotting and pacing meetings at the same track.

The proviso of subsection three of section 235 is amended by deleting at the end thereof the following words: "and that no race meetings at which there are trotting or pacing races are held on the same grounds for more than fourteen days in all in any one calendar year."

THE SENATE OF CANADA

BILL E.

An Act respecting the Manufacture, Testing, Sale, Storage
and Importation of Explosives.

Read a first time, Wednesday, 20th March, 1946.

The Honourable Senator ROBERTSON.

THE SENATE OF CANADA

BILL E.

An Act respecting the Manufacture, Testing, Sale, Storage and Importation of Explosives.

SHORT TITLE.

Short title. **1.** This Act may be cited as *The Explosives Act, 1946.*

INTERPRETATION.

Definitions. **2.** In this Act, unless the context otherwise requires,
"Authorized explosive."
"Department."
"explosive".
"factory."

(a) "authorized explosive" means any explosive that is declared by the Minister to be an authorized explosive; 5

(b) "Department" means the Department of Mines and Resources;

(c) "explosive" means gunpowder, blasting powder, nitroglycerine, gun-cotton, dynamite, blasting gelatine, gelignite, fulminates of mercury or of other metals, 10
coloured fires, and every other substance made, manufactured or used with a view to produce a violent effect by explosion, or a pyrotechnic effect, and includes fireworks, fuses, rockets, percussion caps, detonators, cartridges, ammunition of all descriptions, railway 15
track torpedoes, fusees and other signals, and every other adaptation or preparation of any such substance;

(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 20
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;

EXPLANATORY NOTES.

The Explosives Act 1914, chapter 31 of the statutes of 1914, was passed by Parliament on 12th June, 1914, and has not been changed in any respect since 1920, the year in which it was proclaimed, save for the general revision of Canadian Statutes of 1927. It is based on the British Explosives Act, 1875.

The purpose of this Bill is to bring the statute into line with present day requirements and to remedy defects that have been revealed by practical experience in its administration.

2. Section 2, paragraph (a) at present reads as follows:

“(a) ‘authorized explosive’ means any explosive the manufacture or importation of which has been authorized under this Act;”

This paragraph is amended to clarify the authority of the Minister in declaring an explosive authorized.

(b) Paragraph (b) is amended by adding the words underlined.

(c) Paragraph (c) at present reads as follows:

“(c) ‘explosive’ means gunpowder, blasting powder, nitroglycerine, gun cotton, dynamite, blasting gelatine, gelignite, fulminates of mercury, or other metals, coloured fires, and every other substance *whether chemical compound or mechanical mixture*, used or manufactured with a view to produce a violent effect by explosion, or a pyrotechnic effect, and includes fire works, fuses, rockets, percussion caps, detonators, cartridges, ammunition of all descriptions, *fog and other signals*, and every other *adaption* or preparation of an explosive as above defined;”

This paragraph has been amended by deleting the descriptive phrase “whether chemical compound or mechanical mixture.”

For “fog and other signals” has been substituted the phrase “railway track torpedoes, fusees and other signals”. In Canada fog signals are mechanical sound producing devices which contain no explosive.

The word “adaptation” replaces “adaption”.

(d) Paragraph (d) at present reads as follows:

“(d) ‘factory’ means and includes 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;”

This paragraph is amended to include in the definition of a factory the buildings or structures in which finished explosives are stored.

- “inspector.” (e) “inspector” means the chief inspector of explosives, an inspector of explosives, a deputy inspector of explosives, and any other person who is directed by the Minister to inspect an explosive or explosive factory or magazine, or to hold an enquiry in connection with any accident caused by an explosive; 5
- “licensed factory.” (f) “licensed factory” means a factory in respect of which a license issued under section six of this Act is in force;
- “licensed magazine.” (g) “licensed magazine” means a magazine in respect of which a license issued under section six of this Act is in force; 10
- “magazine.” (h) “magazine” means any building, storehouse, structure or place in which any explosive is kept or stored, but does not include 15
- Exceptions. (i) a place at or in and for the use of a mine or quarry in a province in which provision is made by the law of such province for the efficient inspection of mines and quarries and explosives used in connection therewith; 20
- (ii) a place in which an authorized explosive is kept for the purposes of conveyance when the same is being conveyed or kept in accordance with the provisions of this Act;
- (iii) the structure or place in which is kept for private use, and not for sale, an authorized explosive to an amount not exceeding that authorized by regulation; 25
- (iv) registered premises;
- (v) any store or warehouse in which are stored for sale authorized explosives to an amount not exceeding that authorized by regulation; 30
- (vi) any place at which the blending or assembling of the inexplusive component parts of an authorized explosive is allowed under section eight of this Act; 35

(e) No change.

(f) the former paragraph (f) now becomes paragraph (h) and is replaced by a new paragraph (f) which is self-explanatory.

(g) The former paragraph (g) now becomes paragraph (i) and is replaced by a new paragraph (g) which is self-explanatory.

(h) The former paragraph (f) which is replaced by a new paragraph (h) reads as follows:

“(f) ‘magazine’ means and includes any building, storehouse, structure or place in which any explosive is kept or stored, other than at or in and for the use of a mine or quarry in a province in which provision is made by the law of such province for the efficient inspection of mines and quarries and explosives used in connection therewith; but does not include the place in which an authorized explosive is kept for the purposes of conveyance when the same is being conveyed or kept in accordance with the provisions of this Act, nor the structure or place in which is kept for private use, and not for sale, an authorized explosive to an amount not exceeding that allowed by regulation under this Act, nor any store or warehouse containing authorized explosives to an amount not exceeding that allowed by regulation under this Act, or authorized by any provincial or local authority;”

This paragraph has been divided for the sake of clarity into six sub-paragraphs.

(i) No change.

(ii) No change.

(iii) No change.

(iv) Sub-paragraph (iv) is new, and is added for the purpose of excluding from the definition of a magazine “registered premises” as defined in section 2, sub-section (1) which reads as follows:

“‘registered premises’ means premises in respect of which a certificate is issued under section 7 of this Act, if the authorized explosive stored thereon does not exceed the amount permitted by such certificate.”

(v) Sub-paragraph (v) excludes from the definition of magazine a “store” or “warehouse” in which is kept for sale, in regulated quantities, certain authorized explosives such as fireworks, small arms ammunition, gunpowder, sporting powder and safety fuse. Such store or warehouse does not require a license or certificate.

(vi) Sub-paragraph (vi) is new and excludes from the definition of magazine the place in which an authorized explosive is stored when the explosive has been prepared for immediate use at or near the place of use.

- “Minister.” (i) “Minister” means the Minister of Mines and Resources or such other Minister as the Governor in Council may from time to time designate;
- “operator.” (j) “operator” means a person who operates a factory for manufacturing explosives or who is the manager of or in charge of such factory, or who is the owner or lessee of a magazine or registered premises or who uses a magazine or registered premises for the storage of explosives and “operate” shall have a corresponding meaning;
- “operate.” (k) “regulation” means any regulation made by the Governor in Council under the authority of this Act;
- “regulation.” (l) “registered premises” means premises in respect of which a certificate is issued under section seven of this Act if the authorized explosive stored thereon does not exceed the amount permitted by such certificate;
- “registered premises.” (m) “safety cartridges” means cartridges for guns, rifles, pistols, revolvers and other small arms, of which the case can be extracted from the small arm after firing, and which are so closed as to prevent any explosion in one cartridge being communicated to other cartridges.

APPLICATION.

Explosives
to which
Act applies.

3. This Act shall apply to the possession, storing, sale or offering for sale, making, manufacture or importation of explosives by or on behalf of His Majesty in right of Canada or any province except explosives under the direction or control of the Minister of National Defence.

REGULATIONS.

Regulations.

4. (1) The Governor in Council may make regulations for any purpose for which regulations may be made under this Act and generally for carrying the purposes or provisions of this Act into effect, and in particular, but without prejudice to the generality of the foregoing provisions, may make regulations

- (i) The former paragraph (g) now becomes paragraph (i) and is amended by adding the words underlined.
(j) Paragraph (h) which is replaced by a new paragraph (h) reads as follows:

“(h) ‘operator’ means any person who operates a factory for manufacturing explosives, or is the manager of or in charge of such factory, or who is the *occupant of* or uses a magazine for the storage of explosives;”

This paragraph is amended by adding the words underlined in the text. The words in italics above have been deleted. There is no material change.

- (k) Formerly paragraph (i). Otherwise there is no change.

- (l) This is a new definition made necessary by new section 7 which reads as follows:

“The Minister may issue a certificate to any person permitting the storing for sale of such authorized explosives on such premises and in such quantity as the Minister may determine.”

- (m) Formerly paragraph (j). Otherwise there is no change.

3. The former section 3 is repealed. It formerly read as follows:

“**3.** This Act shall not apply to the Department of National Defence.”

No reference was made to the Crown in the former section 3. Chief Justice Hazen, Supreme Court, Appeal Division, New Brunswick, in the case King vs. LeBlanc, ruled that servants of the Crown in the course of their duties were excluded from provisions of the Explosives Act. To correct this unintentional omission in the present statute former section 3 is repealed and replaced by section 3 in the Bill.

The former section 4 is repealed. It formerly read as follows:

“**4.** Nothing in this Act shall apply to the making of a small quantity of explosive for the purpose of chemical experiment and not for practical use or sale.”

This section is no longer necessary as the subject matter is now covered by section 5, subsection (2) (a) of the Bill which reads as follows:

“**2.** Subject to any exemption made by regulation,
“(a) no person shall make or manufacture explosives either wholly or in part except in a licensed factory.”

4. Formerly section 5.

New section 4 is a consolidation of the former introductory paragraph of section 5 and former paragraph (5) (n), reading as follows:

“**5.** The Governor in Council may make regulations (n) for the more effective carrying out of this Act.”

- (a) for classifying explosives, and for prescribing the composition, quality and character of explosives;
- (b) prescribing the form and duration of licenses, permits and certificates issued under this Act, the terms and conditions upon which such licenses, permits and certificates shall be issued, and the fees to be paid therefor; 5
- (c) not inconsistent with any other Act of the Parliament of Canada or regulations made thereunder, for regulating the sale, importation, packing and handling of explosives, and the transportation of explosives; 10
- (d) for holding inquiries into any accident caused by explosives;
- (e) for the taking of samples of explosives required for examination and testing, and for the establishing of testing stations, and of the tests and other examinations to which explosives shall be subjected; 20
- (f) prescribing the procedure to be followed to have an explosive declared an authorized explosive, the nature of the investigation to be made to determine its suitability to be declared authorized and the circumstances in which an explosive may be declared an authorized explosive; 25
- (g) relating to the construction, management and licensing of factories, magazines and registered premises; 40
- (h) for the safety of the public and of the employees at any factory or magazine, or any person engaged in the handling or packing of explosives;

(a) Formerly paragraph (5) (a). Otherwise there is no change.

(b) Formerly paragraph (5) (b). Otherwise there is no change.

(c) Formerly paragraph (5) (c). It formerly read as follows:

“(c) for regulating the importation, packing and handling of explosives, and the transportation of explosives otherwise than by railway;”

Paragraph (c) now excludes from the application of this Bill not only transportation of explosives by railway but also by aircraft or vessel.

The Governor in Council, by the provision of paragraph (c) may regulate the sale of explosives.

(d) Formerly paragraph (5) (d). It formerly read as follows:

“(d) for inquiries into the accidental explosion of explosives and any accident caused by explosives;”

This paragraph has been simplified by deleting the words “accidental explosion of explosives.”

(e) Formerly paragraph (5) (e). Otherwise there is no change.

(f) Formerly paragraph (5) (f). It formerly read as follows:

“(f) prescribing the manner in which an explosive shall be tested and examined before it is declared to be an authorized explosive, and for determining to what examinations and tests authorized explosives shall be subject;”

Revised to express more accurately the procedure now followed in presenting a new explosive for authorization.

Former paragraph 5 (g) is repealed. It formerly read as follows:

“(g) to be observed by inspectors and other officers and employees charged with any duty under this Act, or under any regulations made hereunder;”

This section is unnecessary as inspectors may only act in compliance with the Act and Regulations.

(g) Formerly paragraph 5 (h). Otherwise there is no change.

(h) Formerly paragraph 5 (i). It formerly read as follows:

“(i) for the safety of the public and of the employees at any factory or magazine, or any person engaged in the handling or packing of explosives, or the transportation of explosives otherwise than by railway;”

- (i) not inconsistent with any other Act of the Parliament of Canada or regulations made thereunder, respecting the safety of any person engaged in the transportation of explosives;
- (j) governing the establishment, location and maintenance of factories, magazines and registered premises and the making, manufacture and storage of explosives; 5
- (k) for the blending of the inexplusive components of an authorized explosive, and specifying the conditions under which such blending may be done; 10
- (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;
- (m) regarding the thawing of explosives. 15
- Publication. (2) All regulations made under this Act shall be published in the *Canada Gazette*, and upon being so published shall have the same force and effect as if they formed part of this Act.

IMPORTATION, MANUFACTURE AND USE.

- Authorized explosives only. 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. 20
- Prohibitions. (2) Subject to any exemption made by regulation,
- (a) no person shall make or manufacture explosives either wholly or in part except in a licensed factory; 25
- (b) no person shall sell any explosive designated by the Governor in Council for the purpose of this section unless he is the owner or occupant of a licensed factory, licensed magazine or registered premises;
- (c) no person shall carry on, except in a licensed factory, 30 any of the following processes, namely:—
- (i) of dividing into its component parts, or otherwise breaking up or unmaking, any explosive;
- (ii) of making fit for use any damaged explosive; or
- (iii) of remaking, altering or repairing any explosive. 35

The former paragraph (*i*) has been divided into two new paragraphs (*h*) and (*i*). Paragraph (*h*) is unchanged but paragraph (*i*) is revised to conform with paragraph 4 (*c*) of this Bill.

(*i*) Paragraph (*i*). See note paragraph 4 (*h*) above.

(*j*) Paragraph (*j*) formerly paragraph 5 (*j*) is amended by adding the words underlined.

(*k*) Paragraph (*k*) formerly paragraph 5 (*k*) is amended by adding the words underlined.

(*l*) Paragraph (*l*) formerly paragraph 5 (*l*). Otherwise there is no change.

(*m*) Paragraph (*m*) formerly paragraph 5 (*m*). Otherwise there is no change.

4. (2) Subsection (2) formerly subsection 5 (2). Otherwise there is no change.

5. Section 5 is substantially a recasting of the subject matter covered by former sections 6, 7 and 8 (2). They formerly read as follows:

“6. Except as herein provided, no person shall have in his possession, or import, store, use or manufacture, whether wholly or in part, or sell, any explosive unless such explosive has been declared by the Minister to be an authorized explosive.

“7. Except in so far as may be permitted by regulations made under this Act, no person, except in licensed manufacturing factories, shall carry on any of the following processes, namely:—

(*a*) Of dividing into its component parts, or otherwise breaking up or unmaking, any explosive;

(*b*) Of making fit for use any damaged explosive; or

(*c*) Of remaking, altering or repairing any explosive.

2. This section shall not apply to the process of thawing explosives containing nitroglycerine, if a proper apparatus or thawing-house is used in accordance with regulations made under this Act or any provincial law.

2. No one shall manufacture, either wholly or in part, or store explosives except in licensed factories and magazines.”

The essential part of former section (6) is retained in the introductory paragraph of section (5). Reference to the Minister is deleted, as section 2 (*a*) of this Bill now makes it unnecessary.

(2) (*a*) Subsection (2) (*a*) is part of former subsection 8 (2). It is desirable to permit certain exemptions by regulation in view of the repeal of former section 4.

(*b*) Subsection (2) (*b*) is new and restricts the sale of designated explosives to the owner or occupant of a licensed factory, licensed magazine or registered premises.

(*c*) Subsection (2) (*c*) formerly section 7, paragraphs (*a*), (*b*) and (*c*). Otherwise there is no change.

Regulated
thawing
excepted.

(3) Paragraph (c) of subsection two of this section shall not apply to the process of thawing explosives containing nitroglycerine, if a proper apparatus or thawing-house is used in accordance with regulations or any provincial law.

No storage
except in
licensed
magazine.

(4) No person shall store any explosive in a magazine that is not a licensed magazine. 5

LICENSES AND PERMITS.

Licenses for
factories and
magazines.

6. The Minister may issue licenses for factories and magazines.

Certificate
to store.

7. The Minister may issue a certificate to any person permitting the storing for sale of such authorized explosives on such premises and in such quantity as the Minister may determine. 10

Inexplosive
component
parts.

8. Notwithstanding anything in this Act the Governor in Council, upon the recommendation of the Minister, accompanied by a certificate from the Chief Inspector of Explosives approving of the nature of the components and of the final explosive product, may allow the inexplosive component parts of an authorized explosive to be assembled and blended at or near the place of use. 20

Import
permits.

9. (1) The Minister may issue permits for the importation of authorized explosives. 25

No import
without
permit.

(2) No person shall import any explosive into Canada, other than safety cartridges, without a permit issued under this section.

Rail
transport
in bond.

(3) Nothing in this section shall prevent any explosive from being transported through Canada by railway in bond, if such transportation is made in a manner authorized by the *Railway Act* or any regulation or order made thereunder. 30

R.S.c. 170

Special
import
permit for
analysis or
research.

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. 35

Application
forms for
licenses and
certificates.

11. (1) Applications for factory or magazine licenses or certificates for registered premises shall be made in such form and manner as are prescribed by regulation. 40

(3) Subsection (3) is the former subsection 7 (2). This paragraph is amended by adding thereto the words underlined.

(4) Subsection (4) is a part of former subsection 8 (2) (see above) revised only as to form.

6. Formerly section 8. Otherwise there is no change. The former subsection 8 (2) (see above) is repealed and its provisions are covered in subsections 5. 2 (a) and 5. (4)

7. This is a new section and provides for the issue of a certificate for registered premises.

8. Formerly section 9. It formerly read as follows:

“**9.** Notwithstanding any provisions contained in this Act the Governor in Council, upon the recommendation of the Minister, *based upon the report in writing of the deputy minister, accompanied by certificates from the chief inspector and chief chemist of explosives* approving of the nature of the components and of the final explosive product, may allow the inexplusive component parts of an authorized explosive *from licensed factories and magazines* to be assembled and blended at or near the point of use.”

The Governor in Council has the necessary authority to make regulations therefore former paragraph 9 is amended by deleting the words in italics. The essential safeguards of this section are still retained in section 4, subsection (k).

Subsection 9 (2) is deleted. It formerly read as follows: “2. Such place of blending shall not be deemed a factory or magazine within the meaning of this Act.”

It is provided for in section 5, subsection 2 (a).

9. Formerly section 10. Otherwise there is no change.

(2) Subsection (2) formerly subsection 10 (2). Otherwise there is no change.

(3) Subsection 3 formerly subsection 10 (3). Otherwise there is no change.

10. Formerly section 11, it formerly read as follows:

“**11.** The Minister may, *on application, and on payment of the prescribed fees*, 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.”

The words in italics have been deleted as section 4, subsection (b) covers the deletion.

11. Formerly section 12, it reads as follows:

“**12.** Applications for factory or magazine licenses shall be made in such form and manner as are prescribed by regulation.”

Section 11, Paragraph (1) is amended by adding the words underlined on opposite page. No material change.

Material to accompany application.

- (2) The application shall be accompanied by
- (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; 5 10
- (b) a description of the situation, character and construction of all buildings and works connected with the factory, magazine or premises and the maximum amount of explosive to be kept in each building;
- (c) a statement of the maximum number of persons to be employed in each building in the factory, magazine or premises; 15
- (d) in the case of an application for a factory license, a statement of the maximum amount of explosive, and of ingredients thereof wholly or partially mixed to be allowed at any one time in any building, machine, or process of the manufacture, or within the distance from such buildings or machine which is limited by regulation; 20 25
- (e) in the case of an application for a factory license a statement of the nature of the processes to be carried on in the factory and each part thereof, and the place at which each process of the manufacture, and each description of work connected with the factory, is to be carried on, and the places in the factory at which explosives and anything liable to spontaneous ignition, or inflammable or otherwise dangerous, are to be kept; and 30
- (f) any other information or evidence which the Minister may require. 35

No alterations without a permit.

12. The owner or operator of a licensed factory, or licensed magazine shall not make any material alteration or addition to the factory, or magazine, or rebuild any part thereof, until he has obtained a permit from the Minister, and before such permit may be granted he shall submit such plans and other information and evidence as the Minister may require. 40

Change of ownerships as affecting license or certificate.

13. (1) A factory or magazine license or certificate for registered premises shall not be affected by any change in the persons who own or operate the factory, magazine or 45

(2) (a) This was formerly 12, 2 (a). It read as follows:

“2. The application shall be accompanied by

(a) a plan, drawn to scale, of the proposed factory or magazine and of the land on which such factory or magazine is situated, and also of the lands adjacent thereto on which buildings are erected, with the uses to which such lands and buildings are now put, and with the exact distances between the several buildings marked thereon:”

Paragraph 11, 2 (a) is amended by adding the underlined words in the text and by rearrangement of the paragraph without material change.

(b) This was formerly 12, 2 (b). It read as follows:

“(b) a description of the situation, character and construction of all buildings and works connected with the factory or magazine, and the maximum amount of explosive to be kept in each building;”

Paragraph 11, (2) (b) is amended by adding the words underlined on opposite page. No material change.

(c) This was formerly 12, 2 (c). It read as follows:

“(c) a statement of the maximum number of persons to be employed in each building in the factory or magazine;”

Paragraph 11, (2) (c) is amended by adding the words underlined in the text. No material change.

(d) This was formerly paragraph 12, (2) (d). Otherwise there is no change.

(e) Formerly paragraph 12, (2) (e). It formerly read as follows:—

“(e) a statement of the nature of the processes to be carried on in the factory and in each part thereof, and the place at which each process of the manufacture, and each description of work connected with the factory is to be carried on, and the places in the factory at which explosives and anything liable to spontaneous ignition, or inflammable or otherwise dangerous, are to be kept; and”

Paragraph 12, (2) (e) is amended by the addition of the words underlined in the text. No material change.

(f) Formerly paragraph 12, (2) (f). Otherwise there is no change.

12. Formerly Section 13, otherwise there is no change.

13. Formerly Section 14, it read as follows:

“**14.** A factory or magazine license shall not be affected by any change in the persons who own or operate the factory or magazine.

registered premises, for a period of two months after the date of such change but on the expiration of such period the license or certificate shall terminate.

Notice of change of ownerships or operator of licensed premises.

(2) Notice of a change in the persons who own or operate a licensed magazine, licensed factory or registered premises, together with the address and calling of the new owner or operator, shall be sent to the Minister by the former owner or operator forthwith upon such change, and by the new owner or operator within one month after such change. 5

Default an offence.

(3) Every person who fails to comply with subsection two of this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred dollars for each week during which the default continues. 10

Cessation of use where special danger.

14. The Minister may require the owner or operator of any licensed factory, licensed magazine or registered premises to stop using, or to use only under and subject to conditions to be specified by the Minister, any building structure or premises which, from its situation or from the nature of the processes carried on therein, constitutes, in his opinion, a special danger. 15

Permit for experimental or testing purposes.

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. 25

Cancellation of license, permit or certificate.

16. Where the Minister is of opinion that the holder of any license, permit or certificate issued pursuant to this Act has contravened or failed to comply with any provision of this Act or any regulation the Minister may cancel such license, permit or certificate. 30

INSPECTORS AND CHEMISTS.

Inspectors and chemists.

17. (1) There may be appointed in the manner authorized by law a chief inspector of explosives, together with such other inspectors and chemists as are necessary for carrying out the provisions of this Act.

Officers without remuneration.

(2) The Governor in Council may appoint such other inspectors and deputy inspectors, without remuneration, as he considers necessary for carrying out the provisions of this Act. 35

2. Notice of such change with the address and calling of the new owner or operator shall be sent to the Minister by the former owner forthwith, and by the new owner within one month after such change, and in default thereof each such owner or operator shall be liable to a penalty not exceeding one hundred dollars for each week during which such default continues, and if the occupier is not himself the owner he shall also be liable to the same penalty."

Paragraph 13, subsection (1) is amended by the addition of the words underlined in the text. A time limit is set before expiry of which application for renewal of a license or a certificate must be made.

The subject matter of the former subsection 14 (2) is recast and is covered more effectively by the two sections, 13 (2) and 13 (3) of this Bill. Otherwise there is no material change.

14. Formerly Section 15. It formerly read as follows:

"**15.** The Minister may require the owner or operator of any factory or magazine to stop using, or to use only under and subject to conditions to be specified by the Minister, any building, structure or premises which, from its situation or from the nature of the processes carried on therein, constitutes, in his opinion, a special danger."

It is amended by the addition of the words underlined in the text.

15. Formerly Section 16. It formerly read as follows:—

"**16.** The Minister may, *on application and on payment of such fees as are prescribed by regulation*, 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."

It is amended by the deletion of the words in italics Section 4, subsection (b) adequately covers the deletion.

16. Paragraph 16 is new. It would provide authority to cancel any license, permit or certificate if the holder of such in the opinion of the Minister, failed to comply with any provision of the Act or Regulations.

17. Formerly Section 17. It formerly read as follows:—

"**17.** There may be appointed in the manner authorized by law a chief inspector of explosives, together with such other inspectors, deputy inspectors and chemists as are necessary for carrying out the provisions of this Act."

Dividing and recasting this section into two subsections, 17 (1) and 17 (2) brings it into line with actual practice.

Powers of inspectors.

18. (1) An inspector may, at any time, visit and inspect any factory, magazine or premises where any explosive is being manufactured or stored, or where he has reason to suspect any explosive is being manufactured or stored, and may open and examine any package that he may there find. 5

Co-operation of owner and operator.

(2) The owner and operator of such factory, magazine or premises shall afford such inspector every facility to make such inspection full and complete, and shall supply the inspector with any information that he may require, other than information relating to the cost of manufacturing an explosive. 10

Power to take samples.

(3) An inspector may require the owner or operator of any factory, magazine or premises where any explosive is manufactured or stored, or any person employed in any such place, to give him such samples as he may require of any substance therein, whether in the state of raw material, material in course of manufacture, or manufactured material, which the inspector believes to be an explosive, or to be an ingredient with or from which an explosive may be manufactured. 15 20

May open packages or stores.

(4) An inspector may, at any time, open or cause to be opened any package or store of material of whatsoever nature, which he believes to contain explosives or ingredients for the manufacture of explosives.

Seizure.

(5) An inspector may seize any explosive that he reasonably believes is not an authorized explosive or in respect of which he reasonably believes an offence under this Act has been committed. 25

Detention of seized explosives.

(6) Any explosive seized pursuant to subsection five of this section may be detained for a period of ninety days and if before the expiration of such period any proceedings in respect of such explosive are taken under this Act may be further detained until such proceedings are finally concluded. 30

INQUIRIES INTO ACCIDENTS

Minister may direct inquiry.

19. (1) The Minister may direct an inquiry to be made whenever any accidental explosion of any explosive has occurred, or when any accident has been caused by an explosive. 35

Authority of person appointed to inquire.

(2) The person authorized by the Minister to conduct such inquiry shall have all the powers and authority of a commissioner appointed under Part I of the *Inquiries Act*. 40

R.S.C. 99.

No inquiry into accident on premises where provincial inquiry provided.

(3) This section shall not apply where an accident has been caused by an explosion of an explosive occurring in any mine or quarry or metallurgical work in any province in which provision is made by the law of such province for a proper and thorough investigation and inquiry into the cause of such accident. 45

18. No change.

(1) No change.

(2) No change.

(3) No change.

(4) No change.

(5) and (6) Subsections 5 and 6 are new. They are designed to provide an inspector with authority to seize and detain for a period of ninety days, if necessary, any explosive which he reasonably believes not to be an authorized explosive. Their purpose is to prevent the sale or disposal of questionable and dangerous explosives until a decision can be given by the court or judge.

19. No change.

OFFENCES AND PENALTIES

Offences.

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 5(c) in any manner whatsoever, obstructs an inspector in the execution of his duties under this Act;

Penalty.

shall be guilty of an offence and shall on summary conviction 10
be liable to a fine not exceeding five hundred dollars, or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.Appeal to
Minister
before
conviction.(2) An owner or operator who is dissatisfied with an order, direction or requirement of an inspector may, before 15
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, 20
direction or requirement.

Trespassing.

21. Every person who enters without permission or lawful authority or otherwise trespasses upon any factory or magazine shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding fifty dollars 25
and he may be forthwith removed from such factory or magazine by any constable or by any person employed at such factory or magazine.

20. The former section 20 read as follows:

“20. Every person who

(a) fails to permit an inspector to enter upon any property, and to inspect, examine or make inquiries in pursuance of his duties;

(b) fails to comply with any order or direction of *such* inspector, in pursuance of *the requirements* of this Act or any regulations *made hereunder*; or

(c) in any manner whatsoever, obstructs *such* inspector in the execution of his duties under this Act;

shall be *liable to a penalty* not exceeding five hundred dollars *and costs* or to imprisonment for a term not exceeding six months or to both fine and imprisonment.

2. Any owner or operator who takes exception to the ruling of an inspector, before such ruling or before the penalty provided for in subsection one of this section is enforced as the case may be, may have the facts upon which such ruling is based submitted to the Minister for his consideration and decision.”

(a) No change.

(b) Paragraph (b) is amended by the addition of the words underlined in the text and by deletion of the words in italics above. No material change.

(c) Paragraph (c) is amended by the addition of the words underlined in the text and by deletion of the words in italics above. No material change.

(2) Former subsection (2) has been recast. There is no material change.

21. The former Section 21 read as follows:

21. Every person who enters without permission or lawful authority or otherwise trespasses upon any factory or magazine shall, *for every offence, be liable to a penalty*, not exceeding fifty dollars *and costs*, and may be forthwith removed from such factory or magazine by any constable or by any person employed at such factory or magazine.”

The former Section 21 is amended by the addition of the words underlined in the text and by the deletion of the deletion of the words in italics* above. There is no material change.

Acts likely to
cause
explosion
or fire.

22. Every person who commits any act which is likely to cause an explosion or fire in or about any factory or magazine, shall be guilty of an offence and shall be 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 such fine and such imprisonment. 5

Manufacture,
possession or
sale of un-
authorized
explosive.

23. Every person who, by himself or his agent, has in his possession, sells, offers for sale, makes, manufactures or imports any explosive that is not an authorized explosive shall be guilty of an offence and shall, for a first offence, be liable on summary conviction to a fine not exceeding two hundred dollars, or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment, and shall for each subsequent offence, be liable on summary conviction to a fine not exceeding five hundred dollars and not less than fifty dollars, or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment. 10 15

General
penalty.

24. Every person who violates any provision of this Act for which a penalty has not been provided, or any regulation shall be guilty of an offence and shall, for the first offence, be liable on summary conviction to a fine not exceeding two hundred dollars and shall, for each subsequent offence, be liable on summary conviction to a fine not exceeding five hundred dollars. 20 25

Official
disclosing
confidential
information.

25. Any official employed under this Act who without due authority from the Department discloses any confidential information shall be guilty of an offence and shall on summary conviction be liable to a fine not exceeding two hundred and fifty dollars or to imprisonment for a term not exceeding three months and shall not thereafter be eligible for employment in the service of His Majesty. 30

Obligation to
comply with
provincial or
municipal
laws.

26. Nothing in this Act shall relieve any person of the obligation to comply with the requirements of any license law, or other law or by-law of any province or municipality, lawfully enacted, with regard to the storage, handling, sale or other dealing with explosives, nor of any liability or penalty imposed by such law or by-law for any violation thereof. 35

22. The former Section 22 read as follows:

“**22.** Every person who commits any act which is likely to cause an explosion or fire in or about any factory or magazine, shall be *liable to a penalty* not exceeding five hundred dollars *and costs*, or to imprisonment not exceeding six months, or to both such fine and imprisonment.”

The former Section 22 is amended by the addition of the words underlined in the text and by the deletion of the words in italics* above. There is no material change.

23. The former Section 23 read as follows:

“**23.** Every person who, by himself or his agent, has in his possession, sells, offers for sale or manufactures or imports any *unauthorized explosive within the meaning of this Act* shall, for a first offence, be *liable to a penalty* not exceeding two hundred dollars *and costs*, or to imprisonment for a term not exceeding three months, or to both fine and imprisonment, and for each subsequent offence shall be *liable to a penalty* not exceeding five hundred dollars *and costs* and not less than fifty dollars *and costs*, or to imprisonment for a term not exceeding six months, or to both fine and imprisonment.”

The former Section 23 is amended by the addition of the words underlined in the text and by the deletion of the words in italics* above. There is no material change.

24. The former Section 24 read as follows:

“**24.** Every person who violates any provision of this Act for which a penalty has not been provided, or any regulation *made hereunder*, shall, for the first offence, *incur a penalty* not exceeding two hundred dollars *and costs*, and for each subsequent offence a *penalty* not exceeding five hundred dollars *and costs*.”

The former Section 24 is amended by the addition of the words underlined in the text and by the deletion of the words in italics* above. There is no material change.

25. No material change. Underlined words in the text have been added.

Former section 26 is repealed. It formerly read as follows:

“**26.** Every penalty and forfeiture may be recovered under the provisions of the Criminal Code relating to summary convictions.”

Reference to “summary convictions” in sections elsewhere in this Bill makes this section unnecessary.

26. Formerly section 27. No change.

Where conviction explosives seized are forfeited to Crown.

27. (1) Where a person is convicted of an offence for having in possession, selling, offering for sale, storing, using, making, manufacturing or importing any explosive that is not an authorized explosive, the court or judge, in addition to any other penalty which may be imposed, shall declare that the explosive by means of, or in relation to which, the offence was committed, be forfeited to the Crown, and thereupon the explosive may be seized and may be destroyed or otherwise disposed of by such person or persons in such manner and at such time and place as the Minister may direct, but no such explosive shall be destroyed or otherwise disposed of pending an appeal against such conviction or before the time within which such appeal may be taken has expired. 5 10

Abandoned or deteriorated explosives.

(2) Any explosive which appears to the Minister to be abandoned or to have deteriorated and to be a danger to persons or property may be seized and destroyed or otherwise disposed of by such person, in such manner and at such time and place as the Minister may direct. 15

Certain powers of Minister may be delegated.

28. The powers conferred upon the Minister by sections six, seven and nine of this Act may be exercised by such person or persons as the Governor in Council may from time to time designate. 20

Repeal.

29. The *Explosives Act*, chapter sixty-two of the Revised Statutes of Canada, 1927, is repealed.

27. This section is a new one.

(1) Subsection (1) is designed to provide for, in addition to penalties that may be imposed upon conviction, forfeitures to the Crown any explosive which is not declared an authorized explosive and for the disposal of same, pending an appeal against conviction, as the Minister may direct.

(2) Subsection (2) is designed to provide the Minister with authority to seize and destroy any explosives which appears to him to be abandoned or to have deteriorated and become a danger to the public. The purpose of this section is to give the Minister power to act immediately if he deems the safety of the public demands such action.

28. Section 28 is new. It would permit the issue of licences for factory, magazines, certificates for registered premises and importation permits by persons designated by the Governor in Council.

THE SENATE OF CANADA

BILL F.

An Act respecting the Marking of Articles containing
Gold, Silver or Platinum.

Read a first time, Thursday, 21st March, 1946.

The Honourable Senator ROBERTSON.

THE SENATE OF CANADA

BILL F.

An Act respecting the Marking of Articles containing Gold, Silver or Platinum.

HIS 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 Precious Metals Marking Act, 1946*. 5

INTERPRETATION.

Definitions. "apply". **2.** In this Act, unless the context otherwise requires, (a) "apply" with its grammatical variations and cognate expressions includes to apply or attach to, or to use on, in connection with, or in relation to, an article by any method or means, whether to, on, by, in, or with 10
(i) the article itself;
(ii) anything attached to the article;
(iii) anything to which the article is attached;
(iv) anything in or on which the article is; or
(v) anything so used or placed as to lead to a reason- 15
able belief that the mark on that thing is meant to be taken as a mark on the article itself;
"article". (b) "article" means an article of merchandise, and includes any portion of such article, whether a distinct part thereof or not; 20
"dealer". (c) "dealer" means a person who is a manufacturer, seller, or importer of or who traffics in, by wholesale or retail, any of the articles to which this Act applies and includes a director, manager, officer or agent of any such person; 25
"gold". (d) "gold" includes an alloy of gold;
"gold article". (e) "gold article" means an article wholly or partly or purporting to be wholly or partly composed of gold;

EXPLANATORY NOTES.

This bill is in effect, a bill to amend the Precious Metals Marking Act, R.S.C., c. 84. The amendments are so numerous and important besides involving the rewording of sections and subsections of the Act and adding new sections or subsections with the consequent renumbering of sections that it is considered advisable to repeal the present Act and introduce a new one.

1. The title remains unchanged except for the addition of the year of passing.

2. A re-arrangement with additions underlined.

The word "applied" has been dropped but the additions will provide a wide interpretation of the word "apply".

- (i) No change.
- (ii) No change.
- (iii) No change.
- (iv) No change.
- (v) No change.

(b) No change.

(c) Paragraph (c) is merely a re-arrangement of the present wording.

(d) No change.

(e) No change, merely a re-arrangement of 3 (a).

"mark".	(f) "mark" includes mark, sign, device, imprint, stamp, brand, label, ticket, letter, word or figure;	
"mount".	(g) "mount" means any part attached to the body of a plated article, other than the plating;	
"person".	(h) "person" includes an association and a partnership;	5
"plated article".	(i) "plated article" means an article composed of material upon the surface of which a layer or plating of platinum, gold or silver is deposited or plated by means of a chemical, electrical, mechanical or metallurgical process or by means of a combination of any such processes, and an article composed of an inferior metal to the surface of which a covering or sheeting of platinum, gold or silver is fixed by brazing, soldering or by any mechanical means;	10
"platinum".	(j) "platinum" includes an alloy of platinum;	15
"platinum article".	(k) "platinum article" means an article wholly or partly or purporting to be wholly or partly composed of platinum;	
"quality mark".	(l) "quality mark" means a mark indicating or purporting to indicate the quality, quantity, fineness, weight, thickness, proportion or kind of gold, silver, or platinum in an article;	20
"regulation".	(m) "regulation" means a regulation made by the Governor in Council pursuant to this Act;	
"sell".	(n) "sell" with its grammatical variations and cognate expressions includes to dispose of for valuable consideration, to offer to sell, to distribute or offer as premiums or prizes, to offer to dispose of for valuable consideration, to have in possession with intent to sell or intent to dispose of for valuable consideration and to display in such manner as to lead to a reasonable belief that the article is intended for sale;	25 30
"silver".	(o) "silver" includes an alloy of silver;	
"silver article".	(p) "silver article" means an article wholly or partly or purporting to be wholly or partly composed of silver.	35

APPLICATION.

Articles within Act.

3. (1) This Act applies to gold articles, silver articles, platinum articles and plated articles made or sold in Canada or imported or otherwise brought into Canada by dealers.

Exceptions.

(2) This Act shall not apply to such parts of articles as require adaptation to the use of the trade and are exempted from the application of this Act by regulation.

Mark on article not to apply to works.

4. A mark applied to an article composed of a case or cover containing or incorporating mechanism, works or movements, shall be deemed not to be applied and not intended to be applied to the mechanism, works or movements.

- (f) This is new and in part replaces 2 (e). It makes provision for the use of the word "mark" but not indicative of any quality.
- (g) No change, a re-arrangement of 2 (i).
- (h) This is new and defines the word "person".
- (i) Formerly 3 (c). The wording is substantially the same with the exception "material" has been substituted for "inferior metal". This has been done in order that "plated articles" will embrace plastics and other like materials.
- (j) No change.
- (k) No change, a re-arrangement of 3 (d).
- (l) This is new, and in part replaces 2 (e). Its purpose is to distinguish between the word "mark" meaning other than quality, and "quality mark" indicating a quality.
- (m) This is new and defines the word "regulation".
- (n) This is a re-arrangement of 2 (h) with additions underlined. The additions will broaden the interpretation of the word "sell". They will also embrace the distribution of premiums, and prevent the displaying of articles other than those actually intended for sale.
- (o) No change.
- (p) A re-arrangement of 3 (b), no change in actual substance.

3. (1) A re-arrangement of section 3, no change in actual substance.

(2) A re-arrangement of section 5, no change in actual substance.

4. A re-wording of section 4 with additions underlined. The additions are intended to give a broader interpretation of the word "containing".

GOLD, SILVER AND PLATINUM MARKING.

Unauthor-
ized
markings.

5. Except as authorized by this Act

- (a) no mark shall be applied to an article suggesting or indicating that the article is in whole or in part composed of gold, silver or platinum; and
(b) no decimal mark shall be applied to a gold article, silver article, platinum article or plated article. 5

Quality
mark.

6. (1) A quality mark may be applied in accordance with this Act to an article containing gold, silver or platinum.

Quality
mark to
truly indi-
cate.

(2) The quality mark applied to any gold article, silver article or platinum article shall truly and correctly indicate the quality of the gold, silver or platinum, as the case may be, in the manner required by this Act. 10

Article with
quality mark
also to have
trade mark.

(3) A gold article, silver article or platinum article that has applied to it a quality mark shall also have applied to it a trademark registered under the *Unfair Competition Act, 1932*, or a trademark in respect of which application for registration has been made under that Act, and where the quality mark is stamped, branded, engraved, or imprinted upon the article such trademark shall also be stamped, branded, engraved or imprinted upon the article. 15 20

1932, c. 38.

Where hall-
marked by
other coun-
try.

(4) Subsections two and three of this section shall not apply to any article

- (a) that is hallmarked in accordance with the laws of the United Kingdom; or
(b) that has applied to it by the government of any foreign country a mark authorized to be applied thereto under the laws of that foreign country and indicating truly and correctly the quality of the gold, silver or platinum, as the case may be, if with respect to that article all other provisions of this Act are complied with. 25 30

Other marks.

(5) An article that has applied to it a quality mark in accordance with this section, or a mark mentioned in subsection four of this section, may also have applied thereto any or all of the following marks 35

- (a) numerals intended to identify the article or pattern and not calculated to mislead or deceive;
(b) the name or initials of a dealer; and
(c) any mark not calculated to mislead or deceive.

Not appli-
cable to
plated
articles.

(6) This section shall not apply to plated articles. 40

GOLD MARKING.

Quality
marking.

7. (1) Except as otherwise provided in this Act a quality mark applied to a gold article shall truly and correctly state in karats or in decimals the fineness of the gold in the article.

5. (a) This is new but re-enacts in part Section 7-2(b). There is no change in actual substance.

(b) This is new but re-enacts in part Section 7-2(b). There is no change in actual substance.

6. (1) This is new but re-enacts in part Section 7. There is no change in actual substance.

(2) This is a re-arrangement of section 7-2(b). There is no change in actual substance.

(3) This is a re-arrangement of section 7-2(a) and (b) with additions underlined.

The additions underlined make it permissible to use and apply a trade mark to articles once application has been filed and without waiting for official registration.

The additions also strengthen section 2 (a) and make compulsory the application of a registered trade mark upon an article, when the article itself is stamped with any mark of quality.

(4)

(a) No change in actual substance.

(b) A re-arrangement of Section 7-2 (b), no change in actual substance.

(5) No change in actual substance. Wording has been re-arranged.

(a) No change.

(b) No change.

(c) No change.

(6) This is new and removes plated articles from its purview.

7. (1) A re-arrangement of Section 8-2 (a) with additions underlined. The additions provide for the use of a decimal mark to indicate the fineness of gold as used by Assay Offices in Great Britain.

- Karats. (2) Karats may be stated by the mark "Karat", "Carat", "K", "Kt.", "C" or "Ct.".
- Number of karats meaning. (3) Subject to subsection five of this section a statement of the number of karats shall be deemed to be a statement that such number is in the same proportion to twenty-four karats as the weight of the pure gold in the article to which the mark applies is to the weight of the gold in the article; for example, 18K shall be deemed to be a statement that eighteen twenty-fourths of the weight of the gold in the article are pure gold.
- Decimal quality mark meaning. (4) Subject to subsection five of this section a decimal quality mark applied to a gold article shall be deemed to be a statement that the decimal is in the same proportion to one as the weight of the pure gold in the article is to the weight of the gold in the article; for example, .584 shall be deemed to be a statement that five hundred and eighty-four parts in every one thousand parts of the weight of the gold in the article are pure gold.
- Where actual fineness may be less than stated. (5) The actual fineness of the gold in the article may be less than that stated by the karat or decimal mark by an amount not exceeding one-half of a karat when solder is used or by an amount not exceeding one-quarter of a karat when solder is not used.
- Fineness not less than nine karats. (6) No mark shall be applied to a gold article indicating or purporting to indicate that the fineness of the gold in the article is less than nine karats.
- How marked. (7) Where a gold article is composed of gold of not less than nine karats in fineness, and the quality of the gold is truly and correctly indicated in the manner required by this section,
- (a) the mark "Gold" or any abbreviation thereof may be applied to the article when accompanied by a statement in karats or decimals of the fineness of such gold; for example, "14K Gold", ".584 Gold"; and
- (b) a national mark authorized under licence by the Governor in Council, consisting of a representation of a crown surrounded by the letter "C", may be applied to the article if it is wholly of Canadian manufacture.

SILVER MARKING.

- Marking silver articles. **S.** (1) Subject to subsection four of this section the mark "silver", "sterling" or "sterling silver" or any abbreviation thereof may be applied to a silver article containing at least nine hundred and twenty-five parts by weight of pure silver in every one thousand parts of the silver in the article.

(2) This is new and provides for the use of words or abbreviations, internationally used, to indicate gold.

(3) A re-arrangement Section 8-2 (b), no change in actual substance.

(4) This is new and defines the decimal quality mark when applied to gold articles.

(5) Merely a re-arrangement of section 8-2 (c) with additions underlined. This subsection makes provision for a leeway on assay and the additions will embrace gold articles stamped with the decimal quality mark.

(6) A re-arrangement of section 8-3, no change in actual substance.

(7) A re-arrangement of section 8-3, no change in actual substance.

(a) A re-wording of section 8-4 with additions underlined. The additions make permissible the use of decimal marks to indicate the fineness of gold in an article, such as are used by Assay Offices in Great Britain and elsewhere.

The words "solid gold" are deemed to mean 24K or pure gold and for this reason are dropped.

(b) A re-arrangement of section 8-5, no change in actual substance.

8. (1) A re-arrangement of Section 9-3, no change in actual substance.

The words "coin" and "coin silver" are dropped. Coin silver is to-day not higher than 900/1000ths in fineness and consequently not of sterling silver quality.

Sections 9-4 (a) and (b) are dropped.

(4) "As respects articles composed in whole or in part of silver of a lower quality than sterling.

(a) any marks indicating the quality of silver used in such articles shall state truly and correctly fineness of the silver in decimals, thus; .800 or .900 or as the case may be;

Where actual
fineness
may be less
than stand-
ard.

(2) The actual fineness of silver in a silver article may be less than the standards mentioned in subsection one of this section by an amount not exceeding ten parts in one thousand when solder is used or by an amount not exceeding four parts in one thousand when solder is not used.

5

Canadian
national
mark.

(3) Where a silver article is composed of silver of a quality not less than that prescribed by subsection one of this section, is wholly of Canadian manufacture, and has applied to it a mark truly and correctly indicating the quality of the silver in the article, there may be applied to the article a national mark authorized under licence by the Governor in Council consisting of a lion's head surrounded by the letter "C".

10

PLATED ARTICLES MARKING.

Articles to
which
applicable.

9. (1) This section applies only to plated articles wholly or partly composed of the materials known to the trade as "rolled gold plate", "gold filled", "gold electro-plate", "gold plate", "gold plated", "rolled silver-plate", "silver filled", "silver electro-plate", "silver plate", "silver plated" and to such articles of like nature as may be designated and defined by regulation.

20

Unauthor-
ized
marking.

(2) Except as authorized by sections ten and eleven of this Act, a mark other than a mark authorized by this section shall not be applied to a plated article.

Gold filled
quality
mark.

(3) The quality mark "gold filled" or "G.F." may be applied to an article composed of any substance upon the surface of which a sheet of gold of a quality not lower than ten karat has been soldered or sweated, if the weight of such gold is at least one-twentieth of the gross weight of the article with an allowance of ten per centum leeway on assay.

30

Rolled gold
plate.

(4) The quality mark "rolled gold plate" or "R.G.P." may be applied to an article composed of any substance upon the surface of which a sheet of gold of a quality not lower than ten karat has been soldered or sweated.

Gold plated
quality
mark.

(5) The quality mark "gold plated" may be applied to an article composed of a substance upon the surface of which gold has been deposited or plated by means of any chemical, electrical, mechanical or metallurgical process or by means of any combination of such processes.

35

(b) The decimal quality mark, so stated shall bear the same proportion to unity as the weight of the pure silver in the article bears to the gross weight of the article, except such parts thereof as are mentioned in sections four and five of this Act; that is to say, .900 shall be deemed to mean that nine hundred one-thousandths of the gross weight of the article, with the exceptions herein provided for, are pure silver, and one hundred one-thousandths are other ingredients;”

No silver articles of .800 or .900 silver are being made in Great Britain, Canada or the United States. With one or two exceptions countries throughout the world are now using sterling silver (925/1000ths fine) as a minimum quality in the production of silver articles.

For this reason Section 9-4 (a) and (b) have been dropped.

(2) A re-arrangement of Section 9-4 (c) changes are indicated by underlining.

Section 9-4 (c) reads:

- “(i) by more than twenty-five parts in 1000 when solder is used; or
- (ii) by more than ten parts in 1000 when solder is not used.”

It is considered by the silver industry that the present leeway on silver articles is too high.

(3) A re-arrangement of Section 9-5, no change in actual substance.

9. (1) A re-arrangement of section 10 (1), no change in actual substance.

(2) This is new and restricts the use of marks except as authorized.

(3) A re-arrangement of section 10—6 (a), changes are underlined. The word “materials” is dropped and “any substance” substituted therefor.

(4) This is new and replaces section 10—6 (b), which reads:

“(b) The phrase “rolled plate”, “electro plate” or “gilt” may be applied to any article mentioned in paragraph (a) of quality less than that known to the trade as 1/20-10K.”

The word “gold” has been added to rolled plate and the letter G to the abbreviation R.P. It is considered by the trade that the phrase “rolled plate” alone does not indicate the nature of the plate.

(5) This is new and re-enacts in part section 9—6 (b). The word “gilt” is misapplied when used in connection with articles that are made from gold filled or rolled plate sheeting. The word “gilt” is dropped and “gold plated” substituted therefor.

Watch cases, spectacles or eyeglass assemblies.

Plated article may have fractional mark, except watch cases.

Quality mark "gold filled" on watch case.

(6) Subsections three, four and five of this section shall not apply to a watch case or any part of a spectacle or eyeglass assembly.

(7) A plated article, except a watch case, that has applied to it quality marks in accordance with subsection three or four of this section may have applied to it a fractional mark, with all numerals therein of equal size, indicating the quality of the gold in the article and the ratio that the gold in the article has to the gross weight of the article; for example 1/20-10K. 5

(8) The quality mark "gold filled" or "G.F." when closely accompanied by a quality mark truly and correctly indicating the quality of the gold in characters of the same size as those employed in the mark "gold filled" or "G.F." may be applied 10

(a) to a watch case, the hunting case front, if any, and the back and caps of which are made of two sheets of gold of a standard not lower than ten karat soldered or brazed to the two sides or surfaces of a sheet of inferior metal, and the centre, open face bezel or hunting bezel, pendant, crown and bow of which are made of one sheet of gold of a standard not lower than ten karat soldered or brazed to the outer surface of a sheet of inferior metal, if 15

(i) the sheet of gold soldered or brazed to the outer surface of the hunting case front, back, centre, open face bezel, pendant, crown and bow is not less than three one-thousandths of an inch in thickness; and 25

(ii) the sheet of gold soldered or brazed to the outer surface of the cap and of the hunting bezel is not less than one one-thousandths of an inch in thickness; 30

(b) to a bracelet watch case, the bezel, centre, lugs and back of which are made of one sheet of gold of a standard not lower than ten karat soldered or brazed to the outer surface of a sheet of inferior metal, if the sheet of gold is not less than three one-thousandths of an inch in thickness; 35

(c) to a bracelet watch case other than that described in paragraph (b) of this subsection, the bezel, centre, lugs or back of which is made of one sheet of gold of a standard not lower than ten karat soldered or brazed to the outer surface of a sheet of inferior metal, if 40

(i) the sheet of gold is not less than three one-thousandths of an inch in thickness; 45

(ii) the said marks are legibly stamped, branded, engraved or imprinted upon the outer surface of the parts of the case to which such sheet of gold has been so soldered or brazed; and 50

(6) This is new and removes from the purview of subsections 3, 4 and 5 of this section, watch cases and spectacle ware which are provided for later in this section.

(7) This is new. Its purpose is to make permissible the application of a fractional quality mark that will indicate both the quantity and quality of the gold applied to articles known as gold filled and rolled gold plate. Section 10-6 (a) restricts the use of the quality mark "gold filled" to articles 1/20-10K or better. Consequently, there is no quality mark to indicate or show the difference in quality in an article made of 1/10-12K.

(8) A re-arrangement of Section 7-a, no change in actual substance.

(a) A re-wording of Section 10-7(a) (i), no change in actual substance.

(i) A re-wording of Section 10-7(a) (i), no change in actual substance.

(ii) A re-wording of Section 10-7(a) (i), no change in actual substance.

(b) A re-wording of Section 10-7(a) (ii), no change in actual substance.

(c) A re-wording of Section 10-7(a) (ii), no change in actual substance.

(i) A re-arrangement of section 10-7 (a) (ii), no change in actual substance.

(ii) A re-arrangement of section 10-7 (a) (ii), no change in actual substance.

Quality
mark "rolled
gold plate"
on watch
case.

(iii) the mark "base metal" is legibly stamped, branded, engraved or imprinted upon the outer surface of the parts of the case to which such sheet of gold has not been so soldered or brazed. 5

(9) The quality mark "rolled gold plate" or "R.G.P." when closely accompanied by a quality mark truly and correctly indicating the quality of the gold in characters of the same size as those employed in the mark "rolled gold plate" or "R.G.P." may be applied

(a) to a watch case, the hunting case front, if any, and the back and caps of which are made of two sheets of gold of a standard not lower than ten karat soldered or brazed to the two sides or surfaces of a sheet of inferior metal, and the centre, open face bezel or hunting bezel, pendant, crown and bow of which are made of one sheet of gold of a standard not lower than ten karat soldered or brazed to the outer surface of a sheet of inferior metal, if

(i) the sheet of gold soldered or brazed to the outer surface of the hunting case front, back, centre, open face bezel, pendant, crown and bow is not less than one and one-half thousandths of an inch in thickness; and

(ii) the sheet of gold soldered or brazed to the outer surface of the cap and of the hunting bezel is not less than one and one-half one-thousandths of an inch in thickness;

(b) to a bracelet watch case, the bezel, centre, lugs and back of which are made of one sheet of gold of a standard not lower than ten karat soldered or brazed to the outer surface of a sheet of inferior metal, if the sheet of gold is not less than one and one-half thousandths of an inch in thickness;

(c) to a bracelet watch case other than that described in paragraph (b) of this subsection, the bezel, centre, lugs or back of which is made of one sheet of gold of a standard not lower than ten karat soldered or brazed to the outer surface of a sheet of inferior metal, if

(i) the sheet of gold is not less than one and one-half thousandths of an inch in thickness;

(ii) the said marks are legibly stamped, branded, engraved or imprinted upon the outer surface of the parts of the case to which such sheet of gold has been so soldered or brazed; and

(iii) the mark "base metal" is legibly stamped, branded, engraved or imprinted upon the outer surface of the parts of the case to which such sheet has not been so soldered or brazed.

"Gold filled"
mark on
spectacle and
eyeglass
assembly.

(10) The quality mark "gold filled" or "G.F." shall be applied to every part of a spectacle or eyeglass assembly that is composed in whole or in part of any substance upon

(iii) A re-arrangement of section 10-7 (a) (ii), no change in actual substance.

(9) This is new. Its purpose is to provide for quality marks that may be applied to watch cases of a quality less than that known to the trade as "gold filled", i. (3/1000 of gold on outer surfaces).

(a) This is new and defines the requirements necessary before quality marks may be applied.

(i) This is new and restricts the use of a quality mark, unless there is on the outer surfaces of a watch case at least one and one-half thousandths of an inch gold.

(ii) This is new and restricts the use of a quality mark, unless there is on the outer surfaces of a watch case at least one and one-half thousandths of an inch gold.

(b) This is new and sets a requirement as to the quality and thickness of gold, that may be used or applied to the outer surfaces of a watch case.

(c) This is new and sets a minimum quality of gold to be used, or applied to the outer surface of a watch case.

(i) This is new and sets a minimum thickness of gold that may be used, or applied to the outer surface of a watch case.

(ii) This is new and regulates the application of quality marks to a watch case.

(iii) This is new. Its purpose is to make compulsory the application of the words "base metal" to a watch case if and when any quality marks are applied and provided the case has a gold filled front with a stainless steel or base metal back.

(10)(a) This is a re-arrangement of Section 10-8(a), no change in actual substance.

the surface of which gold of a quality not lower than twelve karat has been soldered or sweated, if the weight of such gold is at least one-tenth of the gross weight of such part with an allowance of ten per centum leeway on assay.

"Rolled plate" mark.

(11) The quality mark "rolled plate" of "R.P." shall be applied to every part of a spectacle or eyeglass assembly that is composed in whole or in part of any substance upon the surface of which gold of a quality not lower than twelve karat is soldered or sweated, if the weight of such gold is less than one-tenth of the gross weight of such part with an allowance of ten per centum leeway on assay. 5

"gilt" quality mark.

(12) The quality mark "gilt" shall be applied to every part of a spectacle or eyeglass assembly composed in part of gold not soldered to or sweated upon a substance.

Certain silver plated articles marked "silver electro-plate" or "silver plate"

(13) A silver plated article to which section ten or section eleven of this Act does not extend may have applied to it the mark "silver electro-plate", or "silver plate" or any abbreviation thereof. 15

Plated article with quality mark also to have trademark applied.

(14) A plated article that has applied to it a quality mark shall also have applied to it a trademark registered under the *Unfair Competition Act, 1932*, or a trademark in respect of which application for registration has been made under that Act, and where the quality mark is stamped, branded, engraved or imprinted upon the article, such trademark shall also be stamped, branded, engraved or imprinted upon the article. 20 25

Other marks that may be applied to plated articles.

(15) A plated article that has applied to it a quality mark in accordance with this section may have applied to it all or any of the following marks:

- (a) a mark indicating truly and correctly, in accordance with the provisions of subsection one of this section, the designation of the material as known to the trade or as established by regulation; 30
- (b) numerals intended to identify the article or pattern and not calculated to mislead or deceive; 35
- (c) the name or initials of a dealer; and
- (d) the words "Sheffield Reproduction" if the article is silver plated on a nickel or pure copper base having a soldered-on decorative or plain border, and if such border and any mounts thereof are of silver, nickel or copper, solid or filled. 40

(b) This is a re-arrangement of Section 10-8(b), no change in actual substance.

(c) A re-arrangement of section 10-8 (c), no change in actual substance.

(11) This is new and provides for quality marks to articles other than those known to the trade as flat ware and hollow ware.

(12) A re-arrangement of section 10-3 with additions underlined. The additions make it permissible to use and apply a trade mark to articles once application has been filed and without waiting for official registration. They also strengthen section 2 (a) and make compulsory the application of a registered trade mark upon an article, when the article itself is stamped with any mark of quality.

(13) A re-wording of section 10-4 (a), no change in actual substance.

(a) a re-arrangement of section 10-4 (a), no change in actual substance.

(b) No change.

(c) No change.

(d) No change.

SILVER ELECTRO-PLATED FLAT WARE MARKING.

- Silver "electro-plated flat ware," mark. **10.** This section applies only to silver plated articles known to the trade as "electro-plated flat ware".
- Unauthorized marking (2) A mark other than a mark authorized by this section shall not be applied to an article to which this section extends. 5
- Quality mark applied. (3) Subject to this section an article may have applied to it a quality mark indicating truly and correctly the grade or quality of the plating as known to the trade.
- Article with quality mark also to have trade mark applied. (4) An article that has applied to it a quality mark shall also have applied to it a trademark registered under the Unfair Competition Act, 1932, or a trademark in respect of which application for registration has been made under that Act, and where the quality mark is stamped, branded, engraved or imprinted upon the article, such trademark shall also be stamped, branded, engraved or imprinted upon the article. 10 15
- Other marks that may be applied. (5) An article that has applied to it a quality mark in accordance with subsection three of this section may have applied to it any or all of the following marks: 20
- (a) numerals intended to identify the article or pattern and not calculated to mislead or deceive;
- (b) the name or initials of a dealer; and
- (c) any mark not calculated to mislead or deceive if such marks are not incorporated in the quality mark.
- Quality mark other than "A.1." or "Triple Plate". (6) A quality mark, other than "A.1." or "Triple Plate", shall be deemed not to indicate truly and correctly the grade or quality, as known to the trade, of the plating, unless it indicates truly and correctly the number of ounces, pennyweights or as the case may be, of pure silver upon a gross of articles exactly the same in size, design and plating as the article to which the mark is applied. 25 30
- Requirements as to quality where mark "A.1." applied. (7) The quality mark "A.1." shall not be applied to an article unless the quality of the plating is at least two ounces of pure silver to the gross of teaspoons and the quality mark "Triple plate" shall not be applied to any article unless the quality of the plating is not less than six ounces of pure silver to the gross of teaspoons, with other pieces in proportion. 35
- "Silverplate" "Silver-plated" or "Silverware" marks. (8) An article may have applied to it the marks "Silver-plate", "Silverplated" or "Silverware" or any abbreviation thereof. 40
- "Nickel-silver" mark. (9) An article may have applied to it the mark "Nickel-silver" or an abbreviation thereof if at least ten per centum of the base of inferior metal, upon which the plating of silver is deposited, is pure nickel. 45

10. No change.

(2) A re-arrangement of Section 11-2, no change in actual substance.

(3) A re-arrangement of Section 11-4, no change in actual substance.

(4) A re-arrangement of Section 11-3 with additions underlined. The additions make it permissible to use and apply a trade mark to articles once application has been filed and without waiting for official registration. They also strengthen Section 2(*a*) and make compulsory the application of a registered trade mark upon an article when the article itself is stamped with any mark of quality.

(5) A re-arrangement of Section 11-5, no change in actual substance.

(*a*) No change.

(*b*) No change.

(*c*) A re-wording of Section 11-5(*c*), no change in actual substance.

(6) A re-arrangement of Section 11-6, no change in actual substance.

(7) A re-arrangement of Section 11-6, no change in actual substance.

(8) A re-arrangement of section 11-7, no change in actual substance.

(9) A re-arrangement of section 11-8, no change in actual substance.

Articles
requiring the
word "Steel"
to be
stamped
thereon.

(10) When the base of inferior metal upon which the plating of silver is deposited contains less than ten per centum of pure nickel, there shall be legibly and conspicuously stamped upon the article the word "Steel" or such other word or words as will most accurately describe the base metal as known to the trade, together with the trademark required to be applied by subsection four of this section. 5

ELECTRO-PLATED HOLLOW WARE MARKING

Articles
plated with
silver.

11. (1) This section applies only to articles that are plated with silver and are known to the trade as "electro-plated hollow ware", other than articles known to the trade as "Sheffield Reproductions" as provided for in paragraph (d) of subsection fifteen of section nine of this Act. 10

Unauthorized
marking.

(2) A mark other than a mark authorized by this section shall not be applied to an article to which this section extends. 15

Trade mark
to be
applied.

(3) Every article shall have stamped, branded, engraved or imprinted upon it a trademark registered under the *Unfair Competition Act, 1932*, or a trademark in respect of which application for registration has been made under that Act. 20

Additional
mark to
trade mark.

(4) In addition to the trademark mentioned in subsection three of this section there shall also be applied in conjunction with the trade mark a mark known to the trade indicating legibly and conspicuously, the base metal of the article and mount, if any, upon which the plating is deposited. 25

Other marks
in addition
to trade
mark that
may be
applied.

(5) An article to which a trade mark is applied pursuant to subsection three of this section may have applied to it any or all of the following marks:

- (a) numerals intended to identify the article or pattern;
- (b) the name or initials of the dealer; and
- (c) any mark not calculated to mislead or deceive if such marks are not incorporated in the quality mark. 30

(6) An article may have applied to it the marks "Silver-plate", "Silverplated" or "Silverware" or any abbreviation thereof. 35

(7) An article may have applied to it the mark "Nickel Silver" or any abbreviation thereof if at least ten per centum of the base of inferior metal, upon which the plating of silver is deposited, is pure nickel.

(8) An article may have applied to it the mark "Britannia metal" or "white metal" or any abbreviation thereof if at least ninety per centum by weight of the material of which the article is composed is tin. 40

(10) A re-arrangement of section 11-9 with change underlined. The word "brass" has been dropped and the word "steel" substituted therefor. Brass is seldom if ever used as a base metal in the manufacture of silver plated flat ware. Steel is used quite extensively, hence the change. There is no change in actual substance.

11. No change.

(2) A re-arrangement of section 11A-2, no change in actual substance.

(3) A re-arrangement of section 11A-3 with additions underlined. The word "applied" is dropped and "stamped, branded, engraved or imprinted upon it" is substituted therefor. The additions also permit the use and application of a trade mark once application has been filed, without waiting for official registration.

(4) A re-arrangement of section 11A-4, no change in actual substance.

(5) A re-arrangement of section 11A-5, no change in actual substance.

(a) No change.

(b) No change.

(c) No actual change in substance, the underlined additions formerly 11A-5.

(6) A re-arrangement of Section 11A-6, no actual change in substance.

(7) A re-arrangement of Section 11A-7, no actual change in substance.

(8) A re-arrangement of Section 12-3 with additions underlined. The additions make permissible the use of the words "Britannia metal" or "white metal" as an alternative to the permissible abbreviations "B.M." or "W.M."

PLATINUM MARKING.

"Platinum"
or "plat."
as mark.

12. (1) The mark "platinum" or "plat." may be applied to an article ninety-five per cent. of the metallic content of which is composed of platinum either alone or in conjunction with iridium or ruthenium.

Prohibition.

(2) Except as provided in subsection one of this section the word "platinum" or any abbreviation or imitation thereof shall not be applied to any article. 5

OFFENCES AND PENALTIES.

Offences.

13. Every dealer is guilty of an offence who,
(a) applies to an article any mark not authorized by this Act or by regulation to be applied thereto; 10

(b) applies to an article any mark in a manner not authorized by this Act or by regulation;

(c) omits or neglects to apply to an article any mark required by this Act or by regulation to be applied thereto; 15

(d) makes, sells or imports or otherwise brings into Canada, an article to which any mark not authorized by this Act or by regulation is applied, or to which a mark is applied in a manner not so authorized, or that has not applied thereto any mark required by this Act or by regulation to be applied thereto; 20

(e) destroys, defaces or in any manner renders indecipherable any marks applied to any article under the authority of this Act or any regulation;

(f) in any other way contravenes or fails to comply with any provision of this Act or any regulation; or 25

(g) attempts to commit any offence described in the foregoing paragraphs of this section;

and for each article or part of an article in respect of which the offence is committed shall be liable on summary conviction to a fine not exceeding one hundred dollars and not less than twenty-five dollars. 30

14. Every dealer is guilty of an offence who

(a) applies to a plated article any mark that guarantees or purports to guarantee, or induces or tends to induce a belief, that the gold or silver with which the article is plated will wear or last for any time whether specified or not; 35

(b) makes, sells, or imports or otherwise brings into Canada any plated article to which any mark mentioned in paragraph (a) of this section is applied; 40

(c) prints, causes to be printed, issues, publishes, or otherwise makes use of, any printed or written matter

12. A re-arrangement of Section 12-a, no actual change in substance.

(2) A re-arrangement of Section 12-a, with additions underlined. They make provision for the use of "plat." as an abbreviation of the word platinum. Ruthenium has been added, this metal is now being used in conjunction with platinum.

13. A re-arrangement of Section 13, no change in actual substance.

(a) A re-wording of Section 13-a, no change in actual substance.

(b) A re-wording of Section 13-b, with additions underlined, no actual change.

(c) A re-wording of Section 13-c, no change in actual substance.

(d) A re-arrangement of Section 13d, no change in actual substance.

(e) A re-arrangement of section 13-e, no change in actual substance.

(f) A re-arrangement of section 13-e, no change in actual substance.

(g) No change, to the first part of this paragraph. The additions to this paragraph as underlined are merely a re-arrangement without any change in actual substance of section 13-l.

14. A re-arrangement of section 14-l, no actual change in substance.

(a) No change.

(b) A re-arrangement of section 14-b, with additions underlined. The additions bring the manufacture, sale or importation of plated articles stamped with any guarantee within the purview of this paragraph.

(c) A re-wording of section 14-c, no change in actual substance.

of the nature of an advertisement guaranteeing or purporting to guarantee or inducing or tending to induce a belief, that the gold or silver with which a plated article is plated will wear or last for any time whether specified or not; 5

(d) imports or otherwise brings into Canada any printed or written matter referred to in paragraph (c) of this section;

(e) in any advertisement of an article uses any mark or description the application of which to such article is prohibited under this Act; or 10

(f) attempts to commit any offence described in the foregoing paragraphs of this section;

Penalty. and shall be liable on summary conviction to a fine not exceeding one hundred dollars and not less than twenty-five 15 dollars.

Disposition of articles where conviction.

15. (1) Every article in respect of which a conviction is had under this Act shall be broken, broken down or defaced and every part of such article, except precious and semi-precious stones and watch movements, shall immediately upon such conviction, in addition to any penalty imposed, be *ipso facto* forfeited to His Majesty and shall be disposed of by such person, in such manner and at such time and place as the Minister of Trade and Commerce may direct. 20 25

Disposal of printed or written matter on conviction

(2) All printed or written matter in respect of which a conviction is had under this Act shall immediately upon such conviction, in addition to any penalty imposed, be *ipso facto* forfeited to His Majesty and shall be destroyed by such person, in such manner and at such time and place as the Minister of Trade and Commerce may direct. 30

Time for laying information and complaint.

16. In the case of any offence punishable under this Act the complaint shall be made, or the information shall be laid, within one year from the time when the matter of complaint or information arose. 35

INSPECTOR OF ARTICLES.

Power to enter, inspect and seize.

17. (1) Any officer appointed under this Act or any regulation shall have power at any reasonable time to enter the premises of any dealer, to require the production for inspection of any article upon the premises of such dealer and to seize any article which he reasonably suspects is marked otherwise than in accordance with the provisions of this Act. 40

Retention of seized article.

(2) Any article seized pursuant to subsection one of this section may be retained for a period of ninety days and if before the expiration of such period any proceedings in respect of such article are taken under this Act may be further retained until such proceedings are finally concluded. 45

(d) No change.

(e) A re-arrangement of Section 14-d (1), no change in actual substance.

(f) No change.

15. (1) A re-arrangement of Section 15 with additions underlined. It is considered that this Act has jurisdiction only over the gold, silver or platinum in an article. Should a seizure of articles be made, for example, a complete watch or a diamond set ring the additions underlined will force the return of a watch movement, a diamond or precious stone, should a conviction be had, to the person or firm from whom the articles were originally taken.

(2) This is new but actually it is a re-arrangement of the latter part of Section 15.

16. This is new and replaces Section 15-a which reads: Section 1142 of the Criminal Code shall not apply to any proceedings in respect of any offence under this Act.

17. (1) This re-enacts Section 16-1 with additions underlined. The word "during business hours" have been dropped and the word "reasonable" substituted therefor. It is considered that "during business hours" is too restrictive as respects the duties of officers appointed under this Act, when in the field. The additions give officers appointed under the Act authority to place under seizure articles suspected of being marked contrary to the Act.

(2) This is new and re-enacts Section 16-2 which reads: "Such officer may seize any article to which this Act applies and which is marked otherwise than in accordance with the provisions of this Act or of the regulations made thereunder, and may retain the same until the prosecution for the offence committed in respect of such article has been finally decided by the Courts."

EVIDENCE.

Certificate
of Master or
Assayer
of Royal
Canadian
Mint.

18. In any prosecution under this Act a document purporting to be a certificate signed by the Master or any Assayer of the Royal Canadian Mint shall be *prima facie* proof of the facts stated therein and shall be receivable in evidence without proof of any signature or the official character of any person appearing to have signed the same, and without further proof thereof. 5

REGULATIONS.

19. The Governor in Council may make regulations for any purpose for which regulations may be made under this Act and generally for carrying the purposes or provisions of this Act into effect, and in particular, but without restricting the generality of the foregoing, may make regulations: 10

- (a) declaring articles to be exempt from the application of this Act; 15
- (b) designating plated articles to which this Act shall apply, defining such plated articles and designating the quantity and quality of the materials of which such articles shall be composed;
- (c) prescribing the meaning that marks designated by him shall be taken to have when applied to plated articles; 20
- (d) for securing the efficient administration and enforcement of this Act; and
- (e) prescribing the penalties that may be imposed by way of fine not exceeding one hundred dollars on summary conviction for contravention of or failure to comply with any regulation. 25

REPEAL.

20. The enactments mentioned in the Schedule to this Act are repealed. 30

18. A re-arrangement of Section 18. The word "evidence" has been dropped and the word "proof" substituted therefor.

19. This is new and replaces Section 19, no change in actual substance.

(a) A re-arrangement of Section 6, no change in actual substance.

(b) A re-arrangement of Section 10-5, no change in actual substance.

(c) A re-arrangement of Section 11-10, no change in actual substance.

(d) A re-arrangement of Section 19-a, no change in actual substance.

(e) A re-arrangement of Section 19-a, no change in actual substance.

SCHEDULE.

ENACTMENTS REPEALED.

<i>Title</i>	<i>Session</i>	<i>Chapter</i>
The Gold and Silver Marking Act, R.S.C. 1927, Chapter 84.....	—	—
An Act to amend the Gold and Silver Marking Act.....	1928	40
An Act to amend The Precious Metals Marking Act, 1928.....	1929	53
An Act to amend the Precious Metals Marking Act, 1928.....	1934	14
An Act to amend The Precious Metals Marking Act, 1928.....	1935	9
An Act to amend The Precious Metals Marking Act, 1928.....	1937	15
An Act to amend the Precious Metals Marking Act.....	1941	8
An Act to amend the Precious Metals Marking Act,	1942	6
An Act to amend the Precious Metals Marking Act.....	1942	30

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL G.

An Act to amend the Dairy Industry Act.

Read a first time, Wednesday, 27th March, 1946.

Honourable Senator EULER.

2nd Session, 20th Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL G.

R.S., c. 45;
1928, c. 19;
1931, c. 31;
1934, c. 12;
1936, c. 32;
1937, c. 8;
1938, c. 45;
1939, c. 15;
1940, c. 8.

An Act to amend the Dairy Industry Act.

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

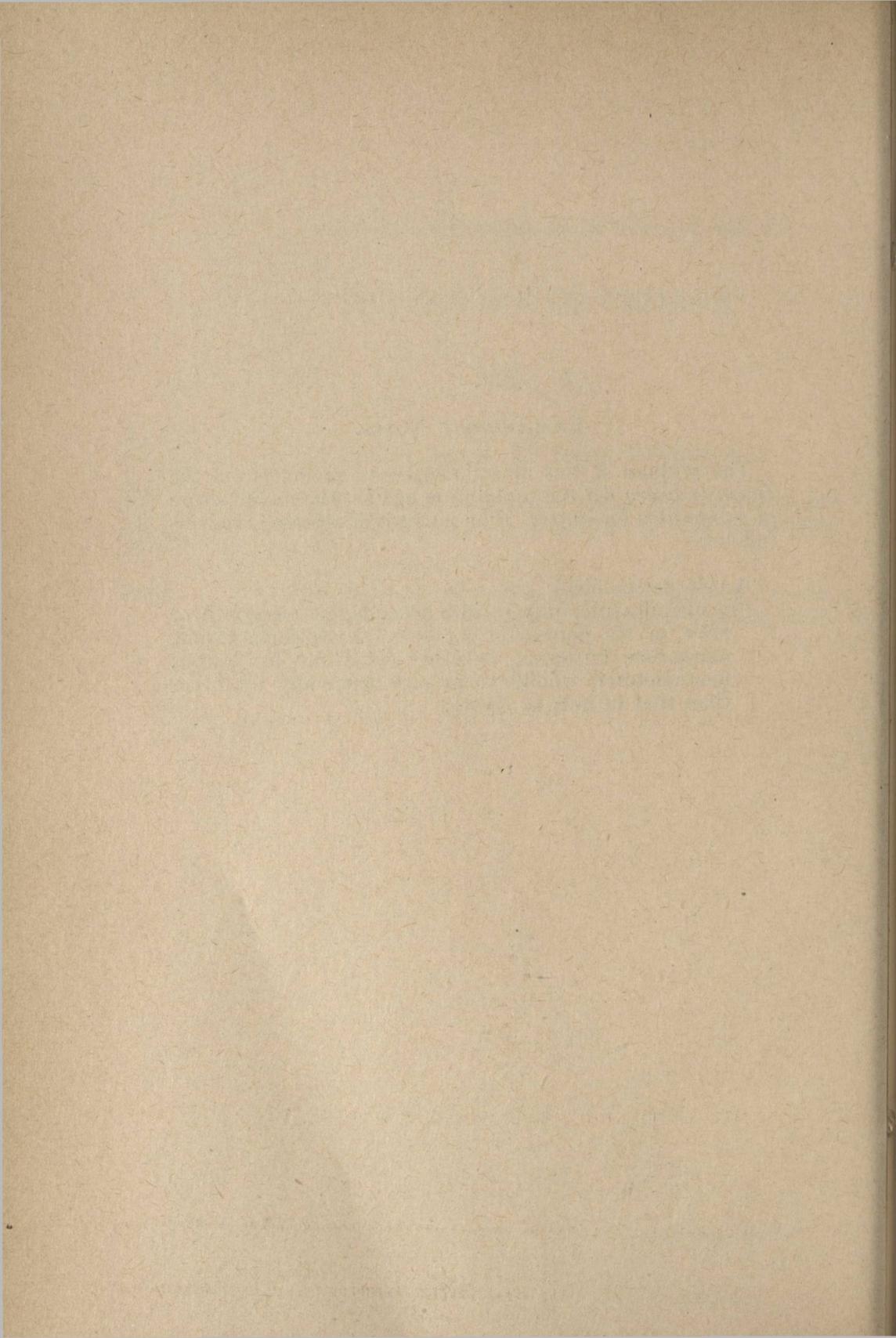
Repeal.

1. Paragraph (a) of Section 5 of the *Dairy Industry Act*, chapter forty-five of the Revised Statutes of Canada, 1927, 5 is repealed.

EXPLANATORY NOTES.

The purpose of this amendment is to remove from the *Dairy Industry Act* the prohibition against the manufacture of substitutes for butter. The paragraph repealed reads as follows:—

- 5.** No person shall
(a) manufacture, import into Canada, or offer, sell or have in his possession for sale, any oleomargarine, margarine, butterine, or other substitute for butter, manufactured wholly or in part from any fat other than that of milk or cream.



THE SENATE OF CANADA

BILL H.

An Act to amend the Act Incorporating The National
Council of Women of Canada.

Read a first time, Thursday, 28th March, 1946.

The Honourable Senator WILSON.

THE SENATE OF CANADA

BILL H.

An Act to amend the Act incorporating The National Council of Women of Canada.

Preamble.

1914, c. 147.

WHEREAS The National Council of Women of Canada, a corporation incorporated by chapter one hundred and forty-seven of the statutes of 1914, has by its petition prayed that it be enacted as hereinafter set forth, and it is expedient to grant the prayer of the said petition: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Powers.

- 1.** Section three of chapter 147 of the Statutes of 1914 is repealed and the following substituted therefor:— 10
- “3.** The Council shall have, and from its incorporation shall be deemed to have had, power for the said object to
- (a) establish, in any part of Canada, branches of the Council to be called Local Councils, which shall be formed of federations of local societies, institutions and 15 associations;
- (b) establish, in any Province of Canada, Provincial Councils, which shall be formed of Local Councils, and such other societies, institutions and associations, or provincial branches or divisions thereof in the province, 20 as may be accepted for affiliation;
- (c) establish a federation with it of any nationally organized society of women formed of associations having branches in various parts of Canada, and having objects similar to that of the Council; 25
- (d) carry on work through committees for the gathering and spreading of information as to conditions and requirements in various parts of Canada;
- (e) inaugurate new movements when necessary for the well being of the community; 30
- (f) organize, or assist in the organization of, new societies, institutions or associations for specific purposes or objects in keeping with that of the Council.”

EXPLANATORY NOTES.

The Constitution adopted by The National Council of Women of Canada and under which they have acted for years and their organization has been built up, oversteps in some respect the powers given in the Act to incorporate The National Council of Women of Canada, 1914, chapter 147.

This amending Act is intended to give the Council the powers required.

Section **3**.—Only (*b*) and (*f*) are new. As to (*b*), Provincial Councils have been established and now exist throughout Canada.

As to (*f*), new societies or associations have been, and probably will be, organized or assisted by the Council. Doubt has been raised as to the Council's powers in this respect.

This new section will regularize and ratify the existing practice.

2. Subsections (2) and (3) of Section five of the said Act are repealed and the following substituted therefor:—

Alteration.

“(2) The Council may from time to time alter or amend the said constitution and standing orders in any manner not contrary to law, nor inconsistent with the provisions of this Act and such standing orders may be entitled and referred to as by-laws. 5

Mode of alteration.

(3) The constitution and standing orders or by-laws shall not be altered or amended except at an annual meeting of the Council, nor unless notice of the proposed alteration or amendment has been sent to the executive committee at least three months before such meeting.” 10

3. Section six of the said Act is repealed and the following substituted therefor:—

Constitutions of provincial or local councils.

“**6.** The constitutions adopted by Provincial or Local Councils must be in harmony with that of the National Council. Changes in the constitution of a Provincial or Local Council may be made at the Annual Meeting of such Provincial or Local Council by a two-thirds vote of those present. Notice of the proposed changes must be sent to the Executive Committee of the Council two months, and to each Local Council and/or Society belonging to the Provincial or Local Council, one month, before such meeting.” 15 20

4. Section seven of the said Act is repealed and the following substituted therefor:— 25

Executive committee.

“**7.** (1) The affairs of the Council shall be managed by an Executive Committee which shall be composed of such officers and/or persons as the constitution of the Council from time to time provides. 30

Sub-executive committee.

(2) The constitution of the Council may provide for the establishment of a Sub-Executive Committee to which management of the affairs of the Council between sessions of the Executive Committee may be delegated in whole or in part.” 35

5. All acts or things authorized by this Act and heretofore done or performed are hereby ratified and confirmed.

New subsections 2 and 3 of Section **5** are self-explanatory. The former "standing orders" are now called "by-laws".

This amendment is to conform with the new subsection (b) of Section **3**.

Subsection (1).—The present Section **7** names certain officers and persons as members of the Executive Committee and the new subsection is designed to give greater flexibility in this respect.

Subsection (2).—Is new and regularizes existing practice.

Section **7**.—Self-explanatory.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL I.

An Act for the relief of Juliana Edmonda Isabella
Ferdinanda Becquaert de Beaujeu.

Read a first time, Wednesday, 3rd April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL I.

An Act for the relief of Juliana Edmonda Isabella
Ferdinanda Becquaert de Beaujeu.

Preamble.

WHEREAS Juliana Edmonda Isabella Ferdinanda Becquaert de Beaujeu, residing at the city of Montreal, in the province of Quebec, wife of Jacques Omfroy Pierre Certain de Beaujeu, salesman, who is domiciled in Canada and residing at the village of Ste. Marguerite du Lac Masson, in the district of Terrebonne, in the province of Quebec, has by her petition alleged that they were married on the nineteenth day of May, A.D. 1936, at the city of Antwerp, in Belgium, she then being Juliana Edmonda Isabella Ferdinanda Becquaert, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Juliana Edmonda Isabella Ferdinanda Becquaert and Jacques Omfroy Pierre Certain de Beaujeu, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Juliana Edmonda Isabella Ferdinanda Becquaert may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Jacques Omfroy Pierre Certain de Beaujeu had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL J.

An Act for the relief of Margaret Penelope Brown.

Read a first time, Wednesday, 3rd April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1946

THE SENATE OF CANADA

BILL J.

An Act for the relief of Margaret Penelope Brown.

Preamble.

WHEREAS Margaret Penelope Brown, residing at the city of Ottawa, in the province of Ontario, office clerk, wife of Norman Crosby Brown, aviator, who is domiciled in Canada and residing at the city of Montreal, in the province of Quebec, has by her petition alleged that they were married on the sixteenth day of August, A.D. 1941, at the said city of Ottawa, she then being Margaret Penelope Sherwood, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Margaret Penelope Sherwood and Norman Crosby Brown, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Margaret Penelope Sherwood may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Norman Crosby Brown had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL K.

An Act for the relief of Marion Cruickshank Isaac.

Read a first time, Wednesday, 3rd April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL K.

An Act for the relief of Marion Cruickshank Isaac.

Preamble.

WHEREAS Marion Cruickshank Isaac, residing at the city of Montreal, in the province of Quebec, wife of James Williamson Isaac, mechanic, who is domiciled in Canada and residing at the city of Westmount, in the said province, has by her petition alleged that they were married 5 on the twenty-sixth day of December, A.D. 1936, at the said city of Montreal, she then being Marion Cruickshank, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery 10 have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Marion Cruickshank and 15 James Williamson Isaac, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Marion Cruickshank may at any time hereafter marry any man whom she might lawfully marry 20 if the said marriage with the said James Williamson Isaac had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL L.

An Act for the relief of Malvina Angelina Seguin Gascon.

Read a first time, Wednesday, 3rd April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL L.

An Act for the relief of Malvina Angelina Seguin Gascon.

Preamble.

WHEREAS Malvina Angelina Seguin Gascon, residing at the city of Montreal, in the province of Quebec, hair dresser, wife of Albert Gascon, labourer, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the twelfth day of 5 December, A.D. 1923, at the said city, she then being Malvina Angelina Seguin, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence 10 adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Malvina Angelina Seguin 15 and Albert Gascon, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Malvina Angelina Seguin may at any time hereafter marry any man whom she might lawfully marry 20 if the said marriage with the said Albert Gascon had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL M.

An Act for the relief of Nora Kathleen Loury Cheverton.

Read a first time, Wednesday, 3rd April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL M.

An Act for the relief of Nora Kathleen Loury Cheverton.

Preamble.

WHEREAS Nora Kathleen Loury Cheverton, residing at the city of Montreal, in the province of Quebec, secretary, wife of Frederick Seymour Cheverton, machinist, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the twenty-ninth day of June, A.D. 1940, at the said city, she then being Nora Kathleen Loury, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Nora Kathleen Loury and Frederick Seymour Cheverton, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Nora Kathleen Loury may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Frederick Seymour Cheverton had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL N.

An Act for the relief of Elsie Fisher Armitage.

Read a first time, Wednesday, 3rd April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL N.

An Act for the relief of Elsie Fisher Armitage.

Preamble.

WHEREAS Elsie Fisher Armitage, residing at the city of Montreal, in the province of Quebec, wife of Allan Richard Armitage, salesman, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the fourteenth day of July, A.D. 1926, at the said city, she then being Elsie Fisher, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Elsie Fisher and Allan Richard Armitage, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Elsie Fisher may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Allan Richard Armitage had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL O.

An Act for the relief of Florence Mabel McIntosh Simpson.

Read a first time, Wednesday, 3rd April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

OTTAWA
EDMOND CLOUTIER
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1946

THE SENATE OF CANADA

BILL O.

An Act for the relief of Florence Mabel McIntosh Simpson.

Preamble.

WHEREAS Florence Mabel McIntosh Simpson, residing at the city of Verdun, in the province of Quebec, office clerk, wife of John Simpson, agent, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the fifth day of 5
September, A.D. 1942, at the said city, she then being Florence Mabel McIntosh, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence 10
adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Florence Mabel McIntosh 15
and John Simpson, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Florence Mabel McIntosh may at any time hereafter marry any man whom she might lawfully marry 20
if the said marriage with the said John Simpson had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL P.

An Act for the relief of Francis Gordon Sullivan.

Read a first time, Wednesday, 3rd April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL P.

An Act for the relief of Francis Gordon Sullivan.

Preamble.

WHEREAS Francis Gordon Sullivan, domiciled in Canada and residing at the village of Mascouche, in the province of Quebec, trucker, has by his petition alleged that on the thirteenth day of August, A.D. 1938, at the town of Terrebonne, in the said province, he and Mary Martha Vlastnik, who was then of the city of Montreal, in the said province, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Francis Gordon Sullivan and Mary Martha Vlastnik, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever. 15

Right to marry again.

2. The said Francis Gordon Sullivan may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Mary Martha Vlastnik had not been solemnized. 20

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL Q.

An Act for the relief of Minerva Jane Cory.

Read a first time, Wednesday, 3rd April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL Q.

An Act for the relief of Minerva Jane Cory.

Preamble.

WHEREAS Minerva Jane Cory, residing at the city of St. Catharines, in the province of Ontario, corsetier, wife of William Arthur Cory, clerk, who is domiciled in Canada and residing at the city of Westmount, in the province of Quebec, has by her petition alleged that they were married on the ninth day of December, A.D. 1939, at the city of Ottawa, in the province of Ontario, she then being Minerva Jane McGugan, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Minerva Jane McGugan and William Arthur Cory, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Minerva Jane McGugan may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said William Arthur Cory had not been solemnized.

THE SENATE OF CANADA

BILL R.

An Act for the relief of Esther Irene Lind Booth.

Read a first time, Friday, 5th April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL R.

An Act for the relief of Esther Irene Lind Booth.

Preamble.

WHEREAS Esther Irene Lind Booth, residing at the city of Westmount, in the province of Quebec, office clerk, wife of Aubrey Alexander Booth, radio engineer, who is domiciled in Canada and residing at the city of Montreal, in the said province, has by her petition alleged that they were married on the eighteenth day of October, A.D. 1938, at the said city of Montreal, she then being Esther Irene Lind, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Esther Irene Lind and Aubrey Alexander Booth, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Esther Irene Lind may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Aubrey Alexander Booth had not been solemnized.

THE SENATE OF CANADA

BILL S.

An Act for the relief of Katie Hoffman Pinsky.

Read a first time, Friday, 5th April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL S.

An Act for the relief of Katie Hoffman Pinsky.

Preamble.

WHEREAS Katie Hoffman Pinsky, residing at the city of Montreal, in the province of Quebec, wife of Sam Pinsky, manager, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the fourteenth day of July, A.D. 1940, at the said city, she then being Katie Hoffman, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Katie Hoffman and Sam Pinsky, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Katie Hoffman may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Sam Pinsky had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL T.

An Act for the relief of Dorothy Adams Acer McDougall.

Read a first time, Friday, 5th April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL T.

An Act for the relief of Dorothy Adams Acer McDougall.

Preamble.

WHEREAS Dorothy Adams Acer McDougall, residing at the city of Montreal, in the province of Quebec, office manager, wife of John Rae McDougall, broker, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the eleventh day of February, A.D. 1925, at the said city, she then being Dorothy Adams Acer, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Dorothy Adams Acer and John Rae McDougall, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Dorothy Adams Acer may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said John Rae McDougall had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL U.

An Act for the relief of Helen Douglas Stewart Rankin.

Read a first time, Friday, 5th April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL U.

An Act for the relief of Helen Douglas Stewart Rankin.

Preamble.

WHEREAS Helen Douglas Stewart Rankin, residing at the city of Montreal, in the province of Quebec, wife of Gordon Rankin, insurance broker, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the twenty-third day of June, A.D. 1937, at the said city, she then being Helen Douglas Stewart, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Helen Douglas Stewart and Gordon Rankin, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Helen Douglas Stewart may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Gordon Rankin had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL V.

An Act for the relief of Olive Esther Rose Ewen.

Read a first time, Friday, 5th April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

THE SENATE OF CANADA

BILL V.

An Act for the relief of Olive Esther Rose Ewen.

Preamble.

WHEREAS Olive Esther Rose Ewen, residing at the city of Montreal, in the province of Quebec, secretary, wife of Claude Seymour Ewen, mechanic, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the thirty-first day of May, A.D. 1934, in the district of Hendon, in the county of Middlesex, England, she then being Olive Esther Rose, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Olive Esther Rose and Claude Seymour Ewen, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Olive Esther Rose may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Claude Seymour Ewen had not been solemnized.

THE SENATE OF CANADA

BILL W.

An Act for the relief of Andrew Prem-Das.

Read a first time, Friday, 5th April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL W.

An Act for the relief of Andrew Prem-Das.

Preamble.

WHEREAS Andrew Prem-Das, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, manufacturer, has by his petition alleged that on the twenty-seventh day of July, A.D. 1923, at the town of Mimico, in the province of Ontario, he and Iva Loraine Showers, who was then of the city of Toronto, in the province of Ontario, a widow, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Andrew Prem-Das and Iva Loraine Showers, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Andrew Prem-Das may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Iva Loraine Showers had not been solemnized.

THE SENATE OF CANADA

BILL X.

An Act for the relief of Marie Evelyn Dormer.

Read a first time, Friday, 5th April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL X.

An Act for the relief of Marie Evelyn Dormer.

Preamble.

WHEREAS Marie Evelyn Dormer, residing at the village of Gatineau, in the province of Quebec, production clerk, wife of Charles Henry Aloysius Dormer, statistician, who is domiciled in Canada, and residing at the said village, has by her petition alleged that they were married on the fifteenth day of September, A.D. 1932 at the city of Ottawa, in the province of Ontario, she then being Marie Evelyn Johnson, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Marie Evelyn Johnson and Charles Henry Aloysius Dormer, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Marie Evelyn Johnson may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Charles Henry Aloysius Dormer had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL Y.

An Act for the relief of Reginald Wesley Titcombe.

Read a first time, Friday, 5th April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL Y.

An Act for the relief of Reginald Wesley Titcombe.

Preamble.

WHEREAS Reginald Wesley Titcombe, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, automotive engineer, has by his petition alleged that on the thirty-first day of May, A.D. 1941, at the said city, he and Olive Mary Cooper, who was then of the said city, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Reginald Wesley Titcombe and Olive Mary Cooper, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Reginald Wesley Titcombe may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Olive Mary Cooper had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL Z.

An Act for the relief of Hilda Forsey Pearce Johnston.

Read a first time, Friday, 5th April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL Z.

An Act for the relief of Hilda Forsey Pearce Johnston.

Preamble.

WHEREAS Hilda Forsey Pearce Johnston, residing at the city of Montreal, in the province of Quebec, wife of James Alexander Johnston, accountant, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the twenty-fifth day of May, A.D. 1932, at the said city, she then being Hilda Forsey Pearce, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Hilda Forsey Pearce and James Alexander Johnston, her husband, is hereby dissolved and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Hilda Forsey Pearce may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said James Alexander Johnston had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL A².

An Act for the relief of Ann Low Fuller Mitchell.

Read a first time, Friday, 5th April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL A².

An Act for the relief of Ann Low Fuller Mitchell.

Preamble.

WHEREAS Ann Low Fuller Mitchell, residing at the city of Montreal, in the province of Quebec, wife of James Simpson Mitchell, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the sixteenth day of December, A.D. 1936, at the said city, she then being Ann Low Fuller, and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Ann Low Fuller and James Simpson Mitchell, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Ann Low Fuller may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said James Simpson Mitchell had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL B².

An Act for the relief of Marguerita St. Catherine
McKeigan Guillevin.

Read a first time, Friday, 5th April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL B².

An Act for the relief of Marguerita St. Catherine
McKeigan Guillevin.

Preamble.

WHEREAS Marguerita St. Catherine McKeigan Guillevin, residing at the city of Halifax, in the province of Nova Scotia, wife of Francois Eugene Guillevin, who is domiciled in Canada and residing at the city of Montreal, in the province of Quebec, has by her petition alleged that they were married on the twenty-fifth day of February, A.D. 1941, at the town of Vankleek Hill, in the province of Ontario, she then being Marguerita St. Catherine McKeigan, a spinster; and whereas by her petition she has prayed that because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Marguerita St. Catherine McKeigan and Francois Eugene Guillevin, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Marguerita St. Catherine McKeigan may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Francois Eugene Guillevin had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL C².

An Act for the relief of Bessie Goldrosen Green.

Read a first time, Friday, 5th April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL C².

An Act for the relief of Bessie Goldrosen Green.

Preamble.

WHEREAS Bessie Goldrosen Green, residing at the city of Montreal, in the province of Quebec, wife of Louis Green, manufacturer, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the seventh day of September, 5 A.D. 1935, at the said city, she then being Bessie Goldrosen, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that 10 the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Bessie Goldrosen and Louis Green, her husband, is hereby dissolved, and shall be 15 henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Bessie Goldrosen may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Louis Green had not been solemnized. 20

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL D².

An Act for the relief of Audrey Helen Jackson Maxham.

Read a first time, Friday, 5th April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

THE SENATE OF CANADA

BILL D².

An Act for the relief of Audrey Helen Jackson Maxham.

Preamble.

WHEREAS Audrey Helen Jackson Maxham, residing at the city of Toronto, in the province of Ontario, wife of Henry George Maxham, musician, who is domiciled in Canada and residing at the city of Montreal, in the province of Quebec, has by her petition alleged that they were married on the tenth day of March, A.D. 1938, at the said city of Montreal, she then being Audrey Helen Jackson, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Audrey Helen Jackson and Henry George Maxham, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Audrey Helen Jackson may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Henry George Maxham had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL E².

An Act for the relief of Frank Russell Yeoman.

Read a first time, Friday, 5th April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1946

THE SENATE OF CANADA

BILL E².

An Act for the relief of Frank Russell Yeoman.

Preamble.

WHEREAS Frank Russell Yeoman, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, architect, has by his petition alleged that on the nineteenth day of May, A.D. 1945 at the city of Outremont, in the said province, he and Frances Mary McDonald, who was then of the said city of Outremont, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Frank Russell Yeoman and Frances Mary McDonald, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Frank Russell Yeoman may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Frances Mary McDonald had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL F².

An Act for the relief of Florence Joy McGibbon Lafleur.

Read a first time, Friday, 5th April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

2nd Session, 20th Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL F².

An Act for the relief of Florence Joy McGibbon Lafleur.

Preamble.

WHEREAS Florence Joy McGibbon Lafleur, residing at the city of Montreal, in the province of Quebec, wife of Henri Grier Lafleur, advocate, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the fifteenth day of November, A.D. 1934, at the said city, she then being Florence Joy McGibbon, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Florence Joy McGibbon and Henri Grier Lafleur, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever. 15

Right to marry again.

2. The said Florence Joy McGibbon may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Henri Grier Lafleur had not been solemnized. 20

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL G².

An Act for the relief of Isobel Cameron McLaggan Oswald.

Read a first time, Friday, 5th April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL G².

An Act for the relief of Isobel Cameron McLaggan Oswald.

Preamble.

WHEREAS Isobel Cameron McLaggan Oswald, residing at the city of Montreal, in the province of Quebec, secretary, wife of William Edward Douglas Oswald, accountant, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married 5 on the twenty-second day of July, A.D. 1942, at the said city, she then being Isobel Cameron McLaggan, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved 10 by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Isobel Cameron McLaggan 15 and William Edward Douglas Oswald, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Isobel Cameron McLaggan may at any time hereafter marry any man whom she might lawfully marry 20 if the said marriage with the said William Edward Douglas Oswald had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL H².

An Act for the relief of John Louis Charlebois.

Read a first time, Friday, 5th April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL H².

An Act for the relief of John Louis Charlebois.

reamble.

WHEREAS John Louis Charlebois, domiciled in Canada and residing on the Aylmer Road, in the District of Hull, in the province of Quebec, clerk, has by his petition alleged that on the seventh day of October, A.D. 1937, at the city of Ottawa, in the province of Ontario, he and Dorothy Kier, who was then of the village of Britannia, in the province of Ontario, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between John Louis Charlebois and Dorothy Kier, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said John Louis Charlebois may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Dorothy Kier had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL I².

An Act for the relief of Margaret Ruth Weir Allan.

Read a first time, Friday, 5th April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1946

2nd Session, 20th Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL I².

An Act for the relief of Margaret Ruth Weir Allan.

Preamble.

WHEREAS Margaret Ruth Weir Allan, residing at the city of Montreal, in the province of Quebec, wife of Malcolm Moncrieff Allan, stock broker, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the fifth day of February, 5 A.D. 1934, at the said city, she then being Margaret Ruth Weir, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is 10 expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Margaret Ruth Weir and 15 Malcolm Moncrieff Allan, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Margaret Ruth Weir may at any time hereafter marry any man whom she might lawfully marry 20 if the said marriage with the said Malcolm Moncrieff Allan had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL J².

An Act for the relief of Georgina Hylda Swaffield McKenzie

Read a first time, Friday, 5th April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL J².

An Act for the relief of Georgina Hylda Swaffield McKenzie.

Preamble.

WHEREAS Georgina Hylda Swaffield McKenzie, residing at the city of Montreal, in the province of Quebec, wife of Andrew Campbell McKenzie, soldier, who is domiciled in Canada and residing at the city of Lachine, in the said province, has by her petition alleged that they were married on the seventeenth day of October, A.D. 1935, at the said city of Montreal, she then being Georgina Hylda Swaffield, a spinster; that on the twelfth day of February, A.D. 1938, at the city of Verdun, in the said province, they were married again; that during the month of December, A.D. 1945, the said Andrew Campbell McKenzie committed adultery; and whereas by her petition she has prayed for the passing of an Act dissolving her said marriage with the said Andrew Campbell McKenzie; and whereas the said allegations have been proved, and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriages between Georgina Hylda Swaffield and Andrew Campbell McKenzie, her husband, are, respectively, hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Georgina Hylda Swaffield may at any time hereafter marry any man whom she might lawfully marry if the said marriages with the said Andrew Campbell McKenzie had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL K².

An Act for the relief of Dorothy Ellen Cope Kimpton.

Read a first time, Friday, 5th April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL K².

An Act for the relief of Dorothy Ellen Cope Kimpton.

Preamble.

WHEREAS Dorothy Ellen Cope Kimpton, residing at the city of Montreal, in the province of Quebec, wife of Geoffrey Holiday Kimpton, chemical engineer, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the fifteenth day of May, A.D. 1937, at the said city, she then being Dorothy Ellen Cope, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Dorothy Ellen Cope and Geoffrey Holiday Kimpton, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Dorothy Ellen Cope may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Geoffrey Holiday Kimpton had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL L².

An Act for the relief of Vera Harriet May Kinghorn
Hodgson.

Read a first time, Friday, 5th April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL L².

An Act for the relief of Vera Harriet May Kinghorn
Hodgson.

Preamble.

WHEREAS Vera Harriet May Kinghorn Hodgson,
residing at the city of Outremont, in the province of
Quebec, secretary, wife of Granville Albert Hodgson,
salesman, who is domiciled in Canada and residing at the
city of Westmount, in the said province, has by her petition 5
alleged that they were married on the twenty-first day of
August, A.D. 1924, at the said city of Outremont, she then
being Vera Harriet May Kinghorn, a spinster; and whereas
by her petition she has prayed that, because of his adultery
since then, their marriage be dissolved; and whereas the 10
said marriage and adultery have been proved by evidence
adduced and it is expedient that the prayer of her petition
be granted: Therefore His Majesty, by and with the
advice and consent of the Senate and House of Commons
of Canada, enacts as follows:— 15

Marriage
dissolved.

1. The said marriage between Vera Harriet May
Kinghorn and Granville Albert Hodgson, her husband, is
hereby dissolved, and shall be henceforth null and void to
all intents and purposes whatsoever.

Right to
marry again.

2. The said Vera Harriet May Kinghorn may at any 20
time hereafter marry any man whom she might lawfully
marry if the said marriage with the said Granville Albert
Hodgson had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL M².

An Act for the relief of Charles Patrick Kavanagh.

Read a first time, Friday, 5th April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL M².

An Act for the relief of Charles Patrick Kavanagh.

Preamble.

WHEREAS Charles Patrick Kavanagh, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, electric welder, has by his petition alleged that on the thirteenth day of February, A.D. 1920, at the said city, he and Margaret Dunbar Laverie, who was then of the said city, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Charles Patrick Kavanagh and Margaret Dunbar Laverie, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Charles Patrick Kavanagh may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Margaret Dunbar Laverie had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL N².

An Act for the relief of Irene Gertrude Carry Staley.

Read a first time, Friday, 5th April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

THE SENATE OF CANADA

BILL N².

An Act for the relief of Irene Gertrude Carry Staley.

Preamble.

WHEREAS Irene Gertrude Carry Staley, residing at the city of Montreal, in the province of Quebec, wife of Arnold Lewis Staley, photographer, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the fifteenth day of February, A.D. 1943, at the said city, she then being Irene Gertrude Carry, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Irene Gertrude Carry and Arnold Lewis Staley, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Irene Gertrude Carry may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Arnold Lewis Staley had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL O².

An Act to incorporate Canadian Acceptance Company.

Read a first time, Tuesday, 9th April, 1946.

Honourable Senator LAMBERT.

THE SENATE OF CANADA

BILL O².

An Act to incorporate Canadian Acceptance Company.

Preamble.

WHEREAS the persons hereinafter named have by their Petition prayed that it be enacted as hereinafter set forth and it is expedient to grant the prayer of the said Petition: Therefore, His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows: 5

Incorporation.

1. Ottar Nerby, Charles Lloyd Mulloy, and Hubert Cecil Philips Mudie, Business Executives of the City of Toronto, in the County of York and Province of Ontario, and Maurice John Lepingwell and Louis William Farr, 10 Business Executives of the Town of Weston in the said County and Province, together with such other persons as become shareholders in the Company, are incorporated under the name of "Canadian Acceptance Company," hereinafter called "the Company". 15

Corporate name.

Provisional directors.

2. The persons named in Section One of this Act shall be the provisional directors of the Company.

Capital stock.

3. The capital stock of the Company shall be Two Hundred and Fifty Thousand Dollars divided into Two Thousand Five Hundred shares of One Hundred Dollars each. 20

Head office.

4. The Head Office of the Company shall be in the City of Toronto, in the Province of Ontario.

The Small Loans Act, 1939.

5. The Company is incorporated pursuant to Part Two of *The Small Loans Act, 1939*, and to it all the provisions of that Act shall extend and apply. 25

The first part of the document is a letter from the Secretary of the Board of Education to the Board of Directors of the Board of Education. The letter is dated 1890 and is addressed to the Board of Directors of the Board of Education. The letter discusses the work of the Board of Education and the Board of Directors of the Board of Education.

The second part of the document is a report from the Board of Education to the Board of Directors of the Board of Education. The report is dated 1890 and is addressed to the Board of Directors of the Board of Education. The report discusses the work of the Board of Education and the Board of Directors of the Board of Education.

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Delegates.

6. (1) The Company may provide for its control by delegates to be elected by the members in such manner as may be decided upon by the Company.

(2) The delegates so elected may exercise in every way the powers of the members and a meeting of delegates shall take the place of a meeting of the members. 5

Acquisition of Provincial Company.

7. (1) The Company may acquire the whole or any part of the rights and property of any kind whatsoever of the Co-operative Life Insurance Company, incorporated under the provisions of Part XIa of the Saskatchewan Insurance Act, chapter one hundred and twenty-one of the Revised Statutes of Saskatchewan 1940 as enacted by chapter twenty-one of the statutes of 1943, by certificate of incorporation dated the twenty-seventh day of February 1945, hereinafter called "the Provincial Company", and in the event of such acquisition the Company shall assume, perform and discharge all unperformed obligations and undischarged liabilities of the Provincial Company in respect of the rights and property acquired and may give any receipt or discharge in connection with any right, obligation or liability thereof. 10 15 20

Agreement to be approved by Treasury Board.

(2) No agreement between the Company and the Provincial Company providing for such acquisition and assumption shall become effective until such agreement has been submitted to and approved by the Treasury Board, and such Board shall not approve the agreement if it appears to the Board that more than one-third of the members of the Provincial Company, present and voting at a meeting called for the purpose of considering such agreement, are opposed to it. 25 30

Notice of coming into force.

8. This Act shall come into force on a date to be specified by the Superintendent of Insurance in a notice in *The Canada Gazette*, and such notice shall not be given until the Superintendent of Insurance has been satisfied by such evidence as he may require that the provisions of this Act have been approved by a resolution adopted by at least two-thirds of the votes of the members of the Provincial Company present at a meeting duly called for that purpose and that the Provincial Company has ceased to transact the business of insurance or will cease to transact such business forthwith upon a certificate of registry being issued to the Company. 35 40 45

Application of 1932, c. 46.

9. Except as otherwise provided in this Act *The Canadian and British Insurance Companies Act, 1932*, shall apply to the Company. 45

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL P².

An Act respecting Rupert's Land Trading Company.

Read a first time, Tuesday, 9th April, 1946.

Honourable Senator CRERAR.

THE SENATE OF CANADA

BILL P².

An Act respecting Rupert's Land Trading Company

Preamble
1912, c. 143.
1938, c. 62.

WHEREAS Rupert's Land Trading Company, a company incorporated by chapter one hundred and forty-three of the statutes of 1912, as amended by chapter sixty-two of the statutes of 1938, has by its petition prayed that it be enacted as hereinafter set forth, and it is expedient to grant the prayer of the petition: 5

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

1. Paragraph (*b*) of section five of chapter one hundred and forty-three of the statutes of 1912 is repealed, and the following is substituted therefor: 10

Acquisition
of property.

"(*b*) acquire, purchase, hold, hire, take on lease or in exchange, improve, subdivide, alienate, sell, convey, transfer, lease, mortgage or otherwise dispose of any real and personal property, rights and privileges, and any interest and estate therein." 15

2. Section five of the said Act is further amended by inserting after paragraph (*k*) thereof the following paragraphs:— 20

Mineral
lands.

"(*l*) acquire, purchase, hold, sell, transfer or otherwise dispose of and deal in mineral lands, leases and royalties and royalty agreements, and similar payments arising from the production or use of such lands and any interest and estate therein; 25

Electricity,
light, heat
and power.

"(*m*) acquire, purchase, lease, hold, sell, transfer and operate power, gas, oil and any other substance and works necessary or incidental thereto for the purpose of developing, producing and selling electricity, light, heat and power. 30

EXPLANATORY NOTES.

1. Section 5 (*a*) and (*b*) read as follows:

“(a) manufacture, buy, sell, trade and deal in furs, skins, leathers and other commercial articles and merchandise of every description, and carry on all other detail branches of business usual or conveniently connected with any such businesses as aforesaid;

(b) purchase or otherwise acquire, hold, lease or otherwise dispose of any real or personal property, rights or privileges which may be necessary or useful for the carrying on of the business of the Company: Provided that, excepting for the purposes set forth in paragraph (*f*) of section 10 of this Act, nothing herein shall be construed as enabling the Company to acquire real estate beyond what is necessary for the carrying on of its business aforesaid.”

Paragraph (*b*) enables the company to acquire real or personal property necessary or useful for the carrying on of the business of the company, and the proviso reads that nothing in the paragraph shall be construed as enabling the company to acquire real estate beyond what is necessary for the carrying on of its business aforesaid.

Paragraph (*f*) of section ten enables the company to hold land for the purposes of colonization and of settlement. The power to hold real estate in (*b*) is thus strictly limited to the purposes mentioned in (*a*).

The company is not now carrying on a fur business but holds property which it had acquired for such purpose, and desires it made clear that it has the right to do so, and to acquire and deal in real and personal property generally.

2. Section 5 (*l*), (*m*), (*n*), (*o*).

Adds desired additional powers. Created by statute, the company has only the powers expressly granted or necessarily implied, and has not the statutory powers ancillary to a company incorporated under *The Companies Act* by letters patent.

1934, c. 33.

(n) have, use and enjoy all and any of the ancillary powers held by a company incorporated under *The Companies Act 1934*, and under any other statute enacted from time to time in substitution or in addition thereto;”

5

3. Section five of the said Act is further amended by striking out the letter (l) in paragraph (l) thereof and substituting therefor the letter (o).

4. The said Act is further amended by adding to section eleven the following subsections:—

10

Directors
may make
by-laws.

“(3) The directors of the Company may make by-laws to declare and pay dividends on the capital stock of the Company, to fix the amount of the share qualification of the directors, the remuneration of the directors, and to change from time to time the number of directors.

15

Approval
of by-laws.

(4) Every such by-law for remunerating or changing the number of directors shall be approved and sanctioned at a special general meeting of the shareholders or at the next annual meeting, and in default thereof shall cease to have effect.”

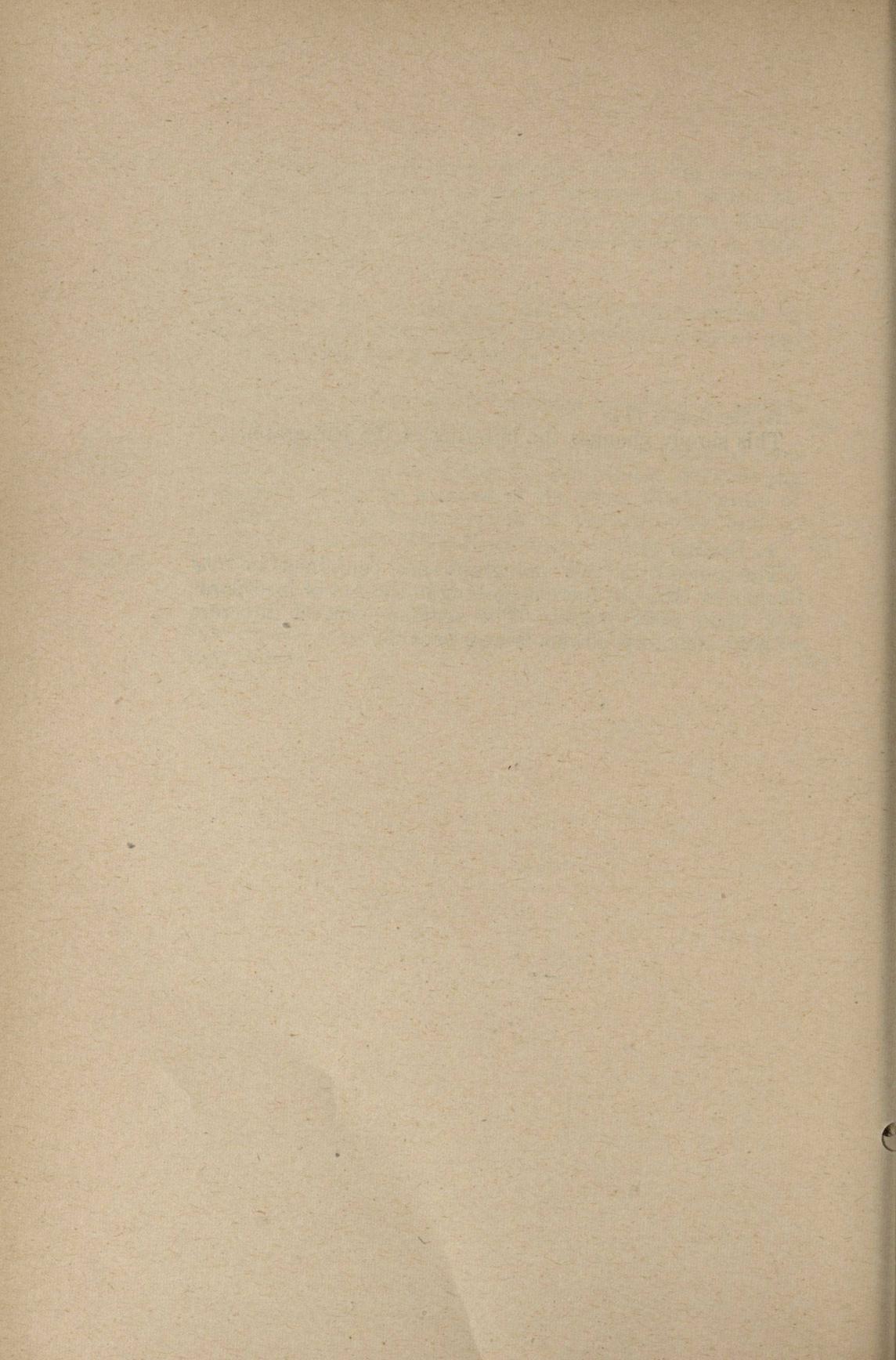
20

3. Section 5 (1).

This simply changes the lettering of the paragraph.

4. Section 11.

The powers in this paragraph are contained in *The Companies Act*, but there is nothing in the Act of incorporation upon these points. The remuneration of directors without statutory powers is questionable.



Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL Q².

An Act to amend The Naval Service Act, 1944.

Read a first time, Tuesday, 9th April, 1946.

Honourable Senator ROBERTSON.

THE SENATE OF CANADA

BILL Q².

An Act to amend The Naval Service Act, 1944.

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

1944, c. 23.

1. *The Naval Service Act, 1944*, chapter twenty-three of the statutes of 1944, is amended by inserting after section 5 twenty-eight thereof, the following heading and sections:—

“ROYAL CANADIAN SEA CADET CORPS

28A The Minister may

Royal Canadian
Sea Cadet
Corps.

(a) authorize the formation of Royal Canadian Sea Cadet Corps to consist of boys who have attained the age of twelve years but who have not attained the age of nineteen years and who have voluntarily applied for membership in the Corps; 10

(b) authorize Royal Canadian Sea Cadet Corps, or any portion thereof, or any members thereof to drill or train for such period of time during each year as he may direct. 15

Drill and
equipment.

28B (1) Royal Canadian Sea Cadet Corps shall be drilled, trained and administered in such manner and shall be furnished with arms, ammunition and equipment under such conditions and shall be subject to the authority and command of such officers as the Minister may direct, and the members and instructors thereof shall be entitled to accommodation, medical care and pay and allowances as may be prescribed by the Governor in Council. 20

Liability
to service.

(2) Royal Canadian Sea Cadet Corps shall not be liable to service in the Naval Forces in any emergency.” 25

EXPLANATORY NOTE.

The purpose of the present amendment to *The Naval Service Act, 1944*, is to incorporate in the Act provision for the formation and establishment of Royal Canadian Sea Cadet Corps which is already in existence by virtue of Order-in-Council P.C. 3655 of the 26th May, 1941, passed under *The War Measures Act*.

The amendment is similar to the provisions of *The Militia Act*, R.S.C. 1927, chapter 132, sections fifty-nine to sixty-two, inclusive, relating to Cadet Corps.

Section 28A—corresponds to section fifty-nine of *The Militia Act*.

Section 28A (1)—corresponds to sections sixty and sixty-one of *The Militia Act*.

Section 28B (2)—corresponds to section sixty-two of *The Militia Act*.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL R².

An Act to amend The Royal Canadian Air Force Act.

Read a first time, Tuesday, 9th April, 1946.

Honourable Senator ROBERTSON.

THE SENATE OF CANADA

BILL R².

An Act to amend The Royal Canadian Air Force Act.

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

1940, c. 15.

1. *The Royal Canadian Air Force Act*, chapter fifteen of the statutes of 1940, is amended by inserting immediately after section fifteen thereof the following heading and sections:—

“ROYAL CANADIAN AIR CADET SQUADRONS

15A. The Minister may

- (a) authorize the formation of Royal Canadian Air Cadet Squadrons to consist of boys who have attained the age 10 of fifteen years but who have not attained the age of nineteen years and who have voluntarily applied for membership in a Royal Canadian Air Cadet Squadron;
- (b) authorize Royal Canadian Air Cadet Squadrons, or any portion thereof, or any members thereof to drill 15 or train for such period of time during each year as he may direct.

Royal Canadian Air Cadet Squadrons.

Period of training.

Administration and training.

15B. (1) Subject to any regulation, Royal Canadian Air Cadet Squadrons shall be drilled, trained and administered 20 in such manner and shall be furnished with arms, ammunition and equipment under such conditions and shall be subject to the authority and command of such officers as the Minister may direct.

Not liable to service in emergency.

(2) Royal Canadian Air Cadet Squadrons shall not be liable to service in the Royal Canadian Air Force in any 25 emergency.”

2. Subsection one of section sixteen of the said Act is amended by adding thereto the following paragraph:—

“(f) the organization, maintenance, training, administration and efficiency of Royal Canadian Air Cadet 30 Squadrons and the pay and allowances of instructors and members thereof.”

Royal Canadian Air Cadet Squadrons.

EXPLANATORY NOTE.

The purpose of the present amendment to *The Royal Canadian Air Force Act*, is to incorporate in the Act provision for the formation and establishment of Royal Canadian Air Cadet Squadrons, which (under the name of Air Cadet Corps) are already in existence by virtue of Order in Council P.C. 6647, dated 19th November, 1940, and passed under *The War Measures Act*.

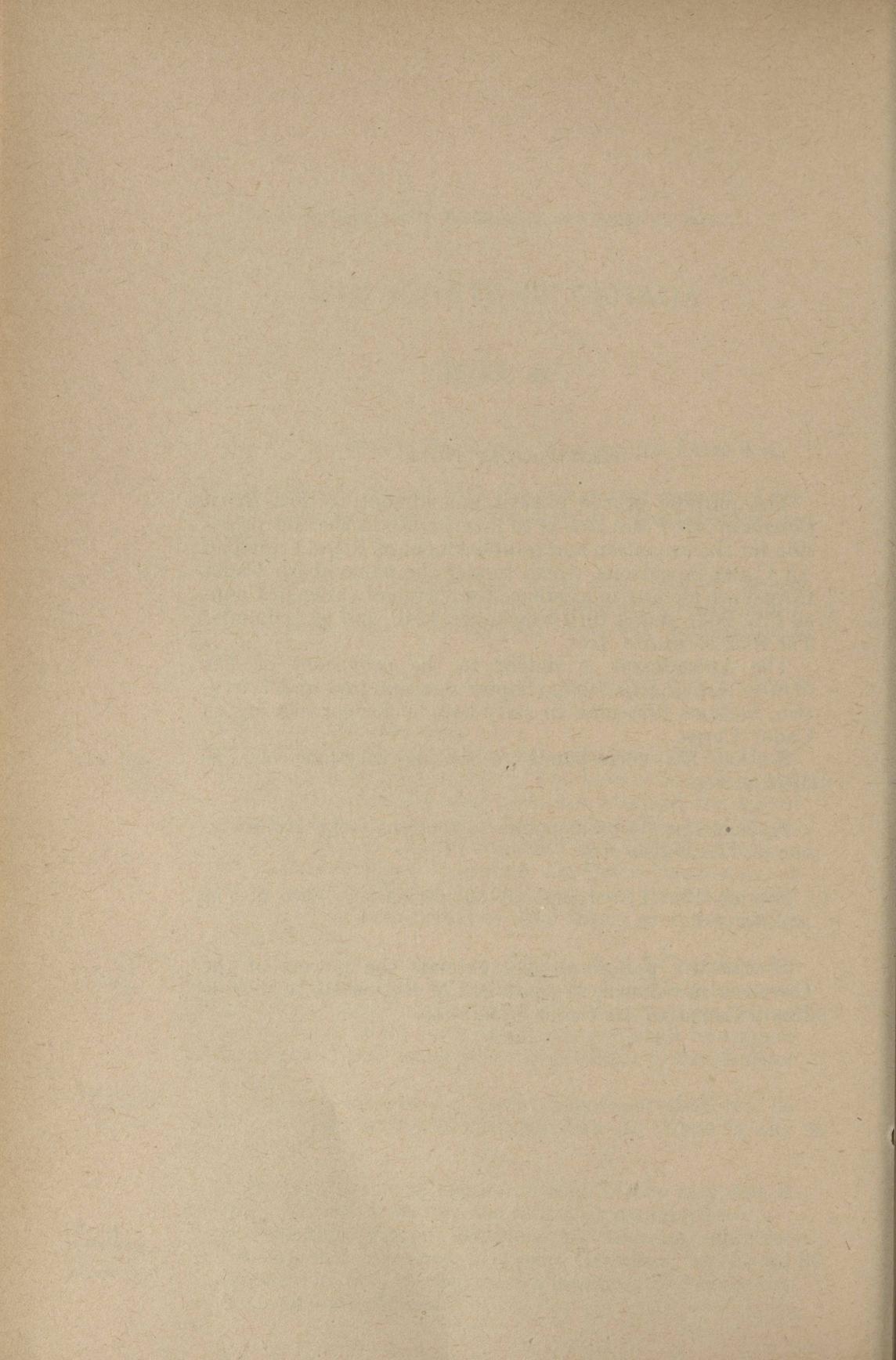
The Amendment is similar to the provisions of *The Militia Act, R.S.C. 1927*, chapter one hundred and thirty-two, sections fifty-nine to sixty-two, inclusive, relating to Cadet Corps.

Section 15A corresponds to section fifty-nine of *The Militia Act*.

Section 15B (1) corresponds to sections sixty and sixty-one of *The Militia Act*.

Section 15B (2) corresponds to section sixty-two of *The Militia Act*.

Section 16, paragraph (f), extends the powers of the Governor in Council, as contained in section 16, to include Royal Canadian Air Cadet Squadrons.



THE SENATE OF CANADA

BILL S².

An Act to incorporate the Executive Board of the Church
of the Nazarene.

Read a first time, Tuesday, 30th April, 1946.

Honourable Senator WHITE.

THE SENATE OF CANADA

BILL S².

An Act to incorporate the Executive Board of the Church of the Nazarene.

Preamble.

WHEREAS the persons hereinafter named are members of a religious order which bears the name Church of the Nazarene (hereinafter called the "Church") and are desirous of incorporating in Canada the Executive Board of the Church of the Nazarene for the purposes hereinafter set forth; 5

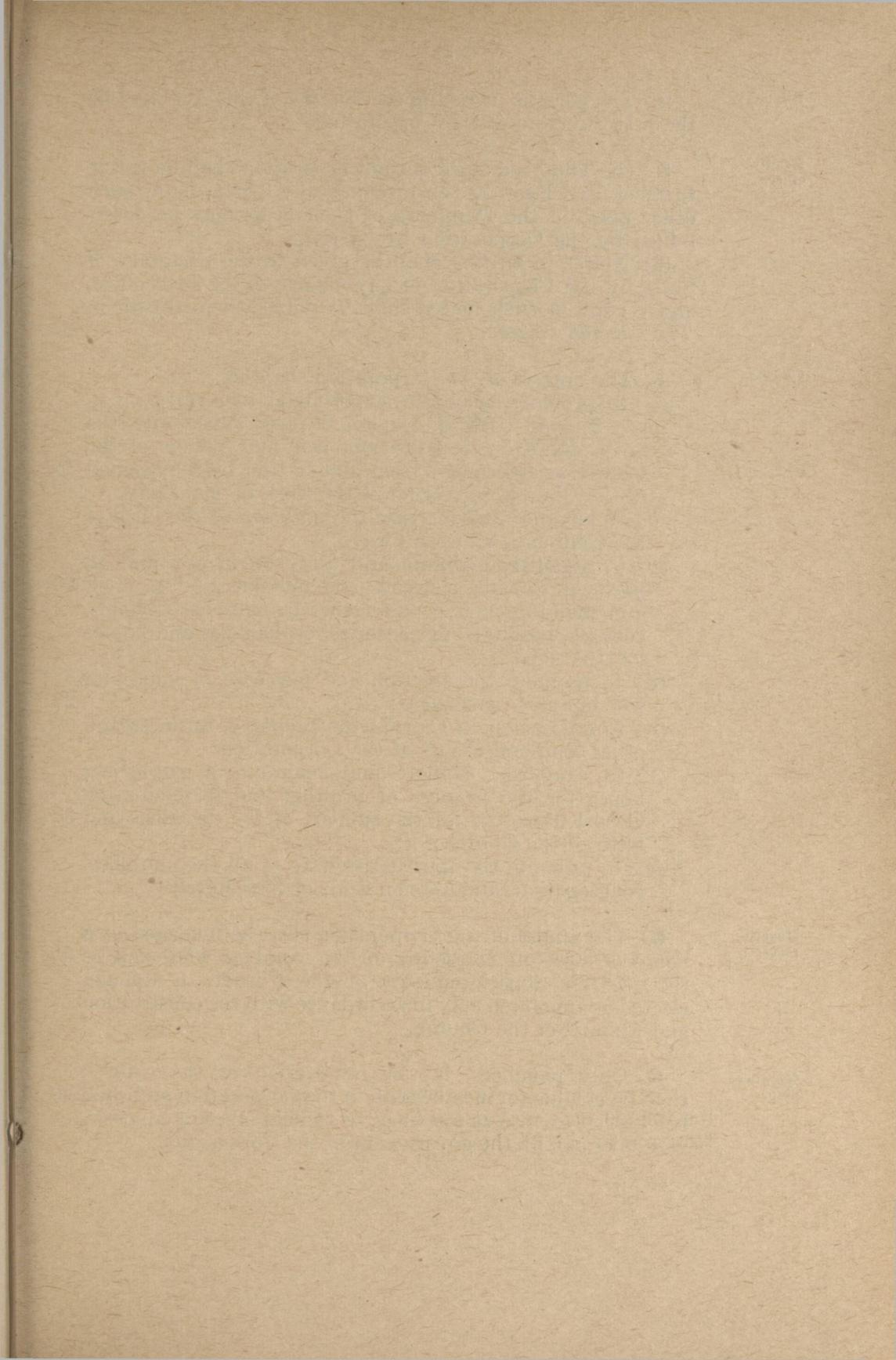
AND WHEREAS the said persons have by their petition prayed that they may be incorporated for the purposes and in the manner hereinafter set forth and it is expedient to grant the prayer of the petition: 10

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

Incorporation.

1. Albert Ernest Collins, clergyman, of the town of Red Deer, in the province of Alberta, Robert F. Woods, 15 clergyman, of the city of Toronto, in the province of Ontario, Walter W. Tink, clergyman, of the town of Oxford, in the province of Nova Scotia, A. Gordon Blacklock, clergyman, of the city of Saskatoon, in the province of Saskatchewan, and Edward Lancaster, clergyman, of the city of Vancouver, 20 in the province of British Columbia, together with such other persons as become members by virtue of their office as District Superintendents in Canada of the Church and their successors in the said offices are hereby constituted a body politic and corporate under the name of the Executive 25 Board of the Church of the Nazarene, hereinafter called the Corporation, for the purposes set out in this Act and for the purpose of administering the property and other temporal affairs of the Corporation.

Corporate name.



Directors.

2. The persons named in section one of this Act shall be the first directors of the Corporation.

Head office.

3. (1) The head office of the Corporation shall be in the town of Red Deer, in the province of Alberta, or at such other place in the Dominion of Canada as may be determined by the Corporation by by-law. 5

(2) Notice in writing shall be given to the Secretary of State by the Corporation of any change of the head office, and a copy of such notice shall be published forthwith in *The Canada Gazette*. 10

Objects.

4. The objects of the Corporation shall be,

(a) to promote, maintain, superintend and carry on in any and all parts of Canada in accordance with the faith, doctrines, constitution, acts and rulings of the Church as determined from time to time by the Manual 15 of the Church, any or all of the work of that body;

(b) to advance and increase the diffusion of the faith of the Church in all lawful ways;

(c) to organize, maintain and carry on in any and all parts of Canada churches and missions and to erect 20 and maintain and conduct therein churches, schools, colleges, hospitals, dispensaries, orphanages and homes for the aged;

(d) to promote the erection and purchase of houses of worship and parsonages; 25

(e) to administer in Canada the property, business and other temporal affairs of the Corporation:

(f) to establish, support and maintain a publishing house for the purpose of printing and disseminating Gospel literature for the support of the doctrines and 30 faith of the Church;

(g) to promote the spiritual welfare of all the churches, congregations and mission fields of the Church.

Management.

5. The affairs of the Corporation shall be managed by a board of directors consisting of five members who shall be 35 the District Superintendents of the Church in Canada elected or appointed only in accordance with the constitution and Manual of the Church.

Membership.

6. Only members, lay or ministerial, of the Church shall be eligible for membership in the Corporation and shall 40 be entitled to vote at meetings, or to hold office or to otherwise take part in the government of the Corporation.

Rules,
regulations
and by-
laws.

7. The Corporation may make such rules, regulations and by-laws as it may deem necessary for the exercise of the powers conferred or which may hereafter be conferred on it by or under this or any other Act relating to it and which are not contrary to law nor inconsistent with this Act, 5 including rules, regulations and by-laws for,

- (a) the administration, management and control of the property, business and other temporal affairs of the Corporation;
- (b) the appointment, functions, duties and remuneration 10 of all officers, agents and servants of the Corporation;
- (c) the appointment of any special committees or boards from time to time created for the purposes of the Corporation and the designation of their duties;
- (d) the calling of meetings, regular or special, of the 15 Board of Directors of the Corporation or of committees or boards;
- (e) for fixing the necessary quorum and procedure to be followed at all meetings of the Board of Directors of the Corporation or of committees or boards; 20
- (f) for generally carrying out the objects and purposes of the Corporation.

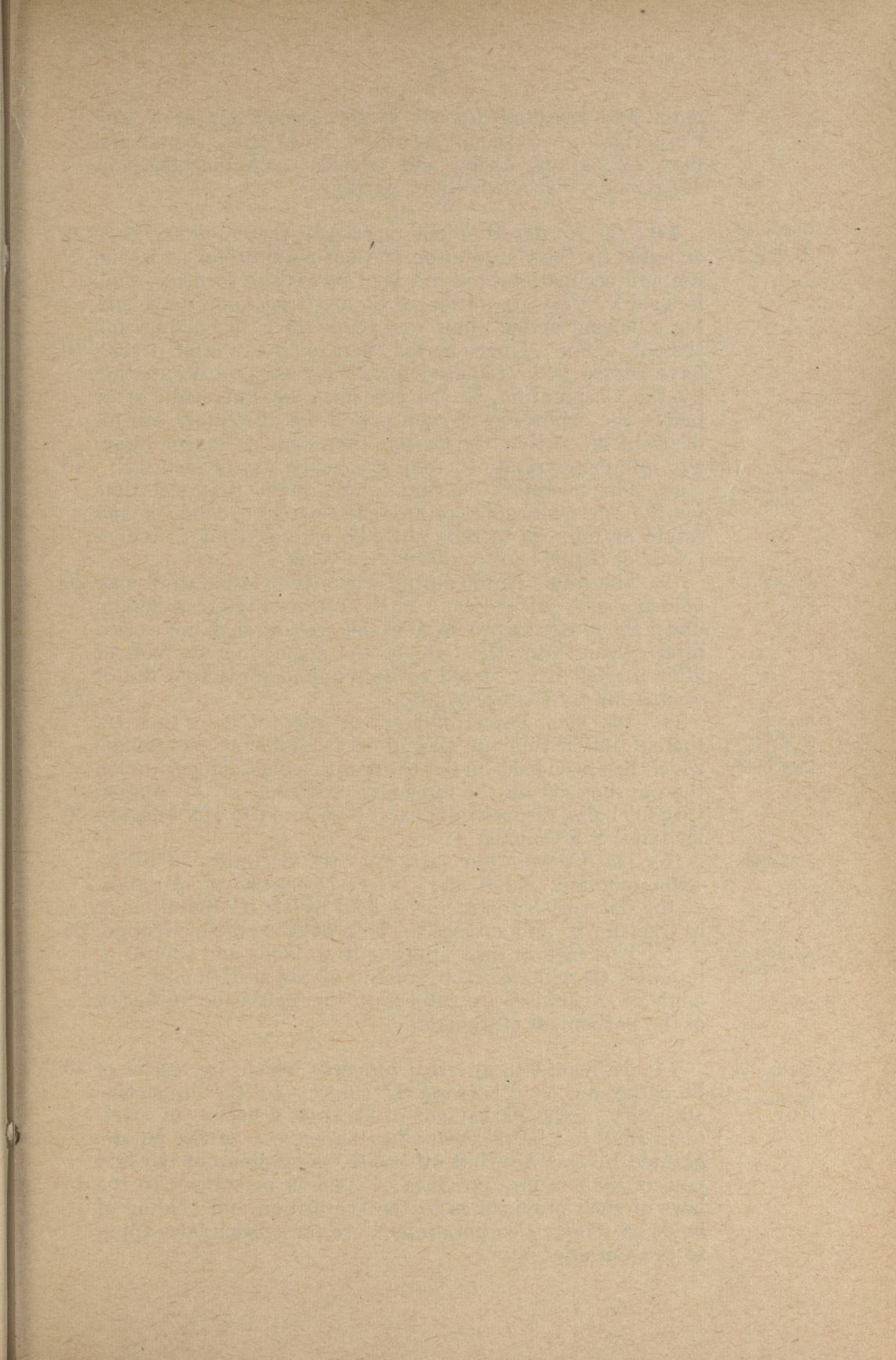
Capacity
to acquire
and hold
property.

8. (1) The Corporation may purchase, take, have, hold, receive, possess, retain and enjoy property, real or personal, corporeal or incorporeal, and any or every estate or interest 25 whatsoever given, granted, devised or bequeathed to it, or appropriated, purchased or acquired by it in any manner or way whatsoever, to, for, or in favour of the uses and purposes of the Corporation or to, for, or in favour of any religious, educational, eleemosynary or other institution 30 established or intended to be established by, under the management of, or in connection with, the uses or purposes of the Corporation.

(2) The Corporation may also hold such real property or estate therein as is *bona fide* mortgaged to it by way of 35 security, or conveyed to it in satisfaction of debts or judgments recovered.

Various
powers.

9. Subject always to the terms of any trust relating thereto, the Corporation may also sell, convey, exchange, alienate, mortgage, lease or demise any real property held 40 by the Corporation whether by way of investment for the uses and purposes of the Corporation or not, and may also, from time to time, invest all or any of its funds or moneys and all or any funds or moneys vested in or acquired by it for the use and purposes aforesaid, in and upon any security 45 by way of mortgage, hypothec or charge upon real property; and for the purposes of such investment may take, receive and accept mortgages or assignments thereof, whether



made and executed directly to the corporation or to any Corporation, body, company or person in trust for it; and may sell, grant, assign and transfer such mortgages or assignments either wholly or partly.

Obligation
to dispose
of lands.

10. (1) No parcel of land or interest therein at any time 5
acquired by the Corporation and not required for its actual
use and occupation, and not held by way of security, shall
be held by the Corporation, or by any trustee on its behalf,
for a longer period than ten years after the acquisition
thereof, or for a longer period than ten years after it shall 10
have ceased to be required for actual use and occupation
by the Corporation, as the case may be, but shall, at or
before the expiration of such period, be absolutely sold or
disposed of, so that the Corporation shall no longer retain
any interest or estate therein, except by way of security. 15

Extension
of time.

(2) The Secretary of State may direct that the time
for the sale or disposal of any such parcel of land, or any
estate or interest therein, shall be extended for a further
period or periods not to exceed five years.

Fifteen
years
limit.

(3) The whole period during which the Corporation may 20
hold any such parcel of land, or any estate or interest therein,
under the foregoing provision of this section, shall not exceed
fifteen years after the date of the acquisition thereof, or
after it shall have ceased to be required for actual use or
occupation by the Corporation. 25

Forfeiture
of property
held beyond
time limit.

(4) Any such parcel of land, or any estate or interest
therein, not within the exceptions hereinbefore mentioned,
which has been held by the Corporation for a longer period
than authorized by the foregoing provisions of this section
without being disposed of shall be forfeited to His Majesty 30
for the use of Canada.

Statement.

(5) The Corporation shall give the Secretary of State,
when required, a full and correct statement of all lands,
at the date of such statement, held by the Corporation, or
in trust for it, and subject to the provisions of this section. 35

Application
of section.

(6) This section shall apply only to lands and estates or
interests therein which, by reason of the situation of such
lands or otherwise, are subject to the legislative authority
of the Parliament of Canada.

Application
of
mortmain
laws.

11. In regard to any real property which, by reason of 40
its situation, or otherwise, is subject to the legislative
authority of the Parliament of Canada, a licence in mort-
main shall not be necessary for the exercise of the powers
granted by this Act, but otherwise, the exercise of the said
powers shall in any province of Canada be subject to the 45
laws of such province as to the acquisition and holding of
lands by religious corporations, in so far as such laws apply
to the Corporation.

Transfer
of property
held in
trust.

12. In so far as authorization by the Parliament of Canada is necessary, any person or corporation in whose name any property, real or personal, is held in trust or otherwise, for the use and purposes aforesaid, or any such person or corporation to whom any such property devolves, may, 5
subject always to the terms and conditions of any trust relating to such property, transfer such property, or any part thereof to the Corporation.

Execution of
documents.

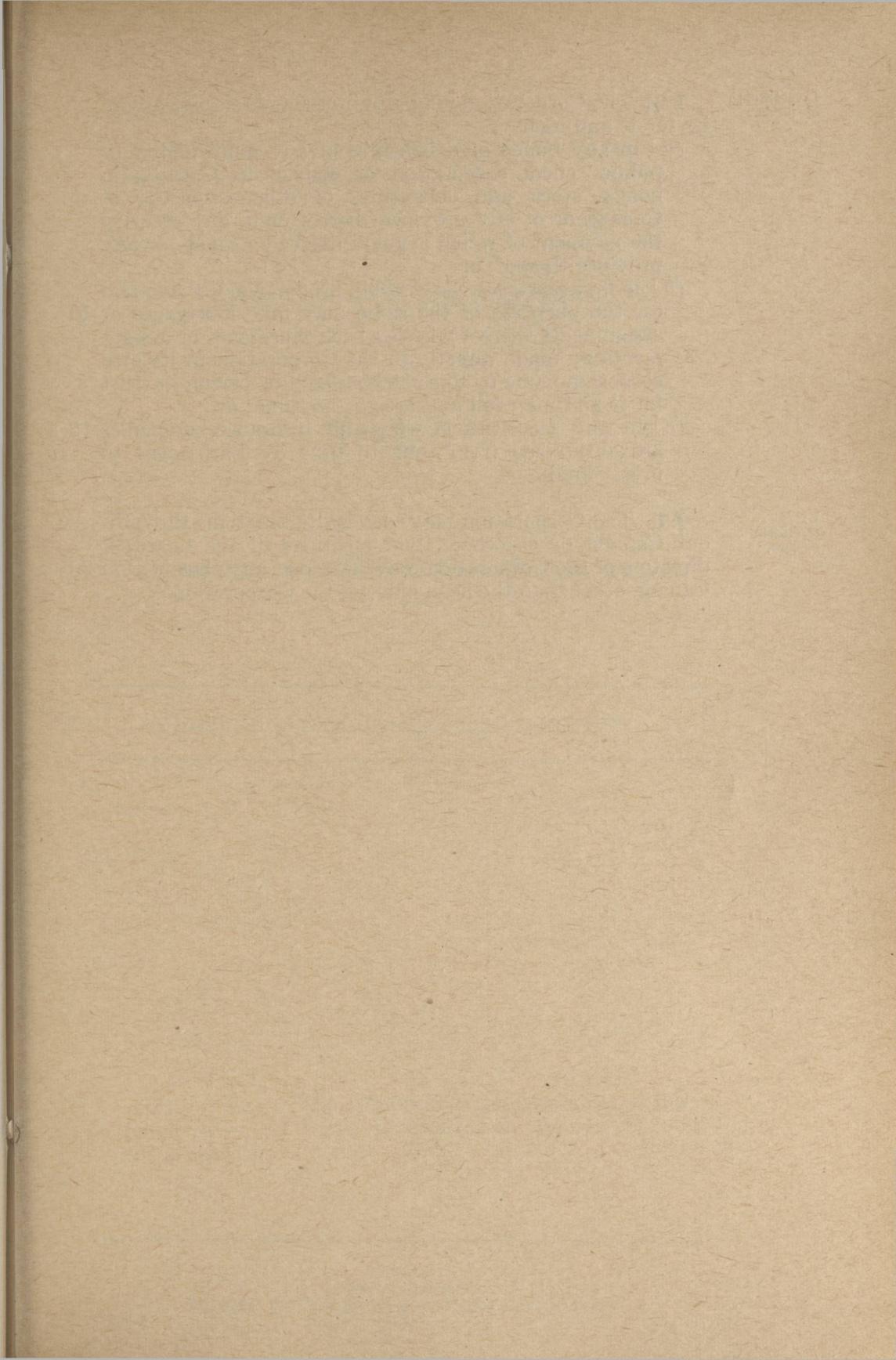
13. Any deed or other instrument relating to real property or any interest therein shall be deemed to be duly 10
executed if there is affixed thereto the seal of the Corporation and the signatures of the President and Secretary of the Corporation duly authorized for such purpose, or their lawful attorney.

Disposition
of property
by gift
or loan.

14. The Corporation may make a gift of or loan any of 15
its property whether real or personal for or to assist in the erection or maintenance of any building or buildings deemed necessary for any church, college, manse, school or hospital or for any other religious, charitable, educational, congregational or social purpose upon such terms and upon such 20
conditions as it may deem expedient.

Borrowing
powers.

15. (1) The directors of the Corporation may from time to time for the purposes of the Corporation, 25
(a) borrow money upon the credit of the Corporation;
(b) limit or increase the amount to be borrowed;
(c) make, draw, accept, endorse, or become party to promissory notes and bills of exchange, and it shall not be necessary to have the seal of the Corporation affixed to any such note or bill;
(d) issue bonds, debentures or other securities of the 30
Corporation;
(e) pledge or sell such bonds, debentures or other securities for such sums and at such prices as may be deemed expedient; and
(f) mortgage, hypothecate, charge or pledge all or any 35
of the real and personal property, undertaking and rights of the Corporation to secure any such bonds, debentures or other securities or any money borrowed or any other liability of the Corporation.
(2) Nothing in this section shall be construed to authorize 40
the Corporation to issue any note or bill payable to bearer thereof, or any promissory note intended to be circulated as money or as the note or bill of a bank, or to engage in the business of banking or insurance.



Investment
of funds.

16. The Corporation may also invest and reinvest any of its funds and money,—

- (a) in any bonds or debentures of any municipality or public school corporation or district in Canada, in bonds, stock and debentures or other securities of Canada or of any province thereof or in any security the payment of which is guaranteed by Canada or any province thereof; or 5
- (b) in first mortgages or freehold property in Canada and for the purposes of the same may take mortgages or assignments thereof whether such mortgages or assignments be made directly to the Corporation in its own corporate name or to some company or person in trust for it and may sell and assign the same; or 10
- (c) in any securities in which life insurance companies are authorized from time to time by Parliament to invest funds. 15

Extra
territorial
powers.

17. The Corporation may exercise its functions throughout Canada or elsewhere, and meetings of the board of directors of the Corporation may be held at any place within Canada other than the head office of the Corporation. 20

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL T².

An Act for the relief of Ruby Rosina Burnett Walters.

Read a first time, Tuesday, 30th April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

2nd Session, 20th Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL T².

An Act for the relief of Ruby Rosina Burnett Walters.

Preamble.

WHEREAS Ruby Rosina Burnett Walters, residing at the city of Montreal, in the province of Quebec, floor lady, wife of Cecil Robert Walters, cook, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the thirtieth day of May, A.D. 1923, at the said city, she then being Ruby Rosina Burnett, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Ruby Rosina Burnett and Cecil Robert Walters, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Ruby Rosina Burnett may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Cecil Robert Walters had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL U².

An Act for the relief of Winnifred Violet Unsworth Thomas.

Read a first time, Tuesday, 30th April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL U².

An Act for the relief of Winnifred Violet Unsworth Thomas.

Preamble.

WHEREAS Winnifred Violet Unsworth Thomas, residing at the city of Verdun, in the province of Quebec, stenographer, wife of Guy Hinxman Thomas, claims adjuster, who is domiciled in Canada and residing at the city of Montreal, in the said province, has by her petition 5
alleged that they were married on the eighth day of April, A.D. 1939 at the city of Westmount, in the said province, she then being Winnifred Violet Unsworth, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; 10
and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and 15
House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Winnifred Violet Unsworth and Guy Hinxman Thomas, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Winnifred Violet Unsworth may at any 20
time hereafter marry any man whom she might lawfully marry if the said marriage with the said Guy Hinxman Thomas had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL V².

An Act for the relief of Helen Louisa Willecox Reid.

Read a first time, Tuesday, 30th April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL V².

An Act for the relief of Helen Louisa Willcox Reid.

Preamble.

WHEREAS Helen Louisa Willcox Reid, residing at the city of Verdun, in the province of Quebec, waitress, wife of James Reid, labourer, who is domiciled in Canada and residing at the city of Montreal in the said province, has by her petition alleged that they were married on the thirtieth day of September, A.D. 1927, at the said city of Montreal, she then being Helen Louisa Willcox, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Helen Louisa Willcox and James Reid, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Helen Louisa Willcox may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said James Reid had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL W².

An Act for the relief of Richard Carter Eaton.

Read a first time, Tuesday, 30th April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1946

THE SENATE OF CANADA

BILL W².

An Act for the relief of Richard Carter Eaton.

Preamble.

WHEREAS Richard Carter Eaton, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, property agent, has by his petition alleged that on the second day of May, A.D. 1918, at the said city of Montreal, he and Mildred Ruth Clearihue, who was then 5 of the city of Westmount, in the said province, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery 10 have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Richard Carter Eaton and Mildred Ruth Clearihue, his wife, is hereby dissolved, and 15 shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Richard Carter Eaton may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Mildred Ruth Clearihue 20 had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL X².

An Act for the relief of Annie Coyle Frances.

Read a first time, Tuesday, 30th April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL X².

An Act for the relief of Annie Coyle Frances.

Preamble.

WHEREAS Annie Coyle Frances, residing at the city of Montreal, in the province of Quebec, saleswoman, wife of William Frances, chauffeur, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the thirty-first day of July, A.D. 1931, at the said city, she then being Annie Coyle, a spinster; that on the fifth day of August, A.D. 1938, at the said city, they were married again; that during and since the year A.D. 1940, the said William Frances committed adultery; and whereas by her petition she has prayed for the passing of an Act dissolving her said marriages with the said William Frances; and whereas the said allegations have been proved, and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriages between Annie Coyle and William Frances, her husband, are, respectively, hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever. 20

Right to marry again.

2. The said Annie Coyle may at any time hereafter marry any man whom she might lawfully marry if the said marriages with the said William Frances had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL Y².

An Act for the relief of Beatrice Irene Moore Hawes.

Read a first time, Tuesday, 30th April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL Y².

An Act for the relief of Beatrice Irene Moore Hawes,

Preamble.

WHEREAS Beatrice Irene Moore Hawes, residing at the town of Greenfield Park, in the province of Quebec, stenographer, wife of Edward Arthur Hawes, merchant, who is domiciled in Canada and residing at the city of Montreal, in the said province, has by her petition alleged 5
that they were married on the thirtieth day of August, A.D. 1930, at the said town, she then being Beatrice Irene Moore, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and 10
adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts 15
as follows:—

Marriage dissolved.

1. The said marriage between Beatrice Irene Moore and Edward Arthur Hawes, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Beatrice Irene Moore may at any time 20
hereafter marry any man whom she might lawfully marry if the said marriage with the said Edward Arthur Hawes had not been solemnized.

THE SENATE OF CANADA

BILL Z².

An Act for the relief of Laura Lillian Butler May.

Read a first time, Tuesday, 30th April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL Z².

An Act for the relief of Laura Lillian Butler May.

Preamble.

WHEREAS Laura Lillian Butler May, residing at the city of Montreal, in the province of Quebec, store clerk, wife of Leonard May, storeman, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the thirtieth day of May, A.D. 1942, at the said city, she then being Laura Lillian Butler, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Laura Lillian Butler and Leonard May, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Laura Lillian Butler may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Leonard May had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL A³.

An Act for the relief of Gladys Ethel Standing Weldon.

Read a first time, Tuesday, 30th April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL A³.

An Act for the relief of Gladys Ethel Standring Weldon.

Preamble.

WHEREAS Gladys Ethel Standring Weldon, residing at the city of Montreal, in the province of Quebec, bookkeeper, wife of Robert William Weldon, tool and process engineer, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the twenty-ninth day of August, A.D. 1936, at the said city, she then being Gladys Ethel Standring, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Gladys Ethel Standring and Robert William Weldon, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Gladys Ethel Standring may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Robert William Weldon had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL B³.

An Act for the relief of Elizabeth Maude Foy Gage.

Read a first time, Tuesday, 30th April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

2nd Session, 20th Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL B³.

An Act for the relief of Elizabeth Maude Foy Gage.

Preamble.

WHEREAS Elizabeth Maude Foy Gage, residing at the city of Montreal, in the province of Quebec, office clerk, wife of Robert George Gage, clerk, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the second day of July, A.D. 1940, at the said city, she then being Elizabeth Maude Foy, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Elizabeth Maude Foy and Robert George Gage, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Elizabeth Maude Foy may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Robert George Gage had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL C³.

An Act for the relief of George Burley Beresford.

Read a first time, Tuesday, 30th April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL C³.

An Act for the relief of George Burley Beresford.

Preamble.

WHEREAS George Burley Beresford, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, foreman machinist, has by his petition alleged that on the twenty-fifth day of July, A.D. 1942, at the said city, he and Ruth Robertson, who was then of the said city, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between George Burley Beresford and Ruth Robertson, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said George Burley Beresford may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Ruth Robertson had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL D³.

An Act for the relief of Isabella Eleonora Cantlie Angus.

Read a first time, Tuesday, 30th April, 1946.

The Honourable the Chairman of the
Committee on Divorce.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

THE SENATE OF CANADA

BILL D³.

An Act for the relief of Isabella Eleonora Cantlie Angus.

Preamble.

WHEREAS Isabella Eleonora Cantlie Angus, residing at the city of Montreal, in the province of Quebec, wife of Richard Forrest Angus, stockbroker, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the second day of May, 5 A.D. 1923, at the said city, she then being Isabella Eleonora Cantlie, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is 10 expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Isabella Eleonora Cantlie 15 and Richard Forrest Angus, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Isabella Eleonora Cantlie may at any time hereafter marry any man whom she might lawfully marry 20 if the said marriage with the said Richard Forrest Angus had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL E³.

An Act for the relief of Albert Stuart White.

Read a first time, Tuesday, 7th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

OTTAWA
EDMOND CLOUTIER
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1946

THE SENATE OF CANADA

BILL E³.

An Act for the relief of Albert Stuart White.

Preamble. **W**HEREAS Albert Stuart White, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, foreman, has by his petition alleged that on the fifth day of November, A.D. 1931, at the city of Toronto, in the province of Ontario, he and Elsie Isabell Atkinson, who was then of the town of Mimico, in the province of Ontario, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Albert Stuart White and Elsie Isabell Atkinson, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever. 5

Right to marry again.

2. The said Albert Stuart White may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Elsie Isabell Atkinson had not been solemnized. 20

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL F³.

An act for the relief of Edward Mortin Montgomery.

Read a first time, Tuesday, 7th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL F³.

An Act for the relief Edward Mortin Montgomery.

Preamble.

WHEREAS Edward Mortin Montgomery, domiciled in Canada and residing at the town of South Durham, in the county of Drummond, in the province of Quebec, farmer, has by his petition alleged that on the fourteenth day of June, A.D. 1916, at the said town, he and Edna Maud Wolfrey, who was then of the said town, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Edward Mortin Montgomery and Edna Maud Wolfrey, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Edward Mortin Montgomery may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Edna Maud Wolfrey had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL G³.

An Act for the relief of Evelyn Clare Ward Davis Murray.

Read a first time, Tuesday, 7th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

THE SENATE OF CANADA

BILL G³.

An Act for the relief of Evelyn Clare Ward Davis Murray.

Preamble.

WHEREAS Evelyn Clare Ward Davis Murray, residing at the city of Montreal, in the province of Quebec, wife of William Angus Murray, soldier, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the eighteenth day of 5
October, A.D. 1933, at the said city, she then being Evelyn Clare Ward Davis, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and 10
it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Evelyn Clare Ward Davis 15
and William Angus Murray, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Evelyn Clare Ward Davis may at any time hereafter marry any man whom she might lawfully marry 20
if the said marriage with the said William Angus Murray had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL H³.

An Act for the relief of Esther Genevieve Johnson Potter.

Read a first time, Tuesday, 7th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1946

THE SENATE OF CANADA

BILL H³.

An Act for the relief of Esther Genevieve Johnson Potter.

Preamble.

WHEREAS Esther Genevieve Johnson Potter, residing at the city of Montreal, in the province of Quebec, wife of George Howard Potter, manager, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the twelfth day of August, A.D. 1933, at the said city, she then being Esther Genevieve Johnson, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Esther Genevieve Johnson and George Howard Potter, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Esther Genevieve Johnson may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said George Howard Potter had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL I³.

An Act for the relief of Wanita Winifred Ellerton Upton.

Read a first time, Tuesday, 7th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL I³.

An Act for the relief of Wanita Winifred Ellerton Upton.

Preamble.

WHEREAS Wanita Winifred Ellerton Upton, residing at the town of Hemmingford, in the province of Quebec, school teacher, wife of Mervyn Charles Upton, who is domiciled in Canada and residing at the said town, has by her petition alleged that they were married on the first day of September, A.D. 1932, at the city of Montreal, in the said province, she then being Wanita Winifred Ellerton, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Wanita Winifred Ellerton and Mervyn Charles Upton, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Wanita Winifred Ellerton may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Mervyn Charles Upton had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL J³.

An Act for the relief of Joseph Victor Emile Tassé.

Read a first time, Tuesday, 7th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL J³.

An Act for the relief of Joseph Victor Emile Tassé.

Preamble.

WHEREAS Joseph Victor Emile Tassé, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, carter, has by his petition alleged that on the eleventh day of January, A.D. 1937, at the said city, he and Marie Cecile Gracia Beland, who was then of the said city, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Joseph Victor Emile Tassé and Marie Cecile Gracia Beland, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Joseph Victor Emile Tassé may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Marie Cecile Gracia Beland had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL K³.

An Act for the relief of Roland Taillon.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL K³.

An Act for the relief of Roland Taillon.

Preamble.

WHEREAS Roland Taillon, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, fitter, has by his petition alleged that on the twentieth day of August, A.D. 1935, at the said city, he and Liliane Charette, who was then of the said city, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

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Marriage dissolved.

1. The said marriage between Roland Taillon and Liliane Charette, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Roland Taillon may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Liliane Charette had not been solemnized.

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THE SENATE OF CANADA

BILL L³.

An Act for the relief of Frederick Albert Johnson.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL L³.

An Act for the relief of Frederick Albert Johnson.

Preamble.

WHEREAS Frederick Albert Johnson, domiciled in Canada and residing at the city of Verdun, in the province of Quebec, painter, has by his petition alleged that on the third day of February, A.D. 1942, at the city of Montreal, in the said province, he and Marie Germaine Gertrude Perrault, who was then of the said city of Montreal, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Frederick Albert Johnson and Marie Germaine Gertrude Perrault, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Frederick Albert Johnson may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Marie Germaine Gertrude Perrault had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL M³.

An Act for the relief of Joseph François Georges Landry.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

OTTAWA
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THE SENATE OF CANADA

BILL M³.

An Act for the relief of Joseph François Georges Landry.

Preamble.

WHEREAS Joseph François Georges Landry, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, shipper, has by his petition alleged that on the eighth day of October, A.D. 1931, at the said city, he and Marie Anna Adrienne Gagné, who was then 5 of the said city, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition 10 be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Joseph François Georges Landry and Marie Anna Adrienne Gagné, his wife, is 15 hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Joseph François Georges Landry may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Marie Anna 20 Adrienne Gagné had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL N³.

An Act for the relief of Dorothy Ruth Bennett Macnutt.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL N^o 3.

An Act for the relief of Dorothy Ruth Bennett Macnutt.

Preamble.

WHEREAS Dorothy Ruth Bennett Macnutt, residing at the city of Montreal, in the province of Quebec, wife of Percival Stephenson Macnutt, clerk, who is domiciled in Canada and residing at the city of Westmount, in the said province, has by her petition alleged that they were married on the nineteenth day of February, A.D. 1939, at the said city of Westmount, she then being Dorothy Ruth Bennett, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Dorothy Ruth Bennett and Percival Stephenson Macnutt, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Dorothy Ruth Bennett may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Percival Stephenson Macnutt had not been solemnized.

THE SENATE OF CANADA

BILL O³.

An Act for the relief of Anne Levy Marder.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL O³.

An Act for the relief of Anne Levy Marder.

Preamble.

WHEREAS Anne Levy Marder, residing at the city of Montreal, in the province of Quebec, wife of Sydney Marder, foreman, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the twelfth day of March, A.D. 1939, at the said city, she then being Anne Levy, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Anne Levy and Sydney Marder, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Anne Levy may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Sydney Marder had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL P³.

An Act for the relief of David Ritchie McEwen.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL P³.

An Act for the relief of David Ritchie McEwen.

Preamble.

WHEREAS David Ritchie McEwen, domiciled in Canada and residing at the city of Westmount, in the province of Quebec, drug salesman, has by his petition alleged that on the sixteenth day of August, A.D. 1922, at the city of Montreal, in the said province, he and Nora Katherine O'Neill, who was then of the city of Lachine, in the said province, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between David Ritchie McEwen and Nora Katherine O'Neill, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said David Ritchie McEwen may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Nora Katherine O'Neill had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL Q³.

An Act for the relief of Marie Jeanne Antoinette Bastien
Cadieux.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

THE SENATE OF CANADA

BILL Q³.

An Act for the relief of Marie Jeanne Antoinette Bastien Cadieux.

Preamble.

WHEREAS Marie Jeanne Antoinette Bastien Cadieux, residing at the village of Ste. Genevieve, in the district of Montreal, in the province of Quebec, wife of Joseph Henri Hector Cadieux, truckdriver, who is domiciled in Canada and residing at the city of Montreal, in the said province, has by her petition alleged that they were married on the sixteenth day of July, A.D. 1932, at the said city, she then being Marie Jeanne Antoinette Bastien, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Marie Jeanne Antoinette Bastien and Joseph Henri Hector Cadieux, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Marie Jeanne Antoinette Bastien may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Joseph Henri Hector Cadieux had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL R³.

An Act for the relief of Gwenyth Lorraine Madge Popkin.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL R³.

An Act for the relief of Gwenyth Lorraine Madge Popkin.

Preamble.

WHEREAS Gwenyth Lorraine Madge Popkin, residing at the city of Toronto, in the province of Ontario, bookkeeper, wife of Herbert Alfred Popkin, clerk, who is domiciled in Canada and residing at the city of Montreal, in the province of Quebec, has by her petition alleged that they were married on the sixth day of April, A.D. 1940, at the town of St. Lambert, in the province of Quebec, she then being Gwenyth Lorraine Madge, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Gwenyth Lorraine Madge and Herbert Alfred Popkin, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Gwenyth Lorraine Madge may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Herbert Alfred Popkin had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL S³.

An Act for the relief of Louise Jocelyn Wolfrey Black Griffin.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL S³.

An Act for the relief of Louise Jocelyn Wolfrey Black Griffin.

Preamble.

WHEREAS Louise Jocelyn Wolfrey Black Griffin, residing at the city of Montreal, in the province of Quebec, typist, wife of Arthur St. George Griffin, accountant, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the eleventh day of June, A.D. 1932, at the said city, she then being Louise Jocelyn Wolfrey Black, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Louise Jocelyn Wolfrey Black and Arthur St. George Griffin, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Louise Jocelyn Wolfrey Black may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Arthur St. George Griffin had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL T³.

An Act for the relief of James Delmer Thomas Kirton.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1946

THE SENATE OF CANADA

BILL T³.

An Act for the relief of James Delmer Thomas Kirton.

Preamble.

WHEREAS James Delmer Thomas Kirton, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, sorter, has by his petition alleged that on the twenty-second day of June, A.D. 1940, at the said city, he and Florence Lillian Beelby, who was then of the said city, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between James Delmer Thomas Kirton and Florence Lillian Beelby, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said James Delmer Thomas Kirton may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Florence Lillian Beelby had not been solemnized.

THE SENATE OF CANADA

BILL U³.

An Act for the relief of Helen Sylvia Stacey Thompson.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL U³.

An Act for the relief of Helen Sylvia Stacey Thompson.

Preamble.

WHEREAS Helen Sylvia Stacey Thompson, residing at the city of Granby, in the province of Quebec, wife of Leopold Nelson Thompson, mill manager, who is domiciled in Canada and residing at the said city of Granby, has by her petition alleged that they were married on the second day of June, A.D. 1926, at the city of Montreal, in the said province, she then being Helen Sylvia Stacey, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Helen Sylvia Stacey and Leopold Nelson Thompson, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Helen Sylvia Stacey may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Leopold Nelson Thompson had not been solemnized.

THE SENATE OF CANADA

BILL V³.

An Act for the relief of Kay Florence Smart Gardiner.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL V³.

An Act for the relief of Kay Florence Smart Gardiner.

Preamble.

WHEREAS Kay Florence Smart Gardiner, residing at the city of Montreal, in the province of Quebec, stenographer, wife of Garfield Sydney Gardiner, clerk, who is domiciled in Canada and residing at the town of Beauharnois, in the said province, has by her petition alleged 5 that they were married on the fourth day of July, A.D. 1939, at the said city, she then being Kay Florence Smart, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery 10 have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Kay Florence Smart and 15 Garfield Sydney Gardiner, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Kay Florence Smart, may at any time here- after marry any man whom she might lawfully marry if 20 the said marriage with the said Garfield Sydney Gardiner had not been solemnized.

THE SENATE OF CANADA

BILL W³.

An Act for the relief of Zoita Tehanciuc Moldovan.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL W³.

An Act for the relief of Zoita Tehanciu Moldovan.

Preamble.

WHEREAS Zoita Tehanciu Moldovan, residing at the city of Montreal, in the province of Quebec, cleaning woman, wife of Ioan (Johan) Moldovan, painter, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the twenty-first day of August, A.D. 1932, at the said city, she then being Zoita Tehanciu, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Zoita Tehanciu and Ioan (Johan) Moldovan, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Zoita Tehanciu may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Ioan (Johan) Moldovan had not been solemnized.

THE SENATE OF CANADA

BILL X³.

An Act for the relief of Ambrose Keble Fred Vernham.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL X³.

An Act for the relief of Ambrose Keble Fred Vernham.

Preamble.

WHEREAS Ambrose Keble Fred Vernham, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, railway employee, has by his petition alleged that on the first day of October, A.D. 1921, at the said city, he and Azelma Trepanier, who was then of the said city, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Ambrose Keble Fred Vernham and Azelma Trepanier, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Ambrose Keble Fred Vernham may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Azelma Trepanier had not been solemnized.

THE SENATE OF CANADA

BILL Y³.

An Act for the relief of Clermont Gendreau.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL Y³.

An Act for the relief of Clermont Gendreau.

Preamble.

WHEREAS Clermont Gendreau, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, nursing orderly, has by his petition alleged that on the sixteenth day of September, A.D. 1944, at the said city, he and Liliane Filion, who was then of the said city, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: There- 10
fore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Clermont Gendreau and Liliane Filion, his wife, is hereby dissolved, and shall be 15
henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Clermont Gendreau may at any time here-
after marry any woman whom he might lawfully marry if
the said marriage with the said Liliane Filion had not been 20
solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL Z³.

An Act for the relief of Beatrice Lydia Ogulnik Goldin.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1946

THE SENATE OF CANADA

BILL Z³.

An Act for the relief of Beatrice Lydia Ogulnik Goldin.

Preamble.

WHEREAS Beatrice Lydia Ogulnik Goldin, residing at the city of Westmount, in the province of Quebec, wife of Richard Allan Goldin, who is domiciled in Canada and residing at the city of Outremont, in the said province, has by her petition alleged that they were married on the nineteenth day of June, A.D. 1938, at the said city of Westmount, she then being Beatrice Lydia Ogulnik, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Beatrice Lydia Ogulnik and Richard Allan Goldin, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Beatrice Lydia Ogulnik may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Richard Allan Goldin had not been solemnized.

THE SENATE OF CANADA

BILL A⁴.

An Act for the relief of Harry Dyce.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL A⁴.

An Act for the relief of Harry Dyce.

Preamble.

WHEREAS Harry Dyce, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, steamfitter, has by his petition alleged that on the eighth day of January, A.D. 1918, in the district of Basingstoke, in the county of Southampton, England, he and Alice Spicer Lovelock, who was then of the said district, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Harry Dyce and Alice Spicer Lovelock, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Harry Dyce may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Alice Spicer Lovelock had not been solemnized.

THE SENATE OF CANADA

BILL B⁴.

An Act for the relief of Alastair Trenholme Lovat Fraser.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

2nd Session, 20th Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL B⁴.

An Act for the relief of Alastair Trenholme Lovat Fraser.

Preamble.

WHEREAS Alastair Trenholme Lovat Fraser domiciled in Canada and residing at the town of Dixie, in the province of Quebec, clerk, has by his petition alleged that on the fifth day of September, A.D. 1939, at the town of Montreal West, in the said province, he and Virginia Ransom Reynolds, who was then of the said town of Montreal West, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Alastair Trenholme Lovat Fraser and Virginia Ransom Reynolds, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Alastair Trenholme Lovat Fraser may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Virginia Ransom Reynolds had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL C⁴.

An Act for the relief of Elsie Rachel Silverson Ward.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

THE SENATE OF CANADA

BILL C⁴.

An Act for the relief of Elsie Rachel Silverson Ward.

Preamble.

WHEREAS Elsie Rachel Silverson Ward, residing at the city of Verdun, in the province of Quebec, stenographer, wife of Victor Thomas Ward, carpenter, who is domiciled in Canada and residing at the city of Montreal, in the said province, has by her petition alleged that they were married on the twenty-first day of September, A.D. 1940, at the town of Morin Heights, in the said province, she then being Elsie Rachel Silverson, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted; Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Elsie Rachel Silverson and Victor Thomas Ward, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Elsie Rachel Silverson may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Victor Thomas Ward had not been solemnized.

THE SENATE OF CANADA

BILL D⁴.

An Act for the relief of William Joseph O'Sullivan.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL D⁴.

An Act for the relief of William Joseph O'Sullivan.

Preamble.

WHEREAS William Joseph O'Sullivan, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, clerk, has by his petition alleged that on the thirteenth day of February, A.D. 1937, at the said city, he and Simone Marion Lemieux, who was then of the said city, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between William Joseph O'Sullivan and Simone Marion Lemieux, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said William Joseph O'Sullivan may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Simone Marion Lemieux had not been solemnized.

THE SENATE OF CANADA

BILL E⁴.

An Act for the relief of Dorothy McLelland Hamilton.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

BILL E⁴.

THE SENATE OF CANADA

An Act for the relief of Dorothy McLelland Hamilton.

Preamble.

WHEREAS Dorothy McLelland Hamilton, residing at the village of Alcove, in the county of Hull, in the province of Quebec, clerk, wife of Mervyn Thorold Hamilton, soldier, who is domiciled in Canada and residing at the said village, has by her petition alleged that they were married on the twenty-fifth day of September, A.D. 1933, at the said village, she then being Dorothy McLelland, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Dorothy McLelland and Mervyn Thorold Hamilton, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Dorothy McLelland may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Mervyn Thorold Hamilton had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL F⁴.

An Act for the relief of Violet Maude Griffiths Barraclough.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL F⁴.

An Act for the relief of Violet Maude Griffiths Barraclough.

Preamble.

WHEREAS Violet Maude Griffiths Barraclough, residing at the city of Montreal, in the province of Quebec, switchboard operator, wife of Norman John Barraclough, accountant, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the third day of January, A.D. 1930, at the said city, she then being Violet Maude Griffiths, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and where-
evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Violet Maude Griffiths and Norman John Barraclough, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Violet Maude Griffiths may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Norman John Barraclough had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL G⁴.

An Act for the relief of Norman Peter Gray.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

BILL G⁴.

THE SENATE OF CANADA

An Act for the relief of Norman Peter Gray.

Preamble.

WHEREAS Norman Peter Gray, domiciled in Canada and residing at the town of Montreal West, in the province of Quebec, clerk, has by his petition alleged that on the twenty-third day of June, A.D. 1943, in the parish of Horsham, in the county of Sussex, England, he and Fredina Queenie Snook, who was then of the said parish, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Norman Peter Gray and Fredina Queenie Snook, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Norman Peter Gray may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Fredina Queenie Snook had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL H⁴.

An Act for the relief of Andrew Kovacs.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL H⁴.

An Act for the relief of Andrew Kovacs.

Preamble.

WHEREAS Andrew Kovacs, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, labourer, has by his petition alleged that on the nineteenth day of December, A.D. 1937, at the said city, he and Katalin Nagy, who was then of the said city, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Andrew Kovacs and Katalin Nagy, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Andrew Kovacs may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Katalin Nagy had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL I⁴.

An Act for the relief of Eda Margel Sand.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1946

THE SENATE OF CANADA

BILL I^A.

An Act for the relief of Eda Margel Sand.

Preamble.

WHEREAS Eda Margel Sand, residing at the city of Toronto, in the province of Ontario, tailor, wife of Ezriel Sand, clothing operator, who is domiciled in Canada and residing at the city of Montreal, in the province of Quebec, has by her petition alleged that they were married on the fifteenth day of October, A.D., 1935, at the city of Winnipeg, in the province of Manitoba, she then being Eda Margel, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

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Marriage dissolved.

1. The said marriage between Eda Margel and Ezriel Sand, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Eda Margel may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Ezriel Sand had not been solemnized.

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Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL J⁴.

An Act for the relief of Lucille Eileen Piché Perrier.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

2nd Session, 20th Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL J⁴.

An Act for the relief of Lucille Eileen Piché Perrier.

Preamble.

WHEREAS Lucille Eileen Piché Perrier, residing at the city of Montreal, in the province of Quebec, wife of Paul Samuel Perrier, farmer, who is domiciled in Canada and residing at the village of St. Philippe de Laprairie, in the said province, has by her petition alleged that they were married on the twenty-third day of October, A.D. 1943, at the said city, she then being Lucille Eileen Piché, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Lucille Eileen Piché and Paul Samuel Perrier, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Lucille Eileen Piché may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Paul Samuel Perrier had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL K⁴.

An Act for the relief of Bertha Lipshitz Joslove.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

THE SENATE OF CANADA

BILL K⁴.

An Act for the relief of Bertha Lipshitz Joslove.

Preamble.

WHEREAS Bertha Lipshitz Joslove, residing at the city 5
of Montreal, in the province of Quebec, clothing
operator, wife of Louis Joslove, salesman, who is domiciled
in Canada and residing at the said city of Montreal, has by
her petition alleged that they were married on the twentieth
day of January, A.D. 1935, at the city of Winnipeg, in the 10
province of Manitoba, she then being Bertha Lipshitz, a
spinster; and whereas by her petition she has prayed that,
because of his adultery since then, their marriage be dis-
solved; and whereas the said marriage and adultery have
been proved by evidence adduced and it is expedient that 15
the prayer of her petition be granted: Therefore His
Majesty, by and with the advice and consent of the Senate
and House of Commons of Canada, enacts as follows:—

Marriage
dissolved.

1. The said marriage between Bertha Lipshitz and Louis
Joslove, her husband, is hereby dissolved, and shall be 20
henceforth null and void to all intents and purposes
whatsoever.

Right to
marry again.

2. The said Bertha Lipshitz may at any time hereafter
marry any man whom she might lawfully marry if the said
marriage with the said Louis Joslove had not been 25
solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL L⁴.

An Act for the relief of Ernest Leslie Maddock Jones.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

THE SENATE OF CANADA

BILL L⁴.

An Act for the relief of Ernest Leslie Maddock Jones.

Preamble.

WHEREAS Ernest Leslie Maddock Jones domiciled in Canada and residing at the city of Montreal, in the province of Quebec, remedial physical trainer, has by his petition alleged that on the twenty-third day of September, A.D. 1937, at the said city, he and Elizabeth Learh Jones, who was then of the said city, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows—

Marriage dissolved.

1. The said marriage between Ernest Leslie Maddock Jones and Elizabeth Learh Jones, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Ernest Leslie Maddock Jones may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Elizabeth Learh Jones had not been solemnized.

THE SENATE OF CANADA

BILL M⁴.

An Act for the relief of Marie Komyati Sznyitar.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL M⁴.

An Act for the relief of Marie Komyati Sznyitar.

Preamble.

WHEREAS Marie Komyati Sznyitar, residing at the city of Montreal, in the province of Quebec, office cleaner, wife of Joseph Sznyitar, painter, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the ninth day of June, A.D. 1925, in the district of Hust, in Czechoslovakia, she then being Marie Komyati, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

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Marriage dissolved.

1. The said marriage between Marie Komyati and Joseph Sznyitar, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

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Right to marry again.

2. The said Marie Komyati may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Joseph Sznyitar had not been solemnized.

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THE SENATE OF CANADA

BILL N^o.

An Act for the relief of Irene Renee Levey Ritchie.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL N⁴.

An Act for the relief of Irene Renee Levey Ritchie.

Preamble.

WHEREAS Irene Renee Levey Ritchie, residing at the city of Montreal, in the province of Quebec, wife of Frederick Edward Ritchie, soldier, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the twenty-first day of July, A.D. 1933, at the said city, she then being Irene Renee Levey, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Marriage dissolved.

1. The said marriage between Irene Renee Levey and Frederick Edward Ritchie, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Irene Renee Levey may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Frederick Edward Ritchie had not been solemnized.

THE SENATE OF CANADA

BILL O⁴.

An Act for the relief of Alexander Marr Meldrum.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL O⁴.

An Act for the relief of Alexander Marr Meldrum.

Preamble.

WHEREAS Alexander Marr Meldrum, domiciled in Canada and residing at the city of Verdun, in the province of Quebec, butcher, has by his petition alleged that on the first day of May, A.D. 1939, at the said city, he and Jeannette Laberge, who was then of the said city, a spinster were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Alexander Marr Meldrum and Jeannette Laberge, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Alexander Marr Meldrum may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Jeannette Laberge had not been solemnized.

THE SENATE OF CANADA

BILL P⁴.

An Act for the relief of Ottocar Fiedler.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL P⁴.

An Act for the relief of Ottocar Fiedler.

Preamble.

WHEREAS Ottocar Fiedler, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, barber, has by his petition alleged that on the tenth day of February, A.D. 1931, at the said city, he and Angelina Beaudry, who was then of the said city, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Ottocar Fiedler and Angelina Beaudry, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Ottocar Fiedler may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Angelina Beaudry had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL Q⁴.

An Act for the relief of Kathleen Elizabeth Regan
Griffiths.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL Q⁴.

An Act for the relief of Kathleen Elizabeth Regan Griffiths.

Preamble.

WHEREAS Kathleen Elizabeth Regan Griffiths, residing at the city of Montreal, in the province of Quebec, stenographer, wife of Robert Trevor Griffiths, furrier, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the twenty-seventh day of August, A.D. 1938, at the said city, she then being Kathleen Elizabeth Regan, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Kathleen Elizabeth Regan and Robert Trevor Griffiths, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Kathleen Elizabeth Regan may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Robert Trevor Griffiths had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL R⁴.

An Act for the relief of Eliza Ritchie McDerment.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

2nd Session, 20th Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL R⁴.

An Act for the relief of Eliza Ritchie McDerment.

Preamble.

WHEREAS Eliza Ritchie McDerment, residing at the city of Verdun, in the province of Quebec, wife of William Whyte McDerment, clerk, who is domiciled in Canada and residing at the said city of Verdun, has by her petition alleged that they were married on the eighteenth day of November, A.D. 1939, at the city of Montreal, in the said province, she then being Eliza Ritchie, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Eliza Ritchie and William Whyte McDerment, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Eliza Ritchie may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said William Whyte McDerment had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL S⁴.

An Act for the relief of Ruby Eileen Baker Jones.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL S⁴.

An Act for the relief of Ruby Eileen Baker Jones.

Preamble.

WHEREAS Ruby Eileen Baker Jones, residing at the city of Montreal, in the province of Quebec, stenographer, wife of John Tify Jones, aviator, who is domiciled in Canada and residing at the city of Lachine, in the province of Quebec, has by her petition alleged that they were married on the seventh day of June, A.D. 1930, at the city of Winnipeg, in the province of Manitoba, she then being Ruby Eileen Baker, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Ruby Eileen Baker and John Tify Jones, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Ruby Eileen Baker may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said John Tify Jones had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL T⁴.

An Act for the relief of Ralph Samuel Currie.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL T⁴.

An Act for the relief of Ralph Samuel Currie.

Preamble.

WHEREAS Ralph Samuel Currie, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, clerk, has by his petition alleged that on the fourth day of April, A.D. 1942, at the said city, he and Beryl O'Rourke, who was then of the said city, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Ralph Samuel Currie and Beryl O'Rourke, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Ralph Samuel Currie may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Beryl O'Rourke had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL U⁴.

An Act for the relief of Simone Tardif Laverdure.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

OTTAWA
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THE SENATE OF CANADA

BILL U⁴.

An Act for the relief of Simone Tardif Laverdure.

Preamble.

WHEREAS Simone Tardif Laverdure, residing at the city of Montreal, in the province of Quebec, wife of Arthur Laverdure, labourer, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the twenty-first day of July, 5 A.D. 1937, at the said city, she then being Simone Tardif, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery 10 have been proved by evidence adduced and it is expedient 10 that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Simone Tardif and Arthur Laverdure, her husband, is hereby dissolved, and shall be 15 henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Simone Tardif may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Arthur Laverdure had not been 20 solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL V⁴.

An Act for the relief of Max Schacter.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1946

THE SENATE OF CANADA

BILL V⁴.

An Act for the relief of Max Schacter.

Preamble.

WHEREAS Max Schacter, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, mechanic, has by his petition alleged that on the eighth day of October, A.D. 1938, at the said city, he and Sadie Fishman, who was then of the said city, a spinster, 5
were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore His 10
Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Max Schacter and Sadie Fishman, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever. 15

Right to marry again.

2. The said Max Schacter may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Sadie Fishman had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL W⁴.

An Act for the relief of Mary Walker Tiffney.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1946

THE SENATE OF CANADA

BILL W⁴.

An Act for the relief of Mary Walker Tiffney.

Preamble.

WHEREAS Mary Walker Tiffney, residing at the city of Montreal, in the province of Quebec, wife of James Tiffney, contractor, who is domiciled in Canada and residing at the city of Verdun, in the said province, has by her petition alleged that they were married on the twenty- 5 eighth day of February, A.D. 1921, at the city of Dundee, Scotland, she then being Mary Walker, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved 10 by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Mary Walker and James 15 Tiffney, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Mary Walker may at any time hereafter marry any man whom she might lawfully marry if the said 20 marriage with the said James Tiffney had not been solemnized.

THE SENATE OF CANADA

BILL X⁴.

An Act for the relief of Margaret June Purdy MacKinnon.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL X⁴.

An Act for the relief of Margaret June Purdy MacKinnon.

Preamble.

WHEREAS Margaret June Purdy MacKinnon, residing at the city of Montreal, in the province of Quebec, nurse, wife of William Laidlaw MacKinnon, clerk, who is domiciled in Canada and residing at the town of Montreal West, in the said province, has by her petition alleged that they were married on the twenty-third day of December, A.D. 1943, at the said city, she then being Margaret June Purdy, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

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Marriage dissolved.

1. The said marriage between Margaret June Purdy and William Laidlaw MacKinnon, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Margaret June Purdy may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said William Laidlaw MacKinnon had not been solemnized.

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THE SENATE OF CANADA

BILL Y⁴.

An Act for the relief of John Rae.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL Y⁴.

An Act for the relief of John Rae.

Preamble.

WHEREAS John Rae, domiciled in Canada and residing at the town of Buckingham, in the province of Quebec, labourer, has by his petition alleged that on the third day of June, A.D. 1930, in the township of Lochiel, in the county of Glengarry, in the province of Ontario, he and Evelyn Laforce, who was then of the village of McCrimmon, in the province of Ontario, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between John Rae and Evelyn Laforce, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever. 15

Right to marry again.

2. The said John Rae may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Evelyn Laforce had not been solemnized. 20

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL Z⁴.

An Act for the relief of Nellie Mugford Brumby.

Read a first time, Friday, 10th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL Z⁴.

An Act for the relief of Nellie Mugford Brumby.

Preamble.

WHEREAS Nellie Mugford Brumby, residing at the city of Verdun, in the province of Quebec, hairdresser, wife of Keith Walter Lyon Brumby, who is domiciled in Canada and residing at the city of Montreal, in the said province, has by her petition alleged that they were married 5 on the eighteenth day of February, A.D. 1939, at the said city of Montreal, she then being Nellie Mugford, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved 10 by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Nellie Mugford and Keith 15 Walter Lyon Brumby, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Nellie Mugford may at any time hereafter marry any man whom she might lawfully marry if the said 20 marriage with the said Keith Walter Lyon Brumby had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL A⁵.

An Act respecting Bankruptcy.

Read a firstst time, Friday, 10th May, 1946.

Honourable Senator ROBERTSON.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1946

THE SENATE OF CANADA

BILL A⁵.

An Act respecting Bankruptcy.

Short Title. **1.** This Act may be cited as *The Bankruptcy Act, 1946.*

INTERPRETATION.

- Definitions. **2.** In this Act, unless the context otherwise requires or implies, the expression
- "affidavit." (a) "affidavit" includes statutory declaration and affirmation;
- "adequate valuable consideration." (b) "adequate valuable consideration" means fair and reasonable consideration comparable in money value to the known or reasonably to be anticipated value, benefit or advantage given or received; 5
- "alimentary debt." (c) "alimentary debt" means a debt incurred for necessities or maintenance; 10
- "appeal court." (d) "appeal court" means the court having jurisdiction in bankruptcy, under this Act, on appeal;
- "assignment." (e) "assignment" means an assignment filed with and accepted by the Official Receiver;
- "assignor." (f) "assignor" means the maker of an assignment, whether under this Act such maker may lawfully make such assignment or such assignment may lawfully be made, or not; 15
- "available act of bankruptcy." (g) "available act of bankruptcy" means an act of bankruptcy committed within six months before the date of the bankruptcy of a debtor; 20
- "bank." (h) "bank" or "chartered bank" means an incorporated bank carrying on the business of banking under *The Bank Act*;
- "chartered bank." (i) "banker" includes any person owning, conducting or in charge of any bank or place where money or securities for money are received upon deposit or held subject to withdrawal by depositors; 25
- "banker."

EXPLANATORY NOTES.

2. (a) No change.

(b) This is a new definition to eliminate the necessity of explanatory words being used when the expression is used in the Act.

(c) Formerly 2 (b). No change.

(d) Formerly 2 (c). No change.

(e) Formerly 2 (d). The distinction between an "assignment" and an "authorized assignment" is unnecessary. The word "authorized" may well be eliminated throughout the Act. The words "filed with and accepted by" are substituted for the words "accepted and filed by".

(f) Formerly 2 (e). No change.

The former subsection (f) has been deleted in view of the above definition of an assignment. It read as follows:

"authorized assignment" means an assignment accepted and filed by the official Receiver;"

The former subsection (g) is unnecessary in view of the provisions of subsection (1) of section 9. The word "authorized" when used to qualify "assignor" has been dropped wherever it occurred throughout the Act. It read as follows:

"authorized assignor" means an insolvent assignor whose debts provable under this Act exceed five hundred dollars;"

(g) Formerly 2 (h). No material change except to delete unnecessary words and make certain changes in phraseology in line with Act. This clause formerly read as follows:

"available act of bankruptcy" means an act of bankruptcy committed within six months before the date of

- (i) the presentation of a bankruptcy petition, or
- (ii) the making of an authorized assignment, or
- (iii) the payment, delivery, conveyance, assignment, transfer, contract, dealing or transaction mentioned in section sixty-five;

The change simplifies and corrects the definition.

(h) No change.

(i) No change.

- "bankrupt." (j) "bankrupt" means the legal status of, and the term applied to, a person who has made an assignment or against whom a receiving order has been made; 5
- "bankruptcy."
"in bankruptcy."
"composition."
"corporation." (k) "bankruptcy" or "in bankruptcy" means the state of being bankrupt or the fact of becoming bankrupt; 5
- (l) "composition" includes extension and scheme of arrangement;
- (m) "corporation" includes any company incorporated or authorized to carry on business by or under an Act of the Parliament of Canada or of any of the provinces of Canada, and any incorporated company, wheresoever incorporated, which has an office in or carries on business within Canada, but does not include building societies having a capital stock, nor incorporated banks, savings banks, insurance companies, trust 10 companies, loan companies or railway companies; 15
- "court." (n) "court" or "the court" means the court having jurisdiction in bankruptcy or a judge thereof and includes a registrar when exercising the powers of the court conferred upon him under this Act; 20
- "creditor." (o) "creditor" means any person having a claim, secured or unsecured, provable as a debt under this Act;
- "debt provable in bankruptcy," etc. (p) "debt provable in bankruptcy" or "provable debt" or "debt provable" includes any debt or liability provable in proceedings under this Act either by a secured or unsecured creditor; 25
- "debtor." (q) "debtor" includes any person, whether a British subject or not, who, at the time when any act of bankruptcy was done or suffered by him— 30
- (i) was personally present in Canada, or
- (ii) ordinarily resided or had a place of residence in Canada, or
- (iii) was carrying on business in Canada personally or by means of an agent or manager;

(j) This is a new definition. It is introduced to avoid the repetition of the phrase "who has made an authorized assignment or against whom a receiving order has been made" wherever it occurs in the Act.

(k) This is a new definition. It is introduced for the same reason as clause (j) immediately above.

(l) This is a new definition. It is introduced to avoid the repetition of the words "extension or scheme of arrangement" wherever they follow the word "composition" in the Act.

(m) Formerly 2 (k). No change.

(n) Formerly 2 (l). The former definition was as follows: "court" or "the court" means the court which is invested with original jurisdiction in bankruptcy under this Act;

The purpose of the change is to widen the definition to include judges and registrars.

The former subsection (n) is unnecessary and has been deleted as the position of a custodian is now eliminated. It read as follows:

"custodian" means the person duly authorized to exercise the functions of custodian for the time being;"

(o) The former definition 2 (m) was as follows:

"creditor" with relation to any meeting held under authority of this Act, shall, in the case of a corporation, include bondholder, debenture holder, shareholder and member of the corporation;" Its effect was practically to limit the rights of the persons mentioned to voting and expressing their views at a meeting of creditors, which was unnecessary in view of section 99 (2). This becomes subsection (2) of section 88.

(p) Formerly 2 (o). The words underlined have been substituted for "by this Act made provable in bankruptcy or in proceedings under an authorized assignment". The purpose of the change is to simplify and clarify the definition.

(q) Formerly 2 (p). The words "or any authorized assignment was made by him" in the third line of the former subsection (p) are superfluous as an authorized assignment is itself an act of bankruptcy.

The former subsection (p) (iv) has been deleted as being unnecessary as corporations, firms and partnerships are included in the definition of a person. It read as follows:

"(iv) was a corporation or a member of a firm or partnership which carried on business in Canada;"

The former subsection (q) is unnecessary in view of section 154. It is also misleading as "discharge" also applies to a trustee. It read as follows:

"(q) 'Discharge' means the release of a bankrupt or authorized assignor from all his debts provable in bankruptcy or under an authorized assignment save such as are excepted by this Act;"

- "gazetted."
"goods."
"insolvent person."
"insolvent."
"local newspaper."
"locality of a debtor."
"masculine."
"Minister."
- (r) "gazetted" means published in the *Canada Gazette*;
 (s) "goods" includes all chattels personal and movable property;
 (t) "insolvent person" and "insolvent" includes a person, whether or not he has done or suffered an act of 5
 bankruptcy,
 (i) who is for any reason unable to meet his obligations as they generally become due, or
 (ii) who has ceased paying his current obligations in the ordinary course of business as they generally 10
 become due, or
 (iii) the aggregate of whose property is not, at a fair valuation, sufficient, or, if disposed of at a fairly conducted sale under legal process, would not be sufficient to enable payment of all his obligations, 15
 due and accruing due, thereout;
 (u) "local newspaper" means a newspaper published in and having a circulation throughout the bankruptcy division which includes the locality of the debtor;
 (v) "locality of a debtor", means the principal place 20
 (i) where the debtor has carried on business during the year immediately preceding his bankruptcy;
 (ii) where the debtor has resided during the year immediately preceding his bankruptcy;
 (iii) in cases not coming with (i) or (ii), where the 25
 greater portion of the property of such debtor is situate;
 (w) "masculine", words in the masculine include the feminine and neuter;
 (x) "Minister" means the Minister who for the time being 30
is empowered to do the acts and things authorized by this Act;

(r) No change.

The former subsection (s) has been transferred to section 170(4).

(s) Formerly 2 (t). No change.

(t) Formerly 2 (u). No change.

(u) This was formerly subsection (x). The words "district or" have been deleted to ensure that bankruptcy notices shall be published in a newspaper circulating in the locality of the debtors. By section 168 each province of Canada constitutes a bankruptcy "district".

(v) The former subsection (v) has been deleted. It is no longer necessary as the term is now covered by section 159 (1). It read as follows:

"judge" means a judge of the court, which is by this Act invested with original jurisdiction in bankruptcy;"

The new subsection was formerly subsection (y) and was as follows:

"locality of a debtor," whether a bankrupt or assignor, means

- (i) the principal place where the debtor has carried on business during the year immediately preceding the date of the presentation against him of a bankruptcy petition or the making by him of an authorized assignment;
- (ii) the place where the debtor has resided during the year immediately preceding the date of the presentation against him of a bankruptcy petition or the making by him of an authorized assignment; or
- (iii) in cases not coming within (i) or (ii), the place where the greater portion of the property of such debtor is situate;"

The purpose of the change is to define with greater particularity the locality of the debtor, and to correct the situation which has come about since the decision in *re Boily et McNulty* (8 C.B.R. 565) in which the locality of the debtor was held to be the bankruptcy district, *i.e.*, province, in which he resided or carried on business.

(w) The former subsection (w) is not a definition but substantive law. It has been transferred to the sections dealing with the application of the Act. (Section 27 (3)). It read as follows:

"'judgment' or 'execution' or 'attachment' shall have operation as if by law the liability of married women thereon and thereunder were personal as well as proprietary;"

The new subsection (w) has been added as the Interpretation Act does not include "neuter" in definition of "masculine".

(x) This was formerly subsection (mm) which read as follows:

"Ministry means the Minister of Finance".

- "oath." (y) "oath" includes affirmation and statutory declaration;
- "person." (z) "person" includes a firm or partnership, an unincorporated association of persons, a corporation, a body corporate and politic, a society or organization 5
for cooperative purposes, the successors of such association, partnership, corporation, body corporate and politic, or society, and the heirs, executors, administrators or other legal representative of a person, according to the law of that part of Canada to which 10
the context extends;
- "prescribed." (aa) "prescribed" means prescribed by this Act and by
General Rules;
- "property." (bb) "property" includes money, goods, things in action, land, and every description of property, whether real 15
or personal, movable or immovable, legal or equitable, and whether situate in Canada or elsewhere; also obligations, easements and every description of estate, interest and profit, present or future, vested or contingent, in, arising out of, or incident to property as 20
above defined;
- "registrar." (cc) "registrar" includes any other officer who performs duties like to those of a registrar;
- "resolution." (dd) "resolution" or "ordinary resolution" means a resolution carried in manner provided by section one 25
hundred and seven of this Act;
- "secured creditor." (ee) "secured creditor" means a person holding a mortgage, hypothec, pledge, charge, lien or privilege on or against the property of the debtor, or any part thereof, as security for a debt due or accruing due to him from 30
the debtor, or a person whose claim is based upon, or secured by, a negotiable instrument held as collateral security and upon which the debtor is only indirectly or secondarily liable;
- "sheriff." (ff) "sheriff" includes bailiff and any officer charged with 35
the execution of a writ or other process under this Act or any other Act or proceeding with respect to any property of a debtor;
- "special resolution." (gg) "special resolution" means a resolution of which notice of the proposed resolution has been given to all 40
the creditors in the notice of the meeting and approved by a majority in number and a three-fourths vote of the creditors with proven claims voting in person or by proxy;
- "superintendent." (hh) "Superintendent" means the Superintendent of 45
Bankruptcy;
- "trustee." (ii) "trustee" or "licensed trustee" means any person, including a trust company, who is licensed or appointed pursuant to the provisions of this Act;
- "licensed trustee."

(y) This was formerly subsection (z).

(z) This was formerly subsection (cc) but has been extended to include co-operatives or similar organizations carrying on business.

(aa) This was formerly subsection (ee). The words "by this Act" have been inserted to cover the use of the words "prescribed" in section 38, subsections (2), (5), and (8).

(bb) The former subsection (aa) is unnecessary. The Official Receiver is described at section 168 (2) and his duties are set forth in sections 9, 40 (5), 96, etc. The new subsection (aa) was formerly subsection (ff).

(cc) The former subsection (bb) has been combined with that of "resolution" in clause (cc) below. The new subsection (bb) was formerly subsection (gg).

(dd) This was formerly subsection (bb) and has been combined with the former subsection (hh).

(ee) The former subsection (dd) is unnecessary, the petition itself being adequately described in section 4. The new subsection (dd) was formerly subsection (ii). No change.

(ff) This was formerly subsection (jj). The words "under this Act or any other Act or proceeding with respect to any property of a debtor" have been added to make the definition include bailiffs and other officers acting in all forms of judicial and extra-judicial process.

(gg) This is a new definition to establish uniformity and eliminate unnecessary verbiage throughout the Act.

(hh) This was formerly subsection (nn). No change.

(ii) This was formerly subsection (kk). The following phrase at the end of the definition has been deleted as being unnecessary. It read as follows:
"as a trustee in bankruptcy or under an authorized assignment or in connection with a proposal by a debtor for a composition, extension or scheme of arrangement."

“transaction.”

(*jj*) “transaction” means anything done or left undone by a person which affects another person’s rights and obligations out of which a course of action may arise, and without limiting the generality of the foregoing includes contract, dealing, gift, delivery, payment, settlement, sale, conveyance, transfer, assignment, charge, lien, pledge, mortgage, hypothecation or judicial proceeding taken or suffered; 5

“wage-earner.”

(*kk*) “wage-earner” means one who works for wages, salary, commission or hire at a rate of compensation not exceeding fifteen hundred dollars per year, and who does not on his own account carry on business. 10

PART I.

BANKRUPTCY AND RECEIVING ORDERS.

Acts of Bankruptcy.

Acts of bankruptcy.

3. A debtor commits an act of bankruptcy in each of the following cases:—

Assignment.

(*a*) If in Canada or elsewhere he makes an assignment of his property to a trustee for the benefit of his creditors generally, whether it is an assignment authorized by this Act or not; 15

Fraudulent conveyance.

(*b*) If in Canada or elsewhere he makes a fraudulent conveyance, gift, delivery, or transfer of his property, or of any part thereof; 20

Fraudulent preference.

(*c*) If in Canada or elsewhere he makes any conveyance or transfer of his property or any part thereof, or creates any charge thereon, which would under this Act be void as a fraudulent preference if he were adjudged bankrupt; 25

Other conveyance or transfer.

(*d*) If in Canada or elsewhere he makes any conveyance or transfer of his property or any part thereof, or creates any charge thereon, which would have the effect of defrauding, delaying or defeating his creditors or any of them; 30

Absconding.

(*e*) If with intent to defeat or delay his creditors he does any of the following things, namely, departs out of Canada, or, being out of Canada remains out of Canada, or departs from his dwelling house or otherwise absents himself, or begins to keep house; 35

(jj) This is a new definition. It has been introduced to eliminate unnecessary verbiage and repetition of words and to include in a more comprehensive manner the various types of relationships that may arise between a bankrupt and another person.

(kk) This was formerly subsection (ll). No change.

3. (a) No change.

(b) No change.

(c) No change.

(d) This is a new clause. Its purpose is to bring under the *Bankruptcy Act* as an act of bankruptcy any transaction which, although it may seem to be regular on its face, results in diminishing the assets of a debtor to the detriment of his creditors.

(e) Formerly paragraph (d). No change.

Execution unsatisfied, goods sold by sheriff or no goods to be found.

(f) If he permits any execution or other process issued against him under which any of his goods are seized, levied upon or taken in execution to remain unsatisfied until within four days from the time fixed by the sheriff for the sale thereof, or for fourteen days after such seizure, levy or taking in execution, or if the goods have been sold by the sheriff or the execution or other process has been held by him after written demand for payment without seizure, levy or taking in execution or satisfaction by payment for fourteen days, or if it is returned endorsed to the effect that the sheriff can find no goods whereon to levy or to seize or take: Provided that where interpleader proceedings have been instituted in regard to the goods seized, the time elapsing between the date at which such proceedings were instituted and the date at which such proceedings are finally disposed of, settled or abandoned, shall not be taken into account in calculating any such period of fourteen days; 5 10 15

Proviso.

Exhibits statement showing insolvency.

(g) If he exhibits to any meeting of his creditors any statement of his assets and liabilities which shows that he is insolvent, or presents or causes to be presented to any such meeting a written admission of his inability to pay his debts; 20

Intent to defraud.

(h) If he assigns, removes, secretes or disposes of or attempts or is about to assign, remove, secrete or dispose of any of his goods with intent to defraud, defeat or delay his creditors or any of them; 25

Bulk sale.

(i) If he makes any bulk sale of his goods under the provisions of any Bulk Sales Act applicable to such goods in force in the province within which he carries on business or within which such goods are at the time of such bulk sale wherein the sale price will not be sufficient to pay his creditors in full; 30

Notice of suspension of payment.

(j) If he gives notice to any of his creditors that he has suspended or that he is about to suspend payment of his debts; 35

Default in composition.

(k) If he defaults in any composition made under this Act or otherwise;

Ceasing to meet liabilities.

(l) If he ceases to meet his liabilities generally as they become due, or fails to pay any particular debt or debts after repeated demands for payment. 40

(f) Formerly 3 (e). No change.

(g) Formerly 3 (f). No change.

(h) Formerly 3 (g). No change.

(i) Formerly 3 (h). The word "under" has been substituted for the words "without complying with". It is well known that bulk sales are effected which constitute acts of bankruptcy despite the fact that the provisions of the Bulk Sales Act may have been observed. The addition of the words "wherein the sale price will not be sufficient to pay his creditors in full" makes all such sales acts of bankruptcy.

(j) Formerly 3 (i). No change.

(k) This is a new clause. Its purpose is to make the default in the payment of a composition an act of bankruptcy available to the creditors. At present the creditors of a debtor who has defaulted under a composition cannot avail themselves of the prior "act of bankruptcy" unless it has taken place within six months before the filing of the petition.

(l) Formerly 3 (j). Much uncertainty has existed in regard to the interpretation of this subsection as to whether or not an available act of bankruptcy could arise from repeated demands to pay a single debt. The added clause removes this uncertainty.

Petition and Receiving Order.

Bankruptcy
petition.

4. (1) Subject to the conditions hereinafter specified, a bankruptcy petition may be filed against a debtor.

Conditions
on which
creditor may
petition.

(2) A creditor shall not be entitled to file a petition against a debtor unless

(a) the debt owing by the debtor to the petitioning creditor, or, if two or more creditors join in the petition, the aggregate amount of debts owing to the several petitioning creditors amounts to five hundred dollars; and

(b) the petition is grounded on an act of bankruptcy committed within six months before the filing of the petition:

If petitioning
creditor is a
secured
creditor.

Provided, however, that if the petitioning creditor is a secured creditor, he must in his petition either state that he is willing to give up his security for the benefit of the creditors in the event of the debtor being adjudged bankrupt, or give an estimate of the value of his security, and in the latter case he may be admitted as a petitioning creditor to the extent of the balance of the debt due to him after deducting the value so estimated in the same manner as if he were an unsecured creditor.

Petition by
shareholder.

(3) A shareholder of a corporation may file a petition against the corporation where

(a) the company is insolvent or has committed an act of bankruptcy within one year prior to the filing of the petition, or

(b) the purpose of the corporation as set out in the Act, charter or instrument of incorporation has been served, completed or expired, or

(c) a resolution for the winding up of the affairs of the company has been passed at a special meeting of shareholders called for that purpose, or

(d) the capital of the company has been impaired to the extent of twenty-five per centum thereof and such lost capital will not likely be restored within one year, or

(e) has discontinued its normal business operations, or

(f) for any other reason it is just and equitable that the property of the company be realized upon and administered for the benefit of the creditors and the shareholders.

Affidavit.

(4) The petition shall be verified by affidavit of the petitioner or by someone duly authorized on his behalf having personal knowledge of the facts alleged in the petition.

4. The section is revised and enlarged to permit the basis of a petition to be broadened to include in the case of a corporation grounds other than a debt as provided hereafter.

The words "file", "file in", and "filing" have been substituted for the words "present", "present to" and "presentation" wherever they occur in this section. The changes have been made in the interest of greater precision. Words deleted are: "if a debtor commits an act of bankruptcy a creditor may present to the court a bankruptcy petition".

(2) Formerly subsection (3) slightly revised to provide for the deletions in subsection (1).

The proviso was formerly subsection (4).

(3) This is a new subsection to extend bankruptcy proceedings to the administration of all companies incorporated throughout Canada coming within the Act. The *Winding-up Act* is limited in its scope as to the companies to which it applies and it is deemed desirable that under the broader scope of the *Bankruptcy Act* a shareholder ought to be able to avail himself of its provisions.

(4) This was formerly subsection (2). The added words have been included to permit the agent or duly authorized representative of the petitioner to make the affidavit. The important factor is that the facts alleged in the petition are verified by someone having personal knowledge thereof. The phrase "and served on the debtor in the prescribed manner" has been deleted as being more properly a matter for procedure already inserted in Rule 77.

Consolidation of petitions.

(5) Where two or more petitions are filed against the same debtor or against joint debtors, the court may consolidate the proceedings, or any of them on such terms as the court thinks fit.

Where petition may be filed.

(6) The petition shall be filed in the court having jurisdiction in the locality of the debtor. 5

Proof of debt, etc.

(7) At the hearing the court shall require proof of the facts alleged in the petition and of the service of the petition, and, if satisfied with the proof, may adjudge the debtor a bankrupt and in pursuance of the petition, make an order, 10 in this Act called a receiving order.

Dismiss petition.

(8) If the court is not satisfied with the proof of the facts alleged in the petition, or of the service of the petition, or is satisfied by the debtor that he is able to pay his debts, or that the financial embarrassment of a company 15 is only temporary, or that for other sufficient cause no order ought to be made, it shall dismiss the petition.

Where assignment filed before or after a petition.

(9) Where an assignment has been filed and accepted before the service of a petition upon a debtor the court may as it deems proper in the circumstances accept the 20 assignment as a confession of bankruptcy and instanter make a receiving order which thereupon shall take precedence over the assignment or it may dismiss the petition and allow the assignment to stand.

Power to dismiss petition against some respondents only.

(10) Where there are more respondents than one to a 25 petition the court may dismiss the petition as to one or more of them, without prejudice to the effect of the petition as against the other or others of them.

Appointment of trustee.

(11) Upon a receiving order being made, for the protection of the estate, the court shall appoint a licensed 30 trustee as trustee of the property of the bankrupt, having regard, as far as the court deems just, to the wishes of the creditors or the shareholders as the case may be.

(5) This was formerly subsection (7) of section 163.

(6) This was formerly subsection (5).

(7) The words struck out in the last clause have been transferred to subsection (11). This subsection was formerly section 4 (6) and read as follows:

“At the hearing the court shall require proof of the debt of the petitioning creditor, of the service of the petition, and of the act of bankruptcy, or, if more than one act of bankruptcy is alleged in the petition, of some one of the alleged acts of bankruptcy, and, if satisfied with the proof, may adjudge the debtor a bankrupt and in pursuance of the petition, make an order, in this Act called a receiving order, for the protection of the estate, and appoint as custodian a licensed trustee, having regard, as far as the court deems just, to the wishes of the creditors.”

(8) This was formerly subsection (7) and read as follows:

“If the court is not satisfied with the proof of the petitioning creditor’s debt, or of the act of bankruptcy, or of the service of the petition, or is satisfied by the debtor that he is able to pay his debts, or, in case an authorized assignment has been made, that the estate can be best administered under the assignment, or that for other sufficient cause no order ought to be made, it shall dismiss the petition.”

The part struck out is now found in subsection (9).

(9) This is a new subsection. Its purpose is to provide a procedure to govern in such situations which not infrequently arise, and also to eliminate unnecessary contests for the control of an estate.

(10) This was formerly section 166.

(11) The former subsection (11) has been transferred to section 27 (4). It read as follows:

“The bankruptcy of a debtor shall be deemed to have relation back to and to commence at the time of the presentation of the petition on which a receiving order is made against him.”

The new subsection was formerly included in subsection (6) but it provided for the appointment of the custodian and not of the trustee. The purpose of the change is to eliminate the unnecessary office of custodian, and unnecessary contests between trustees for appointment to estates.

Stay of proceedings where facts alleged in petition denied.

(12) Where the debtor appears on the petition, and denies the truth of the facts alleged in the petition, the court, may, instead of dismissing the petition, stay all proceedings on the petition on such terms as it may see fit to impose on the petitioner as to costs or on the debtor to prevent alienation of his assets, for such time as may be required for trial of the question relating to the disputed facts. 5

Stay of proceedings for other reasons.

(13) The court may at any time, for other sufficient reason, make an order staying the proceedings under a petition, either altogether or for a limited time, on such terms and subject to such conditions as the court may think just. 10

Security for costs.

(14) A petitioner who is resident abroad, or whose estate is vested in a trustee under any law relating to bankruptcy, or against whom a petition is pending under any such law, or who has made default in payment of any judgment, order for payment of money or of any costs ordered by any court to be paid by him to the debtor, may be ordered to give security for costs to the debtor and proceedings under the petition may be stayed until such security is furnished. 15 20

Receiving order on another petition.

(15) Where proceedings on a petition have been stayed or have not been prosecuted with due diligence and effect the court may, if by reason of the delay or for any other cause it is deemed just so to do, substitute or add as petitioner any other creditor to whom the debtor may be indebted in the amount required by this Act or any other shareholder and make a receiving order on the petition of such other creditor or shareholder, and shall thereupon dismiss on such terms as it may deem just the petition in the stayed or non-prosecuted proceedings. 25 30

Petition cannot be withdrawn.

(16) A petition shall not be withdrawn without the leave of the court.

Power to present petition against one partner.

(17) Any creditor whose debt is sufficient to entitle him to present a bankruptcy petition against all the partners of a firm may present a petition against any one or more partners of the firm, without including the others. 35

Court may consolidate proceedings.

(18) Where a receiving order has been made by or against one member of a partnership, any other petition by or against a member of the same partnership shall be filed in or transferred to the court in which the first-mentioned petition is in course of prosecution, and unless the court otherwise directs, the same trustee shall be appointed as may have been appointed in respect of the property of the first mentioned member of the partnership, and the court may give such directions for consolidating the proceedings under the petitions as it thinks just. 40 45

Continuance of proceedings on death of debtor.

(19) If a debtor by or against whom a petition has been filed dies, the proceedings shall, unless the court otherwise orders, be continued as if he were alive.

(12) The words deleted are deemed an arbitrary denial of the ordinary civil rights of the debtor who in the case of a large disputed debt may have an undue hardship imposed on him to provide security before liability for the debt is legally established. This was formerly subsection (8) and read as follows:

“Where the debtor appears on the petition, and denies that he is indebted to the petitioner, or that he is indebted to such an amount as would justify the petitioner in presenting a petition against him, the court, on such security (if any) being given as the court may require for payment to the petitioner of any debt which may be established against him in due course of law and of the costs of establishing the debt, may, instead of dismissing the petition, stay all proceedings on the petition for such time as may be required for trial of the question relating to the debt.”

(13) This was formerly subsection (10) of section 163.

(14) This was formerly Rule 75.

(15) A re-draft of sections 4 (9) and 163 (8) with amendments to provide for substitution of shareholder in petition.

Section 4(9) reads as follows:

“Where proceedings have been stayed or have not been prosecuted with effect the court may, if by reason of the delay or for any other cause it is deemed just so to do, make a receiving order on the petition of another creditor, and shall thereupon dismiss on such terms as it may deem just the petition in the stayed or non-prosecuted proceedings.”

Section 163 (8) reads as follows:

“Where the petitioner does not proceed with due diligence on his bankruptcy petition, the court may substitute as petitioner any other creditor to whom the debtor may be indebted in the amount required by this Act in the case of the petitioning creditor, or may dismiss the petition.”

(16) The words “after presentment” are unnecessary. This was formerly subsection (10).

(17) This was formerly section 165 (1).

(18) This was formerly section 165 (2).

(19) This was formerly section 163 (9).

Administra-
tion of
estates of
deceased
debtors.

5. (1) Any creditor of a deceased debtor whose debt would have been sufficient to support a bankruptcy petition against the debtor had he been alive may file a petition in the prescribed form praying for a receiving order against the estate of the deceased debtor on notice to the legal personal representative of the deceased debtor or if letters of probate or administration have not issued upon the executors named in the last will and testament of the deceased debtor or on such of the next of kin of the deceased debtor as the court may appoint to represent the estate: 5 10

Provided, however, if letters of probate or administration have issued or the estate is being administered under the authority of any other court, the court if satisfied that the estate of such deceased debtor can better or equally as well be administered without the aid of the Bankruptcy Court may dismiss the petition with such directions as to costs as it may deem proper. 15

(2) On the completion of the administration of the estate of a deceased debtor any surplus funds or property remaining in the hands of the trustee after payment in full of all the debts and the costs of the administration shall be paid or delivered over to the legal personal representative of the deceased debtor or dealt with in such manner as the court may direct. 20

(3) After service of a petition upon the legal personal representative of a deceased debtor he shall not make payment of any monies or transfer any property of the deceased debtor until the petition is disposed of otherwise in addition to any penalties to which he may be subject he shall be personally liable therefor, but nothing in this section shall be deemed to invalidate any payment or transfer of property made or any act or thing done by such legal personal representative in good faith before the service of the petition. 25 30

Costs of
petition.

6. (1) When a receiving order is made the costs of the petitioner shall be taxed and be payable out of the estate unless the court otherwise orders. 35

(2) When the proceeds of the estate are not sufficient for the payment of the petitioner's costs and of any costs necessarily incurred by the trustee down to the conclusion of the first meeting of creditors, the Court may order such costs to be paid by the petitioner. 40

Costs out
of joint
and separate
estates.

(3) Where the joint estate of any bankrupts is insufficient to defray any costs or charges properly incurred, the trustee may pay such costs and charges as cannot be paid out of the joint estate out of the separate estate of such bankrupts or one or more of them in such proportion as he may determine, with the consent of the inspectors of the estates out of which the payment is intended to be made, or, if such inspectors withhold or refuse their consent, then with the approval of the Court. 45 50

5. (1) This is a new section and is adopted in substance from section 130 of the English Act. Although the definition of a "person" is stated to include the heirs, executors, administrators or other legal personal representatives of a person, yet the courts in certain of the provinces have differed as to the right of a creditor to file a petition against the estate of a deceased debtor.

The former section 5 (1) and (2) now becomes section 7 (1) and (2), and reads as follows:

5. (1)

"The court may, if no custodian has been appointed and if it is shown to be necessary for the protection of the estate, at any time after the presentation of a bankruptcy petition, and before a receiving order is made, appoint a licensed trustee as interim receiver of the property of the debtor, or of any part thereof, and direct him to take immediate possession thereof or of any part thereof."

5. (2)

"The interim receiver may, under the direction of the court, take conservatory measures and summarily dispose of goods which are perishable or likely to depreciate rapidly in value, or carry on the business of the debtor for such period as the court deems advisable.

6. (1) This was formerly Rule 55 (1). The former section 6 (1) has been transferred to the sections dealing with the property of the debtor (section 27 (5)) and read as follows:

"6. On a receiving order being made against a debtor, such debtor shall cease to have any capacity to dispose of or otherwise deal with his property affected by the receiving order, which shall be deemed to be in the custody of the court, and upon the appointment of a trustee as hereinafter provided, such property shall, subject to the provisions of this Act, and subject to the rights of secured creditors forthwith pass to and vest in such trustee, and in any case of change of trustee, the property shall pass from trustee to trustee without any conveyance, assignment or transfer whatever.

(2) This was formerly Rule 55 (2). The former subsection (2) has been transferred to section 164 (7) dealing with the jurisdiction and procedure of the courts. It reads as follows:

"(2) The court, upon the application of the trustee or of a creditor proceeding under authority of any ordinary resolution carried by the votes of a majority in number of the known creditors, and upon satisfactory proof that the affairs of the debtor can be more economically administered within another bankruptcy district or division, or for other sufficient cause, may at any time by order, transfer any proceedings under this Act, which are pending before it to another bankruptcy district or division wherein thereafter they may be carried on as effectually as if therein commenced.

(3) This was formerly Rule 60.

Interim Receiver.

Appointment
of interim
receiver.

7. (1) The court may, if it is shown to be necessary for the protection of the estate, at any time after the filing of a petition, and before a receiving order is made, appoint a licensed trustee as interim receiver of the property of the debtor, or of any part thereof, and direct him to take immediate possession thereof upon such undertaking being given by the petitioner as the court may impose as to interference with the debtor's legal rights and as to damages in the event of the petition being dismissed. 5

Powers of
interim
receiver.

(2) The interim receiver may, under the direction of the court, take conservatory measures and summarily dispose of goods which are perishable or likely to depreciate rapidly in value, and exercise such control over the business of the debtor as the court deems advisable: 10

Proviso.

Provided that the interim receiver shall not unduly interfere with the debtor carrying on his business otherwise than may be necessary for such conservatory purposes or to comply with the order of the court. 15

Application
of section
four.

8. The provisions of section four of this Act shall not apply to wage-earners or to persons engaged solely in farming or the tillage of the soil. 20

7. This was formerly section 5. The words "if no custodian has been appointed and" were apparently included in the Act in error, as the custodian could not be appointed before the receiving order was made. The concluding words "or of any part thereof" are an unnecessary repetition of these words. The added words have been included as a measure of protection to the debtor.

This was formerly section 5 (2).

(2) The proviso is new. Its purpose is to remove any misunderstanding respecting the powers and duties of the interim receiver. The appointment of an interim receiver is perhaps the most arbitrary proceeding known in civil law and some legislative direction on the manner in which the powers should be exercised is deemed necessary.

See explanation to section 5.

8. This was formerly section 7.

The former section 8 is deleted as it is no longer necessary to retain these provisions. The object of this section originally was to prevent involuntary bankruptcies on a flood of debts contracted before the Act came into force. Its usefulness is now altogether obsolete. Section 8 read as follows:

"Notwithstanding anything in this Part appearing, no act or omission of a debtor in respect of any debt which

- (a) was contracted or existed before the first day of July one thousand nine hundred and twenty; or
- (b) is or is evidenced by any judgment or negotiable or renewable instrument the cause or consideration whereof existed before the first day of July, one thousand nine hundred and twenty, whether or not such judgment or instrument is a renewal or one of several renewals, proceeding from the same cause or consideration;

shall be deemed an available act of bankruptcy, nor shall any such debt be deemed sufficient to found the presentation of a bankruptcy petition, but it shall be provable in any proceedings otherwise founded under this Part, and otherwise."

Assignments.

Assignment
for general
benefit of
creditors.

9. (1) Any insolvent debtor, or the legal personal representative of a deceased debtor with the leave of the court, (other than a resident in the province of Quebec engaged solely in farming or the tillage of the soil) whose liabilities to creditors, provable as debts under this Act, exceed five hundred dollars, may, at any time prior to the service of a petition upon him, make an assignment of all his property for the general benefit of his creditors. 5

Assignments
by corpora-
tions other
than for
debts.

(2) Any other corporation desiring to wind up its affairs may make an assignment of all its property for the benefit 10 of its creditors and shareholders where

- (a) the company is insolvent and has committed an act of bankruptcy, or
- (b) the purpose of its incorporation has been served or completed, or 15
- (c) a resolution for the winding up of the affairs of the corporation has been passed at a special meeting of shareholders called for that purpose, or
- (d) the capital of the corporation has been impaired to the extent of 25% thereof and such lost capital will not 20 likely be restored within one year, or
- (e) the leave of the court is obtained on the ground that it is just and equitable for the affairs of the corporation to be wound up.

Sworn
statement.

(3) Such assignment shall be accompanied by a sworn 25 statement in the prescribed form showing the property of the debtor divisible among his creditors, the names and addresses of all his creditors and the amounts of their respective claims and the nature of each, whether secured, preferred or unsecured, and in the case of a corporation also 30 a list of the shareholders showing the number of shares of stock subscribed for by each shareholder and the amount of capital paid up by each such shareholder.

Filing of
assignment.

(4) The assignment shall be offered to the Official Receiver in the locality of the debtor to be filed and it shall be in- 35 operative until accepted and filed by such Official Receiver, who shall refuse to accept the same unless it is in the form prescribed by the General Rules or to the like effect, and accompanied by the sworn statement required by the preceding subsection. 40

Effect
thereof.
Appointment
of trustee.

(5) If the Official Receiver accepts the assignment he shall file the same and shall appoint as trustee a licensed trustee whom he shall, as far as possible, select by reference to the wishes of the most interested creditors or shareholders, as the case may be, if ascertainable at the time. The Official 45 Receiver shall complete the assignment by inserting therein as grantee the name of such trustee.

9.(1) This section is amended to bring it in line with section 5 to remove any doubt arising from conflicting decisions of the court. The word "tillage" has been substituted for "tilling" as in section 8. The words "service of a petition" have been substituted for "making of a receiving order". The purpose of the change is to eliminate unnecessary proceedings and costs and contests between trustees for appointments to estates.

(2) This new section has been inserted to round out the provisions of the Act relating to corporations and to enable any corporation to bring itself within the Act.

(3) Formerly subsection (2). No change except that the words "secured, preferred, or unsecured" have been substituted for "privileged, secured or otherwise" for greater precision. It is deemed essential that the information regarding the shareholders should also be disclosed.

(4) This was formerly subsection (3).

(5) This is a new subsection. It amends and combines parts of the former subsections (4), (5) and (6), which were as follows:

(4) If the Official Receiver accepts the assignment, he shall file the same, whereupon the property of the debtor shall be deemed to be under the authority of the court and the debtor shall cease to have any capacity to dispose of or otherwise deal with such property.

(5) Immediately after the acceptance of the authorized assignment the Official Receiver shall appoint as custodian a licensed trustee whom he shall, as far as possible, select by reference to the wishes of the most interested creditors, if ascertainable at the time.

(6) Upon the appointment of the trustee by the creditors, the Official Receiver shall complete the authorized assignment by inserting therein as grantee the name of such trustee, and such assignment shall thereupon, subject to the provisions of this Act, and subject to the right of secured creditors vest, as of the date of the acceptance and filing of the said assignment, in the trustee, all the property of the debtor, and in any case of change of trustee, the property shall pass from trustee to trustee without any conveyance, assignment or transfer whatever.

The object of the changes is to simplify the procedure by the elimination of the unnecessary office of custodian and to have the trustee appointed by the Official Receiver as soon as the assignment is accepted and filed. The provisions in subsection 4 relating to the capacity of the debtor, and those in subsection 6 as to the vesting of the property are now found in section 27(5).

Other assignments void.

(6) Every assignment or other disposition having the effect of an assignment of his property other than an assignment under this Act made by an insolvent debtor for the general benefit of his creditors shall be null and void.

Application of summary provisions of Act to assignments.

10. If the Official Receiver is unable to find any licensed trustee who is willing to act as trustee, after ten days have elapsed from the date of the acceptance and filing of the assignment, the provisions of the Act relating to summary administration of estates shall apply. 5

PART II.

COMPOSITION, EXTENSION OR SCHEME OF ARRANGEMENT.

Composition, extension or scheme of arrangement.

11. (1) Any person may either before or after bankruptcy make a proposal to his creditors, or to any class of them for 10

- (a) a composition in satisfaction of his debts, or
- (b) an extension of time for payment thereof, or
- (c) a scheme of arrangement of his affairs.

Proceedings by debtor. Documents to be filed.

(2) Proceedings for a proposal by a debtor shall be commenced before bankruptcy by filing with a licensed trustee, and after bankruptcy by filing with the trustee of the estate, 15

- (a) a copy of the proposal in writing embodying the terms of the proposed composition, extension or scheme of arrangement, and setting out the particulars of any securities or sureties proposed, signed by the debtor and the proposed sureties, if any; 20
- (b) a statement, verified by affidavit, showing the cause of the debtor's financial difficulties, the reason for the proposal, and the grounds of the debtor's belief that the proposal is fair and reasonable and can be carried out; 25
- (c) if bankrupt the statement of affairs referred to in section one hundred and thirty-three, or 30
- (d) if not bankrupt a statement showing the financial position of the debtor at the date of the proposal verified by affidavit as being correct to the belief and knowledge of the debtor accompanied by the last audited statement of a duly qualified accountant if 35 available.

(6) This was formerly subsection (7).

10. This was formerly section 9 (8). The substitution of the words "licensed trustee" for "person", and "trustee" for "custodian", and the insertion of the words "acceptance and", is made to bring the subsection into conformity with the changed procedure introduced in this section. The changes provide a procedure for the administration of every estate thereby giving every bankrupt the complete rights and privileges accorded to him in the Act. The subsection formerly had the effect of denying such rights to some bankrupt merely because he may have had no assets.

The former section 10 has been deleted as being a matter of routine administrative procedure. The first part is contained in Rule 88. It read as follows:

"Every Official Receiver with whom an assignment is filed, shall, when the same is completed as hereinbefore provided, deposit the same in the court having jurisdiction in the locality of the debtor, and if subsequently the trustee is displaced by a new trustee, such new trustee shall within four days of his appointment give notice thereof to the said court."

11. The sections dealing with these matters have been entirely revised with the following objects in view:

- (i) to restore to the Act the right accorded to the debtor by section 13 of the *Bankruptcy Act, 1919*, to make a proposal to his creditors prior to making an authorized assignment or the making of a receiving order against him. This right was abrogated by the Amendments of 1923 to the *Bankruptcy Act* because of the alleged abuses that had become associated with these proceedings, due to lack of adequate supervision and control. It was subsequently restored in part by the *Companies' Creditors Arrangement Act, 1933*, which, however, restricted its operation to incorporated companies. One of the objects of the present changes is to restore to all insolvent debtors the right to make a proposal prior to bankruptcy proceedings. Under the present system by which trustees are licensed annually and bankruptcy administration closely supervised by the Superintendent of Bankruptcy, it is felt that the right should be restored in full, and that it can be fully restored without danger of abuse.

Proposal,
etc., not to be
withdrawn.

(3) No such proposal or any security or guarantee tendered therewith may be withdrawn pending the decision of the creditors and the court with respect thereto, nor shall any variation in the proposal by the court release the sureties thereunder, but the sureties shall have two days' notice of any amended proposal as approved by the creditors and the debtor, after which time, if no objection is taken, they shall be considered as having agreed to the amended proposal. 5

Duties of
trustee.

(4) The trustee shall make or cause to be made such an appraisal and investigation of the affairs and property of the debtor as to enable him to estimate with reasonable accuracy the financial situation of the debtor and the cause of the debtor's financial difficulties or insolvency, and report the result thereof to the meeting of the creditors. 10
15
A copy of the report shall as soon as completed be mailed to the Superintendent.

Trustee to
report.

- (ii) To secure for the creditors a greater percentage of the assets of insolvent debtors than can be secured under the present procedure whereby a debtor must be in bankruptcy before he can make a formal proposal to his creditors. It is believed that by restoring to the debtor the right of making a formal offer prior to bankruptcy many debtors will avail themselves thereof before their affairs become hopelessly involved and they are forced into bankruptcy.
- (iii) To correct the many alleged abuses complained of in proceedings held under the *Companies' Creditors Arrangement Act, 1933*, in which, owing to the lack of adequate supervision and control, it is possible for unscrupulous debtors and their accomplices to have arrangements effected which in many cases could not be effected under proper supervision. The effect of the proposed changes would be to bring all compositions and arrangements under the comprehensive procedure of the *Bankruptcy Act* under which all proceedings of this kind would be under the supervision of the Superintendent of Bankruptcy.

Section 11 formerly read as follows:

11. "Where an insolvent debtor intends to make a proposal for

- (a) a composition in satisfaction of his debts; or
- (b) an extension of time for payment thereof, or
- (c) a scheme of arrangement of his affairs;

he may, after the making of a receiving order against him or the making of an authorized assignment by him, require in writing the trustee duly appointed to convene at the office of such trustee a meeting of such debtor's creditors for the consideration of such proposal.

(2) The debtor shall at the time when he requires the convening of such meeting, or before, lodge with the trustee

- (a) a true statement of the debtor's affairs, including a list of his creditors, which list shall show the post office address of and the amount payable to each creditor, the whole statement being verified by the debtor by statutory declaration; and
- (b) a proposal in writing signed by the debtor, embodying the terms of the proposed composition, extension or scheme and setting out the particulars of any sureties or securities proposed."

(3) This was formerly section 13(4)

(4) This is a new subsection and is self-explanatory.

Trustee shall call meeting of creditors.

12. (1) Upon a proposal being filed the trustee shall forthwith call a meeting of the creditors by sending by registered mail to every known creditor affected by the proposal and to the Superintendent, at least eight days prior thereto,

5

Documents to be mailed to creditors with notice of meeting.

- (a) a notice of the date, time and place of the meeting;
- (b) a condensed statement of the assets and liabilities as shown by the debtor and as supplemented by the trustee from information acquired by him;
- (c) a list of the creditors affected by the proposal with 10 their addresses and the amounts of their claims as known, or shown by the debtor's books;
- (d) a copy of the proposal, which after bankruptcy may be included in the notice of the first meeting of creditors if the proposal is submitted before the notice of the 15 first meeting is sent out;
- (e) a copy of the statement or a summary thereof showing the reason for the proposal and the cause of the debtor's insolvency;
- (f) a form of proof of debt if not already sent; 20
- (g) a form of proxy in blank as prescribed;

Documents to be sent to shareholders, bondholders, etc.

(2) In the case of a corporation the trustee shall send to each shareholder, bondholder and debenture holder affected by the proposal the documents referred to in (a), (b), (c), (d) and (e) of the preceding subsection and to any of 25 them on request a list of such share, bond, or debenture holders showing in the case of shareholders the number of shares of stock subscribed for by each shareholder with the unpaid balance, if any, due therein and in the case of bond or debenture holders the serial number of the bonds or 30 debentures held by each of them with the amount of principal and interest to be shown separately due thereon.

In case of a prior meeting.

(3) If any meeting of his creditors whereat a statement or list of the debtor's assets, liabilities and creditors was presented has been held before the trustee is so required 35 to convene such meeting to consider such proposal and at the time when the debtor requires the convening of such meeting the condition of the debtor's estate remains substantially the same as at the time of such former meeting, the trustee may omit observance of the provisions (b) and 40 (c) in the preceding subsection.

Adjournment of meeting for further investigation and examination.

13. (1) If the creditors by a ten per cent vote of those voting in person or by proxy at the meeting at which a proposal is being considered so require the meeting shall be adjourned to such time and place as may be fixed by 45 the chairman,

- (a) to enable such further appraisal and investigation of the affairs and property of the debtor to be made as may be deemed advisable in which case the information

12. This is a revision of section 12 to provide for meetings either before or after bankruptcy. Section 12 formerly read as follows:

"12. As soon as possible after a trustee has been required to convene a meeting of creditors to consider a proposal of a composition, extension or scheme of arrangement, he shall submit the proposal to the inspectors and if authorized by a majority of them shall forthwith fix a date for such meeting and send by registered mail to every known creditor

- (a) at least ten days' notice of the time and place of meeting, the day of mailing to count as the first day's notice;
- (b) a condensed statement of the assets and liabilities of the debtor;
- (c) a list of his creditors; and
- (d) a copy of his proposal.

2. If any meeting of his creditors whereat a statement or list of the debtor's assets, liabilities and creditors was presented has been held before the trustee is so required to convene such meeting to consider such proposal and at the time when the debtor required the convening of such meeting the condition of the debtor's estate remains substantially the same as at the time of such former meeting, the trustee may omit observance of the provisions identified as (b) and (c) in the preceding subsection."

(2) This is a new subsection providing for essential information to be sent to share, bond or debenture holders.

(3) This was formerly subsection (2).

13. The former section 13(1) now becomes section 15(1). The former section 13(2) now becomes section 17(1). Section 13(3) has been deleted as it has been repeated in the former section 18 which now becomes section 19(1). It formerly read as follows:

"13 (3). If approved by the court such extension, composition or scheme of arrangement shall be binding on all the creditors."

(1) and (2) This is a revision of section 15. to enable a further investigation to be made if deemed necessary and for a report of the investigation and the examination to be placed before a meeting and the court. Section 15 formerly read as follows:

15. If creditors who hold ten per cent or more in amount of proved debts request the examination of the debtor, the trustee shall cause him to be examined under oath before the registrar or other officer appointed for that purpose by General Rules and his testimony to be taken down in writing.

(2) The testimony, so taken, may be read upon the hearing of the application for the approval of the composition or scheme of arrangement.

(3) The court if not satisfied with such testimony as so taken, may direct that the debtor attend before the court for the purpose of further examination.

thereby obtained shall be incorporated in a report and placed before the adjourned meeting or may be read in court on the application for approval of the proposal.

(b) for the examination under oath of the debtor or of such other person as may be believed to have knowledge of the affairs or property of the debtor as elsewhere provided in this Act. The testimony of the debtor or such other person, if transcribed, shall be placed before the adjourned meeting or may be read in court upon the application for the approval of the proposal.

(2) The court if not satisfied with the report or the testimony of the debtor or such other person may direct that such further investigation be made as it may deem advisable or that the debtor or such other person attend before the court for further examination.

Creditor
may assent
or dissent
by letter.

14. Any creditor who has proved his debt may assent to or dissent from the proposal by a letter to that effect addressed postage prepaid and registered to the trustee, prior to the meeting, and any such assent or dissent if received by the trustee at or prior to the meeting shall have effect as if the creditor had been present and had voted at the meeting.

When pro-
posal deemed
to be
accepted.

15. If at the meeting at which a proposal is considered, or at any adjournment thereof, a majority in number of all the creditors, or of any class thereof, with proven claims of twenty-five dollars or over, and holding three-quarters in amount of all such proven claims of creditors or class of creditors, as the case may be, insofar as the proposal affects any such class, present in person or by proxy, resolve to accept the proposal as made, or as altered or modified at the meeting, or any adjournment thereof, it shall be deemed to be accepted by all the persons affected thereby: Provided, however, that the court on the application of any creditor or the debtor may set aside the vote of any creditor voting for or against the proposal, on any grounds which the court deems proper.

Proviso.

Creditors
may provide
for super-
vision of
debtor's
affairs.

16. At any meeting to consider a proposal the creditors, with the approval of the debtor, may include such provisions or terms in the proposal with respect to the supervision of the affairs of the debtor during the term of the proposed composition, extension, or scheme, as may be deemed advisable.

Application
for approval.

17. The trustee shall forthwith, if the proposal is accepted by the creditors, apply to the court to approve it, and if the trustee does not make such application within ten days, the debtor or any creditor may do so.

14. No change.

15. This was formerly section 13 (1) and has been revised and amplified to remove certain ambiguities which existed in regard to the requirement for approval and the effect thereof. This subsection formerly read as follows:

13. If at the meeting so convened to consider such proposal or at any subsequent meeting of creditors a majority of all the creditors and holding three-fourths in amount of all proved debts present in person or by proxy at such meeting resolve to accept the proposal either as made or as altered or modified at the request of the meeting, it shall be deemed to be duly accepted by the creditors.

16. This is a new section and is self-explanatory.
Section 16 (1) to (5) have been transferred to section 18.

17. This was formerly section 13 (2). The former section 17 is included in section 18 (6). It read as follows:

17. If the court approves the proposal, the approval may be testified by the seal of the court, being attached to the instrument containing the terms of the proposed composition, extension or scheme, or by the terms being embodied in an order of the court."

Court to hear
report of
trustee, etc.

18. (1) The court shall, before approving the proposal, hear a report of the trustee in the prescribed form as to the terms thereof, and as to the conduct of the debtor, and, in addition, shall hear the trustee, the debtor, any opposing, objecting or dissenting creditor, and such further evidence as the court may require. 5

When appli-
cation to be
deemed
opposed
application.

(2) Where a notice of objection is filed by any creditor, or shareholder or where the trustee reports any fact, matter, or circumstance which would justify the court in refusing to approve the proposal, the application for approval shall be 10 deemed to be an opposed application within the meaning of paragraph (d) of subsection one of section one hundred and sixty-seven of this act.

Court may
refuse to
approve the
proposal.

(3) If the court is of the opinion that the terms of the proposal are not reasonable or are not calculated to benefit 15 the general body of creditors, the court shall refuse to approve the proposal, and the court may refuse to approve the proposal whenever it is established that the debtor has committed any one of the offences mentioned in sections two hundred, two hundred and one and two hundred and 20 two of this Act.

Court may
not make
material
alteration.

Exemptions.

(4) The court may not make any material alteration in the substance of the proposal, except that it may correct, or supply, any accidental or formal error or omission in the proposal, and it may alter the terms of the proposal by 25 deleting any provision therein for the annulment of the receiving order or assignment if in its opinion the receiving order or assignment should not be annulled until the terms of the composition are carried out, and it may vary the proposal for the better protection of the creditors affected 30 thereunder by requiring further security or additional sureties if in its opinion the proposed security or sureties are not adequate to ensure the persons affected thereby against any default in carrying out the terms of the composition.

Reasonable
security.

(5) If any of the facts mentioned in sections one hundred 35 and forty-nine and one hundred and fifty-three of this Act are proved against the debtor, the court shall refuse to approve the proposal unless it provides reasonable security for payment of not less than fifty cents in the dollar on all the unsecured debts provable against the debtor's estate; 40 or such percentage thereof as the court may direct: Provided that if a composition, extension or scheme, is proposed by the debtor before the expiration of any previous extension or of any renewal or extension thereof no such previous extension or renewal or extension thereof shall be 45 deemed to have been made on a previous occasion within the meaning of paragraph (j) of section one hundred and forty-nine of this act.

Priority
of debts.

(6) No proposal shall be approved by the court which does not provide for the payment in priority to other debts

18. (1) This subsection combines the provisions contained in section 16 (1) with the relevant provisions of Rule 114. See explanation to subsection (8).

(2) These provisions were formerly contained in Rule 113. It read as follows:

"Rule 113. In any case in which an application is made to the court to approve a composition, extension or scheme and the trustee reports to the court any fact, matter, or circumstance which would justify the court in refusing to approve of the composition, extension or scheme, such application shall be deemed to be an opposed application within the means of Sec. 159 (1) (d) of the Act."

(3) This section was formerly section 16 (2). The change is to include the penal offences in sections 203 and 202. The prohibition herein is deemed too arbitrary and the court should be allowed to exercise its discretion in the matter.

(4) This is a new subsection. Its purpose is to extend the discretion of the court, for the better protection of creditors, to matters relating to the annulment of the bankruptcy, security and sureties. It includes the provisions formerly contained in Rule 117.

(5) This was formerly section 16 (3). No change except to add the words "and one hundred and fifty-three".

(6) This was formerly sections 16 (5) and 17. Provision has been made for payment of the trustee's fees and expenses as a condition precedent to the approval of the composition by the court. Provision has also been made to prevent unlicensed persons not subject to supervision by the Superintendent from obtaining control of the proceedings.

(7) This was formerly section 16 (4). By the re-arrangement of subsections (4) and (5) the words deleted have become unnecessary. It read as follows:

"16. (4). In any other case the court, subject to the provisions of subsection five of this section, may either approve or refuse to approve the proposal."

(8) This provision was formerly contained in Rule 114 which read as follows:

114. On the hearing of any application to the court to approve of a composition, extension or scheme the court shall in addition to considering the report of the trustee hear the trustee, the debtor and/or any opposing, objecting or dissenting creditor thereon, and an appeal to the Court of Appeal shall lie at the instance of the trustee, the debtor or any such creditor from any order of the court made upon such application.

(9) This new subsection contains the provisions of subsection (5) of section 19, as amended which read as follows:

"19. (5) If the court approves of the composition, extension or scheme, it may make an order annulling the bankruptcy or authorized assignment and vesting the property of the debtor in him or in such other person as the court may appoint on such terms and subject to such conditions, if any, as the court may declare."

(10) These provisions were formerly contained in Rule 115.

of all debts directed to be so paid in the distribution of the property of a debtor, and for the payment of all proper fees and expenses of the trustee of and incidental to the proceedings arising out of the proposal or in the bankruptcy proceedings, or in which the trustee is substituted by any other person to collect and distribute to the creditors any monies payable under the proposal. 5

Power of court.

(7) In any other case the court may either approve or refuse to approve the proposal.

Appeal.

(8) An appeal to the Court of Appeal shall lie at the instance of the trustee, the debtor, or any opposing, objecting or dissenting creditor, from any order made by the court on an application for the approval of a proposal. 10

Annulment of bankruptcy and revesting of assets.

(9) The approval by the court of a proposal made after bankruptcy shall operate to annul the bankruptcy and to revest in the debtor, or in such other person as the court may approve, all the right, title and interest of the trustee in the property of the debtor, unless the terms of the proposal otherwise provide or the court otherwise orders. 15

Costs when proposal refused.

(10) No costs incurred by a debtor, of or incidental to an application to approve a proposal, other than the costs incurred by the trustee, shall be allowed out of the estate if the court refuses to approve the proposal. 20

Pending disposition of proposal property of debtor under custody of the court.

(11) On the filing of a proposal the property of a person not bankrupt shall be deemed to be under the custody of the court until the proposal is finally disposed of by the court and any alienation thereof except in the normal course of business shall be null and void. 25

Approval binding on creditors but does not release debtor from liabilities referred to in section one hundred and fifty-four.

19. (1) A composition accepted by the creditors and approved by the court shall be binding on all the creditors with claims provable under this Act, but shall not release the debtor from the debts and liabilities referred to in section one hundred and fifty-four of this Act except to such an extent and under such conditions as the court expressly orders in respect of such liability. 30 35

Composition not binding in certain cases without assent.

(2) Notwithstanding anything herein contained, a composition shall not be binding on any creditor so far as regards a debt or liability from which, under the provisions of this Act, the debtor would not be discharged by an order of discharge in bankruptcy, unless the creditor assents (as for the purposes solely of proceedings relating to a composition, he may, notwithstanding any thing in this Act, so assent) to such composition. 40

Effect of acceptance.

(3) The acceptance by a creditor of a composition shall not release any person who under this Act would not be released by an order of discharge if the debtor had been adjudged bankrupt unless expressly provided otherwise in the proposal as approved. 45

(11) This section is new. Its purpose is to retain the status quo with respect to the debtor's property while the proposal is under consideration and to prevent the possibility of certain creditors being given an advantage to approve the proposal.

19. (1) This was formerly section 18. For purposes of clarification and simplification subsection one of section eighteen has been harmonized with section one hundred and fifty-four. Subsections (1) and (2) of section 18 were as follows:

"(1) A composition, extension or scheme accepted and approved shall be binding on all the creditors so far as relates to any debts due to them from the debtor and provable under this Act, but shall not release the debtor from any liability under a judgment against him in an action for seduction, or under an affiliation order or for alimony, or under a judgment against him as co-respondent in a matrimonial case or for necessities of life or alimentary debts, except to such an extent and under such conditions as the court expressly orders in respect of such liability.

(2) Notwithstanding anything herein contained, a composition, extension or scheme shall not be binding on any creditor so far as regards a debt or liability from which, under the provisions of this Act, the debtor would not be discharged by an order of discharge in bankruptcy, unless the creditor assents (as, for the purposes solely of proceedings relating to a composition, extension or scheme he may, notwithstanding anything in this Act, so assent) to such composition, extension or scheme."

(2) Slightly amended only for clarification.

(3) This was formerly section 18 (3). No change except as indicated.

Effective date of proposal by non-bankrupts.

(4) In proceedings by a person not bankrupt making a proposal for a composition the rights of all persons affected thereby shall be resolved as of the date of the filing of the proposal.

Good faith essential in composition proceedings.

(5) Any person making a proposal shall act in complete good faith and failure on his part to make a full disclosure of his property and other material facts relating to the causes of his financial difficulties or his ability to pay or to make a fair and adequate valuation of his property shall vitiate the proposal unless the court is satisfied that there was no intent on the part of such person to mislead or deceive his creditors.

Other composition proceedings void.

(6) Any composition, arrangement or settlement made by an insolvent person with his creditors generally otherwise than under the provisions of this Act unless the creditors unanimously agree thereto shall be voidable by the court on the application of any creditor, or on the application of the trustee if such insolvent person later becomes bankrupt within six months thereafter.

Provisions may be enforced.

20. (1) The provisions of a composition under this Act may be enforced by the court on application by any person interested, and any disobedience of an order of the court made on the application shall be deemed a contempt of court.

Proceedings in case of default.

(2) If default is made in payment of any instalment due in pursuance of the composition or if it appears to the court, on satisfactory evidence, that the composition cannot, in consequence of legal difficulties, or for any sufficient cause, proceed without injustice or undue delay to the creditors or to the debtor, or that the approval of the court was obtained by fraud, the court may, on application by the trustee or by any creditor, set aside the composition and make such order as it deems proper in the circumstances.

Not to invalidate things done.

(3) Such order shall be made without prejudice to the validity of any sale, disposition or payment duly made, or thing duly done, under or in pursuance of the composition.

Debts provable.

(4) Where a receiving order is made under this section any provable debt, which has been contracted before such order was made, shall be provable in the bankruptcy proceedings.

Composition may be annulled.

(5) Any composition, although accepted or approved, may be annulled at the request of the trustee or of any creditor whenever the debtor is afterwards convicted of any offence under the provisions of this Act.

(4) This is a new subsection. The effective date of all proceedings is otherwise fixed in the Act. This is deemed necessary with respect to these particular proceedings.

(5) This is a new subsection. The essentiality of any proposal is good faith in and it is deemed to be not out of place to indicate what may happen where a lack of good faith exists.

(6) This is a new subsection. The Act as it now stands makes an assignment for the general benefit of creditors otherwise than under the *Bankruptcy Act* invalid. It would seem, accordingly, necessary to bring all arrangements by insolvent persons within the purview of the *Bankruptcy Act* to maintain effective control over such insolvent persons. If the privileges granted to insolvent persons to make compositions are helpful it would seem advisable that all such schemes be brought under the operation of the Act.

20. Subsections (1) to (5) were formerly section 19 (1) to (5).

(1) No appreciable change.

(2) The words "adjudge the debtor bankrupt, make a receiving order against him and annul the composition, extension or scheme" have been replaced by the words underlined.

(3) The word "adjudication" has been replaced by the word underlined.

(4) The words "receiving order is made" and "such order was made" have been substituted for "debtor is adjudged bankrupt" and "adjudication". It read:

"19. (4). Where a debtor is adjudged bankrupt under this section any debt provable in other respects, which has been contracted before the adjudication, shall be provable in the bankruptcy proceedings."

(5) Subsection (5) is out of place in this section which deals with the enforcement of the composition. It has been transferred to section 18(9).

The new subsection (5) was formerly section 196(2).

If right of creditor or shareholder is conditional on purchase of new securities and he elects to not participate, the Court will decide value of his claims.

21. (1) Any scheme of arrangement under which the right of participation therein of any creditor, or of any shareholder of a debtor which is a corporation, is made conditional upon the purchase by such creditor or shareholder of any new securities or upon any other payment or contribution by such creditor or shareholder shall provide that the claim of any creditor or shares of any such shareholder who elects not to participate in the scheme shall be valued by the court at the amount, if any, realizable thereon upon a sale by the trustee of all the property and assets of the debtor to wind up his estate. 5

Payment in ninety days.

(2) The value so determined shall within ninety days after the determination thereof or such further time as may be allowed by the court be paid to such creditor or shareholder either in money or in such securities as shall be specified pursuant to such scheme of arrangement and approved by the court and such payment shall be in full satisfaction of his claim or payment upon his shares as the case may be. 15

Valuation.

(3) For the purpose of assisting the court so to value the claims of any creditors and shares of any shareholders of a corporation debtor who elect not to participate in the scheme, the court may appoint a qualified person to examine into the value thereof as aforesaid and report the same to the court. 20

Arbitration upon application, and proceedings thereupon.

(4) In case of request therefor by creditors or shareholders who do not elect to participate in the scheme holding one-fifth in amount of all proved debts, or one-fifth in interest of all the shares of any such corporation debtor, hereinafter referred to as "the minority creditors" or "the minority shareholders" as the case may be, the court shall appoint three persons; one to be nominated by the minority creditors to assist the court in valuing the claims of the minority creditors, one by the minority shareholders to assist the court in valuing the shares of the minority shareholders, and the third by the creditors and shareholders who elect to participate in the scheme. 25

One or two arbitrators.

(5) A majority of the minority creditors or shareholders shall have the right to agree with the creditors and shareholders who elect to participate in the scheme upon one or two persons only being appointed. 30

Compensation to arbitrators.

(6) Such person or persons shall be entitled to reasonable compensation to be fixed by the court which together with the necessary expenses in connection with the examination into the value of such claims and shares shall be paid from the estate of the debtor. 35

No secret arrangement.

(7) No secret arrangement shall be made with any creditors or shareholders to induce them to participate in any such scheme. 40

21. This was formerly section 20. No change.

Documents
to be sent
to creditors
and
shareholders.

22. (1) In the case of a meeting to consider a proposal of a scheme of arrangement of the affairs of a corporation debtor of a nature that any change is made in the rights of the shareholders under the letters patent or other instrument of incorporation of the company or the right of participation in such scheme of any shareholder is made conditional upon the purchase by such shareholder of any new securities or upon any other payment or contribution by such shareholder, every shareholder of such corporation shall be notified in the manner prescribed by section twelve of this Act. 5

(2) If at the meeting so convened shareholders representing three-fourths in value of the holders of each class of shares present in person or by proxy at such meeting, resolve to accept the proposal either as made or as altered or modified at the request of the meeting, it shall be deemed to be accepted by the shareholders. 15

Filed with
Secretary
of State.

(3) If approved by the court such scheme of arrangement shall be binding upon all the shareholders

(a) in the case of a corporation incorporated by or under an Act of the Parliament of Canada, upon the filing in the office of the Secretary of State of a certified copy of the scheme and of the court's approval thereof, and 20

(b) in the case of a corporation incorporated other than by or under an Act of the Parliament of Canada, upon any necessary steps being taken to give effect thereto under the laws by or under which such company is incorporated. 25

Appointment
of committee
by court to
formulate
proposal of
composition.

23. (1) In the case of a corporation where a proposal of composition as proposed or amended by the corporation has not been approved after due consideration at a meeting of the creditors or shareholders or an adjournment thereof and it appears unlikely that a proposal acceptable to the creditors and shareholders can be so formulated by the corporation the court on the application of the corporation may, if the circumstances appear to warrant, appoint a committee of one or more persons to endeavour to formulate a proposal of composition. 30 35

Committee
may
investigate
affairs of
corporation.

(2) The committee may make such investigation of the affairs of the corporation as it deems necessary to ascertain the financial situation of the corporation, the causes of its financial difficulties, its economic importance to the public at large by reason of the nature of the services rendered or business carried on and its ability to carry out the terms of any proposal that may be formulated. 40 45

Committee
to fix time
and place
for hearing
representations.

(3) The committee shall fix a time and place to hear such representations as the corporation, its shareholders or the creditors or any class or group of them or anyone on behalf

22. No change. This section was formerly section 21.

23. This is a new section. Its purpose is to provide an additional procedure to overcome unreasonable objections made to fair proposals by the assistance of an impartial and disinterested committee. It is intended to provide facilities to work out a satisfactory scheme of composition in complicated cases where recalcitrant creditors or shareholders may block a proper scheme. A corporation with large interests may and oftentimes does become an institution with wider interests than that of its shareholders and creditors. Such corporations often reach the stage where successive operating losses eliminate the possibility of present or future dividends or even any recovery from capital investment. In such cases the overriding authority of the court is deemed a last resort procedure in the public interest to overcome arbitrary and unreasonable objections and differences.

of any of them may wish to make and thereupon the trustee shall give six days' notice of the hearing to the creditors and shareholders.

Formulation of proposal by committee.

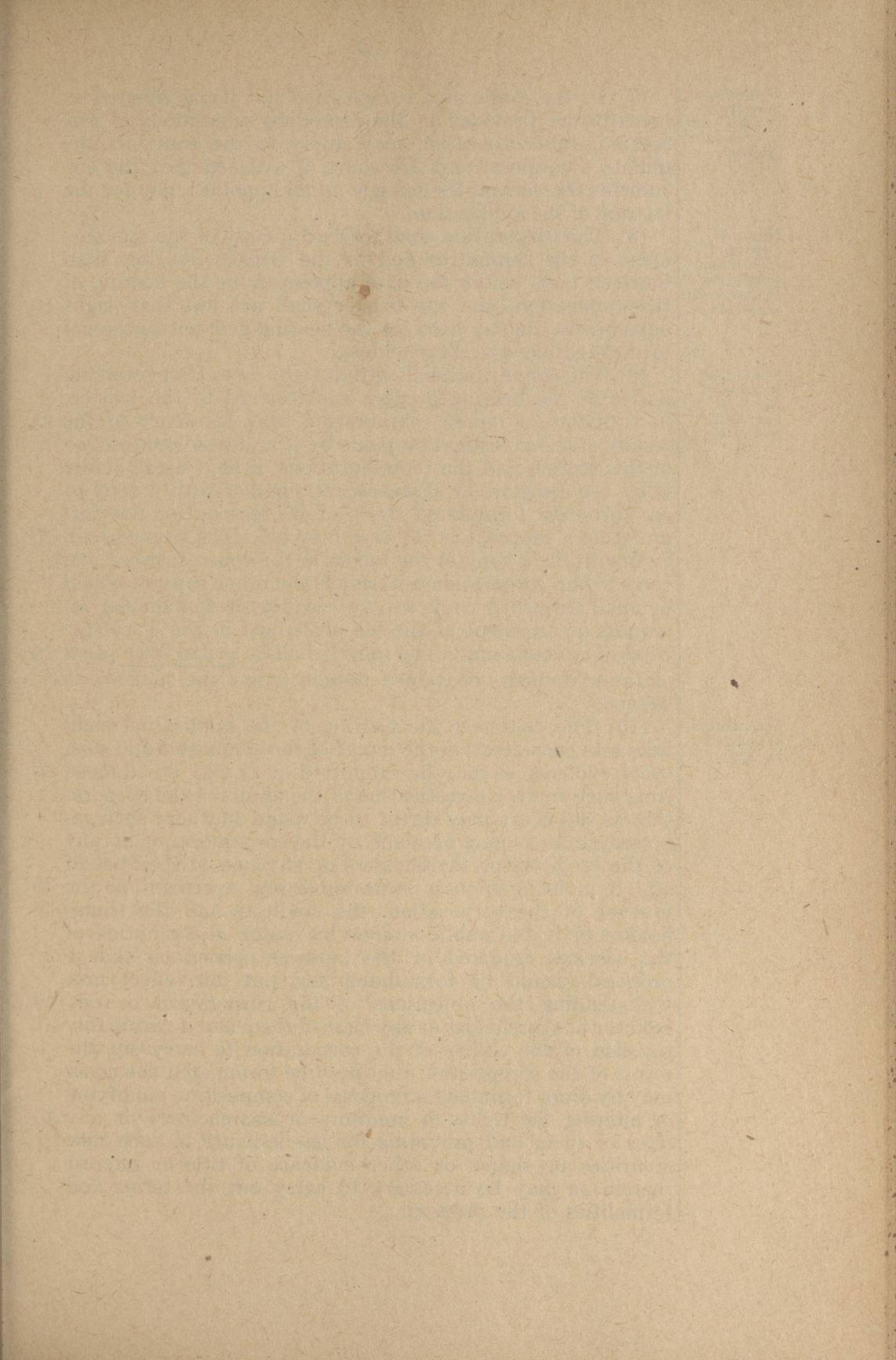
(4) The committee shall endeavour to conciliate any existing differences and contentions in regard to the respective rights and equities of the corporation, the creditors and the shareholders, but whether or not the committee is able to obtain a mutual accord thereon the committee after due consideration of the facts and information acquired and the representations made, if in its opinion a proposal reasonably just and fair can and ought to be formulated under the circumstances, may nevertheless formulate a proposal modifying or altering the rights of the creditors or the shareholders or any class of them and providing for the issuance of such new securities, shares or other evidence of rights or interest as may be necessary to put the proposal or scheme into operation, but if for such reasons as the committee may deem sufficient a proposal is not formulated it shall so notify the trustee giving its reasons therefor.

Proposal to be submitted to meeting of creditors and shareholders for approval.

(5) If a proposal formulated by the committee is accepted by the corporation the committee shall transmit a copy of the proposal to the trustee who shall forthwith on six days' notice call a meeting of the creditors and shareholders affected thereby to consider the proposal. A copy of the proposal shall be enclosed with the notice of the meeting and the committee shall attend at the meeting to give such information and explanations regarding the proposal as may be required.

Approval of proposal by the Court to be obtained.

(6) If a proposal or any amendment thereof acceptable to the corporation is approved by the creditors and shareholders as provided in section fifteen of this Act at the meeting called for consideration thereof, the trustee shall forthwith apply to the court for approval on four days' notice to any creditor or shareholder signifying to the trustee in writing within two clear days after the meeting his desire to be notified of the time and place of the hearing of the application. The Court may not vary or alter the terms of the proposal except to correct or supply any formal errors or omissions in the proposal but where in its opinion the terms thereof are an unjust, unwarranted or unnecessary preferment or curtailment of the rights of the creditors or shareholders or any class of them it may decline to approve the proposal or it may adjourn the hearing and refer the matter back to the committee to make a further attempt at reconciliation of the differences involved and report back to the Court the results thereof either in the form of an amended proposal or a notice of its inability to formulate any better proposal and thereupon the Court may approve or decline to approve the proposal originally before it or as amended by the committee as it deems proper.



Corporation may apply to the Court to formulate proposal.

(7) In the event of a composition not being effected as hereinbefore provided in the preceding subsections of this Section, the corporation may apply to the court to formulate a proposal and the court, if satisfied that the circumstances warrant its doing so, shall appoint a day for the hearing of the application. 5

Notice of hearing of application to be given creditors and shareholders.

(8) The corporation shall forward a copy of the appointment to the committee and to the trustee not less than fourteen days before the date appointed for the hearing of the application, and the trustee shall not less than eight days before the day fixed for the hearing give notice thereof to the creditors and shareholders. 10

Committee to prepare report for hearing of application

(9) The committee shall within eight days after receiving notice of the hearing prepare and forward to the trustee, in triplicate, a report containing a brief summary of the results of the investigation made by it under subsection two of this section and the representations, if any, made before it by the creditors or shareholders together with a copy of any proposal formulated by it or its reasons for not formulating a proposal as the case may be. The trustee shall forthwith file a copy of the report in the court, forward one copy to the corporation and retain the other copy of which he shall furnish a copy to any creditor or shareholder on request on payment of the fee prescribed in the Tariff for copies of documents. The report shall be prima facie proof of the statements contained therein unless the contrary is proven. 15 20 25

Formulation of proposal by court.

(10) The court on the hearing of the application shall take into consideration the report of the committee and such other evidence as may be submitted or as may be adduced from such further investigation of the affairs of the corporation as the court may direct to be made and hear such representations as may be made by the corporation or by any of the creditors or shareholders or any one on their behalf and if in its opinion it is desirable and expedient in the interest of the corporation, the creditors and the shareholders or in the public interest by reason of the nature of the services rendered or the business carried on that a proposal should be formulated and put into effect notwithstanding the objections of the corporation or any creditor or shareholder or any class of them and if reasonably satisfied of the ability of the corporation to carry out the terms of the composition that may be formulated the court may by order formulate a proposal of composition modifying or altering the rights of creditors or shareholders or any class of them and providing for the issuance of such new securities or shares or other evidence of title or interest therein as may be necessary to carry out the terms and formalities of the proposal. 30 35 40 45

Proposal formulated or approved by court binding.

Representation of the creditors or shareholders at any hearing.

Court may fix costs.

Definitions.

(11) A proposal of composition approved by or formulated by the court under this section shall be binding on the corporation, the creditors and the shareholders.

(12) The creditors or shareholders, or any class or group of them with a common interest may appoint such person or persons as they may see fit to represent them before the court or the committee at any hearing and in the event of any such class or group not being represented at any hearing the court or the committee as the case may be may appoint a representative to represent any such class or group at any hearing before it if in its opinion such class or group should be so represented. 5 10

(13) Such costs of the committee and of the trustee and of such other persons as the court may see fit to fix with respect to proceedings taken under this section shall be paid by the corporation. 15

24. All parts of this Act shall, so far as the nature of the case and the terms of the composition, extension or scheme admit, apply thereto as if the terms "trustee," "bankruptcy" "assignment," "assignor," "order" and "order of adjudication" included respectively a composition, extension or scheme of arrangement, a compounding, extending or arranging debtor and an order approving the composition, extension or scheme. 20

PART III.

GENERAL.

Property of Bankrupt,

Property of debtor.

25. The property of a bankrupt divisible amongst his creditors (in this Act referred to as the property of the bankrupt) shall not comprise the following particulars:— 25

- (i) Property held by the bankrupt in trust for any other person;
- (ii) Any property which as against the bankrupt is exempt from execution or seizure under legal process in accordance with the laws of the province within which the property is situate and within which the bankrupt resides. 30

But it shall comprise the following particulars:— 35

- (a) All such property wherever situate as may belong to or be vested in the bankrupt at the date of the filing of any bankruptcy petition or at the date of the filing and acceptance of an assignment, and all property which may be acquired by or devolve on him before his discharge; and 40

24. This was formerly section 22 slightly amended to conform to the present terminology of the Act.

25. No material change.

(a) The words "wherever situate" have been added for purposes of clarification and the words "presentation of" and "execution" have been replaced by the words "filing of" and "acceptance" for purposes of greater precision.

(b) The capacity to exercise and to take proceedings for exercising all such powers in or over or in respect of the property as might have been exercised by the bankrupt for his own benefit at the date of the filing of said petition, or assignment, or before his discharge. 5

Stay of Proceedings.

Stay of
proceedings.

26. (1) During the bankruptcy of any person or on the filing of a proposal of composition by any person not bankrupt, no creditor to whom such person is indebted in respect of any debt provable in bankruptcy shall have any remedy against such person or his property or shall commence or 10
continue any action, execution or other proceedings for the recovery of a debt provable in bankruptcy, including claims for rent or taxes, unless with the leave of the court and on such terms as the court may impose, and any proceeding commenced or continued without such leave having first 15
been obtained shall be null and void.

Secured
creditors.

(2) Subject to the provisions of sections one hundred and eleven, to one hundred and eighteen inclusive, of this Act and the preceding subsection, any secured creditor or person holding security on the property of the bankrupt may realize or 20
otherwise deal with his security in the same manner as he would have been entitled to realize or deal with it if this section had not been passed, unless the court otherwise orders.

Proviso as
to rights of
secured
creditor or
person
holding
security.

(3) The court shall not, however, in so ordering have power to postpone the right of any such secured creditor 25
or person holding security on the property of the debtor as aforesaid to realize or otherwise deal with his security as aforesaid, except as hereinafter provided, namely:—

(a) In the case of a security for a debt due at the date of the bankruptcy or which becomes due not later 30
than six months thereafter, such right shall not be postponed for more than six months from such date;

(b) In the case of a security for a debt which does not become due until more than six months from the date of the bankruptcy such right shall not be postponed 35
for more than six months from such date, unless all instalments of interest which are more than six months in arrears are paid and all other defaults of more than six months' standing are cured, and then, only so long as no instalment of interest remains in arrears or 40
defaults remain uncured for more than six months, but, in any event, not beyond the date at which the debt secured by such security becomes payable under the instrument or law creating the security, except under paragraph (a) hereof. 45

26. (1) The words "On the making of a receiving order or authorized assignment" have been replaced by the words underlined at the beginning of the section to remove different practices following conflicting decisions of the courts as in certain provinces the courts have held that a creditor is at liberty without leave to proceed against a bankrupt after the trustee has been discharged.

The words "including claims for rent and taxes" have been inserted to make the stay of proceedings effective in respect of all proceedings, including distress by landlords and seizures by municipalities for taxes.

The provision declaring null and void any proceeding commenced or continued without leave of the court has been added to further clarify the general provisions of the section.

(2) The words "and the preceding subsection" have been added to broaden the effect of the section.

(3) (a) the word "bankruptcy" has been substituted for the words "receiving order or authorized assignment".

(3) (b) the word "bankruptcy" has been substituted for the words "receiving order or authorized assignment".

*General Provisions Relating to Receiving Orders
and Assignments.*

Receiving orders and assignments to take precedence of attachments, executions, etc.

Exceptions.

Costs.

Application of Act to married women.

Commencement of bankruptcy.

Vesting of property in trustee.

27. (1) Every receiving order and every assignment made in pursuance of this Act shall take precedence over all judicial or other attachments, garnishments, certificates having the effect of judgments, judgments, certificates of judgment, judgments operating as hypothecs, executions or other process against the property of a bankrupt, or of any debt due to him, except such thereof as have been completely executed by payment to the creditor or his agent, and except also the rights of a secured creditor. 5

(2) Notwithstanding the provisions of subsection one of this section, one solicitor's bill of costs, including sheriff's fees and land registration fees shall be payable to the creditor who has first attached by way of garnishment or lodged with the sheriff an attachment, execution or other process against the property of the bankrupt, 15

(3) "Judgment" or "execution" or "attachment" shall have operation as if by law the liability of married women thereon and thereunder were personal as well as proprietary. Every married woman shall be subject to the provisions of this Act as if she were a feme sole, and for all the purposes of this Act any judgment or order obtained against her, whether or not expressed to be payable out of her separate property shall have effect as though she were personally bound to pay the judgment debt or sum ordered to be paid. 20

(4) The bankruptcy of a debtor shall be deemed to have relation back to and to commence at the time of the filing of the petition on which a receiving order is made against him, or on the acceptance of an assignment by the Official Receiver. 25

(5) On a receiving order being made or an assignment being accepted by an Official Receiver, a bankrupt shall cease to have any capacity to dispose of or otherwise deal with his property which shall, subject to the provisions of this Act, and subject to the rights of secured creditors forthwith pass to and vest in the trustee named in the receiving order or assignment, and in any case of change of trustee, the property shall pass from trustee to trustee without any conveyance, assignment or transfer whatever. 30 35

27. (1) The change is to make it clear that the bankruptcy proceedings shall take precedence over all attachments and executions, judicial and otherwise. The words "certificates having the effect of judgments, judgments, certificates of judgment, judgments operating as hypothecs," have been transferred to this section from section 29A(2).

Clauses (a) and (b) of subsection one have been combined, and subsection (2) has been slightly amended to broaden its scope by including fees for registration of such process against land. Section 25 (a) and (b) formerly read as follows:

25. Every receiving order and every authorized assignment made in pursuance of this Act shall take precedence over

- (a) All attachments of debts by way of garnishments, unless the debt involved has been actually paid over to the garnishing creditor or his agent; and
- (b) all other attachments, executions or other process against property except such thereof as have been completely executed by payment to the execution or other creditor; and except also the rights of a secured creditor.

(2) No material change.

(3) This was formerly section 2 (w) and section 175 which have been combined and transferred to this section as a more logical place for its insertion. The words "who carries on a trade or business, whether separately from her husband or not" have been struck out. The change is intended to equalize the effect of the application of the Act to married women. In one case in *In re Stone*, 7 C.B.R. 103; 1925, 4 D.L.R. 518; 57, O.L.R. 640, it has been held that while a receiving order could not be made against a married woman not a trader, yet in another case, *In re Bartram*, 11 C.B.R. 149; (1930) 2 D.L.R. 40; 65, O.L.R. 1, it was held a married woman could make an assignment. It is considered rather an anomaly that now a petition could be filed against a husband in certain cases for the debts of his wife, but not against the wife for the same debt not contracted in trade or business. If she has the right to make an assignment it is not unfair that she should be subject to the same civil disability as other persons of having a petition filed against her for any debt incurred by her. Sections 2 (w) and 175 formerly read as follows:

2. (w) "judgment" or "execution" or "attachment" shall have operation as if by law the liability of married women thereon and thereunder were personal as well as proprietary;

175. Every married woman who carries on a trade or business, whether separately from her husband or not, shall be subject to the provisions of this Act as if she were a *feme sole*, and for all the purposes of this Act any judgment or order obtained against her, whether or not expressed to be payable out of her separate property shall have effect as though she were personally bound to pay the judgment debt or sum ordered to be paid.

Subsequent
bankruptcies.

(6) In the event of a second or subsequent bankruptcy any property acquired by an undischarged bankrupt since the date of the preceding bankruptcy and not administered by the trustee in the preceding bankruptcy shall vest in the trustee in the subsequent bankruptcy, but the trustee in a preceding bankruptcy may prove in the subsequent bankruptcy for any unsatisfied balance of the debts proved under a preceding bankruptcy from which a bankrupt has not been released under this Act. 5

When
released from
imprisonment
on
bankruptcy.

(7) A bankrupt shall by order of the court be entitled to be released from imprisonment under process in any civil proceedings founded upon a debt or claim provable under this Act from which he would be released by his discharge in bankruptcy. 10

Performance
of duties by
imprisoned
bankrupt.

(8) To enable a bankrupt to attend in court in bankruptcy proceedings at which his personal presence is required or to attend the first meeting of creditors or to perform the duties required of him under this Act where a bankrupt is undergoing imprisonment for an offence from which he would not be entitled to be released as provided in the preceding subsection the court taking into consideration the nature and seriousness of the offence committed, the penalty imposed and the character of the bankrupt may for the aforesaid purposes only direct that the bankrupt be released on bail or that he be produced in the protective custody of a sheriff, or other duly authorized officer at such time and place as may be designated, or it may make such other order as it deems proper and requisite in the circumstances but in the event of the court declining to make any order the trustee shall attend upon the bankrupt at his place of confinement and assist him to prepare and execute all such documents as may be required of him. 20 25 30

Extradition
of bankrupt.

(9) On the issue of a warrant for the apprehension of a bankrupt he may be extradited from any foreign country on proof only of his bankruptcy. 35

Application
of other
substantive
law.

(10) The provisions of this Act shall not be deemed to revoke or supersede the substantive provisions of any other law or statute relating to property and civil rights and not inconsistent with the provisions of this Act but shall be supplementary thereto. 40

(4) This subsection has been taken from section 4 (11) and amended to eliminate any ambiguity as to when the title of the trustee becomes effective.

(5) This is a revision of section 6 (1) in which is incorporated the substantive provisions of section 9 (4) and (6) which are as follows:

9. (4) If the Official Receiver accepts the assignment, he shall file the same, whereupon the property of the debtor shall be deemed to be under the authority of the court and the debtor shall cease to have any capacity to dispose of or otherwise deal with such property.

(6) Upon the appointment of the trustee by the creditors, the Official Receiver shall complete the authorized assignment by inserting therein as grantee the name of such trustee, and such assignment shall thereupon, subject to the provisions of this Act, and subject to the right of secured creditors vest, as of the date of the acceptance and filing of the said assignment, in the trustee, all the property of the debtor, and in any case of change of trustee, the property shall pass from trustee to trustee without any conveyance, assignment or transfer whatever.

For section 6 (1) see explanation section 6.

(6) This is a new subsection. Its purpose is to recognize and to confirm the practice followed by the courts in these cases, and for which no provision has hitherto been made by the Act. See section 39 of the English Act, as substituted by section 3 of the *Bankruptcy Amendment Act 1926*.

(7) This subsection is new. It is taken in substance from section 9A of the United States Act. While it has commonly been recognized that by the common law of bankruptcy a bankrupt is entitled to be freed from imprisonment for debt on his bankruptcy, yet no authority to this effect has been found. In England the *Debtors Act* makes provision therefor but there is no parallel legislation in Canada.

(8) This subsection is new. It has been taken substantively from Order XXX of the general order promulgated under the United States Act. No clear procedure for this purpose has heretofore existed and other than to produce a prisoner in court as a witness or for an examination under ordinary civil process the Act is silent on provisions in regard to the performance of a bankrupt's duties. In many instances, the lack of some provision has proven a very great handicap.

(9) This subsection is new. It is taken substantively from section 10 of the United States Act. Many bankruptcy offences are not extraditable and the very considerable expense to be incurred in trying to obtain extradition has proved a severe handicap in having absconding bankrupts returned to Canada for whom there ought not to be any consideration. If perchance the present extradition treaties would not be reciprocal in this respect it can do no harm but would be available as a matter for further negotiation.

(10) This is a new subsection. Much uncertainty exists as to the application of substantive law of the provinces relating to fraudulences and preferences when found in statutes dealing with assignments and preferences now

Purchaser
in good
faith at sale
protected.

28. (1) An execution levied by seizure and sale on and of the goods of a bankrupt is not invalid by reason only of its being an act of bankruptcy, and a person who purchases the goods in good faith under a sale by the sheriff shall, in all cases, acquire a good title to them against the trustee. 5

Sheriff to
deliver
property of
bankrupt
to trustee.

(2) If an assignment or a receiving order has been made, the sheriff or other officer of any court or any other person having seized property of the bankrupt under execution or attachment or any other process, shall, upon receiving a copy of an assignment or of a receiving order certified by the trustee, as a true copy thereof, forthwith deliver to the trustee all the property of the bankrupt in his hands. 10

In case of
sheriff's sale.

(3) If the sheriff has sold the property of the bankrupt or any part thereof, he shall deliver to the trustee the money so realized by him less his fees and the said costs referred to in section twenty-seven. 15

Effect of
bankruptcy
on seizure
of property
for rent or
taxes.

(4) Any property of a bankrupt under seizure for rent or taxes shall on production of a copy of the receiving order or the assignment certified by the trustee as a true copy thereof be delivered forthwith to the trustee but the costs of distress shall be a first charge thereon and if such property or any part thereof has been sold the money realized therefrom less the costs of distress and sale shall be paid to the trustee. 20

No document,
etc., made
or executed
under
authority of
this Act
shall be
within
operation of
Provincial
law.

29. No receiving order or assignment or other document made or executed under authority of this Act shall, except as herein otherwise provided, be within the operation of any legislative enactment now or at any time in force in any province of Canada relating to deeds, mortgages, judgments, bills of sale, chattel mortgages, property or registration of documents affecting title to or liens or charges upon property, real or personal, immovable or movable. 25 30

Bank must
notify trustee.

30. Where a banker has ascertained that a person having an account with him is an undischarged bankrupt then, unless the banker is satisfied that the account is on behalf of some other person, it shall be his duty forthwith to inform the trustee of the existence of the account, and thereafter he shall not make any payments out of the account, except under an order of the court or in accordance with instructions from the trustee, unless upon the expiration of one month from the date of giving the information no instructions have been received from the trustee. 35 40

declared to be superseded by the *Bankruptcy Act*. It is felt that the courts have not sufficiently differentiated between the effect of the act of making the assignment as such and the substantive law therein dealing with civil rights.

28. (1) No material change.

(2) No material change except to substitute a certified copy by the court of an order for a copy certified by the trustee. There is no need to put a trustee to the additional trouble and expense as no trustee would dare to produce a false copy of an order.

(3) No material change.

(4) This is a new subsection. It is deemed necessary as supplementary to section 26 (1) and section 126 to clarify the situation in such cases. A similar provision is found in section 88 of the Australian Act barring seizures for rent after bankruptcy.

29. No material change.

30. Formerly section 68. Inserted here as a more logical sequence

Canada Gazette to be kept on file by registrars and Official Receivers.

31. (1) The registrars of the courts of bankruptcy, and Official Receivers shall keep on file for public reference a copy of each issue of the *Canada Gazette* which contains any notice or notices of, incident to or referring to bankrupts who resided or carried on business in the province wherein the said courts are situated. 5

Index book.

(2) They shall also keep an index book wherein they shall enter alphabetically the name of each bankrupt who resided or carried on business in such province prior to the date of the bankruptcy and in respect of whose estate a notice may at any time hereafter appear in the said *Canada Gazette*. 10

Creditor may make search.

(3) Any creditor or person having an interest in the estate of a bankrupt shall be entitled to make a search of the *Canada Gazette* and the index book and, when required, the registrar or Official Receiver shall issue a certificate of any facts contained therein relating to bankruptcy matters on payment of the prescribed fee. 15

Fees.

(4) A fee not exceeding twenty-five cents for each search and fifty cents for each certificate may be charged by such registrar or Official Receiver. 20

Gazette to be supplied.

(5) The King's Printer, upon request of any person who is by this Act required to keep on file for public reference a copy of the *Canada Gazette*, shall regularly supply to such person, *gratis*; two copies of every issue of such *Gazette*. 25

Registration of receiving order or assignment.

32. (1) Every receiving order and every assignment (or a true copy certified as to such order by the registrar or other officer of the court which has made it, and as to such assignment certified by the Official Receiver) may be registered by or on behalf of the trustee in respect of the whole or any part of any real or immovable property which the bankrupt owns, or in which he has or is believed to have any interest or estate, in the proper office in every district, county and territory wherein, according to the law of the province in which such real or immovable property is situate, deeds or transfers of title and other documents relating to lands or immovables or any interest therein may be registered. At the time of the tender of such document for such purpose there shall be annexed thereto as part thereof an affidavit substantially in the form prescribed in the schedule of this Act describing the lands and specifying the nature of the interest of the bankrupt affected thereby. 30 35 40

Form of affidavit.

Trustee to be deemed registered owner.

(2) Upon the registration of a receiving order or an assignment the trustee shall be the registered owner of the interest of the bankrupt in the lands or immovable property with respect to which the receiving order or assignment is registered, and on the appointment or substitution of a 45

31. The former section 28 (1) has been deleted. It read as follows:

28. (1) A notice in the prescribed form of the receiving order or assignment and of the first meeting of creditors required to be called pursuant to this Act shall, as soon as possible after the making or executing of such receiving order or assignment, be gazetted by the custodian, and not less than six days prior to said meeting be published in a local newspaper.

It is proposed that the publication of all bankruptcy notices in the *Canada Gazette* shall henceforth be made by the Superintendent of Bankruptcy (See section 36A (4) (i)). The provision *re* publication in a local newspaper has been transferred to section 93 (4) and (5).

(1) Subsection (1) was formerly subsection (2).

(2) This was formerly subsection 3. The words "and authorized assignor" are unnecessary. The word "bankruptcy" replaces the words "receiving order or assignment".

(3) These provisions appear to have been inadvertently omitted from the Act when it was passed. Subsection (4) of this section specifies the amount of the fees payable for search and certificate.

(4) No change.

(5) No change.

32. (1) This is a redraft of section 29 (1), (2), (5) and (6) which formerly read as follows:

(1) Every receiving order and every authorized assignment (or a true copy certified as to such order by the registrar or other officer of the court which has made it, and as to such assignment certified by the Official Receiver therein named) may be registered or filed by or on behalf of the custodian or trustee in the proper office in every district, county or territory in which the whole or any part of any real or immovable property which the bankrupt or assignor owns or in which he has any interest or estate is situate.

(2) The proper office in this section referred to shall be the land registration office, registry office or other office wherein, according to the law of the province deeds or other documents of title to real or immovable property may or ought to be deposited, registered or filed.

(5) At the time of the tender of such document for such purpose there must be annexed thereto as part thereof an affidavit substantially in form number one of the schedule to this Act.

(6) In cases where the title to real, or immovable, property, or any lien or charge upon or against such property, is affected by any receiving order, or authorized assignment, there shall be added to such affidavit the words set out in form number two of the schedule to this Act, with the incidentally necessary description and information.

(2) Subsection two is new. Its purpose is to complete the chain of title to the debtor's real property. It sanctions and authorizes the procedure followed in this respect by the registrars with the exception of clause (iii) which is newly introduced.

new trustee the new trustee shall be deemed to be the registered owner of such interest on the registration by him of

(i) a certified copy of the court order appointing him trustee, or 5

(ii) an original or duplicate copy of the minutes of the meeting of creditors at which his appointment was made, signed by the chairman thereof, or a copy certified by the trustee as a true copy thereof, or 10

(iii) the original order of the Minister or of the Superintendent appointing him trustee, or a copy certified by the Superintendent to be a true copy of such orders. 10

Effect of registration under a Land Titles Act.

(3) Whenever a bankrupt is the registered owner of any land or charge, the trustee shall, on registration of the documents referred to in subsections one and two of this section be entitled to be registered as owner of such land or charge free of all encumbrances or charges mentioned in subsection one of section twenty-seven of this Act. 15 20

Caveat may be filed.

(4) Where a bankrupt owns any land or charge registered under a *Land Titles Act*, or has or is believed to have any interest or estate therein, and for any reason a copy of the receiving order or assignment has not been registered as provided in subsection one of this section, a caveat or caution in the form prescribed may be lodged with the proper master or registrar by the trustee. Any registration thereafter made in respect of such land or charge shall be subject to such caveat or caution unless it has been removed or cancelled on notice of withdrawal in the prescribed form being filed by the trustee, or upon such notice and in such manner as any caveat or caution lodged against any land or charge may be removed or cancelled under the provisions of the *Land Titles Act* under which such land or charge or interest is registered. 25 30 35

(5) "Proper master or registrar" shall mean the master, local master or registrar under a *Land Titles Act* in whose office the land or charge of the bankrupt is registered. 35

Duty of officials to register documents.

(6) Every registrar or other officer for the time being in charge of such office to whom any trustee shall tender or cause to be tendered for registration any such receiving order or assignment or other document shall register the same according to the ordinary procedure for registering within such office, documents relating to real or immovable property and subject to payment of the like fees. 40 45

(3) This is a simplified redraft of sections 29.(3) and 29A (2). These subsections formerly read as follows:

29. (3) From and after such registration or filing or tender thereof in the proper office to the registrar or other proper officer, such order or assignment shall have precedence of all certificates of judgment, judgments operating as hypothecs, executions and attachments against land (except such thereof as have been completely executed by payment) within such office or within the district, county or territory which is served by such office, but subject to a lien for the costs of registration and sheriff's fees, of such judgment, execution or attaching creditors as have registered or filed in such proper office their judgments, executions or attachments.

29A (2). Whenever the debtor is the owner of any land or charge registered under a Land Titles Act, the trustee shall, on production of evidence that the land or charge is part of the property of the debtor, be entitled to be registered as owner free of all certificates of judgment, judgments operating as hypothecs, executions and attachments against land (except such thereof as have been completely executed by payment) within the office of such master or registrar or within the district, county or territory which is served by his office, but subject to a claim for the costs of registration and sheriff's fees, of such judgment, execution or attaching creditors as have registered or filed in such office their judgments, executions or attachments.

(4) This is a redraft of section 29A (1) and Rule 13A, which formerly read as follows:

29A. (1) Whenever any land or charge, of which the debtor is owner, is registered under a Land Titles Act, a caution, in the form to be prescribed by General Rules, may be lodged with the proper master or registrar by the custodian or trustee, as the case may be, as soon as practicable after his appointment. No registration shall thereafter be made in respect of such land or charge on behalf of the said registered owner unless such caution be removed. Upon the caution being removed the land or charge shall be dealt with in the same manner as if no caution had been lodged.

Rule 13A. Where a caution has been registered pursuant to Section 29A (1) the said Caution may be removed or cancelled by the proper Master (or Registrar) upon receiving a notice of withdrawal in the prescribed form duly executed by the trustee, or upon such notice and in such manner as any Caution or Caveat lodged against any land (or charge) may be removed or cancelled under the provisions of the Land Titles Act under which such land (or charge) is registered.

(5) This subsection was formerly section 29A (3).

(6) This subsection was formerly section 29 (4).

(7) This subsection is superfluous as the rule applying to affidavits may ordinarily be applied to the affidavits to be made under this section. It read:

29. (7) Such affidavit may be sworn before such registrar or other officer, or before a notary public or a commissioner authorized to administer oaths for use in any of the courts of the province.

Creditor or
bankrupt may
register.

33. (1) If the receiving order or assignment is not registered, or filed, or if notice of said receiving order or assignment is not published within the time and in the manner prescribed by this Part, an application may be made by any creditor or by the bankrupt to compel the registration or filing of the receiving order or assignment, or publication of such notice, and the judge shall make his order in that behalf and with or without costs, or upon the payment of costs by such person as he may, in his discretion, direct to pay the same. 5

Penalty for
omission,
etc.

(2) The judge may, in his discretion, impose a penalty on the trustee for any omission, neglect or refusal so to register, file, or publish as aforesaid, in an amount not exceeding the sum of five hundred dollars, and such penalty when imposed shall forthwith be paid by the trustee personally into and for the benefit of the estate of the bankrupt. 10 15

Assignment
not
invalidated
by
omission
to register.

(3) Saving and preserving the rights of innocent purchasers, for value, neither the omission to publish or register as aforesaid, nor any irregularity in the publication or registration, shall invalidate the assignment or affect or prejudice the receiving order. 20

Existing
judgments in
Nova Scotia,
New
Brunswick,
and Quebec.

34. The provisions of section twenty-seven of this Act shall not apply to any judgment or certificate of judgment registered against real or immovable property in any of the provinces of Nova Scotia, New Brunswick or Quebec prior to the first day of July, one thousand nine hundred and twenty, which became, under the laws of the province wherein it was registered, a lien or hypothec upon such real or immovable property. 25 30

Law of
province to
apply in
favour of
purchaser
for value.

35. Notwithstanding anything contained in this Act, any deed, conveyance, transfer, agreement for sale, mortgage, charge or hypothec made to or in favour of a *bona fide* purchaser or mortgagee for adequate valuable consideration and covering any real or immovable property affected by a receiving order or an assignment under this Act, shall be valid and effectual according to the tenor thereof and according to the laws of the province in which the said property is situate as fully and effectually and to all intents and purposes as if no receiving order or assignment had been made under this Act, unless such receiving order or assignment or notice thereof, or caution, has been registered against the said property in the proper office prior to the registration of any such deed, conveyance, transfer, agreement for sale, mortgage, charge or hypothec in accordance with the laws of the province in which the said property is situate. 35 40 45

33. No material change.

(2) No material change.

(3) No change.

34. No material change.

35. No material change.

Amendment
of
proceedings
by court.

36. (1) No advantage shall be taken of or gained by any creditor through any mistake, defect or imperfection in any assignment or in any receiving order or proceedings connected therewith, if the same can be amended or corrected; and any mistake, defect or imperfection may be amended by the court. 5

On
application of
trustee or
creditor.

(2) Such amendment may be made on application of the trustee or of any creditor on such notice being given to other parties concerned as the court shall think reasonable; and the amendment when made shall have relation back to the date of the bankruptcy, but not so as to prejudice the rights of innocent purchasers for value. 10

PART IV.

ADMINISTRATION OF ESTATES.

Adminis-
tration of
insolvent
farmer's
estates by
provincial
government
officer.

37. (1) Notwithstanding anything contained in this Act, if the Lieutenant-Governor in Council of any province authorizes any officer of the provincial government to act as trustee under this Act, the Official Receiver shall in the case of any assignment by a person engaged solely in farming or the tillage of the soil appoint such officer as trustee. 15 20

Shall be
trustee.

(2) Any officer so appointed by the Official Receiver shall thereupon be the trustee for the administration of the estate as if appointed under subsection one of section forty of this Act, and shall continue to be the trustee until properly removed under subsections two and three of section forty. 25

No costs.

(3) In case any such provincial officer is appointed trustee, he shall not be entitled under this Act to be paid any remuneration as trustee nor any of the costs enumerated in Part III of the General Rules. 30

36. No material change.

37. The former section 34 has been deleted. With the appointment of the trustee on the making of the receiving order or filing of the assignment the office of custodian becomes unnecessary. The essential provisions of this section are now included in section 43 (1) and (6)—duties and powers of the trustee. Section 34 read as follows:

“34. The custodian whether appointed by the court pursuant to a receiving order, or by the Official Receiver pursuant to an authorized assignment, shall take immediate possession of the books and all the property of the debtor liable to seizure, and for the purpose of making an inventory thereof shall be entitled to enter upon any premises where the books or property of the debtor are, notwithstanding that such books or property are in the possession of a sheriff or secured creditor or other claimant thereto.

(2) The custodian may under the direction of the Official Receiver take conservatory measures and summarily dispose of goods which are perishable or likely to depreciate rapidly in value, or may carry on the business of the debtor for such period as the court deems advisable.

(3) The custodian shall remain in possession until a trustee is appointed by the creditors.

(4) Any person appointed as custodian pursuant to the provisions of this Act, shall during the term of his office as such custodian be deemed to be an officer of the court, and shall when so appointed forthwith give such security for the proper performance of his duties as shall be prescribed by General Rules.”

The new section 37 was formerly 35. The only changes in this section are those consequent upon the abolition of the office of custodian.

*Licensing of Trustee.*Trustees
may be
appointed.

38. (1) A licence may be issued to any qualified person, including a trust company, who has complied with the requirements of this Act, and such persons so licensed shall be a licensed trustee under this Act.

Application
for licence.

(2) Any person desiring to obtain a licence to act as a trustee shall file with the Superintendent an application for a licence in such form as may be prescribed, and such security for the due and faithful performance of his duties, in such form and amount as shall be required shall be provided. Such security may be enforced by the Superintendent for the benefit of the creditors. 5

Investigation
and report.

(3) The Superintendent shall make such investigation into the character, and qualifications of any applicant for licence as the Superintendent deems advisable or expedient, and shall report to the Minister the result of such investigation, together with his recommendation for or against the granting of the application and giving his reasons therefor. 10 15

Licence.

(4) The Minister, as soon as he has received a report from the Superintendent as to the character and qualifications of any applicant for a licence, and that proper security has been duly provided and that the applicant has conformed to the requirements of this Act, may, if he considers it will be of public advantage so to do, authorize the issue of a licence, which shall specify the bankruptcy district or districts or any part thereof in which the licensee shall be entitled to act. 20 25

Form of
licence.

(5) The licence shall be in the prescribed form and shall expire on the thirty-first of December in each year but may be renewed from year to year subject, however, to any qualification or limitation which may seem expedient. The fee payable for such licence and any renewal thereof shall be such as is prescribed. 30

Validity
of licence.

(6) The validity of any licence purporting to be issued under this Act shall not be called in question on behalf or at the instance of any person other than the Minister. 35

Locality in
which there
is no
licensed
trustee, etc.

(7) When the debtor resides or carries on business in a locality in which there is no licensed trustee, and no licensed trustee can be found who is willing to act as trustee, a special licence may be issued by the Superintendent to any responsible person residing in the locality of the debtor to administer the estate of such debtor, and such person shall for this purpose have all the powers of a licensed trustee under this Act and thereupon the provisions of this Act shall apply to such person as if he had been duly licensed hereunder. 40

38. (1) This was formerly section 36.

The words at the beginning of the section replace the words "The Minister may issue a licence". It is proposed that the licences and renewals thereof shall henceforth be issued by the Superintendent, *with the authorization of the Minister.*

(2) The provision requiring applicants to file security has been dropped. It is proposed to replace the security formerly filed with the Superintendent, as well as the security filed by trustees with the Official Receiver, by one or more all-purpose guaranty bonds.

(3) The words "and qualifications" are substituted for "business experience, and efficiency".

(4) No material change. It read as follows:

"36. (4) The Minister, as soon as he has received a report from the Superintendent as to the qualifications of any applicant for licence, and that proper security has been duly deposited and that the applicant has conformed to the requirements of this Act may, if he considers it will be of public advantage so to do, issue the licence, and may in and by the licence restrict the powers and duties of the licensee to any bankruptcy district or any part thereof."

(5) No change.

(6) See note to subsection one.

(7) These provisions have been transferred to the sections dealing with the powers and duties of the trustee (section 43 (5)). It read as follows:

36. (7) Every licensed trustee shall for the purpose of obtaining possession of and realizing upon the assets of the bankrupt or authorized assignor have power to act as such anywhere.

Subsection (7) was formerly section 36 (8). It has been redrafted to specify more clearly the circumstances in which an unlicensed person may act as a trustee in bankruptcy, and to secure greater control over the administration of estates by such persons. It read as follows:

"36. (8) Notwithstanding the provisions of this Act, when the debtor resides or carries on business at a distance far removed from the nearest licensed trustee, the Court or the Official Receiver may, having regard as far as the Court or Official Receiver deems just to the wishes of the creditors, appoint a responsible person residing in the locality of the debtor as custodian, and such person shall be eligible to be appointed by the creditors as trustee and shall, for the purposes of the administration of the estate of such debtor, have all the powers of a licensed trustee under this Act and thereupon the provisions of this Act shall apply to such person as if he had been duly licensed hereunder."

"Prescribed."

(8) The word "prescribed" when used in this section means prescribed by the Minister.

Administrative Officials.

Superintendent of Bankruptcy. Appointment.

To supervise bankrupt estates.

Duties of Superintendent.

39. (1) There shall be a Superintendent of Bankruptcy who shall perform such duties as are prescribed.

(2) The Superintendent shall be appointed by the Governor in Council, shall hold office during pleasure and shall be paid such salary as may be authorized. 5

(3) The Superintendent shall supervise the administration of all estates to which this Act applies.

(4) The Superintendent shall, without limiting the authority conferred in the preceding subsection, 10

(a) receive applications from and, as authorized by the Minister, issue licences and renewals thereof to such persons whose applications for licences and renewals thereof have been approved, to act as trustees under this Act; 15

(b) keep a record of all applications received by him in cases where licences have been granted, and of the licences and renewals thereof as they are issued;

(c) arrange for the issuance of one or more continuing guaranty bonds for the due accounting of all moneys and property received by trustees and for the due and faithful performance by them of their duties in the administration of estates to which they are appointed, in such amount as the Superintendent may determine, which amount may be increased or decreased from time to time as may be deemed expedient. Such security shall be in the prescribed form and may be enforced by the Superintendent for the benefit of the creditors before the court invested with jurisdiction under this Act; 20 25 30

(d) keep such records as may be deemed advisable of proceedings under this Act;

(e) from time to time make or cause to be made such inspection or investigation of estates as may be deemed expedient. For the purpose of such inspection the Superintendent or any person appointed by him for such purpose shall have access and the right to examine all books, records, documents and papers pertaining or relating to any estate in the possession of any Registrar, Official Receiver, trustee, or other person; 35 40

(f) receive and keep a record of all complaints from any creditor or other person interested in any estate and make such specific investigations with regard to such complaints as the Superintendent may determine; 45

(8) No change. This was formerly section 36 (9).

39. This was formerly section 36A.

- (1) This is a new subsection.
- (2) This was formerly subsection (1).
- (3) This was formerly subsection (2).

The experience gained in the past twelve years makes it desirable that the duties of the Superintendent be enlarged to take care of situations that could not well be foreseen when the Amendments of 1932 were passed. The other changes are to simplify the licensing provisions, the provisions respecting the security filed by trustees, and the administrative provisions respecting the passing of trustees' accounts and the release (discharge) of trustees.

Strong recommendations have been received that the Superintendent be empowered to investigate the conduct and actions of a debtor prior to bankruptcy. In many cases, owing to the fact that there are no assets, creditors individually are unwilling to accept their responsibility and bear the expense of making such investigations themselves. The conduct of many dishonest debtors is never properly investigated as the examination by the Official Receiver is in most cases too superficial to disclose concrete proof of dishonest or other fraudulent practices by a debtor. Under the English Act the conduct of all debtors is thoroughly examined and scrutinized, but the Canadian procedure permits many evasions. To implement these recommendations would mean a very considerable expense by the Superintendent, and it is accordingly left open to Parliament to decide whether or not recommendations should be put into effect.

Section 36A formerly read as follows:

36A. The Governor in Council may appoint an officer to be called the Superintendent of Bankruptcy who shall hold office during pleasure and who shall be paid such salary as may be authorized.

(2) The Superintendent shall supervise, as herein provided, the administration of all bankrupt or insolvent estates to which this Act applies, except estates administered under section thirty-five hereof.

(3) The Superintendent shall

- (a) keep a record of every application for licence received by him in cases where licences have been granted, and of the appointment of custodians and trustees pursuant to subsection eight of section thirty-six, and shall
- (b) enter in a book under the name of the person licensed the name of every insolvent debtor in respect of whose estate such licensee is appointed as trustee, the value from time to time of the assets in the hands of the licensee, and particulars of the security deposited by such licensee;
- (c) in each case before the renewal of any licence, make a report to the Minister that the application should or should not in his opinion be granted, giving his reasons therefor;
- (d) keep a record of the licences as they are issued;
- (e) from time to time make or cause to be made such inspection of the administration of estates as he deems expedient;

- (g) audit and examine trustees' accounts of receipts and disbursements and final statements, and grant releases to trustees on the completion of their administration of estates;
- (h) make such report or representations in writing to the court in connection with any application or matter before the court as the Superintendent sees fit. 5
- (i) publish or cause to be published in the *Canada Gazette* notices of the first meeting of creditors, substitutions or appointments of new trustees, discharge of bankrupts and annulments of bankruptcies and such other notices as are required to be published therein; 10
- (j) prepare and submit to the Minister a report annually on the operation of the Act in such form and with such information as the Minister may require. 15

Report to
Minister.

(5) When any investigation has been made by the Superintendent or anyone on his behalf, and it appears that any licensee under this Act has not performed his duties properly or has been guilty of any questionable or reprehensible conduct or has not fully complied with the law with regard to the proper disposition of any estate, the Superintendent may make a report to the Minister together with such recommendations to the Minister as the Superintendent may deem advisable or expedient. 20

Suspension or
cancellation
of licence.

(6) The Minister, after consideration of any report received by him from the Superintendent and after a reasonable time has been given to the licensee to be heard by him, and upon such further inquiry and investigation as he deems proper to make, may suspend or cancel the licence of any licensee, and in such case shall direct that such licensee be removed as trustee of all estates being administered by such licensee, and may appoint some other licensee or licensees to act as trustee of all or any of such estates in the place or stead of the trustee whose licence has been suspended or cancelled and the administration of any estates to which a trustee has not been appointed under the provisions of this section may be administered by the Superintendent in such manner as he may deem expedient for which purpose he shall have all the rights and powers of a trustee under this Act. The trustee so appointed by the Minister shall continue to act as trustee until removed or replaced by the court or the creditors under this Act. 30 35 40

Superin-
tendent
may give
instructions.

Superin-
tendent may
intervene.

(7) The Superintendent may give such instructions to trustees regarding the estates under their administration as may be deemed necessary or expedient. 45

(8) The Superintendent may intervene in any matter or proceeding in Court as he may deem expedient as though he were a party thereto.

- (f) require each licensee under this Act from time to time either to increase or decrease the security deposited with the Superintendent to such extent as the Superintendent may from time to time determine;
- (g) receive and keep a record of all complaints from any creditor or other person interested in any bankrupt or insolvent estate coming under the jurisdiction of the Superintendent, and make such specific investigations with regard to such complaints as the Superintendent may determine, and report to the Minister thereon;
- (h) make a report to the Minister after any investigation by the Superintendent or any one on his behalf, if it should appear that any licensee under this Act has not fully complied with the law with regard to the proper administration of any bankrupt or insolvent estate together with such recommendations to the Minister as the Superintendent may deem advisable or expedient;
- (i) make such report to the court in connection with any application by a debtor or a trustee for his discharge as the Superintendent sees fit.

(4) The Minister, after consideration of any report received by him from the Superintendent and after a reasonable time has been given to the licensee to be heard by him, and upon such further inquiry and investigation as he deems proper to make, may suspend or cancel the licence of any licensee, and in such case shall direct that such licensee be removed as trustee of all bankrupt or insolvent estates being administered by such licensee, and may appoint some other licensee to act as trustee in the place or stead of the trustee whose licence has been suspended or cancelled. The trustee so appointed by the Minister shall continue to act as trustee until removed or replaced by the Court or the creditors under this Act.

(5) Such employees as are required to assist the Superintendent to perform his functions under this Act shall be appointed according to the provisions of the *Civil Service Act*."

(4). (a) and (b) These are summarized redrafts of the former subsections (a), (b), (c) and (d) covering the essential requirements therein.

(c) This is a new subsection setting out more explicitly the duty of the Superintendent in regard to the security to be furnished by trustees and further authorizing the Superintendent to enforce the security as occasion arises.

(d) This is a new subsection. The present provisions provide only for the keeping of records with respect to the issue of licences. Records relating to the result of the administration of estates are of more importance. It cannot be set out exactly what such records should be in sufficient detail.

(e) This was formerly subsection (e) extended to remove any doubt as to the authority of the Superintendent when making inspections or investigations. It also contains substantively the provisions of Sec. 157 (2) which are accordingly deleted and which read as follows:—

157. (2) The Superintendent or any person appointed by him for such purpose shall have access to all books, records, documents and papers connected with the estate of any bankrupt or authorized assignor, kept by any registrar, clerk or officer in bankruptcy.

(f) This was formerly subsection (g). No material change.

(g) This is a new subsection creating express authority for the final examination of trustees' statements in accordance with the suggested amendment whereby trustees' releases or discharges shall be granted by the Superintendent as provided in the new Section.

(h) This was formerly 36A (3) (i) but has been amended to widen the application thereof.

Another trustee may be appointed, etc.

(9) In the event of the death or incapacity of a trustee, or of the licence of a trustee not being renewed, the Superintendent may appoint another licensed trustee or trustees in his place and stead, or failing the appointment of another trustee by the court or the creditors within a reasonable time to complete the administration of any estates in hand, the Superintendent may take over and complete the administration of all uncompleted estates in such manner as he may deem expedient. 5

Superintendent may require estate funds to be remitted for safe keeping.

(10) On the discharge, removal, substitution, death or incapacity of a trustee or on the expiration of a licence of a trustee or where the circumstances otherwise warrant as being necessary and proper for the protection of the funds of an estate the Superintendent may require the funds of any estate on deposit in a bank or in the hands of a trustee or any other person to be remitted to the Superintendent for deposit with the Receiver General to the credit of the estate in which event if no trustee is thereafter appointed to whom such funds may be turned over by the Superintendent for administration the Superintendent according as the circumstances warrant may cause such funds to be distributed or paid to the persons entitled thereto according to their respective legal rights in such manner as he may deem proper. 10 15 20

Superintendent may examine bank accounts.

(11) The Superintendent shall be entitled to have access to examine and make copies of the banking accounts of a trustee in which estate funds may have been deposited and when required all deposit slips, cancelled cheques or other documents relating thereto in the custody of the bank or the trustee shall be produced for examination. 25 30

Superintendent may examine private records and documents.

(12) The Superintendent or any one in his behalf may with the leave of the court examine the private books, records and documents and bank accounts of a trustee or any other person for the purpose of tracing or discovering the property or funds of an estate when there are reasonable grounds to believe or suspect that the property or funds of an estate have not been properly disclosed or dealt with and for such purpose may under a warrant from the court enter upon and search any premises as may be deemed necessary or advisable. 35 40

Outside investigations.

(13) The Superintendent may engage such accountants or other persons as he may deem advisable to conduct any inspection or investigation or to take any other necessary action outside of the office of the Superintendent, and the cost and expenses thereof shall, when certified by the Superintendent, be payable out of the appropriation for the office of the Superintendent. 45

Appointment of employees.

(14) Such employees as are required to assist the Superintendent to perform his functions under this Act shall be appointed according to the provisions of the *Civil Service Act*. 50

(i) This is a new section to simplify and make more certain the publication in the *Canada Gazette* of all notices required to be published therein similarly as is done under the *Companies and Insurance Acts*.

(j) This is a new section. It is self-explanatory.

(5) This is a redraft of section 36A (3) (h), which reads as follows:

“(h) make a report to the Minister after any investigation by the Superintendent or any one on his behalf, if it should appear that any licensee under this Act has not fully complied with the law with regard to the proper administration of any bankrupt or insolvent estate together with such recommendations to the Minister as the Superintendent may deem advisable or expedient;”

(6) This was formerly section 36A (4). The new clause has been added to meet a contingency which some times arises where no trustee can be found to accept an appointment.

(7) This is a new subsection. Its power is deemed necessary to ensure a more expeditious and efficient administration on the part of trustees.

(8) This is a new subsection. This additional power is also deemed necessary to see that proper facts and information are placed before the court.

(9) This is a new subsection and is deemed necessary to meet such contingencies and to ensure full administration of all estates.

(10) This is a new subsection and is deemed necessary to protect and preserve funds of an estate in such contingencies.

(11) This is a new subsection. On various occasions a proper investigation has been blocked by the refusal of the trustee to permit the bank account to be examined. For this reason it is deemed necessary that the Superintendent should have this right.

(12) This is a new subsection. Situations have often arisen where the Superintendent was unable to trace estate funds which had not been properly dealt with. The provision requiring the leave of the court ought to give any person the necessary protection as a prima facie case would necessarily have to be made out showing that there was good grounds to believe or suspect the wrongful disposition of funds of an estate.

(13) This was formerly Rule 174 slightly amended. It read as follows:

“Rule 174. The Superintendent may engage such chartered accountants or other persons as he may deem advisable to conduct any inspection or investigation or to take any other necessary action outside of the office of the Superintendent, and the cost and expenses thereof shall, when certified by the Superintendent, be payable out of the appropriation for the office of the Superintendent of Bankruptcy.”

(14) This was formerly section 36A (5).

Appointment
of trustee
by
creditors.

40. (1) The trustee named in a receiving order or in an assignment shall be the trustee of the estate but the creditors at their first or any other meeting by ordinary resolution may appoint or substitute any other licensed trustee to be the trustee of the estate.

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By court.

(2) The court may for cause appoint a new trustee or remove a trustee who is in office and appoint a new trustee on the application of any creditor, the bankrupt or other interested person.

No trustee
bound to act.

(3) No trustee shall be bound to assume the duties of trustee in matters relating to assignments or receiving orders or to compositions, but having accepted an appointment as such he shall until released or another trustee is appointed in his stead perform the duties required of a trustee under this Act.

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Effect of
defect or
irregularity in
appointment.

(4) No defect or irregularity in the appointment of a trustee shall vitiate any act done by him in good faith.

Security to
be furnished
by trustee.

(5) Every trustee duly appointed shall, in addition to the security required by section thirty-nine of this Act, forthwith give security in cash or by bond of an approved guarantee company, satisfactory to the Official Receiver for the due accounting for, the payment and the transfer of all moneys and property received by him as trustee and for the due and faithful performance of his duties. Such security shall be deposited with the Official Receiver and shall be given in favour of the creditors generally and may be enforced by any succeeding trustee or by any one of the creditors on behalf of all by direction of the court. The amount of the said security may be increased or reduced by the Official Receiver at any time or from time to time during the administration of the estate on resolution of the Inspectors.

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40. The subsections relating to new trustees have been separated from section 40 and placed in section 41.

(1) This is a redraft of the former section 37 (1) and (2). The abolition of the position of custodian makes it possible to eliminate a situation which has always been more or less an anomaly and very confusing, that is, with respect to the title to property during the interval between the bankruptcy and the first meeting of creditors. Under the present scheme the trustee originally appointed is the trustee with the privilege to the creditors to appoint any other person they see fit.

(2) This provision was formerly contained in subsection (2) only as an incidental part thereof and for greater precision the powers of the court have been separated and placed in this subsection by itself. A new clause has been added to indicate more clearly when and by whom such action can be taken.

(3) This was formerly subsection (6) with no material change except to make it obligatory for a trustee to continue his duties until relieved thereof.

(4) This was formerly section 186 (2) and has been included in this section as a more logical place for its insertion.

(5) This was formerly subsection (8) of section 37 with no material change, and replaces the former section 37 (5) which now becomes section 41 (3).

Section 37 formerly read as follows:

37. The creditors shall at their first meeting appoint by ordinary resolution a trustee for the administration of the estate.

(2) The creditors may, by ordinary resolution, at any meeting and the court may for cause appoint a new trustee and remove a trustee who is in office.

(3) When a new trustee is appointed or substituted, all the property and estate of the debtor shall forthwith vest in the new trustee without any conveyance or transfer, and he shall gazette a notice of the appointment or substitution and register an affidavit of his appointment in the office of the registrar of the court from which the receiving order was issued, or in the case of an authorized assignment, in every office in which the original assignment or copy or counterpart thereof was lodged, registered or filed.

(4) Registration of such affidavit in any land registration district, land titles office, registry office or other land registration office, or lodging or filing such affidavit as aforesaid, shall have the same effect as the registration, lodging or filing of a conveyance or of a transfer to the new trustee.

(5) The new trustee shall pay to the removed trustee, out of the funds of the estate, his proper remuneration and disbursements, which shall be ascertained as provided by section eighty-five of this Act.

(6) No trustee shall be bound to assume the duties of trustee in matters relating to assignments or receiving orders or to compositions, extensions, or arrangements by debtors.

(7) The court, upon being satisfied that there are assets which have not been realized or distributed under this Act may, on the application of any person interested, at any time after the discharge of the trustee as hereinafter provided for, appoint a trustee to complete the administration of the estate. Such trustee shall be governed by the provisions of this Act as if appointed trustee in the first instance.

(8) Every trustee duly appointed shall, in addition to the security required by section 36A of this Act, forthwith give security in cash or by bond of an approved guarantee company, satisfactory to the Official Receiver for the due accounting for, the payment and the transfer of all moneys and property received by him as trustee. Such security shall be deposited with the Official Receiver and shall be given in favour of the creditors generally and may be enforced by one of them on behalf of all by direction of the court. The amount of the said security may be reduced by the Official Receiver at any time or from time to time during the administration of the estate on resolution of the Inspectors.

Immunity of trustee from criminal or civil liability.

(6) A trustee shall not be personally liable civilly or criminally for any act done by him in good faith in carrying out the directions of the Superintendent, the Court, the creditors or the inspectors.

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Duty of former trustee.

41. (1) Upon the appointment of a new trustee the former trustee shall forthwith deliver to the new trustee all the assets and property of the estate, together with all books, records and documents of the bankrupt and of the administration, and shall within ten days of the appointment of the new trustee prepare and submit to the new trustee a statement of his administration which shall include a detailed account of all receipts and expenditures received or incurred on behalf of the estate, supported by all vouchers, receipts and other evidences of payments received or made by him. 10 15

Duty of new trustee.

(2) The new trustee, if appointed by the court or the creditors, shall forthwith forward to the Superintendent a copy of the order of the court appointing him or a copy of the minutes of the meeting of creditors, signed by the chairman, and if appointed by the creditors file a copy of such minutes in court and when the receiving order or assignment has been registered in any registry or land titles office he shall if required by the inspectors register a notice of his appointment in the prescribed form in such registry or land titles office and such registration shall operate and have the effect of a conveyance or transfer to the new trustee. 20 25

Remuneration of former trustee.

(3) The new trustee shall, as soon as funds are available, pay to the former trustee, his proper remuneration and disbursements, as approved by the Superintendent, and in the event of sufficient funds not being realized to pay the remuneration and disbursements of all the trustees the court shall determine the remuneration and disbursements that each trustee shall receive having regard to the reason for the substitution or appointment of the new trustees and the services performed by each of them. 30 35

Official Name.

Official name of trustee in bankruptcy proceedings.

42. (1) The official name of a trustee acting in bankruptcy assignment proceedings shall be "The Trustee of the Property of

(inserting the name of the bankrupt),

a bankrupt, and by that name the trustee may in any part of Canada or elsewhere hold property of every description, make contracts, sue or be sued, enter into any engagement binding on himself and his successors in office, and do all other acts necessary or expedient to be done in the execution of his office. 40

In composition, extension or arrangement proceedings prior to bankruptcy.

(2) The official name of a trustee acting with respect to a proposal by a debtor not bankrupt for a composition of, or extension of time for the payment of his debts, or a scheme 45

It is to be noted that subsection (7) of the old section 37 as above quoted has not been included. Formerly on the discharge of a trustee his authority and duties were, except as prescribed in the Act, concluded, and situations were continually arising where the services of a trustee were further required but the cost and trouble of proceeding under subsection (7) was not followed. As now provided in section 91 the trustee will remain the trustee indefinitely for all purposes for which his services may be required.

(6) A trustee is only the agent of the creditors to carry out certain duties on their behalf and so long as he acts within the authority or direction given to him he should not be personally liable for any act done by him in good faith.

41. (1) This is a new subsection providing in more specific form the duty placed upon a trustee who has been removed and another trustee substituted in his stead.

(2) This is an entirely new redraft containing within it all the essentials of the former section 37 (3) and (4).

(3) This was formerly section 37 (5) to which has been added certain provisions to deal with contingencies which often arise as between trustees. It reads as follows:

"37. (5) The new trustee shall pay to the removed trustee, out of the funds of the estate, his proper remuneration and disbursements, which shall be ascertained as provided by section eighty-five of this Act."

42. (1) No material change.

(2) Section 38 (2) of the Act (R.S.C. 1927, c. 11) has now been restored.

of arrangement of his affairs shall be "The Trustee acting *in re* the proposal of (insert the name of the debtor) for a composition.

Trustee an officer of court.

(3) A trustee when appointed the trustee of an estate or under a composition shall be deemed to be an officer of the court. 5

Duties and Powers of Trustee.

Duties of trustee.

43. (1) The trustee shall, as soon as may be, take possession of the deeds, books, records and documents and all other property of the bankrupt and make an inventory thereof, and for the purpose of making an inventory the trustee shall be entitled to enter upon any premises on which the books, records, documents or other property of the bankrupt may be, notwithstanding that they may be in the possession of a sheriff, a secured creditor, or other claimant thereto. 10 15

Trustee to be receiver.

(2) The trustee shall, in relation to and for the purpose of acquiring or retaining possession of the property of the bankrupt, be in the same position as if he were a receiver of the property, appointed by the court, and the court may, on his application enforce such acquisition or retention accordingly. 20

(3) No person shall, as against the trustee, be entitled to withhold possession of the books of account belonging to the bankrupt or any papers or documents relating to the accounts or to any trade dealings of the bankrupt or to set up any lien thereon. 25

Moneys, security and property to be delivered to trustee.

(4) If any person has in his possession or power any moneys, security or property of the debtor which he is not by law entitled to retain as against the bankrupt or the trustee, he shall pay and deliver them to the trustee, and on failure to pay or deliver as aforesaid such person shall be guilty of contempt of court and may, on the application of the trustee, be punished accordingly. 30

Contempt of court.

Power to act anywhere.

(5) Every trustee shall for the purpose of obtaining possession of and realizing upon the assets of the bankrupt have power to act as such anywhere. 35

Conservatory measures.

(6) The trustee may under the direction of the Official Receiver or the court take conservatory measures and summarily dispose of goods which are perishable or likely to depreciate rapidly in value.

Continues business of bankrupt.

(7) The trustee may with the authority of the court carry on the business of the bankrupt until the date fixed for the first meeting of creditors and, in the absence of instructions from the creditors or the inspectors, for such further period as the court deems advisable. 40

Assistance of court before first meeting.

(8) The trustee may with the authority of the court prior to the first meeting of creditors obtain such legal advice 45

(3) This is a new subsection the purpose being to bring a trustee within the directive authority of the court.

43. (1) To the former 39 (1) has been added part of section 34 (1) now deleted owing to the abolition of the position of a custodian. The powers therein conferred are now transferred to the trustee. Section 39 (1) read as follows: "The trustees shall, as soon as may be, take possession of the deeds, books and documents of the debtor and all other parts of his property capable of manual delivery."

(2) No material change.

(3) This was formerly Rule 167 and is placed here as a matter of substantive law rather than a matter of procedure. The added words have been taken from section 99 (3) of the Australian Act.

(4) This is a new subsection which has been adopted from section 99 (5) and (6) of the Australian Act to give the trustee express authority to compel third parties to deliver property of the bankrupt in their possession to the trustee.

(5) This was formerly section 36 (7).

(6) and (7) These subsections replace the former section 34 (2). Provision is made in section 7 also to provide continuity in certain situations that may arise. Section 34(2) formerly read as follows:

34. (2) The custodian may under the direction of the Official Receiver take conservatory measures and summarily dispose of goods which are perishable or likely to depreciate rapidly in value, or may carry on the business of the debtor for such period as the court deems advisable.

(8) This is a new subsection creating an express authority heretofore only inferred.

and take such court proceedings as may be deemed necessary for the recovery or protection of the property of the bankrupt.

How trustee may proceed in case of emergency.

(9) In the case of an emergency where the necessary authority cannot reasonably be obtained from the court or the inspectors in time to take appropriate action the trustee may obtain such legal advice and institute such legal proceedings and take such action as he may deem necessary in the interest of the estate. Approval thereof shall be obtained as soon as may reasonably be done but if such approval is not given or is withheld or the trustee is directed to discontinue any such proceedings or action taken so long as the trustee acted in good faith he shall not be personally liable for the costs or result of any such proceedings or action taken up to the time that approval was refused, withheld or directions for discontinuance given but the costs up to such time shall be payable out of the estate. 5
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Trustee to verify bankrupt's statement.

(10) The trustee shall verify the bankrupt's statement of affairs.

Divesting of property by trustee.

(11) The trustee may at any time divest himself of all or any part of his right, title or interest in any real or immovable property of the bankrupt by a notice of quit claim or disclaimer in the prescribed form with a description of the property affected thereby inserted therein or attached thereto, and the Master or Registrar of the Land Titles or Registry Office as the case may be where title to such real or immovable property is registered shall accept and register such notice when tendered for registration. Registration thereof shall operate as a discharge or release of any documents previously registered by or on behalf of the trustee with respect to such property and shall vest all the right, title and interest of the trustee in such property in the person or persons entitled thereto according to their interests therein but where two or more persons have a remaining interest in such property or any part thereof the respective rights of such other persons as between themselves in all or any part of such property shall not be presumed to have been determined or affected thereby. 20
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When trustee may initiate criminal proceedings.

(12) The trustee may initiate such criminal proceedings as may be authorized by the creditors, the inspectors or the court against any person believed to have committed an offence under the provisions of this Act. 40

Duties of trustee restricted.

(13) The trustee shall be required to perform only the duties specifically imposed on him under this Act or the Rules or a court order made thereunder notwithstanding any Act or Statute to the contrary.

(9) This is a new subsection. Oftentimes quick action is imperative to protect and conserve the assets. The trustee is presumed to be a person of sound judgment and the present set-up of the bankruptcy courts makes it difficult to obtain permission for prompt action in many cases of urgency. The trustee acting on the advice of a responsible solicitor may be trusted to act reasonably and in good faith knowing that his actions will later be scrutinized by the creditors, the inspectors or the court.

(10) This has been removed from section 130(1) from "Duties of Debtor" to "duties of trustee" where it more properly belongs. Section 130(1) read as follows:

"130. (1) It shall be the duty of the custodian to verify the debtor's statement of affairs and to make an inventory of his assets."

(11) This is a new subsection to provide a procedure whereby a trustee can divest himself of any interest he may have in the property of a debtor and at the same time to provide a method to establish the chain of title in those with a remaining interest in the property. Heretofore a receiving order, assignment or caution may have been registered against certain property as a precaution with little information as to the precise interest of the bankrupt therein. The registration thereof in many cases caused much embarrassment when it was found that the trustee had no real interest therein to protect. This section enables the cloud on the title to be cleared away in a simple manner.

(12) A trustee as the statutory agent of the creditors is naturally expected to perform executory acts on their behalf and it is considered advisable that there should be some express authority in regard to the initiation of criminal proceedings just as well as with respect to the many civil phases of the administration.

(13) In many cases attempts have been made to impose duties on a trustee in no way related to the administration of the estate such as filing returns of one type or other which the bankrupt failed to do. It is a perversion of justice to try to make a trustee responsible for the misdeeds of others.

Trustee to insure property.

44. (1) The trustee as soon as he has had a reasonable opportunity to obtain particulars of the insurable property of a bankrupt shall forthwith insure and keep insured in his official name against loss by fire and theft to the fair realizable value, in his opinion, of his equity in such property, having regard to the existing insurance, if any, already thereon, or to such other insurable amount or for such other coverage as may be approved by the inspectors or the court, in insurance companies authorized to carry on business in the province wherein such property is situate. 5

Losses payable to trustee.

(2) All insurance covering property of the bankrupt in force at the date of the bankruptcy shall, immediately, and without any notice to the insurer or other action on the part of the trustee, and notwithstanding any statute or rule of law or contract or provision to a contrary effect, become and be, in the event of loss suffered, payable to the trustee, as fully and effectually as if the name of the trustee were written in the policy or contract of insurance as that of the insured, or as if no change of title or ownership had come about and the trustee were the insured. 10 15 20

Moneys to be deposited in bank.

(3) The trustee shall deposit in a chartered bank, in a separate trust account in the name of the estate to which the funds belong, all the proceeds realized out of the assets of the estate, and he shall not withdraw or remove therefrom, without the permission in writing of the inspectors or the order of the court, any such moneys, except for payment of dividends and other charges incidental to the administration of the estate. All payments made by a trustee shall be made by cheque drawn on the estate account. 25

Not into private account.

(4) No trustee shall pay any sums received by him as a trustee into his private banking account. 30

Books to be kept by trustee.

(5) The trustee shall keep proper records of the administration of each estate to which he is appointed, which shall include an estate record book, as prescribed, in which shall be entered from day to day a record of all moneys or funds received or disbursed by him, a list of all creditors filing claims, the amount and disposition thereof and a copy of all notices sent out and the original signed copy of all minutes, proceedings had, and resolutions passed at any meeting of creditors or inspectors, court orders and all such other matters or proceedings as may be necessary to give a complete and correct view of his administration of the estate. 35 40

Trustee's records to be property of estate.

(6) The estate record book and all other books, records and documents relating to the administration of an estate shall be deemed to be the property of the estate and, in the event of any change of trustee or the administration being 45

44. (1) As the Act now stands the only protection to the first meeting of creditors is existing insurance although most trustees have guarded against this contingency by arranging for insurance forthwith after bankruptcy. The change makes provision therefor. Section 40 (1) read as follows:

"The trustee shall forthwith insure and keep insured in his Official name until sold or disposed of, all the insurable property of the debtor, to the fair realizable value thereof or to such other insurable amount as may be approved by the inspectors or by the court, in insurance companies authorized to carry on business in the province wherein the insured property is situate."

(2) No material change.

(3) These provisions were formerly contained in section 50. The words underlined are inserted to provide that there shall be a separate trust account for each bankrupt estate, and that all payments made by a trustee shall be made by cheque drawn upon the estate account.

(4) This was formerly section 50(2). It read as follows:

"No trustee under a receiving order, authorized assignment or composition or scheme of arrangement shall pay any sums received by him as a trustee into his private banking account."

(5) This section replaces section 55. It prescribed the records to be kept for each estate, a provision hitherto lacking as, notwithstanding the words "in manner prescribed" and "as may be prescribed" in the former section, nothing has ever been prescribed regarding these matters.

Section 55 formerly read as follows:

55. The trustee of a bankrupt or assignor shall keep, in manner prescribed proper books, in which he shall from time to time cause to be made entries or minutes of proceedings at meetings, and of such other matters as may be prescribed, and any creditor of the bankrupt or authorized assignor may, subject to the control of the court, personally or by his agent inspect any such books.

(6) This is a new subsection.

- taken over by the Superintendent, the record book and all such other books and records, and documents shall forthwith be delivered over to the new trustee or to the Superintendent, as the case may be.
- Creditors may inspect. Superintendent may examine. (7) The trustee shall permit the books and records of the estate to be inspected and copies thereof made by the Superintendent, the bankrupt or any creditor or their agents at any reasonable time, and shall forward such books and records, documents together with any other relevant documents and vouchers, to the Superintendent for examination when required. 5 10
- Disposition of estate record book. Reports by trustee. (8) On the completion of the administration the trustee shall forward the estate record book to the Superintendent. (9) The trustee shall from time to time report, (a) when required by the inspectors, to every creditor, 15 and (b) when required by any specific creditor, to such creditor, and (c) when required by the Superintendent to such Superintendent, or the creditors, 20 showing the condition of the bankrupt's estate, the moneys on hand, if any, and particulars of any property remaining unsold.
- Charge for disbursements only. (10) The trustee shall be entitled to charge against the estate of the bankrupt, for the preparation and delivery of 25 any such report, only his actual disbursements.
- Documents to be forwarded to Superintendent and Statistician. (11) The trustee shall promptly after their receipt or preparation mail to the Superintendent and to the Dominion Statistician, Ottawa, a true copy of (a) the notice referred to in section ninety-three of this 30 Act; (b) the statement referred to in section one hundred and thirty-three (e) of this Act; (c) the trustee's final statement of receipts and disbursements and the dividend sheet; 35 (d) every order made by the court upon the application for discharge of a bankrupt or annulling any bankruptcy; (e) file a copy of the statement referred to in section one hundred and thirty-three (e) in the Court.
- Notices, etc., to be forwarded to Superintendent. (12) The trustee shall forward to the Superintendent as 40 they are issued copies of all notices, reports and statements sent by him to creditors and, when required, copies of such other documents as the Superintendent may specify.
- Duty of trustee on expiration of licence or removal. (13) Every trustee on the expiration of his licence or on his removal shall within ten days thereafter prepare and 45 forward to the Superintendent a detailed financial statement of the receipts and disbursements together with a list of and report on the unadministered assets or property of every estate in his hands for which he has not been discharged or released and when so directed by the Super- 50

(7) This is a new subsection.

(8) This is a new subsection and its purpose is to make certain that the estate record book will be permanently preserved.

(9) This was formerly section 56.

(10) The only reports to which subsection two is applicable are those made under clause (b) of subsection one, which is of infrequent application.

(11) This was formerly section 57 with no material change. It read as follows:

"57. (1) The trustee of a bankrupt or assignor shall promptly after their receipt or preparation mail to the Superintendent and to the Dominion Statistician, Department of Trade and Commerce, Ottawa, a true copy of

(a) the notice referred to in Section twenty-eight of this Act;

(b) the statement referred to in section one hundred and twenty-nine of this Act;

(c) the abstract of receipts and disbursements and the dividend sheet referred to in section seventy-eight of this Act;

(d) every order made by the court upon the application for discharge of any bankrupt or authorized assignor;"

Clause (e) has been deleted as it duplicated clause (c). It read as follows:

"(e) the statement prepared by the trustee upon which a final dividend is declared; and"

Clause (f) is deleted. It is now included in clause (d). It read as follows:

"(f) any order made under subsection five of section nineteen of this Act annulling any adjudication of bankruptcy."

The provisions of subsection (2) are now included in subsection seven of section 44. It read as follows:

"(2) Any person shall be entitled to examine and make copies of all or any of the documents mentioned in subsection one hereof, which are in the possession of the trustee."

(12) This is a new subsection the provisions of which were formerly contained in Rule 175.

(13) This is a new section. Its purpose is to insure that a trustee shall immediately after his removal or non-removal of licence make an accounting of his administration.

intendent shall forward to the Superintendent or turn over and deliver to such other person as may be designated by the Superintendent or to such other trustee as may be appointed in his stead all the remaining property of the estate in his hands together with all the books, records and documents relating to the estate and the administration. 5

Trustee to file report before discharge.

(14) Every trustee before proceeding to his release shall, unless he has already done so, prepare and file in the court the report referred to in section one hundred and forty-seven of this Act and forward a copy thereof to the Superintendent- 10 ent.

Powers of trustee to deal with property.

45. Subject to the provisions of this Act, the trustee may do all or any of the following things:—

- (a) Give receipts for any money received by him, which receipts shall effectually discharge the person paying 15 the money from all responsibility in respect of the application thereof;
- (b) Prove, rank, claim and draw a dividend in respect of any debt due to the bankrupt;
- (c) Exercise any powers the capacity to exercise which 20 is vested in the trustee under this Act, and execute any powers of attorney, deeds and other instruments for the purpose of carrying into effect the provisions of this Act.

Trustee may apply to court for directions.

46. (1) A trustee may at any time apply to the court for 25 directions in relation to any matter affecting the administration of the estate of a bankrupt, or a debtor who has made a proposal for a composition.

Directions bind trustee.

(2) The court shall give in writing such directions, if any, as may be proper according to the circumstances and not 30 inconsistent with this Act, which directions shall bind as well as justify the subsequent consonant action of the trustee.

Powers exercisable by trustee with permission of inspectors.

47.(1) The trustee may, with the permission or authori- 35 zation in writing of the inspectors, do all or any of the following things:—

- (a) Sell all or any part of the property of the bankrupt, including the goodwill of the business, if any, and the book debts due or growing due to the bankrupt, by tender, public auction or private contract, with power 40 to transfer the whole thereof to any person or company, or to sell the same in parcels;
- (aa) Lease any real or immovable property for such period and on such terms as the court may direct;
- (b) Carry on the business of the bankrupt, so far as 45 may be necessary for the beneficial administration of the assets for which purpose the trustee may upon payment in full for value received after the bankruptcy

(14) This section is new. Its purpose is to make certain that a report will be available for any application for discharge of a bankrupt not dealt with before his release and that it be prepared when all the facts and circumstances of the case are fresh in his memory.

45. No material change.

46. (1) The words deleted are unnecessary, "an authorized assignor" and "extension or scheme of arrangement."

47. (1) The word "authorization" has been added to give a broader sanction to the things done by a trustee.

(a) The word "tender" has been inserted.

(b) The added provision is deemed necessary as oftentimes the carrying on of a business depends on contracts in force being continued and it removes the unsavoury practice whereby creditors may take an advantage of the situation to obtain a preference over other creditors by demanding payment in full of past-due debts.

require any executory contract to which the bankrupt was a party to be carried out without regard to any indebtedness due and owing at the time of the bankruptcy;

- (c) Bring, institute, or defend any action or other legal proceeding relating to the property of the bankrupt; 5
- (d) Employ a solicitor or other agent to take any proceedings or do any business, which may be sanctioned by the inspectors;
- (e) Accept as the consideration for the sale of any property of the bankrupt a sum of money payable at a future time subject to such stipulations as to security and otherwise as the inspectors think fit; 10
- (f) Mortgage or pledge any part of the property of the bankrupt for the purpose of raising money for the payment of his debts; 15
- (g) Refer any dispute to arbitration, compromise any debts, claims and liabilities, whether present or future, certain or contingent, liquidated or unliquidated, subsisting or supposed to subsist between the bankrupt and any person who may have incurred any liability to the bankrupt, on the receipt of such sums, payable at such time, and generally on such terms, as may be agreed on; 20
- (h) Make such compromise or other arrangement as may be thought expedient with creditors, or persons claiming to be creditors, in respect of any debts provable against the estate; 25
- (i) Make such compromise or other arrangement as may be thought expedient with respect to any claim arising out of or incidental to the property of the bankrupt, made or capable of being made on the trustee by any person or by the trustee on any person; 30
- (j) Divide in its existing form amongst the creditors, according to its estimated value, any property which from its peculiar nature or other special circumstances cannot be readily or advantageously sold; 35
- (k) Elect to retain for the whole or part of its unexpired term, or to assign, surrender, or disclaim, the whole pursuant to this Act, any lease of, or other temporary interest in any property forming part of the estate of the bankrupt. 40

(2) The permission given for the purposes of this section shall not be a general permission to do all or any of the above mentioned things, but shall only be a permission to do the particular thing or things or class of thing or things which the written permission specifies. 45

Permission limited to particular thing or class.

Power to allow bankrupt to manage property.

48.(1) The trustee, with the permission in writing of the inspectors, may appoint the bankrupt himself to superintend the management of the property of the bankrupt or any part thereof, or to carry on the trade of the bankrupt for the benefit of his creditors, and in any other 5 respect to aid in administering the property in such manner and on such terms as the trustee may direct.

Allowance to bankrupt.

(2) The trustee may, with like permission, make from time to time such allowance as he may think just to the bankrupt out of his property for the support of the bankrupt 10 and his family, or in consideration of his services, if he is engaged in winding-up his estate, but any such allowance may be reduced by the court.

Property not to be removed from province in which bankruptcy occurred.

49. No property of an estate of a bankrupt shall be removed out of the province where such property was at 15 the date when the receiving order was made, without the permission in writing of the inspectors or the order of the court in which proceedings under this Act are being carried on or within the jurisdiction of which such property is situate. 20

Trustee may incur obligations.

50.(1) Subject to the provisions of subsection two a trustee with the permission in writing of the inspectors, or an interim receiver may incur obligations, borrow money and give security on any property of the estate by mortgage, hypothec, charge, assignment, pledge or otherwise including 25 security under the provisions of the *Bank Act*, and make necessary or advisable advances, which obligations and advances so incurred or made, and moneys so borrowed, shall be discharged or repaid to the lender or to the trustee, or interim receiver, out of the assets of the bankrupt in 30 priority to the claims of the creditors.

Limit of borrowing.

(2) The powers of a trustee, or interim receiver to borrow money and give security therefor shall be limited to the borrowing of money in such amounts and on such terms and to the giving of security to such amount and 35 upon such property of the estate and in such manner as may be authorized by the court, and for the purpose of giving security under section eighty-eight of the *Bank Act* the trustee, or interim receiver if authorized to carry on the business of the bankrupt, shall be deemed to be a 40 person engaged in the class of business previously carried on by the bankrupt.

Limit of obligations and continuance of business.

(3) The creditors or inspectors may by resolution limit the amount of the obligations which may be incurred, the advances which may be made or moneys which may be 45 borrowed by the trustee and may limit the period of time during which the business of the bankrupt may be continued by the trustee.

48. (1) This was formerly section 46, and replaces the former section 44 which now becomes section 56. It read as follows:

"4. All sales of property made by the trustee shall vest in the purchaser all the legal and equitable estate of the debtor therein."

(2) This was formerly section 46(2).

49. This was formerly section 49 and replaces the former section 45 which now becomes section 57.

50. (1) This was formerly section 51, and replaces the former section 46 which now becomes section 48. The word "custodian" has been deleted where it occurs in this section as being superfluous since this functionary has been eliminated.

(2) This was formerly section 51(2). The former subsection(2) now becomes section 48 (2).

(3) This was formerly section 51(3).

Debts deemed to be debts of estate.

(4) All debts incurred and credit received in carrying on the business of a bankrupt shall be deemed to be debts incurred and credit received by the estate, and the trustee shall not be personally responsible therefor unless payment thereof has been assumed in writing by him in his personal capacity. 5

Trustee not obliged to continue.

(5) The trustee shall not be under obligation to continue the business of the bankrupt if in his opinion the realizable value of the assets is insufficient to protect him fully against possible loss occasioned by so doing and if the creditors or inspectors, upon demand made by the trustee, neglect or refuse to secure him against such possible loss. 10

Trustee carrying on business of bankrupt may apply to court for sale of property by tender if creditors refuse or neglect to repay advances. Tenders and sale.

(6) If the creditors, within ten days after demand by the trustee (made to the inspectors or at any meeting of creditors called by the trustee for the purpose of making such demand), refuse or neglect to repay to the trustee all money advances made by him or obtained in whole or in part upon his personal credit or responsibility and to secure the trustee to an extent adequate in his opinion or (if the trustee and the creditors cannot agree) in that of the court, in respect of all liabilities incurred or which may be incurred by the trustee in so carrying on the business of the bankrupt, the court may, upon application of the trustee, order that the property of the bankrupt be offered for sale by tender, to be addressed to and opened by the court, at any time to be named by the court, and after the opening of any tenders received and subject to the directions and approval of the court, authorize the sale of the whole or any part of the property of the bankrupt and apply the proceeds to the payment of the advances, liabilities, expenses and proper costs made and secured by the trustee in the administration of the estate of the bankrupt. 20 25 30

Court may vest property in trustee if tenders insufficient.

(7) If the property of a bankrupt is so offered for sale and, within thirty days after the time set for the opening of tenders, no tender or offer of an amount sufficient to repay the advances made and liabilities incurred by the trustee and also his proper costs and expenses, is received by the court, then the court may, after such notice to the bankrupt and the creditors as to it may seem proper, vest the whole or any part of such property in the trustee in his personal capacity, and thereupon all rights and interests of the bankrupt and the creditors in the property shall be determined and ended. 35 40

(4) The purpose of the new subsection is to limit the *personal* responsibility of the trustee carrying on the business of the bankrupt to liabilities the payment of which may be assumed by him personally.

(5) This was formerly section 51(3A).

(6) The words "*authorize the sale of*" have been substituted for the word "sell". This was formerly section 51(4).

(7) The object of the change in this subsection is to simplify the unnecessarily cumbersome procedure in these matters and the provisions of section 51 (5) and (6) have been condensed and combined in subsection (7). Subsections (5) and (6) formerly read as follows:—

(5) If the property of a debtor is so offered for sale and, within thirty days after the time set for the opening of tenders, no tender or offer of an amount sufficient to repay the advances made and liabilities incurred by the trustee and also his proper costs and expenses, is received by the court, then the court may, after such notice to the debtor and the creditors as to it may seem proper, permit the trustee, in his personal capacity, to bid such a sum as is sufficient to repay him his advances, costs, expenses, and the amount of any liabilities incurred by him and reasonable remuneration and, conditional upon no higher bid being received before actual vesting of the property in him in his personal capacity, to purchase the whole or any part of such property at such prices and upon such terms as shall be approved by the court.

(6) If the trustee so purchases the whole or any part of such property it shall pass to and vest in him in his personal capacity when the court so orders whereupon all rights and interests of the debtor and the creditors in or to it shall be determined and ended.

Inspection
of goods
held in
pledge.

51. Where any goods of a bankrupt are held by any person by way of pledge, pawn, or other security, it shall be lawful for the trustee, after giving notice in writing of his intention to do so, to inspect the goods, and, where such notice has been given, such person as aforesaid shall not be entitled to realize his security until he has given the trustee a reasonable opportunity of inspecting the goods and of exercising his right of redemption if he thinks fit to do so. 5

Protection
of trustee
from personal
liability in
certain cases.

52. Where the trustee has seized or disposed of any property in the possession or on the premises of a bankrupt, without notice of any claim by any person in respect of such property and it is thereafter made to appear that the property was not at the date of the bankruptcy the property of the bankrupt, or was subject to an unregistered lien or charge the trustee shall not be personally liable for any loss or damage arising from such seizure, or disposal sustained by any person claiming such property, or an interest therein nor for the costs of any proceedings taken to establish a claim thereto, unless the court is of opinion that the trustee has been guilty of negligence in respect of the same. 10 15 20

Persons
claiming
property in
possession of
bankrupt
must file
proof of claim
to recover.

53. (1) Where any property in the charge or possession of a bankrupt at the time of the bankruptcy are alleged to be in his charge or possession subject to the ownership or a special or general property right or right of possession in another person and whether or not such property is held by the bankrupt subject to the right of the vendor in the event of bankruptcy to have the contract of sale rescinded or declared void or to be paid by preference of the price if such property is sold by the trustee or under or subject to the terms of any lien, consignment, agreement, hire receipt, or order, or any agreement providing or implying that the ownership of, property in, or right to possession of such goods, or other or like goods in exchange or substitution, shall vest in or pass to the bankrupt only upon payment of defined or undefined moneys, or upon performance or abstention from performance of any acts or conditions, any claimant thereto before attempting to remove or to recover such property shall file with the trustee a proof of claim verified by affidavit giving the grounds on which the claim is based and sufficient particulars to enable the property to be identified, provided, however, that the trustee may waive the filing of a proof of claim if fully satisfied that a claimant is legally entitled to recover possession of any such property or of any right or interest therein. 25 30 35 40

51. This was formerly section 53, and replaces the former section 47 which now becomes section 54.

52. This was formerly section 52, and replaces the former section 48 which now becomes section 55.

53. (1) The former section 49 now becomes section 49. This section is a revision of the former section 54(1). So many applications to the court were made to recover such property thereunder the costs of which were directed to be paid out of estate funds that subsequently Rule 139A was added to avoid the necessity of such applications. Rule 139A made it necessary for proof of claim to be filed giving the trustee an opportunity to admit or reject the claim thereby eliminating practically all such applications and saving the estate much costs. It has been deemed desirable accordingly to incorporate the requirement of a proof of claim being filed in lieu of a notice of intention to remove, but at the same time in proper cases where the ownership of any such property is not in dispute to permit the trustee to return the same to the person legally entitled thereto without the formality of a proof of claim being filed.

The words following "any acts or conditions" have been deleted. They read as follows:

"the person alleged or claiming to own such goods or such special or general property or right of possession therein or thereof shall not, by himself or his agents or servants, nor shall his agents or servants, remove or attempt to remove such goods or any thereof out of the charge or possession of the debtor, or of the trustee or any actual custodian thereof, until the elapse of fifteen days after delivering notice in writing to the trustee of intention so to remove."

How filed.
Claim
disposed of.

(2) The trustee on receiving a proof of claim to any such property shall within fifteen days thereafter or within fifteen days after the first meeting of creditors whichever is the later either admit the claim or give notice in writing to the claimant that the claim is disputed with his reasons therefor and unless the claimant appeals therefrom to the court within fifteen days after the mailing of the notice of dispute he shall be deemed to have abandoned or relinquished all his right or interest in any such property to the trustee who thereupon may sell or dispose of such property for the benefit of the estate free of any lien, right, title or interest of the claimant thereon or therein. 5 10

Onus on
claimant to
establish
claim.

(3) The onus to establish a claim to or in any such property shall be solely and entirely on the claimant.

Trustee may
require proof
to be filed.

(4) The trustee may as he deems expedient give notice in writing to any person to prove his claim to or in any property in the possession of the trustee in which he may have a right or interest and unless such person files with the trustee a proof of claim in the form prescribed in subsection one of this section within fifteen days from the mailing of the notice the trustee may thereupon with the leave of the court sell or dispose of any such property free of any lien, right, title or interest of such person thereof or therein. 15 20

Trustee not
liable for
costs or
damages.

(5) The trustee shall in no case be liable for the costs of establishing a claim to any such property or of such appeal or for any loss or damage suffered by the claimant while such property was in the possession of the trustee or occasioned by such dispute made in good faith. 25

No other
proceeding
to be in-
stituted.

(6) No other proceedings shall be instituted to establish a claim to or to recover any right or interest in any such property except as provided in this section. 30

Rights of
others not
extended.

(7) It shall not be implied from these provisions that the rights of others than the trustee have been thereby in any manner extended.

Right of
person whose
property is
sold.

(8) Any person whose right or interest in any property in the possession of the trustee has not been abandoned or otherwise lost as provided in this and the next preceding section shall on proving his claim be entitled to be paid the actual sale price of any such property sold by the trustee less the costs of the sale and any expenses incurred by the trustee to conserve and protect such property while in the control or possession of the trustee. 35 40

Court to give
directions for
disposition of
unclaimed
property.

(9) When the administration of the estate is otherwise completed the court on the application of the trustee shall give such directions as may be necessary for the disposition of any such property or the proceeds therefrom remaining unclaimed in the hands of the trustee and thereupon the trustee shall be released from further responsibility with respect thereto when such directions have been carried out. 45

(2) This is a redraft of the former Rule 139A with certain provisions added in regard to the effect of no appeal being made. Rule 139A reads as follows:

"Where a claimant desires to recover goods referred to in section 54, he shall file with the custodian or trustee, as the case may be, a notice of his claim verified by affidavit, giving the grounds on which the claim is based and sufficient particulars to enable the goods to be identified, and the trustee when appointed shall after investigating the claim either return the said goods or give notice that the right of the claimant thereof is disputed, whereupon the claimant may within ten days thereafter appeal therefrom in the manner provided for in Rule 139. The trustee shall in no case be liable for the costs of such appeal, or any loss occasioned by such dispute made in good faith."

(3) This is a new subsection the purpose of which is to make it clear that the owner of any such property must look after his own interests in such cases.

(4) This is a new subsection the purpose of which is to establish a procedure whereby the trustee may at his own initiative have the disposition of any such property dealt with.

(5) This is also a new subsection. The responsibility for recovering any such property being on the claimant it is deemed only proper that the estate should not bear the costs of a claimant establishing his claim thereto. This subsection with a slight amendment was originally contained in the last sentence of Rule 139A.

(6) This is a new subsection. Its purpose is to bring within the preview of the Bankruptcy Court the disposition of all such property coming into the hands of the trustee.

(7) This was formerly section 54(2). No change.

(8) This is a new subsection. Except by inference the right of any person whose property had inadvertently or otherwise been sold by a trustee was not clearly set out. While the duty is on a claimant to file a proof of claim yet he should not be deprived of his rights entirely because of his omission to do so. This section entitles him to recover the actual sale price of the property sold by the trustee so that the estate is no worse off than if a claim had actually been filed.

(9) This is a new subsection. Its purpose is to establish a procedure to enable a trustee to have all the property coming into his hands disposed of before he receives his discharge. It is not unusual for even property held by the bankrupt in trust to remain unclaimed in the hands of the trustee. Other property on which third persons may have a certain interest also may remain unclaimed. The object of the act is to liquidate the assets of a bankrupt and the trustee should not find himself with the responsibility of having to keep and look after certain property after his discharge in which he or the estate has no interest.

Trustee to have right to sell patented articles.

54. (1) Where any property of the bankrupt vesting in a trustee consists of patented articles or goods which were sold to the bankrupt subject to any restrictions or limitations, the trustee shall not be bound by any such restrictions or limitations but may sell and dispose of any such patented articles, or goods as hereinbefore provided, free and clear of any such restrictions or limitations. 5

Right of manufacturer.

(2) If the manufacturer or vendor of any such patented articles or goods objects to the disposition of them by the trustee as aforesaid and gives to the trustee notice in writing of such objection before the sale or disposition thereof such manufacturer or vendor shall have the right to purchase such patented articles or goods at the invoice prices thereof, subject to any reasonable deduction for depreciation or deterioration. 10 15

Copyright.

55. Where the property of a bankrupt comprises the copyright in any work or any interest in such copyright, and he is liable to pay to the author of the work royalties or a share of the profits in respect thereof, the trustee shall not be entitled to sell, or authorize the sale of, any copies of the work, or to perform or authorize the performance of the work, except on the terms of paying to the author such sums by way of royalty or share of the profits as would have been payable by the bankrupt, nor shall he, without the consent of the author or of the court, be entitled to assign the right or transfer the interest or to grant any interest in the right by licence, except upon terms which will secure to the author payments by way of royalty or share of the profits at a rate not less than that which the bankrupt was liable to pay. 20 25 30

Effect of sales of property by trustee.

56. All sales of property made by the trustee shall vest in the purchaser all the legal and equitable estate of the bankrupt therein.

Sales in Quebec.

Sales in the province of Quebec. Sales of hypothecated immovable property.

57. (1) In the province of Quebec no immovable property whereon exists a hypothec or a privilege shall be sold by the trustee without the permission in writing of the inspectors and the authorization of the judge and after notice has been given to each hypothecary or privileged creditor, whose name is entered in the register of addresses which the registrars of the registration divisions are obliged to keep according to the laws of the province. 35 40

Method of sale of hypothecated property.

(2) The sale of such immovable property, unless a written consent to the contrary is obtained from each hypothecary or privileged creditor whose claim has been

54. (1) This was formerly section 47, and replaces the former section 50 which now becomes section 44 (3).

(2) This was formerly section 47 (2) and replaces the former section 50 (2) which now becomes section 44 (4).

The words "before the sale or disposition thereof" have been substituted for the words "within five days after the date of his appointment".

55. This was formerly section 48, and replaces the former section 51, which now becomes section 50.

56. This was formerly section 44, and replaces the former section 52, which now becomes section 52.

57. (1) This was formerly section 45, and replaces the former section 53, which now becomes section 51.

(2) This was formerly section 45 (2).

duly registered, or unless the sale is made subject to hypothec or privilege of any such creditor not so consenting, shall be made at public auction, at the place prescribed and after advertisement as required for the sale of immovable property by the sheriff in the district or place where such immovable property is situate: Provided that in case of a sale of property situate in more than one district or place the court may direct a sale of all such property as an entirety at one place, to be specified in the order, and after such notice as the court may direct. 5
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(3) Any sale at public auction under the provisions of this section shall have the same effect as a sheriff's sale in the said province, and shall be subject to the contribution to the Public Buildings and Jury Fund provided for in the case of sheriff's sale. 15

False bidding.

(4) In case of false bidding, the same recourse as in case of sheriff's sale may be exercised against the false bidder in the manner prescribed by the laws of the province. 15

Security unaffected.

(5) This section shall not be interpreted as affecting the right of a secured creditor to realize or otherwise deal with his security as provided by this Act. 20

Duties imposed by civil code.

58. On such sales, the trustee shall fulfil all the duties imposed on the sheriff by articles two thousand one hundred and sixty-one (*d*) to two thousand one hundred and sixty-one (*k*) inclusive of the civil code of the province of Quebec. The registrars of the different registration divisions of the said province shall also fulfil all the duties imposed upon them by the said articles, and shall be deemed to be officers of the court having jurisdiction in bankruptcy for the carrying out of the provisions of this section. 25

Resale.

59. (1) If the purchaser has not paid the whole of the purchase price or given security when he may lawfully do so under the provisions of the Code of Civil Procedure for the Province of Quebec, the trustee may obtain from the Court an order for the resale of the property; the purchaser may however prevent the resale for false bidding by paying to the trustee, before such resale, the amount of his bid with the interest accrued by reason of his default and all costs incurred thereby; if a resale takes place the false bidder is liable to the trustee for the difference between the amount of his bid and the price obtained on the resale with all costs incurred by reason of his default for the payment of which on application of the trustee, the Court may make an order against the false bidder; if the price obtained on the resale is greater, it goes to the benefit of the estate. 30
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(3) This was formerly section 45 (3).

(4) This was formerly section 45 (4).

(5) This was formerly section 45 (5).

58. This was formerly section 45 (6).

59. (1) These provisions were formerly contained in Rule 129.

Effect of omission.

60. The omission to comply with any of the provisions of the said articles shall not invalidate any proceedings of the sale but the officer in default shall be responsible for all damages which may result therefrom.

Disposal of property so sold by sheriff.

61. When an immovable property affected by a hypothec or privilege is sold by the sheriff, the moneys realized from the sale shall remain in his hands to be paid by him to the privileged and hypothecary creditors in accordance with the report of distribution made by the prothonotary of the Superior Court and the surplus shall be remitted to the trustee upon an order of the judge for its distribution among the ordinary creditors in accordance with the provisions of this Act. 5 10

Appeals from Decisions of Trustee.

Appeal to court against trustee.

62. If the bankrupt or any of the creditors or any other person is aggrieved by any act or decision of the trustee, he may apply to the court and the court may confirm, reverse or modify the act or decision complained of and make such order in the premises as it thinks just. 15

Proceedings by creditor when trustee refuses to act.

63. (1) If at any time a creditor desires any proceeding to be taken which, in his opinion, would be for the benefit of the estate, and the trustee refuses or neglects to take such proceedings after being duly required to do so, the creditor may, as of right, obtain from the court an order authorizing him to take proceedings in his own name and at his own expense and risk, upon notice being given the other creditors of the contemplated proceedings to give them an opportunity to join therein, and upon such other terms and conditions as the court may prescribe. 20 25

Benefits belong to creditor.

(2) Any benefit derived from the proceedings shall to the extent of his claim and full costs, belong exclusively to the creditor or creditors instituting the same. 30

Trustee may institute proceedings.

(3) If, before such order is granted, the trustee shall, with the approval of the inspectors, signify to the court his readiness to institute the proceedings for the benefit of the creditors the order shall prescribe the time within which he shall do so, and in that case the advantage derived from the proceedings, if instituted within such time, shall belong to the estate. 35

60. This was formerly section 45 (7). No change. The former section 56 (1) has been transferred to section 44 (9), and subsection (2) becomes subsection (10).

61. This was formerly section 45 (8). No change. The former section 57 (1) and (2) have been transferred to section 44 (11) and (7).

62. This was formerly section 84, and replaces the former section 58 which now becomes section 124.

63. This was formerly section 69 and replaces the former section 59 which now is included in section 127 (4). It has been changed to allow a creditor to take proceedings in his own name rather than in the name of the trustee. In many cases the indemnity for costs demanded by trustees has prevented such proceedings being taken by creditors when it was desirable that they be taken.

Section 69 read as follows:

"If at any time a creditor desires to cause any proceeding to be taken which, in his opinion, would be for the benefit of the bankrupt's or authorized assignor's estate, and the trustee, under the direction of the creditors or inspectors, refuses or neglects to take such proceedings after being duly required to do so, the creditor may, as of right, obtain from the court an order authorizing him to take proceedings in the name of the trustee, but at his own expense and risk, upon such terms and conditions as to indemnity to the trustee as the court may prescribe.

(2) Any benefit derived from the proceedings shall to the extent of his claim and full costs, belong exclusively to the creditor instituting the same.

(3) If, before such order is granted, the trustee shall, with the approval of the inspectors, signify to the court his readiness to institute the proceedings for the benefit of the creditors the order shall prescribe the time within which he shall do so, and in that case the advantage derived from the proceedings, if instituted within such time, shall belong to the estate."

Settlement and Preferences.

Avoidance
of certain
settlements.

64. (1) Any settlement of property made after the thirtieth day of June, one thousand nine hundred and twenty, shall, if the settlor becomes bankrupt within one year after the date of the settlement, be void against the trustee.

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If insolvent
in five years.

(2) Any such settlement shall, if the settlor becomes bankrupt as aforesaid at any subsequent time within five years after the date of the settlement be void against such trustee, unless the parties claiming under the settlement can prove that the settlor was, at the time of making the settlement, able to pay all his debts without the aid of the property comprised in the settlement, and that the interest of the settlor in such property passed to the trustee of such settlement on the execution thereof.

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Limitation
of section.

(3) This section shall not extend to any settlement made
(a) before and in consideration of marriage, or
(b) in favour of a purchaser or incumbrancer in good faith and for valuable consideration, or
(c) on or for the wife or children of the settlor of property which has accrued to the settlor after marriage in right of his wife.

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Certain
marriage
contracts
void as
against
trustee.

65. Any covenant or contract made after the thirtieth day of June, one thousand nine hundred and twenty, by any person (hereinafter called "the settlor") in consideration of his or her marriage, either for the future payment of money for the benefit of the settlor's wife or husband or children, or for the future settlement on or for the settlor's wife or husband or children, of property, wherein the settlor had not at the date of the marriage any estate or interest, whether vested or contingent, in possession or remainder, and not being money or property in right of the settlor's wife or husband, shall, if the settlor becomes bankrupt, and the covenant or contract has not been executed at the date of the bankruptcy, be void against such trustee except so far as it enables the persons entitled under the covenant or contract to claim for dividend in the settlor's bankruptcy proceedings under or in respect of the covenant or contract, but any such claim to dividend shall be postponed until all claims of the other creditors for valuable consideration in money or money's worth have been satisfied.

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Payments
and
transfers
void, subject
to proof of
certain facts.

66. (1) Any payment of money made after the thirtieth day of June, one thousand nine hundred and twenty, not being payment of premiums on a policy of life insurance in favour of the husband, wife, child or children of the settlor,

- 64.** (1) The changes are self-explanatory.
(2) The changes are self-explanatory.
(3) No change.

65. The changes are self-explanatory.

- 66.** (1) The changes are self-explanatory.
(2) The changes are self-explanatory.
(3) No change.

or any transfer of property hereafter made by the settlor in pursuance of such a covenant or contract as aforesaid, shall be void against the trustee unless the person to whom the payment or transfer was made, prove either

- (a) that the payment or transfer was made more than six months before the date of the bankruptcy; or 5
 (b) that at the date of the payment or transfer the settlor was able to pay all his debts without the aid of the money so paid or the property so transferred; or
 (c) that the payment or transfer was made in pursuance 10
 of a covenant or contract to pay or transfer money or property expected to come to the settlor from or on the death of a particular person named in the covenant or contract and was made within three months after the money or property came into the possession or under 15
 the control of the settlor.

If declared void.

(2) In the event of any such payment or transfer being declared void, the persons to whom it was made shall be entitled to claim for dividend under or in respect of the covenant or contract in like manner as if it had not been 20
 executed at the date of the bankruptcy.

"Settlement".

(3) For the purpose of this section and sections sixty-four and sixty-five "settlement" shall include any conveyance or transfer of property.

Avoidance of general assignment of book debts.

67. Where a person engaged in any trade or business 25
 makes an assignment of his existing or future book debts or any class or part thereof, and, subsequently becomes bankrupt, the assignment of book debts shall be void against the trustee in the bankruptcy, as regards any book debts which have not been paid at the date of the bankruptcy. 30

Foregoing provisions not to apply in some cases.

(2) This section shall not apply in the case of any such assignment of book debts which is registered pursuant to any statute of any province providing for the registration thereof if such assignment is valid in accordance with the laws of the province. 35

Further cases where this section not to void assignments.

(3) Nothing in this section shall have effect so as to render void any assignment of book debts, due at the date of the assignment from specified debtors, or of debts growing due under specified contracts, or any assignment of book debts included in a transfer of a business made *bona fide* and for 40
adequate valuable consideration.

"Assignment" defined.

(4) For the purposes of this section "assignment" includes assignment by way of security and other charges on book debts.

67. (1) The changes are self-explanatory. It read as follows:

"**63.** (1) Where a person engaged in any trade or business makes an assignment of his existing or future book debts or any class or part thereof, and is subsequently adjudicated bankrupt or makes an authorized assignment, the assignment of book debts shall be void against the trustee in the bankruptcy or under the authorized assignment, as regards any book debts which have not been paid at the date of the presentation of the petition in bankruptcy or of the making of the authorized assignment.

(2) This section shall not apply if, in the province where the assignor has his principal place of business, there is a statute providing for the registration of such assignment, and if the assignment is registered in compliance therewith.

(3) Nothing in this section shall have effect so as to render void any assignment of book debts, due at the date of the assignment from specified debtors, or of debts growing due under specified contracts, or any assignment of book debts included in a transfer of a business made *bona fide* and for value, or in any authorized assignment.

(4) For the purpose of this section "assignment" includes assignment by way of security and other charges on book debts."

(2) This subsection has been redrafted. The change in subsection (2) has been recommended by the Conference of Commissioners on Uniformity of Laws for Canada at its session at Ottawa in August, 1933. It has also been recommended by the Canadian Bankers' Association. It formerly read as follows:

"This section shall not apply if, in the province where the assignor has his principal place of business, there is a statute providing for the registration of such assignment, and if the assignment is registered in compliance therewith."

(3) The changes are self-explanatory.

(4) No change.

Avoidance
of preference
in certain
cases.

68. (1) Every transaction whether or not entered into voluntarily or under pressure by an insolvent person becoming bankrupt within three months thereafter resulting in any person or any creditor or any person in trust for such creditor or any surety or guarantor for the debt due to such creditor obtaining a preference advantage or benefit over the creditors or any of them shall be deemed fraudulent and void as against the trustee. 5

Application
of provincial
enactments.

(2) Every transaction entered into by a person becoming bankrupt thereafter which by this Act or any other law or statute of Canada or any part thereof would be void or voidable as against a creditor shall be deemed void or voidable as against the trustee and the trustee shall be entitled to exercise the rights conferred upon such creditor in such law or statute. 10

Secret
transactions
deemed
unlawful.

(3) Any secret transaction entered into between a bankrupt and any other person for the purpose of obtaining a benefit or advantage for the bankrupt or such person to which the bankrupt or such person would not ordinarily be entitled shall be deemed to be fraudulent and void as against the trustee and any property or consideration passing to obtain such benefit or advantage shall be recoverable by the trustee and in the case of a creditor being a party to such transaction he shall be barred from sharing in any dividend which if already paid may be recoverable by the trustee as a debt owing to the estate. 15 20

Transactions
re undisclosed
property.

(4) Any transaction entered into after the bankruptcy of any person between the bankrupt and any other person relating to any of the property of a bankrupt not disclosed to the trustee at the date of the bankruptcy shall be fraudulent and void as against the trustee. 25 30

Admissibility
of evidence of
intent in
disputed
transactions.

(5) In the preceding subsections evidence of intent on the part of either party to the transaction shall not be available as a defence to support such transaction if in fact a preference, benefit or advantage was obtained over the creditors or any of them. 35

68. This is an entirely new redraft of section 64 which is as follows:

"Every conveyance or transfer of property or charge thereon made, every payment made, every obligation incurred, and every judicial proceeding taken or suffered by any insolvent person in favour of any creditor or of any person in trust for any creditor with a view of giving such creditor a preference over the other creditors shall, if the person making, incurring, taking, paying or suffering the same is adjudged bankrupt on a bankruptcy petition presented within three months after the date of making, incurring, taking, paying or suffering the same, or if he makes an authorized assignment, within three months after the date of the making, incurring, taking, paying or suffering the same, be deemed fraudulent and void as against the trustee in the bankruptcy or under the authorized assignment.

(2) If any such conveyance, transfer, payment, obligation or judicial proceeding has the effect of giving any creditor a preference over other creditors, or over any one or more of them, it shall be presumed *prima facie* to have been made, incurred, taken, paid or suffered with such view as aforesaid whether or not it was made voluntarily or under pressure and evidence of pressure shall not be receivable or avail to support such transaction.

(3) For the purpose of this section, the expression "creditor" shall include a surety or guarantor for the debt due to such creditor."

(1) Sections 64 and 65 have been the *cause celebre* of more litigation and uncertainty than any other sections in the Act. Even the courts have not been able to agree on the proper interpretation thereof. For instance the words "with a view of" in the fourth line have been the cause of many diverse opinions and inferences regarding the intent of the parties to the transaction. It has given rise to the doctrine of concurrent intent in some provinces which is a product of former decisions of the courts on the interpretation of similar phrases in the *Assignments and Preferences Act* in force therein. In other provinces it has been held to mean only unilateral intent on the part of either a bankrupt or a creditor. The result has been that there has been much confusion of thought and no unanimity not only as to the interpretation of the section but also as to the inter-relating effect with section 65.

(2) Heretofore to resort to provincial legislation to attack fraudulent or other illegal transactions the right was only established by inference. The new section is intended to set forth in a clear and unmistakable manner the basis on which provincial legislation may be applied. It is believed that it was not the intention of the Legislature to override provincial legislation dealing with civil rights but that the section was only intended to be supplementary thereto. The new section removes any doubt as to the application of the section. The new section also has a wider application than the former section 64 which limited the types of transactions which could be attacked thereunder.

(3) This is a new subsection inserted to get at a certain type of transaction more usually entered into after the bankruptcy for quite an unlawful purpose.

(4) This subsection is new and is deemed necessary to complete the circle of transactions which are prohibited.

(5) This subsection is intended to remove the confusion of existing decisions of the court with respect to the "intent" of either parties to the transaction.

Protected
transactions.

69. (1) Subject to the foregoing provisions of this Act with respect to the effect of bankruptcy on an execution attachment or other process against property nothing in this Act shall invalidate in the event of bankruptcy any settlement, preference or transaction entered into before the bankruptcy in good faith and for adequate valuable consideration between the bankrupt and any other person without notice or knowledge of or reason to suspect the insolvency of the bankrupt or of his having committed an available act of bankruptcy. 5

Onus of
proof.

(2) The onus of proof shall lie on the person supporting the validity of any such transaction. 10

Recovering
proceeds if
reconveyed.

70. (1) If a person acquiring property of the bankrupt under a transaction which is void or under a voidable transaction which is set aside, shall have sold, disposed of, realized on or collected the property so conveyed or transferred, or any part thereof, the money or other proceeds, whether further disposed of or not, shall be deemed the property of the trustee as such. 15

Trustee
may
recover.

(2) The trustee may recover such property or the value thereof or the money or proceeds therefrom from such person or from any other person, to whom such person may have resold, redispensed of or paid over the proceeds of such property as fully and effectually as the trustee could have recovered the same if it had not been so sold, disposed of, realized on or collected. 20 25

69. (1) This is a simplified redraft of the former section 65 which read as follows:

“Subject to the foregoing provisions of this Act with respect to the effect of bankruptcy or of an authorized assignment on an execution, attachment or other process against property, and with respect to the avoidance of certain settlements and preferences, nothing in this Act shall invalidate, in the case of a receiving order or an authorized assignment,

- (a) any payment by the bankrupt or assignor to any of his creditors;
- (b) any payment or delivery to the bankrupt or assignor;
- (c) any conveyance or transfer by the bankrupt or assignor for adequate valuable consideration;
- (d) any contract, dealing, or transaction by or with the bankrupt or assignor for adequate valuable consideration;

Provided that both the following conditions are complied with, namely:—

- (i) That the payment, delivery, conveyance, assignment, transfer, contract, dealing, or transaction, as the case may be, is in good faith and takes place before the date of the receiving order or authorized assignment; and
 - (ii) That the person, other than the debtor, to, by, or with whom the payment, delivery, conveyance, assignment, transfer, contract, dealing or transaction was made, executed or entered into, has not at the time of the payment, delivery, conveyance, assignment, transfer, contract, dealing or transaction, notice of any available act of bankruptcy committed by the bankrupt or assignor.
- (2) The expression “adequate valuable consideration” in paragraph (c) of this section means a consideration of fair and reasonable money value with relation to that of the property conveyed, assigned or transferred, and in paragraph (d) hereof means a consideration of fair and reasonable money value with relation to the known or reasonably to be anticipated benefits of the contract, dealing or transaction.”

By inserting the definitions of “transactions” and “adequate valuable consideration” in section 2 much surplusage of words has been eliminated and the redraft conveys in simple straight-forward language the intention thereof.

(2) The subsection dealing with the onus of proof is adopted from section 95 (3) of the Australian Act. In most cases a trustee is at a decided disadvantage in trying to prove the invalidity of certain transactions because of the destruction of records and other evidence coupled with the natural reluctance of the bankrupt to disclose his part in the transaction. While the provision is not in line with the ordinary principle of law that the plaintiff must prove his case, yet little harm can be done to the party claiming the benefit of the transaction as all that is wanted is a proper disclosure of all the facts. He can hardly object to his case being disposed of on the merits.

70. The phraseology of this section has been slightly changed to conform to the use of the term “transaction” in the previous sections to which it applies. Section 66 (1), (2) and (3) read as follows:

“(1) If a person in whose favour any settlement of property, conveyance or transfer which is void under this Act has been made, shall have sold, disposed of, realized on or collected the property so conveyed or transferred, or any part thereof, the money or other proceeds, whether further disposed of or not, shall be deemed the property of the trustee as such.

(2) The trustee may recover such property or the value thereof from the person in whose favour such settlement of property, conveyance or transfer was made or from any other person, to whom the person in whose favour such settlement of property, conveyance or transfer was made may have resold, redispensed of or paid over the proceeds of such property as fully and effectually as the trustee could have recovered the same if it had not been so sold, disposed of, realized on or collected.

Operation
of section.

(3) Notwithstanding the provisions of subsection one of this section, where any person to whom such property has been sold or disposed of shall have paid or given therefor in good faith fair and reasonable consideration he shall not be subject to the operation of this section but the trustee's recourse shall be solely against the person entering into such transaction with the bankrupt for recovery of the consideration so paid or given or the value thereof. 5

Trustee
subrogated.

(4) In case the consideration payable for or upon any sale or resale of such property or any part thereof shall remain unsatisfied the trustee shall be subrogated to the rights of the vendor to compel payment or satisfaction. 10

Dealings
with un-
discharged
bankrupt.

71. (1) All transactions by a bankrupt with any person dealing with him *bona fide* and for value, in respect of property, whether real or personal, acquired by the bankrupt after the making of a receiving order or assignment shall, if completed before any intervention by the trustee, be valid against the trustee, and any estate or interest in such property which by virtue of this Act is vested in the trustee shall determine and pass in such manner and to such extent as may be required for giving effect to any such transaction. 15 20

Receipt of
money by
banker.

(2) For the purposes of this section, the receipt of any money, security or negotiable instrument from or by the order or direction of a bankrupt by his banker, and any payment and any delivery of any security or negotiable instrument made to, or by the order or direction of a bankrupt, by his banker, shall be deemed to be a transaction by the bankrupt with such a banker dealing with him for value. 25 30

Contributories to Insolvent Corporations.

Contributory
shareholders.

72. Every shareholder or member of a corporation or his representative shall be liable to contribute the amount unpaid on his shares of the capital or on his liability to the corporation or to its members or creditors, as the case may be, under the act, charter or instrument of incorporation of the company or otherwise. 35

Liability of
contributory
an asset.

73. The amount which the contributory is liable to contribute shall be deemed an asset of the corporation and a debt payable to the trustee forthwith upon the bankruptcy of the corporation. 40

(3) Notwithstanding the provisions of subsection one of this section, where any person to whom such property has been sold or disposed of shall have paid or given therefor in good faith fair and reasonable consideration he shall not be subject to the operation of this section but the trustee's recourse shall be solely against the person in whose favour such settlement was made for recovery of the consideration so paid or given or the value thereof.

(3) The words "entering into such transaction with the bankrupt" have been substituted for the words "in whose favour such settlement was made".

(4) No change.

71. The changes are self-explanatory.

72. This was formerly section 70. No change.

73. This was formerly section 70 (2).

Liability
on transferred
shares.

74. If a shareholder has transferred his shares under circumstances which do not, by law, free him from liability in respect thereof, or if he is by law liable to the corporation or to its members or creditors, as the case may be, to an amount beyond the amount unpaid on his shares, he shall be deemed a member of the corporation for the purposes of this Act and shall be liable to contribute as aforesaid to the extent of his liability to the corporation or its members or creditors independently of this Act. 5

Demand on
contributory
by
trustee.

75. (1) The trustee may from time to time make demand on any contributory requiring him to pay to the trustee within thirty days from and after the date of the service of such demand, the amount for which such person is so liable to contribute or such portion thereof as the trustee deems necessary or expedient. 10 15

Demand
property
served if
delivered
personally,
etc.

(2) Any such demand shall be deemed to have been properly served if delivered personally to the contributory or if a copy of the same is mailed in a registered prepaid letter addressed to the contributory at his last known address or at the address shown in or by the stock register or other books of the corporation. 20

Notice of
disputed
liability.

(3) If the contributory disputes liability, either in whole or in part, he shall within fifteen days from the service of such demand give notice in writing to the trustee stating therein what portion of the demand is disputed and setting out his grounds of defence and he shall not thereafter, unless by leave of the court, be permitted to plead in any action or proceeding brought against him by the trustee any grounds of defence of which he has not notified the trustee within said fifteen days. 25 30

Recovery.

(4) If at the expiration of thirty days from the date of the service of such demand the contributory has not paid to the trustee the required amount, the trustee may take proceedings against the contributory for the recovery thereof in the manner provided by General Rules. 35

Excessive
or unjust
demand.

(5) If the contributory considers the demand excessive or unjust he may apply to the court to reduce or disallow it.

Order of
court.

(6) If the court considers the demand to be grossly excessive or unjust it may order the trustee to pay the costs of any such application. 40

Execution
may be
stayed.

(7) If it should appear to the Court that the issue of immediate execution under any judgment recovered or entered by a trustee against a contributory would be an undoubted hardship on the contributory, or would be unjust or inequitable, the Court may, on the application or request of the contributory and on such terms as to security or otherwise as the Court deems advisable, order that execution be stayed pending the adjustment of rights between contributories or for such period as to the Court shall seem best. 45

74. This was formerly section 70 (3).

(4) Section 70 (4) has been deleted. This is already stated in section 69. It read as follows:

"(4) The amount which he is so liable to contribute shall be deemed an asset and a debt as aforesaid."

75. No change.

(7) This was formerly Rule 149.

Adjustment
of rights
of contrib-
utories.

76. (1) The court shall, on the application of any contributory, adjust the rights of the contributories among themselves, and, for the purpose of facilitating such adjustment may direct the trustee to intervene, carry the proceedings, employ legal or other assistance and make such investigations, do such acts and furnish such information as to the court may seem necessary or advisable. 5

Court may
allow re-
muneration,
expenses
and costs
as against
contribut-
ories.

(2) The court shall allow to the trustee and to any solicitor, advocate or counsel or other assistant employed by him under the provisions of the immediately preceding subsection, as against the contributories or any of them such remuneration, expenses and costs as the court shall deem just, and such remuneration, expenses and costs shall be paid out of such moneys as shall be collected from contributories under the order or direction of the court for the purposes of the adjustment or out of moneys payable to the contributories by the estate of the bankrupt, as the court shall order, but such remuneration, expenses and costs shall not be payable in any event out of the general estate of the bankrupt. 10 15 20

Security for
remuneration;
expenses and
costs.

(3) The court, before proceeding to adjust the rights of contributories among themselves, as by subsection one of this section provided, may order that the contributory applying shall provide security, in form and amount satisfactory to the court, for the payment of such remuneration, expenses and costs as will be incident to such adjustment, and, in default of such security being provided as and when ordered, the court may refuse to proceed with such adjustment. 25

To what
corporations
applicable.

77. (1) The provisions of sections seventy-two to seventy-six inclusive shall apply only to corporations which have become bankrupt under this Act. 30

"Contribut-
ory."

(2) The word "contributory" as used in the four last preceding sections means such shareholder or member of a corporation as is referred to in section seventy-two. 35

Dividends.

Trustee to
pay
dividends
promptly.

78. (1) Subject to the retention of such sums as may be necessary for the costs of administration or otherwise, the trustee shall, from time to time as required by the inspectors or as directed by the Superintendent, declare and distribute dividends amongst the creditors whose claims have been admitted or established. 40

Disputed
claims.

(2) Where the validity of any claim has not been determined the trustee shall retain sufficient funds to provide for payment thereof if eventually the claim is allowed.

76. No material change.

77. No material change.

78. The provisions of this section have been revised to bring it abreast of current practice and requirements. New subsections replace former subsections one, two and three, which were as follows:

“(1) Subject to the retention of such sums as may be necessary for the costs of administration or otherwise, the trustee shall, with all convenient speed, declare and distribute dividends amongst the creditors who have proved their debts.

“(2) Such dividend as can be paid shall be so paid within six months from the date of the receiving order or assignment, and earlier, if required by the inspectors.

“(3) A further dividend shall be paid whenever the trustee has sufficient moneys on hand to pay to the creditors ten per cent, and more frequently if required by the inspectors, until the estate is wound up and disposed of.”

When complete realization delayed.

(3) If the complete realization of the assets is likely to be unavoidably delayed, the inspectors or the Superintendent may direct the trustee to prepare an interim statement of receipts and disbursements and to pay an interim dividend to the creditors.

5

No action for dividend.

(4) No action for a dividend shall lie against the trustee, but if the trustee refuses or fails to pay any dividend after having been directed to do so by the inspectors or the Superintendent, the court may, on the application of any creditor, order him to pay it, and also to pay personally interest thereon for the time that it is withheld and the costs of the application.

10

Notice that if claim not proved within 30 days final dividend will be made.

79. (1) The trustee shall, before a final dividend sheet is prepared, give notice by registered mail prepaid to every person with a provable debt of which the trustee has notice or knowledge, but whose debt has not been proved, that if such person does not prove his debt within a period of thirty days after the mailing of the notice the trustee will proceed to make a dividend or final dividend without regard to such person's claim.

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Court may extend time.

(2) If any person so notified does not prove his debt within the time limited or within such further time as the court, upon proof of merits and satisfactory explanation of the delay in making proof, may allow, the claim of such person shall, notwithstanding anything in this Act, be excluded from all share in any dividend.

25

Right of creditor who has not proved debt before declaration of dividend.

80. Any creditor who has not proved his debt before the declaration of any dividend or dividends shall be entitled upon proof of such debt to be paid out of any money for the time being in the hands of the trustee any dividend or dividends he may have failed to receive, before that money is applied to the payment of any future dividend or dividends but he shall not be entitled to disturb the distribution of any dividend declared before his debt was proved by reason that he has not participated therein, except on such terms and conditions as may be ordered by the court.

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Final dividend and division of estate.

81. When the trustee has realized all the property of the bankrupt or all thereof that can, in the joint opinion of himself and of the inspectors, be realized without needlessly protracting the trusteeship, and settled or determined or caused to be settled or determined the claims of all creditors to rank against the estate of the bankrupt, he shall prepare in duplicate a final statement of receipts and disbursements and dividend sheet and be at liberty subject to the various provisions of this Act, to divide the property

40

45

79. No material change. Section 75 (1) read as follows:

"(1) The trustee may, at any time after the first meeting of creditors, give notice by registered mail prepaid to every person of whose claim to be a creditor with a provable debt, the trustee has notice or knowledge, but whose said debt has not been proved, that if such person does not prove his debt within a period limited by the notice and expiring not sooner than thirty days after the mailing of the notice the trustee will proceed to make a dividend or final dividend without regard to such person's claim."

80. The exception which has been added provides for the case which occasionally arises where a creditor has had no factual notice of the bankruptcy and may be allowed to participate in the dividend on payment of the additional costs thus incurred by the trustee. This gives statutory acknowledgment to the practice followed in such cases.

81. Formerly section 77. The present section has been amended to conform to the changed procedure in the passing of the trustee's accounts and with respect to the trustee's discharge. Section 77 read as follows:

"77. When sections twenty-eight and eighty-eight have been complied with as to gazetted, publishing and mailing notices to creditors, the trustee, having realized all the property of the bankrupt or authorized assignor or all thereof that can, in the joint opinion of himself and of the inspectors, be realized without needlessly protracting the trusteeship, and settled or determined or caused to be settled or determined the claims of all creditors to rank against the estate of the debtor, shall make a final dividend and be at liberty subject to the various provisions of this Act, to divide the property of the debtor among the creditors who have proved their debts without regard to the claims of any other claimants."

of the bankrupt among the creditors who have proved their debts without regard to the claims of any other claimants.

Statement of receipts and disbursements.

§2. (1) The trustee's final statement of receipts and disbursements shall be prepared in the prescribed form or as near thereto as the circumstances of the case will permit and forwarded to the Superintendent for examination and approval, together with the estate record book and such vouchers and other documents and information as may be necessary to the examination thereof, or as the Superintendent may require: The statement shall contain a complete and itemized account of all moneys realized and received by the trustee out of the property of the bankrupt or otherwise, the amount of interest received by the trustee for moneys in his hands, all moneys disbursed or expenses incurred and the remuneration claimed by the trustee; and full particulars, description and value of all property belonging to the estate which has not been sold or realized upon, setting out the reasons why such property has not been sold or realized upon.

Approval of Superintendent.

(2) Before approving the final statement of receipts and disbursements the Superintendent shall satisfy himself that all of the assets have been accounted for and that the administration of the estate has been completed as far as can reasonably be done and shall determine whether or not the disbursements and expenses incurred are proper and have been duly authorized, and the fees and remuneration just and reasonable in the circumstances; to this end the Superintendent may increase, reduce or disallow any charge which to him appears unreasonable, excessive, improper or unauthorized.

Notice of final dividend, etc.

§3. (1) When the final statement of receipts and disbursements and dividend sheet shall have been approved the trustee shall immediately forward by registered mail to the bankrupt, to every creditor whose claim has been admitted or established, to the Registrar, and to the Superintendent:

- (a) a copy of the final statement of receipts and disbursements;
- (b) a copy of the dividend sheet;
- (c) a notice in the prescribed form of his intention, after the expiration of fifteen days from the mailing of the said notice, statement and dividend sheet, to pay a final dividend on all claims not objected to at that date, and to apply to the Superintendent on a subsequent date not less than thirty days after the payment of the dividend for his release.

82. This is a new section. It establishes a new procedure of the trustee's final statement and dividend sheet being approved by the Superintendent rather than by the court. This is the procedure followed in England. At present in order to supervise the administration of an estate it is necessary for the Superintendent to examine the final statements very carefully to see that all of the assets have been administered. The application to the court for a discharge is therefore in many respects a duplication of the work done by the Superintendent. The auditing and checking necessary in examining a trustee's statement is not properly speaking a function of the court. The suggested procedure has been in force for ten years in connection with the *Farmers' Creditors Arrangement Act* and has been found to work very satisfactorily. It has the added advantage of establishing more uniformity in administration costs generally.

83. Formerly section 78. The change is to make the procedure conform to the procedure established in the preceding sections.

Section 78 formerly read as follows:

So soon as a final dividend sheet is prepared, the trustee shall send by registered mail to every creditor, to the Registrar and to the Superintendent

(a) a notice of the fact,

(b) an abstract of his receipts and expenditures as trustee which abstract shall indicate what amount of interest has been received by the trustee for moneys in his hands, and

(c) a copy of the dividend sheet with notice thereon

(i) of the claims objected to and

(ii) whether any reservation has been made therefor and

(d) notice that he will apply to the court on a day named therein for his discharge.

(2) After the expiry of fifteen days from the date of the mailing of the last of said notices, abstracts and dividend sheets, dividends on all debts not objected to up to the time of the payment shall be paid.

Payment of
final divi-
dend.

(2) After the expiration of fifteen days from the date of the mailing of the said notice, statement and dividend sheet, dividends on all claims not objected to before the time for payment shall be paid.

Dividend
after final
dividend.

84. Notwithstanding the declaration of a final dividend, if any assets reserved for contingent claims, or assets subsequently received, become available for the payment of a further dividend and the necessary expenses of declaring the same, the trustee shall declare and pay such further dividend. 5 10

Dividends
on separate
property
of bankrupt
partner.

85. Where one partner of a firm is adjudged bankrupt, a creditor to whom the bankrupt is indebted jointly with the other partners of the firm, or any of them, shall not receive any dividend out of the separate property of the bankrupt until all the separate creditors have received the full amount of their respective debts. 15

Dividends on
joint and
separate pro-
perties.

86. Where joint and separate properties are being administered, dividends of the joint and separate properties may, on the application of any person interested, be declared together, and the expenses of and incident to such dividends shall be fairly apportioned by the trustee between the joint and separate properties, regard being had to work done for and the benefit received by each property. 20

Shareholder
deemed to
be a creditor
for distri-
bution.

87. In the case of a corporation being liquidated under the provisions of subsection three of section four or subsection two of section nine or in the event of a surplus being available for distribution among the shareholders as provided in section eighty-eight, a shareholder shall after payment of the creditors in full be deemed to be a creditor for the purpose of the payment of dividends. 25 30

Right of
bankrupt
to surplus.

88. (1) The bankrupt shall be entitled to any surplus remaining after payment in full of his creditors with interest as by this Act provided and of the costs, charges and expenses of the bankruptcy proceedings.

Disposition
of surplus
corporation
funds.

(2) In the case of a corporation where there is such a surplus of funds or assets the trustee shall call a meeting of the shareholders on ten days' notice for directions as to the disposition thereof and unless directed otherwise the trustee shall sell or dispose of any remaining assets and out of the funds then in hand, less the costs of the trustee, pay and distribute a dividend to the shareholders according to their respective rights as shown by the records of the corporation at the date of the bankruptcy or as otherwise established before the time fixed for meeting of the shareholders. 35 40

84. No change.

85. No material change.

86. No material change.

87. This section is new. Its purpose is obvious. It replaces the former section 82 which now becomes section 89.

88. (1) No material change.

(2) This is a new subsection. Its purpose is to provide a procedure for the complete realization and distribution of the surplus property or funds of a corporation.

Distribution
of estate of
bankrupt
after
notice.

89. (1) The trustee shall, not later than one month after he is at liberty, pursuant to the provisions of this Act to distribute the proceeds of the estate of the bankrupt, forward to the Superintendent in favour of and for deposit with the Receiver General of Canada all unpaid dividends and undistributed funds remaining in his hands, and shall at the same time provide a list of the names and post office addresses, so far as known, of the creditors and shareholders entitled, showing the respective amounts payable to the respective creditors and shareholders, and such deposits shall release the trustee from all further liability with respect thereto. 5

Receiver
General to
pay claims.

(2) The Receiver General shall, thereafter, upon application made, pay to any creditor or shareholder his proper dividend as shown on this list, and such payment shall have effect as if made by the trustee. 15

Remuneration of Trustee.

Remuner-
ation of
trustee.

90. (1) The remuneration of the trustee for his services, excepting those rendered (a) upon the adjustment of the rights of contributories as among themselves, and (b) in connection with the application made under subsection three of section one hundred and forty-six by a bankrupt for a discharge, shall be such as is voted to the trustee by a majority of creditors present at any general meeting or by the inspectors. 20

Not to exceed
5 per cent.

(2) Where the remuneration of the trustee has not been fixed under the preceding subsection, the trustee may insert in his final statement and retain as his remuneration, subject to increase or reduction as hereinafter provided, a sum not exceeding five per cent of the amount remaining out of the realization of the assets of the debtor after the claims of secured creditors have been paid or satisfied: Provided in any event that the trustee shall be entitled to a minimum fee of one hundred dollars if available after payment of the expenses of the administration. 30

Proviso.

Cases
excepted.

(3) In the cases excepted by subsection one of this section the trustee's remuneration shall be such as may be agreed upon between the trustee and the contributories or the debtor. 35

For carrying
on debtor's
business.

(4) Where the business of the debtor has been carried on by the trustee or under his supervision he may be allowed such special remuneration for such services as the creditors or the inspectors may by resolution authorize, and, where such services have been rendered pending the approval of or under a composition, such special remuneration as may be agreed to by the debtor. 40

89. This was formerly section 82 and replaces the former section 84 which now becomes section 62.

90. Former section 85. This section has been redrafted to meet the proposed changes whereby the trustee's accounts will be examined and approved by the Superintendent. It has been simplified to some extent and its provisions extended to cover situations, i.e., carrying on the debtor's business and where successive trustees are appointed, not specifically covered by the old section. Section 85 was formerly as follows:

"85. The remuneration of the trustee in bankruptcy or in any other proceedings under this act, for his services, excepting those rendered (a) upon the adjustment of the rights of contributories as among themselves, and (b) in connection with the application of a bankrupt or authorized assignor for a discharge, shall be such as is voted to the trustee by a majority of creditors present at any general meeting.

(2) In the excepted cases the trustee's remuneration shall be fixed by the court. This was formerly Section 85 (3).

(3) Where the remuneration of the trustee has not been fixed under the two last preceding subsections before the final dividend, the trustee may insert in the final dividend sheet and retain as his remuneration a sum not exceeding five per cent of the cash receipts, subject to reduction by the court upon application of any creditor or of the debtor.

(4) The remuneration of the trustee for all services shall not under any circumstances exceed five per cent of the cash receipts, except with the approval in writing of the inspectors and of the court.

(5) The disbursements of a trustee shall in all cases be taxed by the prescribed officer.

(6) In fixing the remuneration of the trustee, only that part of the sale price of real or immovable property which is available for distribution amongst creditors other than secured creditors claiming as such against the property shall be taken into account. Provided that this subsection shall not affect the application of subsection four of this section.

(7) If in any case after the trustee has paid all expenses of administration and has realized all available assets, the commissions allowable under subsection three of this section do not amount to one hundred dollars, the inspectors may grant the trustee a fee which with the commissions, if any, already paid or to be paid to him, shall not exceed one hundred dollars."

Successive trustees.

(5) In the case of two or more trustees acting in succession the remuneration shall be apportioned between the trustees in accordance with the services rendered by each.

Fixed by Superintendent.

(6) Where the remuneration of a trustee has not been fixed as hereinbefore provided, or in the case of a disagreement as to the amount thereof, or on application for an increase or reduction thereof, the amount of the remuneration to be allowed a trustee shall be determined by the Superintendent, regard being had to the services actually rendered by the trustee in the administration of the estate, or to the representations, if any, received from any creditor, from the debtor or from the trustee. 5 10

Court may disallow.

(7) On application made to the Court by any creditor or the debtor, alleging any misconduct, fraud, or improper dealing or action by the trustee, or for any other cause which the Court deems fit, the Court may direct that the remuneration of the trustee be disallowed in whole or in part. 15

Release of Trustee.

Release of trustee.

91. (1) The Superintendent may release a trustee from his trusts and from further performance of all or any of his duties and obligations with respect to any estate, upon full administration of the affairs thereof or, for sufficient cause, before full administration. 20

Application to Superintendent.

(2) When a trustee has completed the duties required of him with respect to the administration of the property of a bankrupt he shall apply in the prescribed manner to the Superintendent for a release. 25

Proof of administration.

(3) The Superintendent shall require proof of the extent of administration and (where there has not been full administration) of the condition of the estate and of the alleged sufficient cause. 30

Release when another trustee has been appointed and account satisfactory.

(4) In particular the trustee shall be entitled to be released as aforesaid if, before full administration of the affairs of an estate, another trustee has been substituted for the trustee applying, the latter has accounted to the satisfaction of the inspectors and the Superintendent for all property of the estate which came to his hands and a period of three months has elapsed after the date of such substitution without any undisposed of claim or objection having been made by the bankrupt or any creditor. 35 40

Release of trustee.

(5) When the trustee's receipts, disbursements and accounts have been approved in writing by the Superintendent and proof has been supplied that all objections, applications and appeals made by any creditor or the

91. (1) No material change, except to substitute the Superintendent for the Court. This recommendation has been made by the Montreal Board of Trade, Nov. 1937.

(2) This a new subsection creating an obligation on the trustee to obtain a release which heretofore was not the case.

(3) No material change. This was formerly subsection (2).

(4) No material change. This was formerly subsection (3).

(5) No material change. This was formerly subsection (4).

bankrupt and all other matters in dispute have in the meantime been settled or satisfactorily disposed of, and all dividends have been paid, the affairs of the estate shall be deemed to have been fully administered.

Objections
to be filed
with Superin-
tendent.

(6) Any creditor or bankrupt desiring to object to the release of a trustee shall forward to the Superintendent and to the trustee, not less than two days before the date fixed for the release of the trustee, particulars in writing of his objection. 5

Superin-
tendent
may grant
release.

(7) The Superintendent shall consider such objection and may grant or withhold a release accordingly or give such directions as he may deem proper in the circumstances. 10

Notice.
Appeal.

(8) Notice of his decision shall be given by the Superintendent by registered mail to the objecting creditor or creditors, bankrupt or trustee, as the case may be, and an appeal therefrom may be filed in the court within ten days of the date of the notice, and the court on such appeal may make such order as it deems just. 15

No fee.

(9) There shall be no fee on this application except on an appeal to the court. 20

Fraud, or
breach of
trust.

(10) Nothing in or done under authority of this section shall relieve or discharge or be deemed to relieve or discharge a trustee from the results of fraud or any fraudulent breach of trust.

Release to
operate as
discharge
of trustee.

(11) The release of a trustee shall discharge him from all liability in respect of any act done or default made by him in the administration of the affairs of the bankrupt, or otherwise in relation to his conduct as trustee, but any such release may be revoked on proof that it was obtained by fraud or by suppression or concealment of any material fact. 25 30

Special
security
released.

(12) The release of a trustee under the provisions of this section shall operate as a release of the security provided pursuant to subsection five of section forty of this Act.

Effect of
trustee's
release
on admin-
istration of
assets of
corporation.

(13) The release of a trustee shall operate as a final winding up of the affairs of a corporation and unless the shareholders otherwise direct the trustee shall on his release forward the document of incorporation of the corporation with a copy of the release to the authorities which issued such document and thereupon the corporation shall be deemed to be dissolved. 35 40

Trustee on
release
remains de
facto trustee.

(14) Notwithstanding his release, the trustee shall remain de facto the trustee of the estate for the performance of any other duties imposed on or required of him by the court or under this Act. 45

(6) This is a new subsection. It sets up a procedure to enable an objecting creditor to place his objection before the Superintendent.

(7) This is a new subsection. Its purport is obvious. It replaces the former subsection (7) which is deleted as provision for any undisposed assets has been made in section 92. It read as follows:

"86. (7) Upon the discharge of the trustee, assets, if any, not realized or distributed shall vest in the Receiver General for the benefit of the creditors."

(8) This is a new subsection. It has been adopted from section 93 (1) of the English Act. It sets up the right of a creditor to have an objection by a creditor determined by the court in the final analysis.

(9) This was formerly subsection (8).

(10) This was formerly subsection (6).

(11) This is a new subsection. It has been adopted from section 93 (3) of the English Act. It sets up the legal effect of a release but provides for revocation on proof that it was obtained by fraud or suppression of material fact.

(12) This was formerly subsection (5).

(13) This is a new subsection. It establishes a procedure heretofore lacking for the final winding up of the affairs of a corporation by the surrender of the documents of incorporation. With few known exceptions corporations do not function following bankruptcy and many of these documents are lost or pass into oblivion to the annoyance and irritation of the issuing authorities. It is deemed advisable that they be disposed of in this manner.

(14) This is a new subsection. Its purpose is to remove the present disadvantages in the Act of the necessity of appointing a new trustee every time any matter arises in connection with an estate. It places no responsibility or obligation on the trustee but simplifies the disposition of such contingencies as may arise.

Vesting of
undisposed
property.

92. (1) On the release of the trustee any real or immovable property which is mortgaged or hypothecated as security for a debt and has not been redeemed, divested or otherwise disposed of shall vest in the person whose interest therein has not been redeemed by the trustee and the original release or a copy certified as a true copy thereof by the Superintendent shall be accepted for registration in any Registry or Land Titles Office for all purposes as documentary evidence of such vesting. 5

Disposal of
unrealizable
assets.

(2) Any other property real or personal remaining, or not considered realizable at the time of the trustee's release shall be returned to and vested in the bankrupt. 10

Disposal of
documents of
title and
other
important
records.

(3) The trustee on his release shall transmit to the mortgagee or hypothecary creditor, to the bankrupt or to such other person as may be entitled thereto, all documents of title to real or immovable property and such other important documents and papers relating thereto. 15

Disposal
of books
and papers.

(4) The trustee shall finally dispose of all books and papers of the estate of the bankrupt in manner prescribed by General Rules. 20

Final
disposition
of property
or documents
of the estate.

(5) In the event of a trustee being unable to dispose of any property or documents as provided in this section by reason of the death of or the whereabouts being unknown of any such person or for any other good reason the Superintendent may give such directions to the trustee as may be necessary for the final disposition thereof. 25

PART V.

CREDITORS.

Meetings of Creditors.

First Meeting
of creditors.

93. (1) It shall be the duty of the trustee to inform himself by reference to the bankrupt and his records and otherwise, of the names and addresses of the creditors and within five days from the date of his appointment, to mail prepaid and registered to every known creditor and to the Superintendent a notice in the prescribed form of the first meeting of creditors, to be held on a date not later than fifteen days from the mailing thereof at the office of the Official Receiver in the locality of the bankrupt. Provided that the Official Receiver may, when deemed expedient, authorize the meeting to be held at the office of any other Official Receiver. 30 35

Proviso.

92. Former section 87. (1) This is a new subsection. Its purpose is to obviate the difficulties arising on a trustee's discharge where no action has been taken by a secured creditor during the administration with respect to his security.

(2) This is a new subsection. It is presumed that the trustee will realize upon all the property capable of realization and under such circumstances there can hardly be any objection to the bankrupt having returned to him such property of no value.

(3) This is a new subsection and is merely complementary to section 92 (1).

(4) This was formerly subsection (1).

It is considered desirable also that trustees be relieved of the duty of conserving voluminous estate records long after the administration of the estates has been completed, with the exception of such records as may be necessary to deal with the bankrupts' applications for discharge if not dealt with before the release of the trustees. It should be noted that Rule 128 was enacted prior to the institution of the system of licensing and supervising trustees. Under the new system trustees, before being released, will file with the Superintendent a record book containing complete account of the administration of each of their estates.

NOTE:—The only similar provision in the English Act is found in Rule 384 which is as follows:

“384. The Board of Trade may, on the application of the Official Receiver, direct that the debtor's books of account and other documents given up by him may be sold, destroyed, or otherwise disposed of.”

(5) This section has been added to round out a complete procedure in such cases.

93. Former section 88. (1) The provisions of subsections one and two have now been combined in subsection one, the word “trustee” being substituted for “custodian”.

Subsection (1) is the same with new phrases added and subsection (2) which read “Such first meeting shall be called for a date not later than fifteen days after the mailing of such notice.” is merely incorporated therein. The proviso is added to meet a certain type of situation where it may be more desirable that the meeting of creditors be held elsewhere to serve the convenience of all concerned.

(2) This was formerly clause (*m*) of section two.

(3) No material change.

(4) This is a new subsection.

- "Creditor". (2) "Creditor" with relation to any meeting held under authority of this Act, shall, in the case of a corporation, include bondholder, debenture holder, shareholder and member of the corporation.
- Documents to accompany notice. (3) The trustee shall include with such notice a list of the creditors, the amounts of their claims and their post office addresses together with a proxy in the form prescribed by General Rules but no name shall be inserted in the proxy before it is so sent. 5
- Notice to be gazetted by Superintendent. (4) Notice of the bankruptcy and of the first meeting shall, as soon as may be done, be published by the Superintendent in the *Canada Gazette*. 10
- Publication in local paper by trustee. (5) The notice referred to in subsection one of this section, shall, as soon as possible after the bankruptcy and not later than six days prior to the first meeting be published in a local newspaper by the trustee. 15
- Purpose of meeting. (6) The purpose of such meeting shall be to consider the affairs of the bankrupt, to appoint a trustee and inspectors, to consider any proposal of a composition submitted by the bankrupt of which the creditors have received proper notice and to give such directions to the trustee as the creditors may see fit with reference to the administration of the estate. 20
- Meetings during administration. **94.** The trustee may at any time call a meeting of creditors and he shall do so when directed by the court and whenever requested in writing by the inspectors or by twenty-five per cent in number of the known creditors holding twenty-five per cent in value of the known claims. 25
- (2) A meeting of the creditors may be convened by a majority of the inspectors at any time when a trustee is not available to call a meeting or has neglected or failed to do so when so directed by the inspectors. 30
- Notice of subsequent meetings. **95.** (1) Meetings other than the first thereof shall be called by mailing or otherwise giving notice, of the time and place thereof, not less than four days before the time of such meeting, to each creditor at the address given in his proof of claim. 35
- (2) After the first meeting the trustee shall not be under obligation to give notice of any meeting or of any proceeding to any creditors other than those who have proved their debts. 40

(5) This was formerly subsection one of section twenty-eight. The word "trustee" has been substituted for "custodian". Section 28 (1) read as follows:

"A notice in the prescribed form of the receiving order or assignment and of the first meeting of creditors required to be called pursuant to this Act shall, as soon as possible after the making or executing of such receiving order or assignment, be gazetted by the custodian, and not less than six days prior to said meeting be published in a local newspaper".

(6) This was formerly subsection four. The word "administration" has been substituted for "disposal", and the additional clause added to widen the application of the section. It read as follows:

"88. (4) The purpose of such meeting shall be to consider the affairs of the debtor and to appoint a trustee and inspectors and give directions to the trustee with reference to the disposal of the estate."

94. It is necessary to provide for meetings to be called when ordered by the court and when required by the inspectors.

(2) This is a new subsection.

95. (1) No change.

(2) No material change.

Procedure at Meetings.

Chairman
of meeting.

96. (1) The Official Receiver at whose office the meeting is held or his nominee shall be the chairman at the first meeting of creditors, and shall decide any questions or disputes arising at the meeting and from any such decision 5
any creditor may appeal to the court.

Trustee to
be chairman
of
subsequent
meetings.

(2) At all other meetings the trustee shall be the chairman unless by resolution at the meeting some other person is appointed.

Chairman
shall have
casting
vote.

(3) The chairman of any meeting of creditors shall, in the case of a tie, have a casting vote. 10

Minutes of
meeting.

(4) The chairman shall cause minutes of the proceedings at the meeting to be drawn up and fairly entered in the estate record book and the minutes shall be signed by him or by the chairman of the next ensuing meeting. 15

Non-reception
of notice by
creditor.

(5) Where a meeting of creditors is called by notice, the proceedings had and resolutions passed at such meetings shall, unless the Court otherwise orders, be valid, notwithstanding that some creditors shall not have received the notice sent to them and notwithstanding the inadvertent omission to send such notice to one or more creditors. 20

Quorum

97. (1) A meeting shall not be competent to act for any purpose except the election of a chairman of and the adjournment of the meeting, unless there are present or represented at least three creditors, or one or all the creditors if their number does not exceed three. 25

Adjournment.

(2) If within half an hour from the time appointed for the meeting a quorum of creditors is not present or represented, the meeting shall be adjourned by the chairman to the same day in the following week at the same time and place, or to such other day as the chairman may appoint, not being less than seven nor more than twenty-one days from the day of the adjourned meeting. 30

Adjournment.

(3) The chairman of any meeting may with the consent of the meeting adjourn the meeting from time to time to be held at the same place unless in the resolution for adjournment another place is specified. 35

How
creditors
shall vote.

98. Every class of creditors shall express its views and wishes separately from every other class and the effect to be given to such views and wishes shall, in case of any dispute and subject to the provisions of the Act, be in the discretion of the Court. 40

96. (1) The changes are self-explanatory. It read as follows:

"The Official Receiver or his nominee shall be the chairman at the first meeting of creditors, and shall decide any questions arising in connection with the appointment of the trustee by creditors, and from any such decision any creditor may appeal to the court."

(2) No material change. It read as follows:

"At all other meetings the chairman shall be such person as the meeting by resolution appoints."

(3) This subsection is new. The former section 91 (3) is now contained in section 97 (3).

(4) This was formerly section 93.

(5) This was formerly Rule 133 (1).

97. (1) The change is to make it clear that a meeting can be held when there is only one creditor. The courts have in one case held that where there was only one creditor he was not competent to hold a meeting interpreting the word "all" to mean more than one.

(2) No material change.

(3) The provisions of subsection three of section 91 and paragraph two of Rule 133 (2) have been combined in this subsection. Section 91 (3) and Rule 133 (2) read as follows:

"**91.** (3) The chairman of any meeting may with the consent of the meeting adjourn the meeting from time to time and place to place.

133. (2) Where a meeting of creditors is adjourned, the adjourned meeting shall be held at the same place as the original place of meeting, unless in the resolution for adjournment another place is specified."

98. This was formerly Rule 136. It replaces the former section 93 which now becomes section 96 (4).

Power of chairman of creditors' meeting to admit or reject proof.
Accept proof by telegraph.

99. (1) The chairman of the meeting shall have power to admit or reject a proof for the purpose of voting, but his decision shall be subject to appeal to the court.

(2) Notwithstanding anything in this Act, the chairman may, for the same purpose, accept telegraphic or cable communication as proof of the debt of a creditor who carries on business out of Canada and likewise as to the authority of any one claiming to represent and vote on behalf of such creditor. 5

In case of doubt.

(3) If the chairman is in doubt whether the proof of a creditor should be admitted or rejected he shall mark the proof as objected to and allow the creditor to vote subject to the vote being declared invalid in the event of the objection being sustained. 10

Right of creditor to vote.

100. (1) A person shall not be entitled to vote as a creditor at the first or any other meeting of creditors unless he has duly proved a debt provable in bankruptcy, and the proof has been duly lodged with the trustee before or at the meeting before voting thereon. 15

Voting may be delayed to examine claims.

(2) On the demand of the trustee or any creditor voting shall be delayed not more than one-half hour to give the trustee or a creditor or his representative a reasonable opportunity to examine the proof of claim of any other creditor. 20

Voting by proxy.

(3) A creditor may vote either in person or by proxy deposited with the trustee at or before the meeting at which it is to be used. 25

Form of proxy.

(4) A proxy shall not be invalid merely because it is in the form of a letter, telegram or cable.

Corporation.

101. (1) A corporation may vote at meetings of creditors as if a natural person, by an authorized agent. 30

How classes to vote.

(2) The bondholders, debenture holders, shareholders and members of the corporation and each class thereof may at such meeting by resolution express their views or wishes separately. 35

Claims acquired after bankruptcy.

102. (1) No person shall be entitled to vote on a claim acquired after the bankruptcy unless the entire claim is acquired, but this shall not apply to persons acquiring notes, bills or other securities upon which they are liable on payment thereof. 40

Voting by person with special right in property.

(2) Any person claiming a special or general interest or right of possession or ownership in any property of the bankrupt shall not be entitled to vote except he abandons and values such right or interest and files a claim as a creditor.

99. (1) This was formerly section 100. It replaces the former section 94 which now becomes section 100.

(2) No change. This was formerly section 100 (2).

(3) No change. This was formerly section 100 (3).

100. (1) This was formerly section 94. It replaces the former section 95 which now becomes section 104. It read as follows:

"94. A person shall not be entitled to vote as a creditor at the first or any other meeting of creditors unless he has duly proved a debt provable in bankruptcy or under an authorized assignment to be due to him from the debtor, and the proof has been duly lodged with the custodian or trustee before the time appointed for the meeting."

(2) Heretofore a creditor intending to deliver his claim personally to a trustee before a meeting may be barred from voting because of a slight delay in arriving at the meeting. A creditor should not be denied his rights by reason of any technicality which does not touch the merits of the situation and to prevent undue advantage being taken of such a situation it is desirable that any creditor should have the right to investigate any claim not filed early enough to permit an investigation before the meeting. Subsection (2) is new to provide for such investigation.

(3) This was formerly section 101.

(4) This was formerly section 101 (2).

101. (1) This was formerly section 99. It replaces the former section 96 which now becomes section 103.

(2) This was formerly section 99 (2). The word "separately" has been substituted for the words "in manner prescribed by General Rules".

102. (1) No change.

(2) This is a new subsection. Heretofore there was much uncertainty as to the rights of persons whose property may have been in the possession of the bankrupt when the trustee took over. Strictly speaking he might not be a creditor as his rights could not be brought within the provisions of section 104. If he sees fit to abandon and value such right he is hereby given the right to vote and file a claim as a creditor.

Creditor
secured by
bill or note.

103. A creditor shall not vote in respect of any debt on or secured by a current bill of exchange or promissory note held by him, unless he is willing to treat the liability to him thereon of every person who is liable thereon antecedently to the bankrupt, and who is not a bankrupt, as a security in his hands, and to estimate the value thereof, and for the purposes of voting, but not for the purposes of dividend, to deduct it from his proof. 5

Voting by
secured
creditor.

104. For the purpose of voting, a secured creditor shall, unless he surrenders and values his security, state in his proof the particulars of his security, the date when it was given, and the value at which he assesses it, and shall be entitled to vote only in respect of the balance (if any) due to him, after deducting the value of his security. 10

Trustee
may vote.

105. (1) The trustee, if a creditor or a proxy for a creditor, may vote, as a creditor at any meeting of creditors. 15

Trustee may
not vote on
remuneration.

(2) The vote of the trustee, or of his partner, clerk, solicitor, or solicitor's clerk, either as creditor or as proxy for a creditor, shall not be reckoned in the majority required for passing any resolution affecting the remuneration or conduct of the trustee. 20

Persons not
entitled
to vote.

(3) The following persons shall not be entitled to vote on the appointment of a trustee or inspectors, namely:

- (i) any person related to the bankrupt to the third degree by blood or marriage, or a partner of the bankrupt or any person associated with the bankrupt or a member in any co-operative undertaking; 25
- (ii) if the bankrupt is an incorporated company, any officer, director or employee thereof.

Evidence of
proceedings
at meetings
of creditors.

106. (1) A minute of proceedings at a meeting of creditors under this Act, signed at the same or the next ensuing meeting by a person describing himself as or appearing to be chairman of the meeting at which the minute is signed, shall be received in evidence without further proof. 30

Evidence of
regularity.

(2) Until the contrary is proved, every meeting of creditors in respect to the proceedings whereof a minute has been signed by the chairman, shall be deemed to have been duly convened and held and all resolutions passed or proceedings thereat to have been duly passed or had. 35

Scale of
votes.

107. Subject to the provisions of this Act, all questions at meetings of creditors shall be decided by resolution carried by the majority of votes, and for such purpose the votes of creditors shall be calculated as follows:— 40

103. This was formerly section 96. It replaces the former section 98 which now becomes section 105(1) and (2). Section 96 read as follows:

"A creditor shall not vote in respect of any debt on or secured by a current bill of exchange or promissory note held by him, unless he is willing to treat the liability to him thereon of every person who is liable thereon antecedently to the debtor, and against whom a receiving order has not been made, or by whom an authorized assignment has not been made, as a security in his hands, and to estimate the value thereof, and for the purposes of voting, but not for the purposes of dividend, to deduct it from his proof."

104. (1) This was formerly section 95. It replaces the former section 99 which now becomes section 101(1) and (2).

Former section 95 is a mere repetition of subsection one. It read as follows:

"95. (2) A secured creditor shall not be entitled to vote at any meeting of creditors until he has proved his claim and valued his security as hereinafter provided."

105. (1) This was formerly section 98. The provision giving the trustee a casting vote in the case of a tie has been deleted. Subsection three of section 96 (new) gives a casting vote to the *chairman* of the meeting.

The former section 100(1) to (3) now becomes section 99(1) to (3).

Section 98 read as follows:

"(1) The trustee, if a creditor or a proxy for a creditor, may vote, as a creditor at any meeting of creditors, and, in addition, in case of a tie, shall have a casting vote, personally, as if he were a creditor holding a proved claim of twenty-five dollars.

(2) The vote of the trustee, or of his partner, clerk solicitor, or solicitor's clerk, either as creditor or as proxy for a creditor, shall not be reckoned in the majority required for passing any resolution affecting the remuneration or conduct of the trustee.

(3) The following persons shall not be entitled to vote on the appointment of a trustee namely:

- (i) the father, mother, son, daughter, sister, brother, uncle or aunt by blood or marriage, wife or husband of the bankrupt or authorized assignor;
- (ii) if the bankrupt or authorized assignor is an incorporated company, any officer, director or employee thereof."

(2) The comma is inserted after "clerk" in the first line as in the English Act in the first schedule 28 it apparently has been inadvertently omitted.

(3) The words "or inspectors" have been added as the choice of the inspectors is as important to the administration of an estate as that of the trustee.

- (i) and (ii) The purpose of the change is to simplify and clarify the clause.

106. This was formerly section 177(1) and (2), and replaces the former section 101 (1) and (2) which now becomes 100 (3) and (4).

107. No change.

For every claim of or over twenty-five dollars and not exceeding two hundred dollars—one vote;

For every claim of over two hundred dollars and not exceeding five hundred dollars—two votes;

For every claim of over five hundred dollars and not exceeding one thousand dollars—three votes;

For every claim of one thousand or more dollars three votes and one additional vote for each additional one thousand dollars or fraction thereof.

Inspectors.

Appoint-
ment of
inspectors.

108. (1) At the first or a subsequent meeting the creditors shall appoint one or more, but not exceeding five, inspectors of the administration by the trustee of the estate of the bankrupt and a creditor whose agent or representative has been appointed an inspector may himself at any meeting exercise the powers of inspector in the place and stead of such agent or representative, or he may in writing appoint some other person so to act on his behalf. 10 15

Who may be
inspectors.

(2) In the case of the bankruptcy of a corporation pursuant to subsection three of section four and subsection two of section nine of this Act the shareholders shall be entitled to vote for the appointment of inspectors as though they were creditors of the estate having claims for the amount paid upon the shares of stock held by them. 20

Certain
persons not
eligible.

(3) No person shall be eligible to be appointed or to act as an inspector who is a party to any action or proceedings by or against the estate. 25

Powers of
inspectors.

(4) The inspectors shall have such powers as are granted them by this Act, and the powers of the inspectors may be exercised by a majority of them present at any meeting or if a sufficient number of inspectors are not present to form a quorum the permission or authority in writing of a majority of all of the inspectors shall be sufficient authority for any act or thing taken or done by the trustee. 30

Filling
vacancy on
board.

(5) The creditors or the inspectors at any meeting thereof may fill any vacancy on the board of inspectors. 35

Revocation
and
replacement.

(6) The creditors may, at any meeting, and the court may for cause on the application of the trustee or any creditor revoke the appointment of any inspector and appoint another in his stead.

Trustee or
inspector
may call
meeting.

(7) A majority of all the inspectors appointed shall constitute a quorum for a meeting which may be called by the trustee or any inspector as and when he deems necessary on three clear days' notice to all of the inspectors unless notice is unanimously waived or the consent to hold such a meeting be given in writing by an absent inspector. 40

108. Former section 103. (1) This section is amended to provide for situations that often occur in the administration of estates. It frequently happens that the credit manager or some other official of a creditor firm is appointed as an inspector because of his position. The object of this subsection is to provide for the replacement of such inspectors when they no longer occupy such positions and have no further interest in the bankruptcy.

(2) This is a new subsection. It supplements the procedure with respect to the wider application of the Act in regard to corporations.

(3) This was formerly subsection (7).

(4) This was formerly subsection (2) with the added provisions setting out more explicitly how such authority may be exercised in certain eventualities. There has always been much doubt on this point.

(5) This is a new subsection. While it is the natural right of the creditors to appoint inspectors as may be necessary yet oftentimes it is not practical and in many cases futile to call a meeting for such purpose alone. It is customary on practically all boards of directors for them to have the power to fill any vacancy on the board and so that inspectors can have a full board it is deemed desirable to grant them the power to fill a vacancy. Any such appointments are always subject to removal as provided in the next subsection.

(6) This was formerly section 103(3). It is deemed desirable that the court also have the authority to remove an inspector acting improperly and to avoid the delay and expense of calling a meeting to appoint new inspectors so that the administration may be expedited. It read as follows:

"The creditors may, at any meeting, revoke the appointment of any inspector and in such event or in case of the death, resignation, or absence from the province of an inspector, may appoint another in his stead."

(7) This is a new subsection. It is deemed desirable that an inspector have such authority as a dominating trustee may often be disposed to ignore the inspectors. This is perhaps the most common complaint received from inspectors.

Trustee
votes in
case of tie.

(8) In the event of an equal division of opinion at a meeting of inspectors, the opinion of any absent inspector shall be sought in order to resolve the difference, and in the case of a difference which cannot be so resolved it shall be resolved by the trustee, unless it concerns his personal conduct or interest in which case it shall be resolved by the Superintendent or the Court. 5

If no
inspectors
appointed
Superintendent may
act.

(9) If there are no inspectors or if the inspectors fail to exercise the powers conferred on them any act or thing or any direction or permission by this Act authorized or required to be done or given by the inspectors may be done or given by the Superintendent or the Court on the application of the trustee. 10

Creditors
may override
actions or
directions
of inspectors.

(10) Any action or direction of the inspectors may be revoked, varied or changed by the creditors at a meeting thereof subject, however, to the rights of third parties thereunder acquired in good faith. 15

Decisions of
inspectors
subject to
review by
court.

(11) The decisions and actions of the inspectors shall be subject to review by the court at the instance of the trustee or any interested person and the court may revoke or vary any act or decision of the inspectors and it may give such directions, permission or authority as it deems proper in substitution thereof or may refer any matter back to the inspectors for reconsideration provided however that the court shall not interfere with the judgment or discretion of the inspectors unless it is satisfied that the inspectors are not acting in good faith or are acting illegally or from an improper or wrongful motive or reason or in an inequitable and unjust manner or without proper consideration of all the facts and circumstances of the situation or that the actions of the inspectors are unreasonably biased, prejudicial or detrimental to and not in the best interest of the estate. 20 25 30

Inspector
may not
acquire
property.

(12) No inspector shall, directly or indirectly, be capable of purchasing or acquiring for himself or for another any of the property of the estate for which he is an inspector, unless with the prior approval of the court. 35

Acts of
inspectors
not invalidated by
formal
defects.

(13) No defect or irregularity in the appointment of an inspector shall vitiate any act done by him in good faith.

Inspectors'
fees.

(14) Each inspector may be repaid his actual and necessary travelling expenses incurred in and about the performance of his duties, and may also be paid the following fees to be computed on the realization of the trustee less payments to secured creditors:— 40

Estates with assets below \$	5,000	a fee of 2.00 per meeting.
“ “ from	5,000 to \$15,000	“	3.00 “
“ “ “	15,000 to 30,000	“	4.00 “
“ “ “	30,000 to 50,000	“	5.00 “
“ “ “	50,000 to 100,000	“	7.50 “
“ “ “	100,000 and over...	“	10.00 “

(8) This was formerly subsection (5). There is no material change except to meet the contingency therein expressed.

(9) This is a new subsection. It has been adapted from a like provision in the English Act, the Superintendent and the Court being substituted for the Board of Trade.

This is a new subsection.

(10) The right of the creditors to override the inspectors seemingly has just been assumed by implication, as there does not appear to be any express authority therefor other than a decision of the Court to that effect. The English Act, section 79(1), makes express provision therefor.

(11) This is a new subsection. It removes any doubt as to the authority of the court to overrule the decisions of the inspectors and sets out expressly the grounds on which the powers of the court may be exercised.

(12) This was formerly subsection (6).

(13) This was formerly section 186(2). It is a more logical place for this provision.

(14) This was formerly subsection (4). The words inserted are to state the basis on which the fees are to be computed. See *in re John Perkins* (15 C.B.R. 192). Occasions properly arise when an inspector may render services to the estate which are beyond those which he might reasonably be expected to perform on behalf of the estate in his fiduciary capacity. This section merely recognizes a practice which has been permitted with some doubt as to its legality. The Superintendent may be relied upon to curb any tendency to obtain payment for services in excess of that allowed in the Tariff.

Provided, however, that an inspector duly authorized beforehand by the creditors or by the other inspectors unanimously to perform special services for the estate may be allowed a special fee for such services, subject to approval of the Superintendent who may vary such fee as he deems proper having regard to the nature of the services rendered in relation to the fiduciary obligations of the inspector to the estate. 5

Debts Provable.

Debts not provable.

109. (1) Demands in the nature of unliquidated damages arising otherwise than by reason of a contract, promise, or breach of trust, shall not be provable in proceedings under this Act. 10

Debts provable.

(2) Save as aforesaid, all debts and liabilities, present or future, to which the bankrupt is subject at the date of the bankruptcy, or to which he may become subject before his discharge by reason of any obligation incurred before the date of the bankruptcy, shall be deemed to be debts provable in proceedings under this Act. 15

Contingent claims and claims for unliquidated damages.

(3) The court shall value, at the time and in the summary manner prescribed by General Rules, all contingent claims and all such claims for unliquidated damages as are provable by this section, and after, but not before, such valuation, every such claim shall for all purposes of this Act, be deemed a proved debt to the amount of its valuation. 20

Proposals prior to bankruptcy.

(4) In the case of a proposal for a composition made before bankruptcy the debts provable shall be determined as of the date of the filing of the proposal. 25

Proof of Claims.

Creditors shall prove claims.

110. (1) Every creditor shall prove his debt as soon as may be after the filing of a proposal for a composition or after the bankruptcy otherwise he shall not be entitled to share in any distribution that may be made. 30

Proof by post, or delivery.

(2) A debt may be proved by delivering or sending through the post in a prepaid and registered letter to the trustee, a proof of claim in the prescribed form or to the like effect verified by the creditor as being true in substance and in fact. 35

Who may make proof of claim.

(3) The proof of claim may be made by the creditor himself or by some person authorized by him on behalf of the creditor, and if made by a person so authorized, it shall state his authority and means of knowledge. 40

It is suggested that section 104(1) be deleted and subsection (2) amended to conform therewith. The exceptions set up by subsection (1) are restricted principally to unliquidated damages for torts not reduced to a judgment. A bankrupt may obtain a release for damages for a tort where a judgment is obtained and a judgment creditor in such case must file a claim. His only recourse then is to share in the dividend. A debtor cannot obtain a release for a debt incurred for fraud or fraudulent breach of trust, although such creditor may file a claim. Nor can a bankrupt obtain a release from liability for any tort not prosecuted to a judgment. There would seem to be no apparent reason for this distinction and discrimination. It should be a matter for the discretion of the Court on the application of a bankrupt for a discharge. More particularly is this true on a tort claim against a corporation which almost invariably ceases to function after bankruptcy.

109. No material change.

(2) No material change.

(3) No change.

(4) This is a new subsection and has been added to cover the proposed new procedure respecting proposals for compositions prior to bankruptcy.

110. (1) The words "proof of claim" have been substituted for "affidavit" wherever it occurs in this section. This subsection is slightly changed to comply with the new procedure. The added clause is intended to indicate with certainty the result of failure to file a claim which heretofore has only been inferred.

(2) This subsection is changed to remove the necessity of every claim being made in the form of an affidavit. A further explanation therefor is contained in the explanation to subsection (7).

(3) No material change.

Shall refer
to account.

(4) The proof of claim shall contain or refer to a statement of account showing the particulars of the debt and any mutual credit to which the bankrupt to the knowledge of the creditor may be entitled and shall specify the vouchers or other evidence, if any, by which it can be substantiated. 5

Shall state
whether
secured.

(5) The proof of claim shall state whether the creditor is or is not a secured or preferred creditor otherwise the claim shall be deemed to be unsecured and not secured or preferred. 10

Penalty for
filing false or
unwarranted
claims.

(6) Any creditor or other person in any proceedings under this Act filing with the trustee a proof of claim containing in any particular thereof any false or unwarranted statement or misrepresentation not made in good faith or with an honest belief in its truth and accuracy may in addition to any other penalty provided in this Act be subject to the penalty of having his claim disallowed in its entirety or in part by the Court as it in its discretion may see fit according as the seriousness of the circumstances warrant. The application may be made by the trustee, the debtor or bankrupt or any other interested person affected thereby and *prima facie* proof shall be made on the application by showing that any such statement or representation in the proof of claim was in fact false or unwarranted. 15 20

Sanction of
proven
claims.

(7) Any proof of claim filed with the trustee shall be deemed to have the same force and effect as if made under oath and by virtue of the *Canada Evidence Act*. 25

Who may
examine
proofs.

(8) Every creditor who has lodged a proof of claim shall be entitled to see and examine the proofs of other creditors before or at the first meeting, or any adjournment thereof and at all other reasonable times. 30

Workmen's
wage claims.

(9) Proofs of claims for wages of workmen and others employed by the debtor may be made in one proof by the debtor or someone on his behalf by attaching thereto a schedule setting forth the names and addresses of the workmen and others and the amounts severally due to them, but such proof shall not disentitle any workman or other wage-earner to file a separate proof on his own behalf. 35

(4) The present form of proof of debt does not require a creditor to disclose any mutual credit to which a bankrupt may be entitled. The added clause is inserted to provide therefor.

The deleted part has been transferred to section 125 (1) as the more appropriate place for its insertion. It read "and the trustee may at any time call for the production of invoices, acceptances, bills of lading, receipts, cheques, notes, bank pass-books, or books of accounts, or such further or other evidence as the trustee or inspectors may require in order to deal with the claim."

(5) The change herein is made to clarify the effect of this section.

(6) This is a new subsection. It is deemed desirable that a greater penalty be imposed on a creditor for filing claims with false or unwarranted statements therein than the ordinary result of having the false or unwarranted item struck out. The possibility of having a claim disallowed in its entirety for the insertion of such false or unwarranted items will it is believed go far to ensure that proofs of claim be prepared more carefully, accurately and honestly. It was not an uncommon practice among certain creditors to exaggerate their claims hoping that they would not be contested by the trustee. The penalty of losing part or all of such claims in full should act as a deterrent against such and many other practices of creditors who are not too scrupulous to obtain an improper advantage. While the section may seem severe, yet it does not in any way affect an honest creditor.

(7) The necessity heretofore imposed on creditors of filing a claim in the form of an affidavit has in many instances caused much inconvenience and difficulty to creditors. Further, oftentimes delays are occasioned thereby which resulted in claims not being forwarded to the trustee as promptly as they otherwise would be. Other acts such as the *Income War Tax Act* and the *Succession Duty Act* do not require verification by affidavit and it is believed no loss would result from the change of having the proof of claim executed by the creditor with the effect of the sanction herein imposed.

(8) No material change.

(9) These provisions were formerly contained in Rule 137, which has been considerably condensed. It read as follows:

137. In any case in which it shall appear from the debtor's statement of affairs that there are numerous claims for wages by workmen and others employed by the debtor, it shall be sufficient if one proof for all such claims is made either by the debtor, or his foreman, or the bookkeeper of the debtor, or some other person on behalf of all such creditors. Such proof shall have annexed thereto, as forming part thereof, a schedule setting forth the names of the workmen and others, and the amounts severally due to them. Any proof made in compliance with this Rule shall have the same effect as if separate proofs had been made by each of the said workmen and others.

Proof by Secured Creditors.

Proof by
secured
creditor.

111. (1) If a secured creditor realizes his security, he may prove for the balance due to him, after deducting the net amount realized.

May prove
whole debt
on surrender.

(2) If a secured creditor surrenders his security to the trustee for the general benefit of the creditors, he may prove for his whole debt. 5

Secured
creditor to
value
securities.

112. (1) If a secured creditor does not either realize or surrender his security he may if he wishes to rank for dividend, and he shall within thirty days after demand in writing made upon him by the trustee or within such further time as may be allowed by the court, file with the trustee an affidavit stating therein full particulars of his security, or securities, the date when each security was given and the value at which he assesses each thereof. 10

(2) A creditor shall be entitled to receive a dividend in respect only of the balance due to him after deducting the assessed value of his security. 15

Trustee may
redeem
security.

(3) The trustee may redeem any security on payment to the secured creditor of the debt or the value of the security as assessed by the secured creditor. 20

May order
security
to be sold.

113. (1) If the trustee is dissatisfied with the value at which a security is assessed, or if a secured creditor who has neither realized nor surrendered his security, fails to assess said security within the period above mentioned, the trustee may require that the property comprised in the security be offered for sale at such time and on such terms and conditions, as may be agreed on between the creditor and the trustee, or as, in default of such agreement the court may direct. 25

(2) If the sale be by public auction the creditor or the trustee on behalf of the estate may bid or purchase. 30

Sale by
public
auction.
Securities
in Quebec.

(3) In the province of Quebec if the security consists of a hypothec or privilege upon immovable property, the sale, when directed by the court, shall be made in accordance with the provisions of sections fifty-seven to sixty-one of this Act, and said sale shall have the effect mentioned in said sections. 35

Costs of
sale.

(4) The costs and expenses of any sale made under this section shall be in the discretion of the court.

Creditor may
require
trustee to
elect to
exercise
power.

114. Notwithstanding subsection three of section one hundred and eleven and section one hundred and thirteen the creditor may at any time, by notice in writing, require the trustee to elect whether he will or will not exercise his power of redeeming the security or requiring it to be realized, and if the trustee does not, within one month after receiving 40

- 111.** (1) No change.
(2) No change.

112. (1) No change.

- (2) No change.
(3) This subsection has been incorporated in section
(3). The provisions of former section 107(3) have been
extended to give the trustee the power to redeem any
security. It formerly read as follows:

“107. (3) Where a security is so valued the trustee may at any time redeem
it on payment to the creditor of the assessed value.”

113. (1) No change.

(2) No change.

(3) No change.

(4) No change.

114. “by order of the court.” It is desirable that there
be a formal vesting of the interest. This has hitherto been
lacking.

the notice or such further time or times as the court may allow, signify in writing to the creditor his election to exercise the power, he shall not be entitled to exercise it; and the equity of redemption, or any other interest in the property comprised in the security which is vested in the trustee, shall, by order of the court, vest in the creditor, and the amount of his debt shall be reduced by the amount at which the security has been valued. 5

Amended valuation by creditor.

115. If a creditor after having valued his security, subsequently realizes it, or it is realized under the provisions of section one hundred and thirteen the net amount realized shall be substituted for the amount of any valuation previously made by the creditor and shall be treated in all respects as an amended valuation made by the creditor. 10

Secured creditor may amend.

116. (1) If the trustee has not elected to acquire the security as hereinbefore provided, a creditor may at any time amend the valuation and proof on showing to the satisfaction of the trustee, or the court, that the valuation and proof were made *bona fide* on a mistaken estimate, or that the security has diminished or increased in value since its previous valuation. 15 20

Amendment at cost of creditor.

(2) Such amendment shall be made at the cost of the creditor, and upon such terms as the court shall order, unless the trustee allows the amendment without application to the court.

Rights and liabilities of creditor where valuation amended.

(3) Where a valuation has been amended in accordance with this section, the creditor shall 25

(a) forthwith repay any surplus dividend which he may have received in excess of that to which he would have been entitled on the amended valuation, or

(b) be entitled to be paid out of any money, for the time being available for dividend, any dividend or share of dividend which he may have failed to receive by reason of the inaccuracy of the original valuation, before that money is made applicable to the payment of any future dividend, but he shall not be entitled to disturb the distribution of any dividend declared before the date of the amendment. 30 35 40

Exclusion for non-compliance.

117. If a secured creditor does not comply with sections one hundred and eleven to one hundred and sixteen, inclusive, he shall be excluded from any dividend. 40

No creditor to receive more than 100 cents on dollar.

118. Subject to the provisions of sections one hundred and twelve, one hundred and thirteen and one hundred and fourteen, a creditor shall in no case receive more than one hundred cents on the dollar and interest as provided by

115. No change.

116. No change.

117. No change.

118. The additional words are to make clear that any surplus remaining after the secured creditor has been paid in full is to be paid to the trustee.

this Act and in the event of the security being realized by the creditor or being sold as provided by section one hundred and thirteen the creditor shall in no case receive more than one hundred cents on the dollar and interest as provided by the contract or by law, and any surplus shall be payable to the trustee. 5

Proof in respect of distinct contracts.

119. (1) If a bankrupt was, at the date of the bankruptcy liable in respect of distinct contracts as a member of two or more distinct firms, or as a sole contractor, and also as member of a firm, the circumstance that the firms are in whole or in part composed of the same individuals, or that the sole contractor is also one of the joint contractors, shall not prevent proof in respect of the contracts, against the properties respectively liable on the contracts. 10

Debts payable at a future time.

(2) A creditor may prove for a debt not payable at the date of the bankruptcy as if it were payable presently and may receive dividends equally with the other creditors, deducting only thereout a rebate of interest at the rate of five per centum per annum computed from the declaration of a dividend to the time when the debt would have become payable according to the terms on which it was contracted. 15 20

Interest.

(3) On any debt or sum certain, payable at a certain time or otherwise, whereon interest is not reserved or agreed for, and which is overdue at the date of the bankruptcy and provable under this Act, the creditor may prove for interest at a rate not exceeding five per centum per annum to the date of the bankruptcy from the time when the debt or sum was payable, if the debt or sum is payable by virtue of a written instrument at a certain time, and if payable otherwise, then from the time when a demand in writing has been made giving the bankrupt notice that interest will be claimed from the date of the demand until the time of payment. 25 30

Restricted Creditors.

Postponement of claims of wife and husband.

120. In the case of a married man or a married woman becoming bankrupt, the wife or husband of the bankrupt, as the case may be, shall not be entitled to claim any dividend as a creditor in respect of any money or other estate lent or entrusted by the wife to the husband or by the husband to the wife for the purposes of the trade or business of the bankrupt, or for any wages, salary or compensation for work done or services rendered in connection with the trade or business, until all claims of the other creditors of the bankrupt for valuable consideration in money or money's worth have been satisfied. 35 40

119. (1) No material change.

(2) This was formerly section 120. The rate of interest has been changed from six per cent to five per cent in accord with the *Interest Act*, R.S.C. 1927, c. 102, section 2.

(3) This was formerly section 119. No material change.

NOTE: Restricted creditors. The advisability of extending the provisions of these sections to proposals of composition made prior to bankruptcy should be considered.

120. Former sections 115 and 116 have been combined in section 115 to eliminate unnecessary phraseology. They formerly read as follows:

115. Where a married woman has been adjudged bankrupt or has made an authorized assignment, her husband shall not be entitled to claim any dividend as a creditor in respect of any money or other estate lent or entrusted by him to his wife for the purposes of her trade or business, or claim any wages, salary or compensation for work done or services rendered after that date in connection with her trade or business, until all claims of the other creditors of his wife for valuable consideration in money or money's worth have been satisfied.

116. Where a married man has been adjudged bankrupt or has made an authorized assignment his wife shall not be entitled to claim any dividend as a creditor in respect of any money or other estate lent or entrusted by her to her husband for the purpose of his trade or business, or claim any wages, salary or compensation for work done or services rendered in connection with his trade or business, until all claims of the other creditors of her husband for valuable consideration in money or money's worth have been satisfied.

Postpone-
ment of
wage claims
of relatives.

121. In the case of any person or firm becoming bankrupt, any person related to the bankrupt to the third degree by blood or marriage, or of any member of the said firm, shall not be entitled to have his claim preferred as provided by section one hundred and twenty-six of this Act, in respect of any wages, salary or compensation for work done or services rendered to the said person or firm. 5

Postpone-
ment of
claims of
silent
partners.

122. Where a lender advances money to a borrower engaged or about to engage in any trade or business on contract with the borrower that the lender shall receive a rate of interest varying with the profits or shall receive a share of the profits arising from carrying on the trade or business, and the borrower subsequently becomes bankrupt or makes a composition with his creditors, the lender of the money shall not be entitled to recover anything in respect of such loan until the claims of all other creditors of the borrower for valuable consideration in money or money's worth have been satisfied. 10 15

Postpone-
ment of
wage claims
of officers
and
directors
of
corporations.

123. In the case of any corporation becoming bankrupt, no officer or director thereof shall be entitled to have his claim preferred as provided by section one hundred and twenty-six of this Act, in respect of any wages, salary or compensation for work done or services rendered to the said corporation. 20

Mutual
credits, debts
or other
dealings.

124. Where there have been mutual credits, debts or other mutual dealings between the bankrupt and any other person with a provable debt against the estate, an account shall be taken of what is due from one party to the other in respect of such mutual credits, debts or dealings, and the sum due from one party shall be set off against any sum due from the other party, and the balance of the account, and no more, shall be claimed or paid on either side respectively; but a person shall not be entitled under this section to claim the benefit of any set-off against the property of the bankrupt when he had at the time of giving credit to the bankrupt notice of an act of bankruptcy committed by and available against the bankrupt, nor of any claim for set-off affected by the provisions of this Act or any other law respecting frauds or fraudulent preferences. 25 30 35

121. This was formerly section 117. See note to subsection three of section 105 (formerly 98(3)). Section 117 read as follows:

"117. Where any person or firm has been adjudged bankrupt or has made an authorized assignment, a father, son, daughter, mother, brother, sister, uncle or aunt by blood or marriage of any such person or of any member of the said firm shall not be entitled to have his claim preferred as provided by section 121 of this Act, in respect of any wages, salary or compensation for work done or services rendered to the said person or firm."

122. This is a new section. It has been taken from the *Partnership Act* of the Statutes of New Brunswick.

123. No substantial change.

124. This is a new subsection and replaces the former section 58. The new provisions are substantially those of section 31 of the English Act on the subject. See also section 82 Australian Act exactly same phrasing. It is desirable that the idea of mutual dealings be substituted for that of set-off, the law of set-off differing in important respects in the several provinces.

Section 58 formerly read as follows:

"The law of set-off shall apply to all claims made against the estate, and also to all actions instituted by the trustee for the recovery of debts due to the debtor in the same manner and to the same extent as if the debtor were plaintiff or defendant, as the case may be, except in so far as any claim for set-off shall be affected by the provisions of this Act respecting frauds or fraudulent preferences."

The former section 119 now becomes section 119(3).

Admission and Disallowance Proof of Claims before the Court.

Trustee shall
examine
proofs.

125. (1) The trustee shall as soon as may reasonably be done examine every proof of claim filed whether secured or unsecured and the grounds of the debt, and may at any time call for the production of invoices, acceptances, bills of lading, receipts, cheques, notes, bank passbooks, or books of accounts, or such further or other evidence as the trustee or inspectors may require in order to deal with the claim and thereupon shall notify all creditors whose claims have been admitted.

5

125. This is a new section replacing section 127 and part of section 105(4) and inserted here as a more logical place for its inclusion. (For further explanation see next page). A new procedure is set up to replace the former one of disallowing claims individually from which an appeal had to be taken. In many cases where disallowance was the only alternative a trustee in doubtful cases might hesitate to do so fearing the costs involved if unsuccessful. The new procedure follows that of section 75 of the *Winding-up Act* where on notice creditors may be required to attend in court to prove their claims. The provisions of section 75(2) of the *Winding-up Act* providing that the claims of creditors failing to attend shall be disallowed has not been followed for the reason that all legitimate claims should be recognized and it is not any part of the trustee's duty to eliminate creditors' claims but rather to see that all proper claims are included. The trustee then is required to place before the court all relevant evidence in his possession regarding any claim brought before it whether or not the creditor attends and the court can then decide whether or not the proof submitted is sufficient for the claim to be allowed either in whole or in part. Further, in the Act as it now stands there is no provision whatever whereby a creditor may know whether or not his claim is admitted, or to enable him to establish his claim. The only reference thereto is Rule 138 which provides, that the notice of the dividend shall be sufficient notification to the creditor of the admission of his claim. In the meantime a creditor may be left completely in the dark for years as to how his claim has been dealt with. This is deemed very unfair to creditors who ought to receive some advice thereon within a reasonable time. It has been deemed advisable, accordingly, to set up a procedure enabling them to establish their claims before the evidence in support thereof may be lost.

Section 127 formerly read as follows:

"127. The trustee shall examine every proof and the grounds of the debt, and may require further evidence in support of it.

(2) If he considers the claimant is not entitled to rank on the estate, or not entitled to rank for the full amount of his claim, or if directed by a resolution passed at any meeting of creditors or inspectors, he may disallow the claim in whole or in part, and in such case shall give to the claimant a notice of disallowance.

(3) The said notice may be given either by serving the claimant with a copy thereof personally or by mailing such copy in a registered prepaid letter, addressed to the claimant at his last-known address, or at the address shown in or by the claimant's proof.

(4) Such disallowance shall be final and conclusive unless within thirty days after the service or mailing of the said notice or such further time as the court may on application made within the same thirty days allow, the claimant appeals to the court in accordance with General Rules from the trustee's decision.

(5) The court may also expunge or reduce a proof upon the application of a creditor or of the debtor, if the trustee declines to interfere in the matter."

Trustee may
require
creditor to
prove claim
before the
Court.

(2) If the trustee considers or has any doubt that a creditor is not entitled to rank on the estate, or not entitled to rank for the full amount of his claim, or to the security or preference claimed or any part thereof and a settlement or compromise of the claim mutually satisfactory to the trustee and the creditor has not been made the trustee may or if directed by a resolution passed at any meeting of creditors or inspectors, he shall give such creditor or any other such creditors notice to attend before the court at such time and place as may be stated in the notice being not less than ten days after the service thereof to prove their claims to the satisfaction of the court. 5 10

Creditor may
require
trustee to
admit claim.

(3) Any creditor who has not received a notice admitting his claim within three months after the filing of a proof of claim may on six days' notice require the trustee to admit the claim or to give his reasons for not admitting the claim and if the trustee fails to admit or to give his reasons for not admitting the claim within the time aforesaid or if the reasons given are not satisfactory to or are disputed the creditor may prove his claim before the court as hereinafter provided on ten days' notice to the trustee of his intention so to do. 15 20

Proof of
Claim
before the
Court.

(4) At the time and place stated in the notice given by the trustee or a creditor the court shall give due consideration to the proof of claim and such proof or other evidence as may be submitted against or in support thereof. The trustee shall place before the court all facts and information within his knowledge relevant to the claim or to any credit thereon claimed by the trustee whether or not the creditor attends on the hearing and in accordance with the proof made and the evidence adduced the court may allow or disallow the claim in whole or in part and thereupon shall endorse its decision in the form of a fiat on the proof of claim which shall then be returned to the trustee, or in the event of the court finding that on balance the creditor is indebted to the trustee the court may so order and direct payment to the trustee of the amount so found to be owing. 25 30 35

That part of section 105 (4) not included in subsection (1) read as follows:

"The affidavit shall contain or refer to a statement of account showing the particulars of the debt and shall specify the vouchers, if any, by which the same can be substantiated,"

The former section 120 now becomes section 119(2).

(1) This was formerly sections 127 and 105(4). The section has been changed to include claims of secured creditors as well to simplify the procedure as affected by the judgment, *In re Johnson* 22 C.B.R. 323. The phrase "and may require further evidence in support of it" is deleted as such right has been previously set up in section 105(4), now transferred to this section. Provision is also made requiring the trustee to notify all creditors whose claims have been admitted. Heretofore there was no obligation on a trustee even to acknowledge the receipt of a proof of claim although most trustees as a matter of good practice do so. As creditors are the persons wholly concerned with the administration they ought to receive the courtesy of being advised whether or not a claim has been admitted.

(2) This is largely a revision of the former section 127(2) changed to set up the new procedure requiring a creditor to attend in court on notice to prove his claim instead of having his claim simply disallowed. Under this procedure several creditors might be brought into court at the same time rather than the separate disallowance that had to be made formally with a possible appeal in each case. Further, it enables the trustee to deal more satisfactorily with cases where he is in doubt and would ordinarily hesitate to disallow entirely with the possible liability of costs.

(3) This is an entirely new subsection. Heretofore there was no provision in the Act to enable a creditor to establish his claim and this omission has been the reason for more criticism on behalf of creditors than perhaps any other provisions of the Act. Generally speaking the practical trustee would on request advise a creditor how his claim has been dealt with but, if a creditor were put off, he had no means of pursuing the matter. It is felt that this subsection is very necessary to protect the rights of creditors.

(4) This is a new subsection. In practice it takes the place of the appeal by a creditor from the disallowance of a claim. It has been framed on the procedure of the Winding-up Act whereby notice may be given to various creditors and any doubt or objections to all of their claims disposed of at the same time. It is in line with the procedure of section 57(c) and (d) of the *United States Bankruptcy Act* whereby all claims are dealt with by the Official Referee, an officer of the court. In this revision, however, only disputed or doubtful claims are brought before the court.

Court may
expunge
or reduce
proof.

(5) The court may expunge or reduce a proof of claim upon the application of any creditor or of the bankrupt, if the trustee declines to interfere in the matter.

Other grounds
for
expunging
or reducing
proof.

(6) The court on the application of the trustee may for the purpose of this Act also expunge or reduce a proof of claim appearing to be excessive or invalid or to be based on a judgment of the court obtained by collusion or default where it can be shown that such claim is not based on the true facts and has arisen by reason of the negligence, indifference or fraud of the bankrupt in failing at the proper time to perform his duty or to assert or defend his rights. 5 10

Trustee not
liable for
costs.

(7) The trustee shall not be liable for the costs of a creditor proving any claim if in the opinion of the court the trustee acted in good faith or was justified in requiring the claim to be proved before the court otherwise the costs of proving a claim shall be in the discretion of the court. 15

Proceedings
relating to
other
transactions
not
affected.

(8) The provisions of this section shall apply only to proofs of claim filed with the trustee and shall not affect the right of a trustee to initiate such proceedings as he may deem advisable with respect to any other matters relating to the transactions of a bankrupt. 20

(5) This was formerly section 127(5). No material change.

(6) This is a new subsection and is meant to provide for a particular type of case where the creditors of a bankrupt may be unjustly penalized or prejudiced for the inaction of a negligent or indifferent bankrupt prior to bankruptcy. Persons in failing circumstances are very apt to be careless about their rights and do not take the necessary steps to protect themselves against improper and excessive demands made upon them, as for instance in the case of undefended judgments or judgments collusively obtained or in the case of a bankrupt assessed for property income or profits which he does not own or which do not exist or ever existed or in the case of a corporation compelled by statute to make public returns as to its financial condition filing an improper return in the hope of not impairing its credit or where no return is made the assessment is made on an entirely exaggerated estimate without any basis of fact or without any proper regard to true values. It seems entirely in the public interest that the bankruptcy court should have the power to review claims of this sort by ascertaining the true facts on which the claim ought to be based. Such creditor may have the right to make such claim as he wishes against the bankrupt but he should not have the right to carry that claim into competition with other creditors more particularly where he may occupy a preferred position.

(7) This is a new subsection. Formerly the risk of having to pay costs if unsuccessful was a very severe handicap on the trustee in dealing with doubtful claims. In any event as it is the creditors who are benefiting there ought to be no objection to the creditor being required to establish his claim to the satisfaction of the court in disputed or doubtful cases. It is merely one of the duties imposed on creditors and will affect only a very small percentage of them. The hearings being before the Registrar will be more or less informal and can be conducted with little costs to a creditor unless he sees fit to retain counsel.

(8) This is a new subsection and is added merely to clarify the nature of the proceedings which may be taken under this section.

*Scheme of Distribution.*Priority of
claims.

126. (1) Subject to the rights of contractual secured creditors the proceeds realized from the property of a bankrupt shall be applied in priority of payment as follows:—

- (a) In the case of a deceased bankrupt, the proper funeral and testamentary expenses incurred by the legal personal representative of the deceased bankrupt in and about the estate; 5
- (b) The costs of administration, in the following order,
 (i) the fees and disbursements of the trustee;
 (ii) legal costs; 10
- (c) The levy payable under section one hundred and thirty-two;
- (d) All wages, salaries, commissions or compensation of any clerk, servant, travelling salesman, labourer or workman for services rendered during three months 15 next preceding the bankruptcy not to exceed Five Hundred Dollars: Commissions payable when goods are shipped, delivered or paid for, if shipped, delivered or paid for within the three-month period shall be deemed to have been earned therein;

126. See separate memorandum *re* priorities generally. In the present revision consideration has been given to the manner in which priorities take rank under the English, Australian and United States Bankruptcy Acts. It is to be noted that the scheme of distribution provides for all other than contractual secured creditors. Section 121(1) formerly read as follows:

121. (1) Subject to the provisions of section one hundred and twenty-six as to rent, in the distribution of the property of the bankrupt or authorized assignor, there shall be paid, in the following order of priority:—

First, the costs and expenses of the custodian and the fees and expenses of the trustee;

Secondly, the costs of the garnishing, attaching, execution or judgment creditor (including sheriff's fees and disbursements) coming within the provisions of subsection one of section twenty-five and subsection three of section twenty-nine and subsection two of section 29A.

Thirdly, all indebtedness of the bankrupt or authorized assignor under any Workmen's Compensation Act and all wages, salaries, commissions or compensation of any clerk, servant, travelling salesman, labourer or workman, in respect of services rendered to the bankrupt or assignor during three months before the date of the receiving order or assignment: Provided that any commissions earned more than three months before the date of a receiving order or assignment, but not payable (by the terms of the creditor's agreement) until the shipment, delivery or payment of the goods sold, shall be deemed to have been earned within three months of the date of the receiving order or assignment, when the said goods have been shipped, delivered or paid for within three months of the receiving order or assignment; and provided, moreover, that any advances made on account of such commissions shall be deemed to have been legally paid on account thereof;

Fourthly, claims resulting from injuries to employees of the insolvent debtor to which the provisions of any Workmen's Compensation Act do not apply, but only upon moneys paid or payable to the insolvent estate by persons or companies guaranteeing the insolvent debtor against damages resulting from such injuries."

(a) Funeral and testamentary expenses. This was formerly section 125B as revised. Section 125B formerly read as follows:

"**125B.** In the administration of the property of a deceased insolvent debtor, the trustee shall have regard to any claim by the legal personal representative of the deceased debtor to payment of the proper funeral and testamentary expenses incurred by him in or about the estate and such claim shall be preferred and shall notwithstanding anything to the contrary in this Act, be payable out of the debtor's estate in priority to all other debts."

(b) Costs of administration. These are costs incurred in the interests of all classes of creditors. They constitute a first charge on the assets under section 84 of the Australian and section 64 of the United States Bankruptcy Acts.

(c) This provision is inserted here merely to make the entire scheme of distribution complete.

(d) The claims of wage-earners for arrears of wages rank in this order under section 84 (e) of the Australian Act, and section 64 of the United States Act which limits such priority to \$600. The effect of the change is to give them priority for three months' arrears over municipal taxes and the landlord, and government claims. With this added advantage it is considered not unreasonable that such claims be limited to \$500.

(e) Municipal taxes, rates and assessments for a period not exceeding two years from the realization out of the property of the bankrupt upon which the municipality could have distrained at the date of the bankruptcy: Provided that the amount of such taxes payable on any parcel of real property shall not be in excess of the interest of the bankrupt therein as realized therefrom or as declared by the trustee; 5

(f) The landlord for arrears of rent for a period of three months next preceding the bankruptcy, and accelerated rent for a period not exceeding three months following the bankruptcy if entitled thereto under the lease: Provided that the total amount so payable shall not exceed the realization from the goods on the premises under lease, but any payment made on account of accelerated rent shall be credited against the amount payable by the trustee for occupation rent; 10
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(g) Fees and costs referred to in section twenty-seven but only to the extent of the realization from the property exigible thereunder; 20

(h) All indebtedness of the bankrupt under any Workmen's Compensation Act and under any Unemployment Insurance Act *pari passu*;

(i) Claims resulting from injuries to employees of the insolvent bankrupt to which the provisions of any Workmen's Compensation Act do not apply, but only upon moneys paid or payable to the insolvent estate by persons or companies guaranteeing the insolvent bankrupt against damages resulting from such injuries; 25
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(j) All claims of the Crown in the right of Canada or of any province thereof *pari passu* notwithstanding any statutory preference to the contrary.

To be discharged forthwith.

(2) Subject to the retention of such sums as may be necessary for the costs of administration or otherwise, the foregoing debts shall be discharged forthwith so far as the realization from the property of the bankrupt is sufficient to meet them. 35

Balance of claim.

(3) Any creditor whose rights are restricted by this section shall be entitled to rank as an unsecured creditor for any balance of claim due him. 40

(e) This is the order in which the claims of municipalities rank under section 84(h) of the Australian Act, except that in Australia the preference is for one year only. In England also under section 33 the priority is limited to one year. The proviso has been taken from a similar provision in section 64 of the United States Act. This clause replaces former section 125, which was as follows:

125. Nothing in the four last preceding sections shall interfere with the collection of any taxes, rates or assessments payable by or levied or imposed upon the debtor or upon any property of the debtor under any law of the Dominion, or of the province wherein such property is situate, or in which the debtor resides, nor prejudice or affect any lien or charge in respect of such property created by any such laws.

(f) This is the rank given to the claim of the landlord under section 33(4) of the English Act and under section 84 (i) of the Australian Act. It corresponds with the priority given in some but not all of our own provinces. The important change is that the landlord is restricted to be paid out of the realization of the goods on the premises. This subsection is a revision of section 126 which formerly read as follows:

126. When a receiving order or an assignment is made against or by any lessee under this Act, the same consequences shall ensue as to the rights and priorities of his landlord as would have ensued under the laws of the province in which the demised premises are situate if the lessee at the time of such receiving order or assignment had been a person entitled to make and has made an abandonment or a voluntary assignment of his property for the benefit of his creditors pursuant to the laws of the province; and nothing in this Act shall be deemed to suspend, limit or affect the legislative authority of any province to enact any law providing for or regulating the rights and priorities of landlords consequent upon any such abandonment or voluntary assignment; nor shall anything in this Act be deemed to interfere or conflict with the operation of any such provincial law heretofore or hereafter enacted in so far as it provides for or regulates the rights and priorities of landlords in such an event.

(g) The last clause is added to get over decision in *In re Ferguson* 16 C.B.R. 261 where it was held that such preference was payable whether or not any property was exigible thereunder.

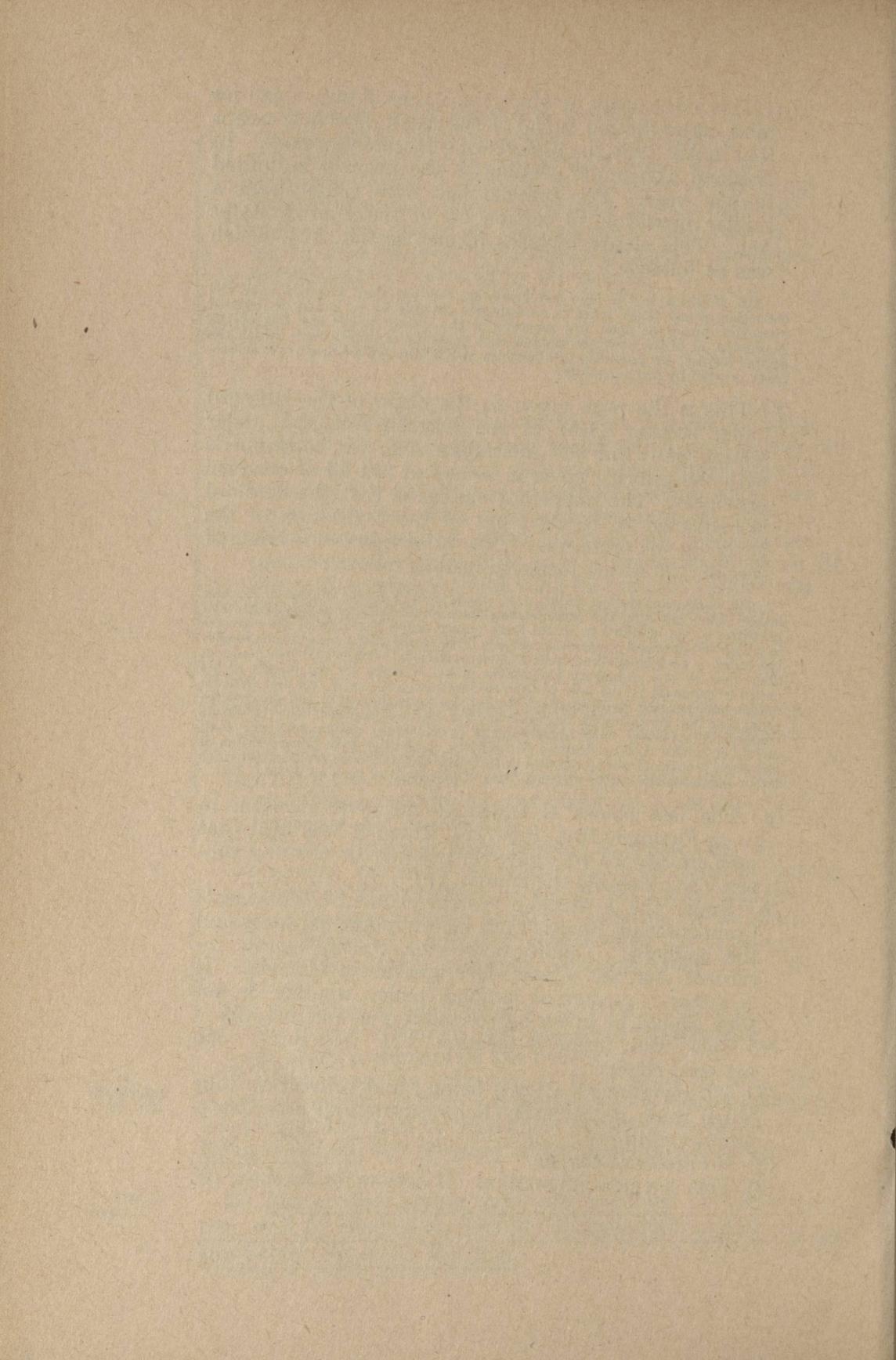
(h) Under the Australian system claims of Workmen's Compensation Boards rank before municipal taxes and the landlord. Claims under the *Unemployment Insurance Act* are a new development in Canada. It is rather a matter of national policy whether or not they should be given higher ranking as in Australia.

(i) This was formerly section 121 (fourthly). No material change.

(j) All government claims, federal and provincial, take equal rank, immediately before trade and other unsecured creditors.

(2) No material change.

(3) This is a new subsection. It speaks for itself.



Memorandum re Priorities.

The *Bankruptcy Act* recognizes the rights of secured creditors. It has also recognized the right of municipalities to be preferred for taxes and landlords for rent under their statutory liens. However, it cannot have been the intention that preferences should be accorded the large variety of claims which, because of the preferences they have received, now rank in priority before the claims of trade creditors and even, in some instances, before the costs of realizing the assets and administering the estate. The fact remains that, under the provisions of section 125 of the *Bankruptcy Act*, various taxing authorities in the provinces have succeeded in obtaining by provincial legislation priority rankings in respect of their respective taxes, to an extent that the situation concerning priorities has become chaotic, difficulty being experienced in many cases to determine the order in which the many conflicting priorities should rank without having to submit such matters to the courts for decision. In the province of Ontario, for instance, the following claims have priority over the claims of ordinary creditors. It will be noted that the list is exclusive of the claims of mortgagees, lienholders, banks under section 88 of the *Bank Act*, and other secured creditors.

Provincial (Preferred by Statute)

1. Debtor's exemptions—actually excluded from assets of estate by section 23 of *Bankruptcy Act*.
2. Income Taxes—1937, R.S.O.C. 25, S. 37, 50, 51.
3. Stock Transfer Taxes—1937, R.S.O.C. 29, S. 22.
4. Corporation Taxes and Filing Fees on annual returns.
Ditto.
5. Ontario Hydro-Electric Power Commission—1927, R.S.O.C. 286, S. 26.
6. Crown Timber Act stumpage dues and licence fees—1937, R.S.O.C. 36, S. 32, 33.
7. Provincial Land Tax—1937, R.S.O.C. 30, S. 19.

Municipal (Preferred by Statute)

8. Real property taxes.
9. Business taxes.
10. Municipal Hydro-Electric Commission—light and power rates.
11. Other Municipal Public Utilities Rates, water, etc.

Preferred

12. Accrued and accelerated rent not exceeding 3 months each.
13. Court fees and Official Receiver's fees.

Partners and separate estates.

127. (1) In the case of partners the joint estate shall be applicable in the first instance in payment of their joint debts, and the separate estate of each partner shall be applicable in the first instance in payment of his separate debts.

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Surplus of separate estates.

(2) If there is a surplus of the separate estates it shall be dealt with as part of the joint estate.

Surplus of joint estates.

(3) If there is a surplus of the joint estate, it shall be dealt with as part of the respective separate estates in proportion to the right and interest of each partner in the joint estate.

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Different estates.

(4) If any bankrupt owes or owed debts both individually and as a member of one or more different co-partnerships, the claims shall rank first upon the estate by which the debts they represent were contracted, and shall only rank upon the other or others after all the creditors of such other estate or estates have been paid in full.

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Debts generally payable *pari passu*.

128. Subject to the provisions of this Act, all debts proved in the bankruptcy shall be paid *pari passu*.

Surplus.

129. If there is any surplus after payment of the debts, as provided in the four last preceding sections, it shall be applied in payment of interest from the date of the bankruptcy at the rate of five per centum per annum on all debts proved in the bankruptcy.

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Proceeds of liability insurance policy on motor vehicles applied to claims against bankrupt.

130. Nothing contained in this Act shall affect the right afforded by provincial statute of any person who has a claim against the bankrupt for damages on account of injury to or death of any person, or injury to property, occasioned by a motor vehicle, or on account of injury to property being carried in or upon a motor vehicle, to have the proceeds of any liability insurance policy applied in or towards the satisfaction of such claim, and the proceeds of any such policy shall be applied to the satisfaction of such claim in the same manner and to the same extent as if he were not bankrupt.

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Application of provincial law to landlords' rights.

131. Except as to priority of ranking as provided by section one hundred and twenty-six of this Act, the rights of landlords shall be determined according to the laws of the province in which the leased premises are situate.

Levy payable out of dividends for supervision by Superintendent.

132. For the purpose of defraying the expenses of the supervision by the Superintendent, there shall be payable to the Superintendent for deposit with the Receiver General a levy on all payments excepting the costs referred to in subsection two of section twenty-seven made by the trustee

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14. Custodian's and trustee's fees and expenses.
15. First Execution Creditor's costs.
16. Wages and Workmen's Compensation Board.
Unemployment Insurance rates.

Federal (by prerogative right)

17. Income taxes.
18. Sales taxes.
19. Stock transfer taxes.
20. Duty on importations.
Unemployment Insurance.

Provincial (by prerogative right)

21. Gasoline taxes and such other claims
as have not been given statutory
priority.

} *pari passu.*

The situation respecting the existing preferences has become so inequitable, particularly as it concerns trade creditors whose goods usually furnish the proceeds from which such claims are paid, and so confused, that it is most desirable that the whole field be reviewed and that an entirely new, comprehensive and equitable scheme of priorities be established under the sole authority of the *Bankruptcy Act*.

127. (1) No change.

(2) No change.

(3) No change.

(4) This was formerly section 59. It was much out of place in its former connection.

128. No material change.

129. The changes are self-explanatory.

130. This was formerly section 125A. The former section 125 is found as revised in section 126 (*e*).

The former section 125B is now found in section 126 (*a*).

131. This replaces the former section 126 which has been inserted as revised in section 126 (*f*). In other respects, except as to priority of ranking, the law of the province where the premises are situate shall apply.

132. This was formerly section 126A. The old section 127 has now become section 125. No material change is made except to delete unnecessary verbiage.

Section 126A read as follows:

"Notwithstanding anything contained in sections one hundred and twenty-one to one hundred and twenty-six, both inclusive, there shall be payable to the Receiver General for the purpose of defraying the expenses of the supervision by the Superintendent, a levy on all payments made by the trustee, excepting the costs and expenses of the custodian or interim receiver, and the fees and expenses of the trustee, and the costs of the garnishing, attaching, execution or judgment creditor mentioned in section one hundred and twenty-one, and excepting payments made on account of liabilities incurred after the receiving order or assignment. The payments subject to the said levy shall include all payments made by way of dividend or otherwise, etc., etc."

by way of dividend or otherwise on account of the claims of creditors, whether ordinary, preferred or secured creditors, and including His Majesty in the right of the Dominion or of any province, claiming in respect of taxes or otherwise. Such levy shall be at a rate to be fixed by the Governor in Council from time to time and shall be charged proportionately against all such payments and deducted therefrom by the trustee before payment is made. 5

PART VI.

BANKRUPTS.

Duties of Bankrupts.

133. The bankrupt shall

Aid in
administration.

(a) aid to the utmost of his power in the realization of his property and the distribution of the proceeds 10 among his creditors, and

Full
disclosure
to be made.

(b) make full disclosure of all facts relating to his property, the cause of his insolvency and the disposition of his assets, and

Delivery of
bonds,
records, etc.

(c) deliver up to the trustee all books, records, docu- 15 ments, title deeds, writings, papers or insurance policies relating to his property or affairs, and

Discovery
and delivery
of property.

(d) make discovery of and deliver all his property both real and personal which is under his possession or control to the trustee or to any person authorized by 20 the trustee to take possession of it or any part thereof, and

Complete
statement
of affairs.

(e) within seven days following his bankruptcy, unless the time is extended by the court prepare and submit to the trustee in quadruplicate a statement of his 25 affairs in the prescribed form, verified by affidavit and showing the particulars of his assets, and liabilities, the names, addresses, and occupations of his creditors, the securities held by them respectively, the dates when the securities were respectively given, and such 30 further or other information as may be required.

Where the affairs of the bankrupt are so involved or complicated that he cannot himself reasonably prepare a proper statement of his affairs, the Official Receiver may, as an expense of the administration not to exceed 35 twenty-five dollars, authorize the employment of some qualified person to assist in the preparation of the statement, and

Disposition
of property
within
previous year.

(f) make disclosure to the trustee of all property disposed of within one year preceding his bankruptcy, or for 40 such further antecedent period as the court may direct,

133. This section is a revision of sections 128 to 131, inclusive, to indicate the duties of the bankrupt more explicitly. These sections are to be found on the following page.

(a) This was formerly section 131 (3).

(b) This is a new subsection.

(c) This is a new subsection.

(d) This is a new subsection.

(e) This was formerly section 129. The added part has been taken from section 16 (2) of the Australian Act which reads as follows:

"When the bankrupt cannot himself prepare a proper statement of affairs, the Official Receiver may, subject to any prescribed conditions, and at the expense of the estate, employ some qualified person to assist in the preparation of the statement.

A similar provision is contained in section 74 of the English Act. No limit is placed on the amount that may be allowed in these Acts but it is deemed desirable that there should be a limit and the amount of \$25.00 is suggested.

(f) This is a new subsection. The present procedure being silent as to the duty of disclosing past alienations of property which in many cases has a direct relation

Gifts and
settlement.

and how and to whom and for what consideration any part thereof was disposed of except such part thereof as had been disposed of in the ordinary manner of trade, if any, or used for reasonable family expenses, and

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(g) make disclosure to the trustee of all property disposed of by gift or settlement without adequate valuable consideration within five years preceding his bankruptcy or since any of his present debts were incurred, and

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Assist at
making
inventory.
Attend first
meeting of
creditors.

(h) make or give all the assistance within his power to the trustee in making an inventory of his assets, and

(i) attend the first meeting of his creditors unless prevented by sickness or other sufficient cause and submit thereat to examination under oath and give such information as the meeting may require, and

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Attendance
at other
meetings of
creditors.

(j) attend such other meetings of his creditors and the inspectors and wait upon the trustee at such times as required, and

Examination
by Official
Receiver.

(k) within four days after his bankruptcy attend before the Official Receiver or before any other Official Receiver delegated by the Official Receiver for examination under oath as to the causes of his insolvency and the disposition of his assets, and

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Submit to
examination.

(l) submit to such other examinations under oath with respect to his property or affairs as required, and

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Examine
proofs of
claims.

(m) examine the correctness of all proofs of claims filed against his estate if required by the trustee, and

Advise
trustee of
false claims.

(n) in case any person having to his knowledge filed a false claim against his estate, disclose that fact immediately to the trustee, and

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Execute all
necessary
documents.

(o) execute such powers of attorney, conveyances, deeds, and instruments as may be required, and

Duties
generally.

(p) generally do all such acts and things in relation to his property and the distribution of the proceeds amongst his creditors, as may be reasonably required by the trustee, or may be prescribed by General Rules, or may be directed by the court by any special order or orders made in reference to any particular case, or made on the occasion of any special application by the trustee, or any creditor or person interested;

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Performance
of duties
required by
court.

(q) perform such duties as may be required of him by the court;

Keep trustee
advised
of address.

(r) until his application for discharge has been disposed of and the administration of the estate completed keep the trustee advised at all times of his last place of residence or address.

45

to the bankruptcy is ineffective as not placing a direct duty on the bankrupt to do so. Unless the trustees or a creditor from outside information has some inkling thereof, such transactions may well be concealed altogether.

(g) This section is new and in line with the preceding subsection. It has the same purpose.

(h) This was formerly part of section 131 (2) which is to be found on the following page.

(i) This was formerly part of section 131 (1).

(j) This was formerly section 131 (2).

"128. Where a receiving order or an authorized assignment is made, the bankrupt or assignor shall present himself before the Official Receiver who shall examine him as to the causes of his insolvency and the disposition of his assets, and shall put to him the questions provided by the General Rules or questions to the like effect.

(k) This subsection was formerly 128(1) revised.

(l) This subsection is new.

(m) This subsection is taken from section 7 (3) of the *Bankruptcy Act* of the United States as being deemed desirable. The phraseology is the same as in the United States Act.

(n) This provision is taken from section 7 (7) of the *Bankruptcy Act* of the United States as being deemed desirable. The wording is adopted exactly as in the United States Act.

(o) This was formerly a part of section 131(2).

(p) This was formerly part of section 131(2).

(q) This subsection is new. Heretofore the authority of the court in this respect was at most only implied. It is deemed desirable that such authority should be definitely expressed.

(r) This is a new subsection. It is deemed necessary to have some statutory sanction imposed on a bankrupt to make himself available to the trustee when required.

(2) The Official Receiver shall make notes of such examination and shall communicate them to the creditors at their first meeting.

(3) If the bankrupt or assignor fails to present himself for such examination within three days from the making of the receiving order or the filing of the assignment, the court may by warrant cause him to be apprehended and brought up for examination, and may order him to be committed to the common gaol of the judicial district in which he resides for a term not exceeding twelve months.

Penalty for failure to perform duties imposed.

134. If a bankrupt wilfully fails to perform the duties imposed on him by the preceding section or otherwise under this Act, he shall, in addition to any other punishment to which he may be subject, be guilty of contempt of court, and may on the application of the trustee by direction 5
of the creditors or inspectors be punished accordingly.

Creditors may examine tatement.

135. Any person stating himself in writing to be a creditor of the bankrupt, may personally or by agent inspect the statement of affairs at all reasonable times and take any copy thereof or extract therefrom but any person un- 10
truthfully so stating himself to be a creditor shall be guilty of contempt of court, and shall be punishable accordingly on the application of the trustee.

When bankrupt is a corporation.

136. (1) Where the bankrupt is a corporation the directors shall be jointly and severally responsible for the 15
performance of the duties imposed on a bankrupt and to that end may appoint and designate to the Official Receiver and the trustee, as the case may be, such person or persons as are deemed to have an adequate knowledge of the affairs of the corporation to perform such duties and to the extent 20
that such duties are performed satisfactorily by such person or persons, the directors shall be relieved from responsibility therefor but in the event of the failure of the directors to make such appointment within three days from the date of the bankruptcy or that the person or persons appointed 25
do not perform such duties as required the president shall perform the duties imposed on a bankrupt or cause such duties to be performed by some other person or persons with knowledge of the affairs of the corporation.

(2) At the first meeting of creditors the directors, the 30
officers and the person or persons having the control or management of the affairs of the corporation shall attend and submit to examination under oath or give such information as may be required by the meeting.

(3) The court as it deems fit may require such directors, 35
officers, or other persons to perform any duties inadequately or not otherwise performed to the extent of his or their knowledge of the affairs of the corporation.

(4) Every such director, officer, or person failing to perform any duties imposed on him under this section or 40
otherwise required of him shall be punishable as if he were the bankrupt.

120. The bankrupt or assignor shall make out and submit to the Official Receiver a statement of and in relation to his affairs in the prescribed form, verified by affidavit and showing the particulars of the debtor's assets, and liabilities, the names, residences and occupations of his creditors, the securities held by them respectively, the dates when the securities were respectively given, and such further or other information as may be prescribed by the court.

(2) Such statement shall be submitted within seven days from the date of the receiving order or assignment, but the court may for special reasons extend the time.

130. It shall be the duty of the custodian to verify the debtor's statement of affairs and to make an inventory of his assets.

(2) Any person stating himself in writing to be a creditor of the bankrupt or assignor, may personally or by agent inspect the statement at all reasonable times and take any copy thereof or extract therefrom, but any person untruthfully so stating himself to be a creditor shall be guilty of a contempt of court, and shall be punishable accordingly on the application of the trustee.

131. Every debtor against whom a receiving order is made and every assignor who makes an authorized assignment shall, unless prevented by sickness or other sufficient cause, attend the first meeting of his creditors, and shall submit to such examination and give such information as the meeting may require.

(2) The debtor shall give such inventory of his property, such list of his creditors and debtors, and of the debts due to and from them respectively, submit to such examination in respect of his property or his creditors, attend such other meetings of his creditors, wait at such times on the trustee, execute such powers of attorney, conveyances, deeds, and instruments, and, generally, do all such acts and things in relation to his property and the distribution of the proceeds amongst his creditors, as may be reasonably required by the trustee, or may be prescribed by General Rules, or may be directed by the court by any special order or orders made in reference to any particular case, or made on the occasion of any special application by the trustee, or any creditor or person interested.

(3) The debtor shall aid, to the utmost of his power, in the realization of his property and the distribution of the proceeds among his creditors."

134. This section is a revision of section 132 by deleting those duties referred to therein which have now been included in section 133. The former section 132 read as follows:

"**132.** If a debtor wilfully fails to perform the duties imposed on him by the four last preceding sections, or to deliver up possession of any part of his property which is divisible amongst his creditors under this Act and which is for the time being in his possession or under his control, to the trustee, or to any person, authorized by the court to take possession of it, he shall, in addition to any other punishment to which he may be subject, be guilty of a contempt of court, and may be punished accordingly."

135. This was formerly subsection (2). The former section 130(1) has been deleted and inserted in section 43(10) as relating more definitely to the duties of the trustee.

136. Section 133 as redrafted now becomes section 136 and places the responsibility more explicitly on the directors of a corporation as ordinarily there is nothing in a charter or bylaws thereof which would give the officers the authority or responsibility of performing the duties required of a bankrupt hereunder. Very often the Official Receiver cannot know who is best qualified to perform such duties. Section 133 read as follows:

"**133.** Whenever the bankrupt or authorized assignor is a corporation, the officer executing the assignment or such other officer or officers as the Official Receiver shall direct, shall present himself before the Official Receiver for examination under section one hundred and twenty-eight, and, in case of failure to perform such duty, such officer shall be punishable as if he were the debtor."

Examination of Bankrupts and Others.

Examination
of bankrupts
by Official
Receiver.

137. (1) The Official Receiver shall on the attendance of the bankrupt or at such time and place as may be fixed by him examine the bankrupt under oath as to the causes of his insolvency and the disposition of his assets and shall put to him the questions provided by General Rules or questions to the like effect and such other questions as he may see fit. The Official Receiver shall make notes of the examination and a report thereon of any facts or circumstances which in his opinion require special consideration or further explanation or investigation and shall forward a copy of his notes and the report to the Superintendent, to the trustee and to the court for deposit therein, and shall communicate copies or the contents thereof to the creditors at their first meeting. 5 10

(2) When deemed expedient the Official Receiver may authorize an examination to be held before any other Official Receiver who shall remit his notes of the examination and a report thereon to the Official Receiver in charge of the proceedings. 15

(3) If a bankrupt fails to present himself for examination by the Official Receiver before the date fixed for the first meeting of creditors, the Official Receiver shall so report to the first meeting: Provided, however, that if a bankrupt attends the first meeting of creditors or any adjournment thereof and submits to examination under oath thereat by the Official Receiver, the trustee, the creditors or their representatives and gives such information as may be required to the satisfaction of the meeting the creditors may by resolution absolve the bankrupt from failure to attend before the Official Receiver as hereinbefore provided. 20 25 30

Examination
of bankrupt
at meeting.

(4) Notes of the examination of the bankrupt at the meeting shall be taken by the chairman, or if so authorized by the creditors at the meeting as an expense of the administration, the evidence of the bankrupt may be taken down in shorthand in which case a transcript thereof shall be made and signed by the bankrupt unless the evidence is taken down in shorthand and transcribed by a person duly authorized to perform such services in other court proceedings. A copy of such notes or such transcript shall be forwarded to the Superintendent and the trustee and filed in the court. 35 40

Examination
of bankrupt
and others
by trustee.

138. The trustee, upon ordinary resolution passed by the creditors present or represented at a meeting regularly called, or upon the written request or resolution of a majority of the inspectors of the estate, may, without an order, examine under oath before the registrar of the court 45

137. This section is a redraft of the relevant part of section 128(1) and (2), as previously quoted, but has been amended by requiring the Official Receiver to make a report of his observations on the examination.

138. Section 134 becomes section 138. It replaces the former section 133 which now becomes section 136. The words at the beginning of section 134 "Where a receiving order or an authorized assignment has been made" have been deleted.

or other prescribed person, the bankrupt, any person reasonably thought to have knowledge of the affairs of the bankrupt or any person who is or has been an agent, clerk, servant, officer, director or employee of the bankrupt, respecting the bankrupt, his dealings or property. 5

Examination of bankrupt, trustee and others by a creditor.

(2) Upon the application of any creditor or other interested person to the court, at any time, upon sufficient cause being shown, an order may be made for the examination under oath before the registrar or other prescribed person, of the trustee or the bankrupt or of any inspector or creditor, or 10 any other person named in the order for the purpose of investigating the administration of the estate of any bankrupt and the court may further order any person liable to be so examined to produce any books, documents, correspondence or papers in his possession or power relating in 15 all or in part to the bankrupt, the trustee or any creditor, the costs of such examination and investigation to be in the discretion of the court or judge.

Examination to be filed.

(3) A transcript of the evidence of any person being examined under this section shall, if transcribed, be filed 20 in the court and may be read in any proceedings before the court under this Act to which the person examined is a party.

Trustee may require books and other property of bankrupt to be produced.

139. (1) If any person has, or is believed or suspected to have, in his possession or power any of the property of 25 the bankrupt, or any book, document or paper of any kind relating in whole or in part to the bankrupt, his dealings or property, or showing that such person is indebted to the bankrupt, such person may, upon ordinary resolution passed by the creditors present or represented at a regularly 30 called meeting, exclusive of such person, if he is a creditor, or upon the written request or resolution of the majority of the inspectors of the estate, be required by the trustee to produce such book, document or paper for the information to produce such trustee, or to deliver over to him any such 35 property of the bankrupt.

Examination on failure to produce.

(2) If such person fails to produce such book, document or other paper, or to deliver over such property, within four days of his being served with a copy of the said resolution and a request of the trustee in that behalf, or 40 if the trustee or the majority of the inspectors is not satisfied that full production or delivery has been made, the trustee may, without an order, examine the said person before the registrar of the court or other prescribed person touching any such property, book, or document or other 45 paper which he is supposed to have in his possession.

(2) This was formerly section 134(2).

(3) This is a new subsection and is partly taken from the first line of section 141(5) as follows: "If the bankrupt or assignor has been examined the trustee shall file such examination," etc. The object of the new subsection is to widen the application of the use to be made of all examinations.

139. (1) This was formerly section 136. It replaces the former section 134 which now becomes section 138.

(2) No change.

Compelling
attendance.

(3) Any such person may be compelled to attend and testify, and to produce upon his examination any book, document or other paper which under this section he is liable to produce, in the same manner and subject to the same rules of examination, and the same consequences of neglecting to attend or refusing to disclose the matters in respect of which he may be examined, as would apply to a bankrupt. 5

Admission
of debt.

140. (1) If any person on examination admits that he is indebted to the bankrupt, the court may, on the application of the trustee, order him to pay to the trustee, at such time and in such manner as to the court seems expedient, the amount admitted, or any part thereof, either in full discharge of the whole amount in question or not, as the court thinks fit, with or without costs of the examination. 10 15

Admission
of having
bankrupt's
property.

(2) If any person on such examination admits that he had in his possession any property belonging to the bankrupt, the court may, on the application of the trustee, order him to deliver to the trustee such property, or any part thereof, at such time, and in such manner, and on such terms, as to the court may seem just. 20

Examination
to be public.

141. (1) Unless the court otherwise orders every examination shall be open to the public and the trustee or any creditor personally or by their representative or solicitors may take part therein. 25

Examination
as often as
deemed
necessary.

(2) The examination of the bankrupt or any other person under this Act may be adjourned from time to time or begun anew as often as deemed necessary and the bankrupt or any other such person shall attend for further examination as often as required. 30

Person
examined to
inform
himself of
relevant
facts.

(3) The bankrupt or any other person being examined shall inform himself of all relevant facts from such sources and persons as far as he may be able to enable him to answer all questions put to him fully and accurately.

Penalty for
failure to
attend for
examination.

142. (1) If the bankrupt fails to present himself for examination before the Official Receiver as required by paragraph (k) of section one hundred and thirty-three or if he or any other person is served with an appointment or summons to attend for examination and is paid or tendered the proper conduct money and witness fees as fixed by the Rules but refuses or neglects to attend as required by such appointment or summons the court may on the application of the trustee by direction of the creditors or the inspectors by warrant cause the bankrupt or other person so in default to be apprehended and brought up for examination and may order him to be committed to the common gaol of the judicial district in which he resides for any term not exceeding twelve months. 35 40 45

(3) The words "as would apply to a bankrupt" have been substituted for the words "as is provided by section one hundred and thirty-five".

140. This was formerly section 137 (1) and (2) and is transferred to section 140 for a more logical sequence. The former section 135 now becomes section 142 (2). The words "provided for in section one hundred and thirty-five" following the word "examination" in the first line have been deleted.

141. This section is new. The examination of the bankrupts being open to the public is one of the fundamental provisions of all other well recognized systems of bankruptcy as in England, Australia and the United States.

(2) This provision removes the necessity of the right of further examination being reserved by an examiner at the end of every examination. Oftentimes it is desirable to re-examine after investigations have disclosed other facts or circumstances not known at the time of the original examination.

(3) This is a new provision. Its purpose is obvious, that is, to place a statutory responsibility on those being examined to inform themselves of those facts of which they ought to have knowledge so that the object of the examination may not be circumvented by evasive answers.

142. The former sections 128 (3) and 135 have been combined and redrafted for greater precision and now become section 142 (1) and (2). Section 135 at present is illogical as for instance where a bankrupt being examined refuses to answer the penal clause states that he may be apprehended and brought up for examination. The words "as fixed by the rules" take the place of the former section 135 (2). Sections 128 (3) and 135 read as follows:

128. (3) If the bankrupt or assignor fails to present himself for such examination within three days from the making of the receiving order or the filing of the assignment, the court may by warrant cause him to be apprehended and brought up for examination, and may order him to be committed to the common gaol of the judicial district in which he resides for a term not exceeding twelve months.

135. If the debtor, or any person liable to be examined as provided by the preceding section, is served with an appointment or summons to attend for examination and is paid or tendered the proper conduct money and witness fees, but refuses or neglects to attend as required by such appointment or summons, or, if attending, refuses to make satisfactory answers to any questions asked him or refuses to produce any book, document or other paper, having no lawful impediment made known to the examiner at the time of his sitting for such examination and allowed by him, the court may, by warrant, cause the debtor or other person so in default to be apprehended and brought up for examination, and may order him to be committed to the common gaol of the judicial district in which he resides for any term not exceeding twelve months.

(2) The amount of conduct money and witness fee shall be fixed by General Rules.

Penalty for
incorrect
answers on
examination.

(2) If the bankrupt or any other person being examined refuses or fails to make satisfactory answers to any question asked him or gives evasive or misleading answers or conceals or fails to make full disclosure of any relevant fact which it is his duty to disclose, or refuses to produce any book, document or other paper having no lawful impediment made known to the examiner on such examination for not doing so, he shall, irrespective of any other penalty to which he may otherwise be criminally liable, be guilty of contempt of court and on the application of the trustee by direction of the creditors or the inspectors may be punished accordingly. 5 10

Questions
must be
answered.

143. Any person being examined hereunder shall be bound to answer all questions relating to the business or property of the bankrupt, and as to the causes of his insolvency and the disposition of his assets, and shall not be excused from answering any question on the ground that the answer may tend to criminate the person so examined or to establish his liability in any civil action, and all or any of the questions and answers upon any examination under this Act may be given in evidence against the person so examined on any charge of an offence against this Act and in any civil action or proceeding brought by, or on behalf of, the trustee or of any creditor or creditors entitled to take such action or proceedings. 15 20 25

Liability
to civil
action or
charge of
offence.

Arrest of Bankrupts.

Arrest of
bankrupts
under certain
circum-
stances.

144. (1) The court may, by warrant addressed to any constable or prescribed officer of the court, cause a bankrupt to be arrested, and any books, papers, money and goods in his possession to be seized, and him and them to be safely kept as prescribed until such time as the court may order under the following circumstances:— 30

- (a) If, after the filing of a bankruptcy petition against him, it appears to the court that there is probable reason for believing that he has absconded, or is about to abscond from Canada, with a view of avoiding payment of the debt in respect of which the bankruptcy petition was filed, or of avoiding appearance to any such petition, or of avoiding examination in respect of his affairs or of otherwise avoiding, delaying or embarrassing proceedings in bankruptcy against him; 35 40
- (b) If, after the filing of a bankruptcy petition or after an authorized assignment has been made by him, it appears to the court that there is probable cause for believing that he is about to remove his goods

143. The changes are self-explanatory. It read as follows:

“Any person liable to be examined under the provisions of the ten last preceding sections shall be bound to answer all questions relating to the business or property of the debtor, and as to the causes of his insolvency and the disposition of his assets, and shall not be excused from answering any question on the ground that the answer may tend to criminate the person so examined or to establish his liability in any civil action, and all or any of the questions and answers upon any examination under the four next preceding sections may be given in evidence against the person so examined on any charge of an offence against this Act and in any civil action or proceeding brought by, or on behalf of, the trustee or of any creditor or creditors entitled to take such action or proceedings.”

144. (1) No change.

(a) No change.

(b) No change.

with a view of preventing or delaying possession being taken of them by the trustee, or that there is probable ground for believing that he has concealed or is about to conceal or destroy any of his goods or any books, documents or writings which might be of use to the trustee or to his creditors in the course of the bankruptcy proceedings; 5

(c) If, after service of a bankruptcy petition on him or after he makes an assignment, he removes any goods in his possession above the value of twenty-five dollars 10 without leave of the trustee;

(d) If after the commencement of proceedings under this Act he is in contempt of court or has failed to obey an order of the Court.

Payments
after arrest.

(2) No payment or composition made or security given 15 after arrest made under this section shall be exempt from the provisions of this Act relating to fraudulent preferences.

Redirection
of
bankrupt's
letters.

145. Upon the bankruptcy of any person the Post-
master General or the officers acting under him or the
operators of any telegraph or cable system on notice in 20
writing by the trustee shall send, redirect or deliver to the
trustee for a period of two months thereafter or for such
further monthly periods as required from time to time by
similar notices in writing, all letters, parcels, telegrams or
cables addressed to the bankrupt at any place or places 25
mentioned in the notice: Provided however that the bank-
rupt may apply to the court to set aside or vary the directions
in such notices on evidence of undue interference by the
trustee with the personal rights of the bankrupt or on such
other grounds as the court may deem fit. 30

Discharge of Bankrupt.

Bankruptcy
to operate
as
application
for discharge.

146. (1) The making of a receiving order or an assign-
ment by any person except a corporation shall operate as an
application for discharge, unless the bankrupt, by notice in
writing, file in the court and serve upon the trustee a waiver
of such right before being served by the trustee with a 35
notice of his intention to apply to the court for an appoint-
ment for the hearing of the application as hereinafter
provided.

Appointment
to be
obtained
by trustee.

(2) The trustee, before proceeding to his discharge and in
any case not later than six months following the bankruptcy 40
of any such person, who has not served a notice of waiver
upon him, shall on four days' notice to the bankrupt, apply
to the court for an appointment for a hearing of the applica-

(c) No change.

(d) This is a new subsection. It speaks for itself.

(2) No change.

145. This new section replaces section 140 which read as follows:

Where a receiving order is made against a debtor or where a debtor makes an authorized assignment, the court, on the application of the trustee, may from time to time order that for such time, not exceeding three months, as the court thinks fit, post letters, post packets and telegrams addressed to the debtor at any place or places mentioned in the order for redirection, shall be redirected, sent or delivered by the Postmaster General or the officers acting under him, or by the various government and other telegraph and cable systems, operating in Canada, or by the operators thereof, to the trustee, and the same shall be done accordingly.

Ordinarily orders for redirection of mail are granted on *ex parte* and in most cases are required more particularly immediately following the bankruptcy. An added expense has to be incurred which can be avoided. In the amendment the rights of a debtor can be adequately protected against abuse by the trustee.

146. This section is new. It establishes a new principle in regard to the discharge of a bankrupt. Twenty years or more of the operation of the Act has indicated that only a small fraction of bankrupts apply for a discharge largely for two reasons, firstly, that many bankrupts are not aware of their legal status and believe that their debts are determined by the bankruptcy, and secondly, the financial inability of such bankrupts to meet the expense thereof. From the beginning of bankruptcy legislation there has been a gradual evolution from the viewpoint of the public towards bankrupts until at the present time creditors are more or less equally responsible with bankrupts for their debts. If the *Bankruptcy Act* is to serve its intended purpose to give bankrupts an opportunity to rehabilitate themselves as useful citizens more responsibility must be accepted to create that opportunity for the bankrupt by providing an automatic procedure for his discharge. This

tion on a date not more than thirty days after the date of the appointment or at such other time as may be fixed by the court at the request of the bankrupt, or the trustee.

Appointment
by
corporation.

(3) A corporation and any bankrupt, who has waived his right as hereinbefore provided, may at any time at his own expense, apply for a discharge by obtaining from the court an appointment for a hearing which shall be served on the trustee not less than twenty days before the date fixed for the hearing of the application, and the trustee on being served therewith shall, proceed as hereinafter set out, and in such cases the court shall, before issuing an appointment, unless the trustee, in writing has consented thereto, require sufficient funds to be deposited with or such guarantee to be given to the trustee, as it deems proper, for the payment of his disbursements incurred with respect to the application, and a reasonable fee for services rendered to be fixed by the court if not agreed upon.

Notice to
creditors.

(4) The trustee, on obtaining or being served with an appointment, shall, not less than fourteen days before the day appointed for the hearing of the application, send out a notice thereof in the prescribed form to the Superintendent and the bankrupt, and to every creditor of whom he has knowledge, whether or not his debt has been proven, at his last known address.

Procedure
when
trustee not
available.

(5) In the event of the trustee not being available to perform the duties required of a trustee on the application of a bankrupt for a discharge, the court may authorize such other person or persons to perform such duties and may give such directions as it deems necessary to enable the application of the bankrupt to be brought before the court and in such cases, where it appears that a report by the trustee may not be available to the court, the notice shall especially call the attention of the creditors to the necessity of reporting to the court any facts or circumstances within their knowledge, which might adversely or otherwise affect the right of the bankrupt to a discharge.

Trustee to
file report.

147. (1) The trustee shall prepare a report in the prescribed form as to the affairs of the bankrupt, the causes of his insolvency or bankruptcy, the manner in which the bankrupt has performed the duties imposed on him under this Act, or obeyed the orders of the court, and as to his conduct both before and after the bankruptcy, together with any other fact, matter or circumstances which would justify the court in refusing an unconditional order of discharge, and in cases where the final dividend has not been paid, the report shall be accompanied by a resolution of the inspectors declaring whether or not they approve or disapprove of the report, and in the latter case the reasons of such disapproval must be given.

procedure has been incorporated in the *Bankruptcy Act* of the United States—Section 14 of the Amendment to the *Bankruptcy Act* of the United States as approved on the 22nd of June, 1939. The said section reads as follows:

“Sec. 14. U.S. Act as amended 22 June, 1938. Discharges, When Granted.—
a. The adjudication of any person, except a corporation, shall operate as an application for a discharge: Provided, That the bankrupt may, before the hearing on such application, waive by writing, filed with the court, his right to a discharge. A corporation may, within six months after its adjudication, file an application for a discharge in the court in which the proceedings are pending.”

(2) This is the procedural section by which the trustee is impounded with the duty of initiating the bankrupt's application for discharge.

(3) This section permits a corporation and a bankrupt who previously waived his right for a discharge to apply at his own expense. Ordinarily corporations do not apply for discharges, but a provision is inserted for the rare case that may arise.

(4) This is merely the procedural section to provide for notice of the application.

(5) This subsection is to meet the contingency which so often arises and for which there is no provision whatsoever in the Act. The availability of a trustee should not affect the legal right of a bankrupt to have his application brought before the court and heard. The courts have attempted to deal with this problem merely on the basis of removing an injustice which might be inflicted on a bankrupt, but there has always been some doubt as to whether or not the court had such authority.

This new section 146 replaces old section 141 (1), (2) and (3) which read as follows:

“141. Any debtor may, at any time after being adjudged bankrupt or making an authorized assignment, apply to the court for an order of discharge, to become effective not sooner than three months next after the date of his being adjudged bankrupt or of his making such assignment, and the court shall appoint a day for hearing the application.

(2) A bankrupt or authorized assignor intending to apply for his discharge shall produce to the registrar of the court a certificate from the trustee specifying the names and addresses of his creditors of whom the trustee has notice (whether they have proved or not) and it shall be the duty of the trustee to furnish such certificate upon request therefor by the bankrupt or authorized assignor.

(3) The registrar shall, not less than twenty-eight days before the day appointed for hearing the application, give to the trustee notice of the application and of the time and place of hearing of it, and the trustee shall not less than fourteen days before the day appointed for hearing the application give to the Superintendent and to each creditor who has proved his debt like notice.”

147. This is a revision of section 141 (4) and (5) incorporating in one subsection what is to be included in the report. Section 141 (4) and (5) reads as follows:

(4) The trustee shall file with the registrar, at least three days before the day appointed for hearing the application, his report as to the conduct and affairs of the bankrupt or assignor (including a report as to the conduct of the bankrupt or assignor during the proceedings under his bankruptcy or assignment). In cases where the final dividend has not been paid, this report shall be accompanied by a resolution of inspectors declaring whether they approve or disapprove the said report, and in the latter case the reasons of this disapproval must be given.

(5) If the bankrupt or assignor has been examined, the trustee shall also file such examination, and shall report to the court any fact, matter or circumstance which would, under this Act, justify the court in refusing an unconditional order of discharge.

Trustee to
attach
certified
list of
creditors.

(2) The trustee shall, attach to the report as a part thereof, or endorse thereon, a list of the creditors duly certified showing firstly, the claims of the creditors as disclosed by the bankrupt, and secondly, the claims filed with the trustee distinguishing between the claims allowed and those dis- 5
allowed, with the reason for such disallowance, and thirdly, the claims not proven or filed; and he shall give so far as he can the reason for the variations, if any, between the claims of creditors supplied by the bankrupt, and the claims filed, and whether or not such variations indicate any intent on the 10
part of the bankrupt to conceal any such claims for a wrongful purpose.

Filing and
service of
report.

(3) When an application is pending, the trustee shall, file the report in the court not less than three days, and forward a copy thereof to the Superintendent not less than ten days, 15
before the day appointed for hearing the application. Otherwise the trustee shall file the report in the court and forward a copy to the Superintendent before proceeding to his discharge.

Superin-
tendent may
file report.

(4) The Superintendent may, in writing, make such further 20
or other report to the court from information received or knowledge obtained during the course of the administration as he deems expedient, or as in his opinion ought to be before the court on the application.

Represent-
ation by
counsel.

(5) The trustee, or any creditor may attend and be heard 25
in person or by counsel.

Attendance
of bankrupt
at hearing.

(6) The bankrupt unless excused by the court on the grounds of illness or other good reason or for some unfore-
seen circumstances beyond his control shall attend in person 30
or by counsel at the hearing but failure to attend without cause shall if the application is dismissed constitute a waiver of the stay of proceedings as provided in section twenty-six of this Act unless the court otherwise orders: Provided, however, that non-attendance on the part of the bankrupt shall not prejudice his right to a discharge if otherwise 35
entitled thereto.

Evidence
which may
be heard
at the
hearing.

(7) At the hearing of the application the court may read the examination of the bankrupt, the report of the trustee and the Superintendent, the resolution of the inspectors and receive such other evidence, in such form as it sees fit, or as 40
may be adduced at the hearing on examination of the bankrupt or any other person by the creditors, the trustee or the court.

Bankrupt
etc., may be
brought
before the
Court.

(8) For the purpose of such examination the court may cause the bankrupt or such other person to be brought before 45
the court.

Evidence
at hearing.

(9) For the purposes of the application the report of the trustee or the Superintendent shall be *prima facie* evidence of the statements therein contained.

(2) This subsection is new to provide the court with a complete statement of the bankrupt's creditors.

(3) This subsection is partly taken from subsection (1). In addition it is deemed necessary that the report should be in the hands of the Superintendent in sufficient time to enable him to make any supplementary report which he may desire from the knowledge that he has acquired during the course of the administration.

(4) This section is new. Its purpose is to try to insure that all of the relevant facts are before the court at the hearing.

(5) This was formerly 141 (7). No change except the words "the debtor" struck out.

(6) This section is new. Section 146 sets up a new bill of rights for the bankrupt who ought to show his entire good faith by his attendance at the hearing. Lack of good faith ought to deprive him of his rights but in fairness it is left to the court to deal with.

(7) This is a revision of section 141 (6) setting out in full the evidence that may be heard on the hearing and extending the right of further examination of the bankrupt or any other person by the creditors or the trustee or the court.

It read as follows:

"141. (6) At the hearing of the application, the court may read the examination of the bankrupt or assignor, and may put such further questions to him and receive such evidence as it may think fit."

(8) This was formerly Rule 157 (2) and is inserted to round out the necessary complete procedure on the application.

(9) This was formerly section 141 (8) slightly revised. It read as follows:

"For the purposes of this and the next five succeeding sections the report of the trustee shall be *prima facie* evidence of the statements therein contained."

(10) This was formerly Rule 157 (1).

(11) This is a new section formerly Rule 159. It is deemed more logical to have these provisions inserted in the Act as part of the scheme of rights and procedure therein set up.

When application deemed opposed.

(10) Where the trustee reports any fact, matter or circumstance which would under the Act justify the court in refusing an unconditional order of discharge such application shall be deemed to be an opposed application within the meaning of paragraph (c) of subsection one of section one hundred and sixty-seven. 5

Right of bankrupt to oppose statements in report.

(11) When a bankrupt intends to dispute any statement with regard to his conduct and affairs contained in the trustee's report he shall at or before the time appointed for hearing the application for discharge give notice in writing to the trustee specifying the statements in the report, if any, which he proposes at the hearing to dispute. Any creditor who intends to oppose the discharge of a bankrupt on grounds other than those mentioned in the trustee's report shall give notice of the intended opposition, stating the grounds thereof, to the trustee and to the bankrupt at or before the time appointed for the hearing of the application. In either of such cases the judge or registrar may enlarge the hearing of the application as deemed advisable. 10 15

Right of creditors to oppose.

Court may grant or refuse discharge.

148. (1) On the hearing of the application, the court may either grant or refuse an absolute order of discharge or suspend the operation of the order for a specified time, or grant an order of discharge subject to any terms or conditions with respect to any earnings or income which may afterwards become due to the bankrupt, or with respect to his after-acquired property. 20 25

Powers of court to refuse, suspend or grant conditional discharge.

(2) The court shall on proof of any of the facts mentioned in the next succeeding section, either, 30 35

(a) refuse the discharge; or

(b) suspend the discharge for a period of not less than two years: Provided that the period may be less than two years if the only fact proved of those hereinafter mentioned is that his assets are not of a value equal to fifty cents in the dollar on the amount of his unsecured liabilities; or

(c) suspend the discharge until a dividend of not less than fifty cents in the dollar has been paid to the creditors; or

(d) require the bankrupt, as a condition of his discharge, to consent to judgment being entered against him by the trustee for any balance or part of any balance of the debts provable under the bankruptcy which is not satisfied at the date of the discharge, such balance or part of any balance of the debts to be paid out of the future earnings or after-acquired property of the bankrupt in such manner and subject to such conditions as the court may direct; but execution shall not be issued on the judgment without leave of the court, which leave may be given on proof that the bankrupt has, since his discharge, acquired property or income available towards payment of his debts. 40 45 50

148. (1) The material that may be heard on the hearing has been referred to in the preceding section. Section 142(1) and (2) read as follows:

"On the hearing of the application, the court shall take into consideration the report of the trustee, and the resolution of the inspectors, and may either grant or refuse an absolute order of discharge or suspend the operation of the order for a specified time, or grant an order of discharge subject to any conditions with respect to any earnings or income which may afterwards become due to the bankrupt or authorized assignor, or with respect to his after-acquired property.

"(2) The court shall refuse the discharge in all cases where the bankrupt or authorized assignor has committed any offence under this Act or any offence connected with his bankruptcy or assignment or the proceedings thereunder, and shall on proof of any of the facts mentioned in the next succeeding section, either

- (a) refuse the discharge; or
- (b) suspend the discharge for a period of not less than two years: provided that the period may be less than two years if the only fact proved of those hereinafter mentioned is that his assets are not of a value equal to fifty cents in the dollar on the amount of his unsecured liabilities; or
- (c) suspend the discharge until a dividend of not less than fifty cents in the dollar has been paid to the creditors; or
- (d) require the bankrupt or assignor, as a condition of his discharge, to consent to judgment being entered against him by the trustee for any balance or part of any balance of the debts provable under the bankruptcy or assignment which is not satisfied at the date of the discharge, such balance or part of any balance of the debts to be paid out of the future earnings or after-acquired property of the bankrupt or assignor in such manner and subject to such conditions as the court may direct; but execution shall not be issued on the judgment without leave of the court, which leave may be given on proof that the bankrupt or assignor has, since his discharge, acquired property or income available towards payment of his debts."

(2) The words deleted are considered altogether too drastic being an absolute prohibition of a discharge being obtained by a bankrupt under any such circumstances and it is felt that the matter should be left to the discretion of the court by transferring the restrictions therein imposed to subsection (1) of section 149.

Court may
modify
after year.

(3) If at any time after the expiration of one year from the date of any order made under this section the bankrupt satisfies the court that there is no reasonable probability of his being in a position to comply with the terms of such order the court may modify the terms of the order, or of any substituted order, in such manner and upon such conditions as it may think fit. 5

Power to
suspend.

(4) The powers of suspending and of attaching conditions to the discharge of a bankrupt may be exercised concurrently. 10

Facts to
which
discharge
may be
refused,
suspended
or granted
conditionally.

149. (1) The facts referred to in the next preceding section are that the

- (a) assets of the bankrupt are not of a value equal to fifty cents in the dollar on the amount of his unsecured liabilities, unless he satisfies the court that the fact that the assets are not of a value equal to fifty cents in the dollar on the amount of his unsecured liabilities has arisen from circumstances for which he cannot justly be held responsible; 15
- (b) bankrupt has omitted to keep such books of account as are usual and proper in the business carried on by him and as sufficiently disclose his business transactions and financial position within the three years immediately preceding his bankruptcy; 20
- (c) bankrupt has continued to trade after knowing himself to be insolvent; 25
- (d) bankrupt has failed to account satisfactorily for any loss of assets or for any deficiency of assets to meet his liabilities;
- (e) bankrupt has brought on, or contributed to, his bankruptcy by rash and hazardous speculations, or by unjustifiable extravagance in living, or by gambling, or by culpable neglect of his business affairs; 30
- (f) bankrupt has put any of his creditors to unnecessary expense by a frivolous or vexatious defence to any action properly brought against him; 35
- (g) bankrupt has, within three months preceding the date of his bankruptcy, incurred unjustifiable expense by bringing a frivolous or vexatious action;
- (h) bankrupt has, within three months preceding the date of his bankruptcy, when unable to pay his debts as they became due, given an undue preference to any of his creditors; 40
- (i) bankrupt has, within three months preceding the date of his bankruptcy, incurred liabilities with a view of making his assets equal to fifty cents in the dollar on the amount of his unsecured liabilities; 45

(3) No change.

(4) No change.

149. No material change.

149. (*f*) to (*k*). No change materially.

(*l*) This is a new subsection containing substantively the prohibition deleted from section 142(2) giving the court the discretion of dealing therewith. A similar discretion is exercised in section 26(2) of the English Act which is as follows:

“Provided that where the bankrupt has committed any misdemeanour under this Act, or any enactment repealed by this Act, or any misdemeanour connected with his bankruptcy, or any felony connected with his bankruptcy, or where in any case any of the facts hereinafter mentioned are proved, the court shall either:—

(i) }
(ii) } Exactly the same as Section 142 (*a*), (*b*), (*c*) and (*d*).
(iii) }
(iv) }

(*m*) This is a new subsection. Its purpose is obvious.

(j) bankrupt has, on any previous occasion, been adjudged bankrupt or has made an authorized assignment or made a composition, extension or arrangement with his creditors;

(k) bankrupt has been guilty of any fraud or fraudulent breach of trust; 5

(l) bankrupt has committed any offence under this Act or any other statute in connection with his property, or his bankruptcy or the proceedings thereunder;

(m) bankrupt has failed to perform the duties imposed on him under this Act or to comply with any order of the Court. 10

Application of farmers.

(2) Paragraphs (b) and (c) of subsection one of this section shall not apply in the case of an application for discharge by any bankrupt who at the time of his bankruptcy was engaged solely in farming or the tillage of the soil. 15

Assets of bankrupt when deemed equal to fifty cents on dollar.

150. For the purposes of the preceding section the assets of a bankrupt shall be deemed of a value equal to fifty cents in the dollar on the amount of his unsecured liabilities when the court is satisfied that the property of the bankrupt has realized, or is likely to realize, or with due care in realization, might have realized an amount equal to fifty cents in the dollar on his unsecured liabilities. 20

Court may grant certificate.

151. (1) Any statutory disqualification on account of bankruptcy shall cease, if and when the bankrupt obtains from the court its discharge, with a certificate to the effect that the bankruptcy was caused by misfortune without any misconduct on his part. 25

Appeal.

2. The court may, if it thinks fit, grant such a certificate, and a refusal to grant such a certificate shall be subject to appeal. 30

Duty of trustee on conditional discharge.

152. (1) Where an order is granted, on terms or conditions or on the bankrupt consenting to judgment, the bankrupt shall, until such terms, conditions or judgment are satisfied, give the trustee such information as he may require with respect to his earnings and after-acquired property and income and, not less than once a year, file in the court and with the trustee, a statement verified under oath, showing the particulars of any property or income he may have acquired subsequent to his discharge, and the trustee or any creditor may require the bankrupt to attend for examination under oath with reference to the facts contained in the statement, or as to his earnings income or after-acquired property or dealings. 35 40 45

150. No material change.

(2) This subsection is deleted as it is merely a reassertion of section 141A(9) and is not required. It read as follows:

“144. (2) A report by the trustee shall be *prima facie* evidence of the amount of such liabilities.”

151. (1) No change.

(2) No change.

152. (1) This is a new section and is a redraft of Rules 161, 164 and 165. While partly procedural in nature it is more substantive in effect in setting up further duties imposed on the bankrupt in the event of an order of discharge being granted on terms or conditions or a consent to judgment as a condition precedent on a discharge. Rules 161, 164 and 165 formerly read as follows:

161. (1) While the Court grants an order of discharge conditionally upon the debtor consenting to judgment being entered against him by the trustee for the balance or any part of the balance of the debts provable under the bankruptcy or authorized assignment which is not satisfied at the date of his discharge, the order of discharge shall not be signed, completed or delivered out until the debtor has given the required consent. The judgment shall be entered in the Court having jurisdiction in bankruptcy in the district or division in which the order of discharge is granted.

(2) If the debtor does not give the required consent within ten days of the making of the conditional order the Court may, on the application of the trustee, revoke the order or make such other order as the Court may think fit.

164. Where a debtor is discharged subject to the condition that judgment shall be entered against him, or subject to any other condition as to his future earnings or after-acquired property, it shall be his duty until such judgment or condition is satisfied, from time to time, to give the trustee such information as he may require with respect to his earnings and after-acquired property and income, and not less than once a year to file in the Court and with the trustee a statement showing the particulars of any property or income he may have acquired subsequent to his discharge.

165. Any statement of after-acquired property or income filed by a debtor whose discharge has been granted subject to conditions, shall be verified by affidavit, and the trustee may require the debtor to attend before an examiner to be examined on oath with reference to the statements contained in such affidavit, or as to his earnings, income, after-acquired property, or dealings. Where a debtor neglects to file such affidavit or to attend for examination when required so to do, or properly to answer all such questions as the Court may decide to be proper, the Court may, on the application of the trustee, rescind the order of discharge.

Penalty for failure to comply.

(2) If the bankrupt fails to give the trustee such information as he may require, or to file such statement in the court or with the trustee, or to attend for examination when required so to do, or to answer all questions fully and accurately with respect to his earnings, income, after-acquired property or dealings, he shall, in addition to any other penalty for which the bankrupt may be liable, be guilty of contempt of court and may be punished accordingly, and the court may on the application of the trustee, or of any creditor, rescind the order of discharge. 5 10

Trustee to distribute funds payable under conditional discharge.

(3) Where a conditional order of discharge of a bankrupt is made providing for payment of a further dividend or sum of money by the bankrupt all payments on account thereof shall be made to the trustee for distribution to the creditors.

Fraudulent settlements.

153. In either of the following cases, that is to say:— 15

(a) In the case of a settlement made before and in consideration of marriage where the settlor is not at the time of making the settlement able to pay all his debts without the aid of the property comprised in the settlement; or 20

(b) In the case of any covenant or contract made in consideration of marriage, for the future settlement on or for the settlor's wife or children, of any money or property wherein he had not at the date of his marriage any estate or interest, not being money or property of or in right of his wife; 25

if the settlor is adjudged bankrupt or makes an authorized assignment or compounds or arranges with his creditors, and it appears to the court that such settlement, covenant or contract was made in order to defeat or delay creditors, or was unjustifiable having regard to the state of the settlor's affairs at the time when it was made, the court may refuse or suspend an order of discharge or grant an order subject to conditions, or refuse to approve a composition or arrangement, as the case may be, in like manner as in cases where the bankrupt has been guilty of fraud. 30 35

Debts not released by order of discharge.

154. (1) An order of discharge shall not release the bankrupt,

(a) from any debt on a recognizance, nor from any debt with which the bankrupt may be chargeable at the suit of the Crown, or of any person, for any offence against a statute relating to any branch of the public revenue, or at the suit of the sheriff, or other public officer, on a bail bond entered into for the appearance of any person prosecuted for any such offence, and he shall not be discharged in respect of any such excepted debts, unless an order in council proceeding from the Crown in the proper right is filed in court consenting to his being discharged therefrom; or 40 45

(2) This is merely a penalty clause in case of failure of the bankrupt to perform the special obligations imposed on him in this section. It is taken from Rule 165 but extended to bring it into line with the penalty clauses in new section 142 for similar offences.

(3) This is a new subsection. In many instances, where an order is made conditional on the payment of further dividends, the bankrupt will proceed to pay the creditors direct and by bargaining will not make payments on an equal basis.

153. No change.

154. (1) (a) No change.

(b) No change.

(c) No change.

(d) When a debt of this nature becomes a matter of a commercial transaction it loses its inherent characteristic of a moral obligation. Most necessities of life are supplied by creditors as a matter of commercial concern. The viewpoint that the bankrupt should remain liable for necessities of life is more or less a relic of years long past and is pretty much disregarded in modern experience, as very few of such creditors ever pursue their claims against debtors after a discharge. Those who do are mostly collection agencies who buy up such claims. See 16 C.B.R. 158, Trade Collection and Mercantile Agency Limited. *vs.* Henri Derome. The right should at least be restricted to those who originally supplied the necessities very often as a matter of personal good will with few exceptions.

(e) This subsection is new. It is adopted from the United States Act where debts not scheduled are not discharged unless the creditor had notice or actual knowledge of the bankruptcy. The right of a creditor is in the amendment, however, restricted to the dividend which the creditor would have received if he had filed a proof of claim. The relevant section of the United States Act, section 17 is as follows:

"A discharge in bankruptcy shall release a bankrupt from all of his provable debts except such as (3) have not been duly scheduled in time for proof and allowance, with the name of the creditor if known to the bankrupt, unless such creditor had notice or actual knowledge of the proceedings in bankruptcy."

- (b) from any debt or liability incurred by means of any fraud or fraudulent breach of trust to which he was a party, nor from any debt or liability in respect of which he has obtained forbearance by any fraud to which he was a party; or 5
- (c) from any liability under a judgment against him in an action for seduction, or under an affiliation order, or for alimony or under a judgment against him as a co-respondent in a matrimonial case, except to such an extent and under such conditions as the court expressly 10 orders in respect of such liability; or
- (d) from any debt or liability for necessaries of life, but this right shall accrue only to the person supplying such necessaries and not to any assignee of such debt and the court may make such order for payment thereof as it 15 deems just or expedient;
- (e) from liability for the dividend which a creditor would have been entitled to receive on any provable debt, not disclosed to the trustee with the name and address of the creditor, if known to the bankrupt, in time for proof 20 and allowance unless such creditor had notice or actual knowledge of the proceedings in bankruptcy.
- (2) An order of discharge shall release the bankrupt from all other debts provable in bankruptcy.

Debts released.

Partner or co-trustee not released.

155. An order of discharge shall not release any person 25 who at the date of the bankruptcy was a partner or co-trustee with the bankrupt or was jointly bound or had made any joint contract with him, or any person who was surety or in the nature of a surety for him.

Evidence.

156. An order of discharge shall be conclusive evidence 30 of the bankruptcy, and of the validity of the proceedings therein, and in any proceedings that may be instituted against a bankrupt who has obtained an order of discharge in respect of any debt from which he is released by the order, the bankrupt may plead that the cause of action occurred 35 before his discharge.

Power of court to annul adjudication.

157. (1) Where, in the opinion of the court, a bankrupt ought not to have been adjudged bankrupt, or where an assignment ought not to have been made, or where it is proved to the satisfaction of the court that the debts of the bankrupt are paid in full, the court may, on the application of any person interested, by order annul the bankruptcy. 40

Effect of annulment.

(2) Where an order is made under this section, all sales and dispositions of property and payments duly made, and all acts theretofore done by the trustee, or other person 45

(2) No change.

155. No change.

156. No change.

157. (1) This was previously section 151. It has been changed to provide for annulment in the case of assignments as well as adjudications. The fact was overlooked formerly that the same reasons might apply for the annulment after an assignment as with respect to an adjudication. The amended phraseology merely provides for such a contingency.

(2) No material change except the words "order is made" have been substituted for

"order is made" have been substituted for "adjudication is annulled" in the first line.

(3) This subsection has been deleted. It reads as follows:
"Notice of the order annulling an adjudication shall be forthwith gazetted and published in a local paper."

acting under his authority, or by the court, shall be valid, but the property of the bankrupt shall vest in such person as the court may appoint, or, in default of any such appointment revert to the bankrupt for all the estate or interest of the trustee therein on such terms and subject to such 5 conditions, if any, as the court may declare by order.

(4) For the purposes of this section any debt disputed by a bankrupt shall be considered as paid in full if the bankrupt enters into a bond, in such sum and with such sureties as the court approves, to pay the amount to be recovered in any 10 proceedings for the recovery of or concerning the debt, with costs, and any debt due to a creditor who cannot be found or cannot be identified shall be considered as paid in full if paid into court.

Filing bond or payment into court, satisfaction of debt.

Stay on issue of order.

158. (1) The order of discharge or annulment shall be 15 dated on the day on which it is made, but it shall not be issued or be delivered out, until the expiration of the time allowed for an appeal, and if an appeal be entered, not until the appeal has been finally disposed of.

(2) An order of discharge or annulment shall not become 20 effective until it is gazetted.

(3) Notice of an order of discharge or of an annulment shall be gazetted forthwith by the Superintendent on receipt of a certified copy thereof together with the prescribed fee.

(4) In the case of an annulment the bankrupt shall cause 25 a notice thereof to be published in a local newspaper in the locality of the bankrupt where the bankruptcy occurred.

(5) The order of discharge or annulment shall not issue until such costs of the application as have been directed to be paid by the bankrupt, shall have been paid. 30

Order not effective until gazetted.

Gazetting by Superintendent.

Publication of annulment in local newspaper.

Order of discharge not to issue until costs paid.

(4) No material change.

158. (1) This replaces what was formerly section 150. The gazetting of an order of discharge may or may not be necessary, but if gazetting is to be continued it is desirable to provide a surer method of the order actually being gazetted. Heretofore once an order was made and issued the bankrupt in many cases entirely ignored this requirement as it did not affect the validity of his discharge. By making the order of discharge become effective only and when it is gazetted the bankrupt will be prevented from ignoring this requirement. By having all such notices inserted in the *Gazette* by the Superintendent they can be done in a much more condensed form and at less cost. Formerly in many cases the Superintendent had great difficulty in obtaining the information in regard to such orders. This was necessary for purposes of record. By the present procedure the information will be obtained with less difficulty. It provides for gazetting of both orders of discharge and annulments by combining the old sections 150 and 151(3) which read as follows:

150. Notice of the order of discharge of a bankrupt, or authorized assignor, shall be forthwith gazetted.

151. (3) Notice of the order annulling an adjudication shall be forthwith gazetted and published in a local paper.

(5) This is a new section. This section is intended to make provision for those cases where the costs of an application may be directed to be paid by the bankrupt. Heretofore while the trustee was obliged to perform the duties imposed on him under the Act yet he had no real protection against a bankrupt who having obtained an order for his discharge simply ignored payment of the trustee's fees and disbursements.

PART VII.

COURTS AND PROCEDURE

Jurisdiction of Courts.

Courts vested
with
jurisdiction.

159. (1) The following named courts

In the province of Alberta, the Trial Division of the Supreme Court of the province;

In the provinces of British Columbia, Nova Scotia and Prince Edward Island, the Supreme Court of the province; 5

In the provinces of Manitoba and Saskatchewan, the Court of King's Bench of the province;

In the province of Ontario, the High Court of Justice Division of the Supreme Court of the province;

In the province of New Brunswick, the King's Bench 10 Division of the Supreme Court of the province;

In the province of Quebec, the Superior Court of the province;

In the Yukon Territory, the Territorial Court of the Yukon Territory; and 15

In the Northwest Territories, the Courts vested with jurisdiction under the *Northwest Territories Act*, are invested in law and in equity with original, auxiliary, ancillary and plenary jurisdiction in bankruptcy and in all matters or proceedings authorized by or under this Act 20 during their respective terms, as they are now, or may be hereafter, held, and in vacation and in chambers and supplementary thereto shall have power and jurisdiction,

(a) to hear and determine all matters in dispute arising out of the administration of an estate or in which any 25 interest of the estate is involved or to which the trustee is a party, or in which the trustee is a claimant against any other person,

(b) to adjudicate upon any claim made against a trustee personally for a liability incurred in the administration 30 of an estate,

(c) to hear and determine disputes between creditors, unless all the creditors involved otherwise agree,

(d) to add and substitute other persons or parties in any proceedings when necessary for the complete deter- 35 mination of a matter in dispute,

(e) to authorize the hearing and disposition of any proceeding or matter by any other court,

(f) to arraign, admit to bail, try and punish offenders for offences committed under this Act. 40

159. The object of the supplementary jurisdiction herein conferred is to have all matters or disputes disposed of by the court exercising bankruptcy jurisdiction. Heretofore the trustee might be obliged to take proceedings in other courts and he might also be proceeded against in other courts. In many cases the issues involved could better be determined by the court or judge having knowledge of the background of bankruptcy administration. The more informal procedure of the bankruptcy courts would expedite the administration and keep the costs thereof under better control.

Particular attention might be made to section 159(f). The most unsatisfactory phase of bankruptcy administration relates to the punishment for offences enumerated in the Act. Experience indicates that in many cases magistrates and judges of inferior courts do not fully appreciate the significance of the offences as related to commercial morality with the result that creditors at large are almost thoroughly discouraged by reason of the failure to obtain proper and sufficient penalties for offences committed. If offenders were brought before a judge more familiar with the relative importance of such offences punishment meted out would be more consistent and more nearly related to the nature of the offence. Exception may be taken that offenders would hereby be deprived of their rights under the ordinary criminal procedure, but it need only be remembered that this authority is not being exercised by some extraneous or incompetent authority, but by a judge of the highest trial court in any province from whom it is to be assumed that justice will be best administered. While such judges may be specially designated for bankruptcy work yet they are nonetheless judges of the highest trial courts in their respective jurisdictions.

Section 152(1) read as follows:

"The following named courts are invested with such jurisdiction at law and in equity as will enable them to exercise original, auxiliary and ancillary jurisdiction in bankruptcy and in other proceedings authorized by this Act during their respective terms, as they are now, or may be hereafter, held, and in vacation and in chambers,—

- (a) In the provinces of Alberta, British Columbia, Nova Scotia, Ontario and Prince Edward Island, the Supreme Court of the province;
- (b) In the provinces of Manitoba and Saskatchewan, the Court of King's Bench of the province;
- (c) In the province of New Brunswick, the King's Bench Division of the Supreme Court of the province;
- (d) In the province of Quebec, the Superior Court of the province; and
- (e) In the Yukon Territory, the Territorial Court of the Yukon Territory."

Courts of
appeal.

(2) The several courts of appeal throughout Canada, within their respective jurisdictions, are invested with power and jurisdiction at law and in equity, according to their ordinary procedures, except as varied by this Act or General Rules, to hear and determine appeals from the courts vested with original jurisdiction under this Act. 5

Supreme
Court of
Canada.

(3) The Supreme Court of Canada shall have jurisdiction to hear appeals according to its ordinary procedure and to hear references as hereinafter authorized and to award costs.

Establish-
ment of
judicial
districts
of courts for
bankruptcy
purposes.

Appointment
of Regis-
trars.

160. (1) The jurisdiction vested in the Courts herein- 10
before named, shall be exercised in the same manner as the
jurisdiction of such courts is exercised ordinarily within the
judicial districts established by the provinces or otherwise,
for the administration of civil law.

(2) The Registrars, clerks and prothonotaries of the said 15
courts and their deputies and assistants within their respec-
tive judicial districts, are hereby appointed and empowered
to exercise and perform the duties and functions of a
Registrar under this Act: Provided, however, that the
judicial duties and functions of a Registrar shall be 20
exercised and performed in those judicial districts, where
there is a Master of the Court by such Master, and else-
where by such Registrar, Clerk or Prothonotary where
such official is a duly qualified member of the legal profes-
sion, but otherwise, 25

(a) by a judge of the County or District Court within
the judicial district,

(b) by a judge of the Superior Court in the province of
Quebec,

159. (2) This was formerly section 152(3) and (4), which read as follows:

(3) The courts in the next subsection named are subject to the provisions of this Act with respect to appeals, invested with power and jurisdiction to make or render on appeal asserted, heard and decided according to their ordinary procedure, except as varied by General Rules, the order or decision which ought to have been made or rendered by the court appealed from.

- (4) All appeals asserted under authority of this Act shall be made,
- (a) in the province of Nova Scotia and Prince Edward Island, to the Supreme Court *en banc* of the province;
 - (b) in the provinces of British Columbia, Manitoba and Saskatchewan, to the Court of Appeal of the province;
 - (c) in the provinces of Ontario and Alberta, to the Appellate Division of the Supreme Court of the province;
 - (d) in the province of New Brunswick, to the Appeal Division of the Supreme Court of the province;
 - (e) in the province of Quebec, to the Appeal side of the Court of King's Bench;
 - (f) in the Yukon Territory, to the Court of Appeal of the province of British Columbia.

This section has been revised and simplified to avoid unnecessary verbiage.

(3) This subsection was formerly section 174(3) and has been redrafted for clarification and to make it more definite. This has been deemed necessary because of the fact that the courts exercising bankruptcy jurisdiction in each province have, by reason of the doubt as to whether or not such courts are to be regarded as Dominion or Provincial Courts, inclined to the view that they are Provincial Courts and are not bound by the decisions of the court in any other province. The result has been a confusion of conflicting decisions and the intention is to make it plainly understood that they are bound by and must follow the decisions of the Supreme Court of Canada. Section 174(3) read:

"The Supreme Court of Canada shall have jurisdiction to hear and to decide according to its ordinary procedure any appeal so permitted and to award costs."

160. (1) The former section 153(1) and (2) has been transferred to section 163 (1) and (2). This is a new section replacing section 157(1) which has been deleted. The purpose of this section is to decentralize the courts and bring them in line with the Judicial Districts of the courts of ordinary jurisdiction. There would seem to be no good reason why bankruptcy matters should not now be dealt with in the same manner as other civil matters, thereby contributing to the much greater convenience of the public, the legal profession and all others interested in the administration of bankrupt estates. Section 157(1) is as follows:

"157. The Chief Justice of each Court upon which the powers and jurisdiction are conferred by this Act shall from time to time appoint and assign such registrars, clerks and other officers in bankruptcy as he deems necessary or expedient for the transaction or disposal of matters in respect of which power or jurisdiction is given by this Act and may prescribe or limit the territorial jurisdiction of any such registrar, clerk or other officer."

(2) This is a new subsection which establishes the authority of the Registrars required to carry out the provisions of the Act.

(c) by such duly qualified member of the legal profession as may be appointed by the Territorial Councils of the Yukon or the Northwest Territories respectively.

Clerks and other officers to assist Registrar.

(3) The clerks or other officers of the said Courts shall perform such duties and functions in the administration of this Act as may be assigned to them by the Registrar. 5

Appointment of special court officials for better administration.

(4) The Lieutenant-Governor in Council may, however, as is deemed expedient for the better administration of the Act, especially appoint within any such judicial district, such duly qualified members of the legal profession as Registrars, as are necessary to exercise and perform the duties and functions of a Registrar, as prescribed by this Act, and such other officers and clerks as are necessary to assist the Registrar, in the performance of his duties and functions, in which case the provisions of subsections two and three shall not apply, except that in cases of emergency or in the absence of or when requested by the Registrar so especially appointed, the persons designated in subsections two and three may act on behalf of, or in the place and stead of, such especially appointed persons. 10 15 20

Notice to Superintendent, etc., of special appointments.

(5) The Lieutenant-Governor in Council shall, send or cause to be sent, a copy of such appointments to the Superintendent, and to the Registrar, Clerk, or Prothonotary of the Court of the Judicial District to which such appointment applies. 25

Penalty for refusal or neglect to perform duties.

(6) Any registrar, clerk or other officer in bankruptcy refusing or neglecting to act as such registrar, clerk or other officer, or to perform or carry out any act, matter or thing connected with the office to which he has been appointed or assigned, for the transaction or disposal of any matter in respect of which power or jurisdiction is given by the Act or the Rules, shall be guilty of contempt of court and may be punished accordingly. 30

Assignment of judges to bankruptcy work by Chief Justice.

161. The Chief Justice of the court, and in the province of Quebec, the Chief Justice or the Acting Chief Justice in the district in which he has been appointed, may, if in his opinion it be advisable or necessary for the good administration of this Act, nominate or assign one or more of the judges of the court ordinarily to exercise the judicial powers and jurisdiction conferred by this Act, which may be exercised by a single judge, and the judgment, decision or order of any such judge so nominated or assigned shall be deemed to be the judgment, decision or order of the court, and reference in this act to the court shall apply to any such judge exercising the powers and jurisdiction of the court: Provided that nothing in this subsection shall diminish or affect the powers or jurisdiction of the court or of any of the judges thereof not so specially nominated or assigned. 35 40 45

160. (3) This subsection is self-explanatory.

(4) The duties and functions of a Registrar in the larger centres of population may warrant the appointment of special officials for the purpose of better administration. This section makes such provision.

(5) This subsection is self-explanatory.

(6) This was formerly Rule 66. It is inserted in this section as being more properly a matter of substantive law by reason of its penal consequences. Rule 66 formerly read as follows:

66. Where any registrar, clerk or other officer in bankruptcy refuses or neglect to act as such registrar, clerk or other officer or to perform or carry out any act, matter or thing connected with the office to which he has been appointed or assigned for the transaction or disposal of any matter in respect of which power or jurisdiction is given by "The Bankruptcy Act" or by these Rules, then, and in every such case, the registrar, clerk or other officer so neglecting or refusing, shall be guilty of contempt of court and be liable to be punished accordingly.

161. This was formerly section 156 slightly amended. It read in part as follows:

"**156.** The Chief Justice of the court, and in the province of Ontario the Chief Justice of Ontario, and in the province of Quebec, the Chief Justice or the Acting Chief Justice in the district of appeal in which he has been appointed, etc., etc."

The former section 154 now becomes section 164 (1).

Exercise of power by judges of other courts on appointment by Minister.

162. (1) The Minister may, if in his opinion it be advisable or necessary for the good administration of this Act, authorize any district, county or other judge to exercise any or all of the powers and jurisdiction of the court, or of a judge or registrar thereof, subject to any limitation or condition, and any such judge so authorized shall be deemed a judge or registrar as the case may be of the court having jurisdiction in bankruptcy, and references to the court or to the judge of the court or to the registrar shall apply to such district, county or other judge according to the terms of his authority. 5 10

References to Supreme Court by Minister.

(2) The Minister for the purpose of establishing uniformity of judicial precedents in bankruptcy matters throughout Canada, may refer any question of law and fact in which there are conflicting decisions of the courts to the Supreme Court of Canada, for review and determination. Notice of the reference shall be given to such persons as a judge of the said Supreme Court shall direct. 15

Winding-up Act not to apply.

163. (1) Where the bankrupt is a corporation, as defined by this Act, *The Winding-up Act* shall not, except by leave of the court, extend or apply to it notwithstanding anything in that Act contained, but all proceedings instituted under that Act before this Act comes into force or afterwards, by leave of the court, may and shall be as lawfully and effectually continued under that Act as if the provisions of this section had not been made. 20 25

Winding-up Act to apply and prevail in certain cases.

(2) An order of the court, granting leave to extend or apply to any such corporation *The Winding-up Act* shall not be invalid or subject to any objection by reason only that the corporation had previously made an assignment under the provisions of this Act, or that proceedings in bankruptcy under this Act were at the time pending against the corporation, and in any such case the provisions of *The Winding-up Act* shall apply and prevail, and the bankruptcy proceedings shall abate subject to such disposition of the costs thereof to be made in the winding-up proceedings as the justice of the case may require. 30 35

Authority of the Courts.

Court not subject to be restrained.

164. (1) The courts having jurisdiction in bankruptcy under this Act shall not be subject to be restrained in the execution of their powers hereunder by the order of any other court. 40

Power of judge in chambers.

(2) Subject to the provisions of this Act and to General Rules, the judge of the court exercising jurisdiction in bankruptcy proceedings may exercise in chambers the whole or any part of his jurisdiction. 45

162. (1) This was formerly section 158. No change. The former section 155 now becomes section 164 (3).

(2) This subsection is new. It has been added to enable references to be made to the Supreme Court to determine points of law and interpretation where there are conflicting decisions of the lower courts.

163. (1) This was formerly section 153. No material change.

(2) No change.

164. (1) This was formerly section 154. No change.

(2) This was formerly section 152 (2). No material change.

Periodical sittings.

(3) Periodical sittings for the transaction of the business of such courts shall be held at such times and places and at such intervals as each of such courts shall for itself prescribe.

Court may review, etc.

(4) Every court having jurisdiction in bankruptcy under this Act may review, rescind or vary any order made by it under its bankruptcy jurisdiction. 5

Enforcement of orders.

(5) Every order of the Court may be enforced as if it were a judgment of the Court.

Orders and judgments when effective and enforceable.

(6) Subject to the provisions of section one hundred and fifty-eight every order or judgment of the Court shall be effective as from the time it is pronounced or delivered and may be enforced as soon as it is signed and issued, but the Court may grant a stay of proceedings pending the launching of an appeal. 10

Transfer of proceedings to another division.

(7) The court, upon the application of the trustee or of a creditor proceeding under authority of any ordinary resolution of the creditors, and upon satisfactory proof that the affairs of the bankrupt can be more economically administered within another bankruptcy district or division, or for other sufficient cause, may at any time by order, transfer any proceedings under this Act, which are pending before it to another bankruptcy district or division wherein thereafter they may be carried on as effectually as if therein commenced. 15 20

Trial of issue, etc.

(8) The court may direct any issue to be tried or inquiry to be made by any judge or officer of any of the courts of the province, and the decision of such judge or officer shall be subject to appeal to a judge in bankruptcy, unless the judge is a judge of a superior court when the appeal shall be to the court of appeal. 25 30

Formal defect not to invalidate proceedings.

(9) No proceeding in bankruptcy shall be invalidated by any formal defect or by any irregularity, unless the court before which an objection is made to the proceeding is of opinion that substantial injustice has been caused by the defect or irregularity and that the injustice cannot be remedied by any order of that court. 35

Court to correct and amend when necessary.

(10) In proceedings before the courts, so that all questions at issue of law and fact may be resolved on their merits, any omission to plead any fact, statute or rule of law in any written process or proceedings wherefrom the substantive rights of any party to the proceedings may be prejudiced, denied or lost shall be corrected or amended by the Court on such terms as it may deem proper. For the purpose of obtaining full disclosure of all the facts the Court may examine or re-examine any witness or summon any witness to attend or re-attend to give evidence or require the production of or receive such further evidence as it deems expedient. 40 45

- (3) This was formerly section 155. No change.
- (4) This was formerly section 164. No change.
- (5) This was formerly Rule 53.

(6) This is a new subsection. It has been inserted to establish uniformity with respect to the effect and enforcement of all orders and judgments in bankruptcy matters. It is a matter of difference of opinion as to whether or not an order or judgment should be enforceable when issued or not enforceable until the time for launching an appeal has expired. It is considered that more injustices might occur from non-enforcement pending the launching of an appeal than from immediate enforcement subject to a stay being granted by the court.

(7) This was formerly section 6 (2). No material change. It read in part as follows:

“6. (2) The court, upon the application of the trustee or of a creditor proceeding under authority of any ordinary resolution carried by the votes of a majority in number of the known creditors, and upon satisfactory proof that the affairs of the debtor can be more economically administered, etc., etc.”

(8) This was formerly section 171. No material change. The words “to the court of appeal” have been substituted for the words “under section one hundred and seventy-four.”

(9) This was formerly section 186 (1). No change.

(10) This is a new subsection. The *Bankruptcy Act* is a commercial act largely administered by laymen. Oftentimes injustices have occurred because of technicalities and irregularities in pleadings or other proceedings so that the substantive rights of the parties are not dealt with on the merits. It is felt that there can be no risk in the discretion given to the court to obtain disclosure of all the facts so that any matter may be finally determined on the complete facts and the law applicable thereto.

Proceedings
taken in
wrong court.

(11) Nothing herein contained shall invalidate any proceedings by reason of the same having been commenced, taken or carried on in the wrong court, but the court may at any time transfer to the proper court the petition, application or proceedings, as the case may be.

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Enforcement
of orders of
courts
throughout
British
countries.

165. (1) Any order made by a court exercising jurisdiction in bankruptcy under this Act and any order made by a court having jurisdiction in bankruptcy in a British country which has reciprocal legislation providing for the enforcement of Canadian orders in bankruptcy matters, by the courts of such countries, shall be enforced in the courts having jurisdiction in bankruptcy elsewhere in Canada and in the courts of such British countries in the same manner in all respects as if the order had been made by the Court hereby required to enforce it.

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Courts to
be auxiliary
to each other.

(2) All such Canadian and British courts having jurisdiction in bankruptcy and the officers of such courts respectively, shall severally act in aid of and be auxiliary to each other, in all matters of bankruptcy, and an order of the court seeking aid, with a request to another of the said courts, shall be deemed sufficient to enable the latter court to exercise, in regard to the matters directed by the order, such jurisdiction as either the court which made the request or the court to which the request is made, could exercise in regard to similar matters, within their respective jurisdictions.

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Enforcement
of warrants.

(3) Any warrant of a Canadian or British court having jurisdiction in bankruptcy, may be enforced in any part of the Dominion of Canada, in the manner prescribed or in the same manner and subject to the same privileges in, and subject to which, a warrant issued by any justice of the peace under or in pursuance of the Criminal Code may be executed against a person for an indictable offence.

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Search
warrants.

166. (1) The court may by warrant direct the seizure or search on behalf of the trustee, or interim receiver, of or for any part of the property of the bankrupt, whether in possession of the bankrupt or of any other person, and for that purpose may order the breaking open of any building or place where the bankrupt or any part of his property is believed to be.

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Commit-
ment to
prison.

(2) Where the court commits any person to prison, the commitment may be to such convenient prison as the court thinks expedient, and if the gaoler of any prison refuses to receive any prisoner so committed, he shall be liable for every such refusal to a fine not exceeding five hundred dollars.

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(11) This was formerly section 4 (12).

165. (1) The former section 157 (1) has been deleted and replaced by the new section 160 (1). It formerly read as follows:

"157. (1) The Chief Justice of each court upon which the powers and jurisdiction are conferred by this Act from time to time appoint and assign such registrars, clerks and other officers in bankruptcy as he deems necessary or expedient for the transaction or disposal of matters in respect of which power or jurisdiction is given by this Act and may prescribe or limit the territorial jurisdiction of any such registrar, clerk or other officer."

The new section 165 (1) was formerly section 170 (1) and read as follows:

"Any order made by a court exercising jurisdiction in bankruptcy under this Act shall be enforced in the courts having jurisdiction in bankruptcy elsewhere in Canada in the same manner in all respects as if the order had been made by the court hereby required to enforce it."

It has been revised to bring it in line with the English and Australian Acts which provide for reciprocal administration in any British country. As the section now stands it only applies to enforcement of the Act throughout the various provinces of Canada.

(2) This was formerly section 170 (2). No material change, except to include British courts to make the subsection complementary to subsection one of this section. The former section 157 (2) is now included in section 39 (4) (e).

(3) This was formerly section 170 (3). No material change, except to include British Courts within its operation.

166. (1) This was formerly section 172, and replaces the former section 158 which now becomes section 162.

(2) This was formerly section 173.

*Powers of Registrar.*Powers of
registrar.

167. (1) The registrars of the several courts exercising bankruptcy jurisdiction under this Act, shall have power and jurisdiction, without limiting the powers otherwise conferred by this Act or the Rules,

- (a) to hear bankruptcy petitions and to make receiving orders and adjudications thereon, where they are not opposed; 5
- (b) to hold examinations of bankrupts or other persons;
- (c) to grant orders of discharge where the application is not opposed; 10
- (d) to approve compositions, extensions or schemes of arrangement where they are not opposed;
- (e) to make interim orders in cases of urgency;
- (f) to make any order or exercise any jurisdiction which by any rule in that behalf is prescribed as proper to be made or exercised in chambers; 15
- (g) to hear and determine any unopposed or ex parte application;
- (h) to summon and examine any person known or suspected to have in his possession effects of the bankrupt or to be indebted to him, or capable of giving information respecting the bankrupt, his dealings or property; 20
- (i) to hear and determine applications relating to proofs of claims whether or not opposed; 25
- (j) to tax or fix costs and to pass accounts;
- (k) to hear and determine any matter with the consent of all parties;
- (l) to do any act or thing or give any direction or permission by this Act authorized or required to be done or given by the inspectors, where there is no such committee, or where the trustee is unable to obtain necessary instructions or directions from the inspectors or any of them, after a reasonable effort to do so; 30
- (m) to hear and determine any matter relating to practice and procedure in the courts; 35
- (n) to settle and sign all orders and judgments of the courts not settled or signed by a judge and to issue all orders, judgments, warrants or other processes of the courts; 40
- (o) to perform all necessary administrative duties relating to the practice and procedure in the courts: 40

Provided, however, that the powers and jurisdiction herein or otherwise conferred upon a registrar may at any time be exercised by a judge. 45

Registrar
may not
commit.

(2) A registrar shall not have power to commit for contempt of court.

167. (1) Certain additional powers have been added to the powers already conferred upon the Registrars in bankruptcy matters. The limitation of the last line has been deleted as it is neither logical nor consistent to have an express intention of Parliament limited or restricted by a rule. Section 159 (1) read as follows:

"159. (1) The Registrars of the several courts exercising bankruptcy jurisdiction under this Act shall have power and jurisdiction subject to General Rules, limiting the powers conferred by this section."

Clause (i) read as follows:

"(i) to hear and determine appeals from the decision of a trustee allowing or disallowing a creditor's claim where such claim does not exceed five hundred dollars."

(j) Ordinarily the power to tax costs and pass accounts is exercised by Registrars in any event so that there would appear to be no special reason why this authority should not be conferred upon the registrar as well. Heretofore it has been necessary for the Chief Justice to appoint the Registrar to be a taxing officer practically in every case.

(k) This subsection is new and is inserted to expedite the determination of proceedings before the court. The privilege of appeal to a judge removes any possibility of injustice.

(l) This is subsection (e) of section 24 of the Australian Bankruptcy Act and has been added to expedite the administration where the inspectors fail to function properly. It reads as follows:

"To do any act or thing or give any direction or permission by this Act authorized or required to be done or given by the committee of inspection, where there is no such committee;"

(m) This is a new subsection and is included to set out more clearly the authority to be exercised by the Registrar to hear and determine matters relating to the practice and procedure in the courts. Heretofore only subsection (f) might be inferred to deal therewith but no rule had been promulgated explicitly setting up any authority in this respect.

(n) This is a new subsection and is complementary to complete the mechanics by which orders and judgments of the court are made effective.

(o) This is a new subsection and vests the Registrar with authority to perform the necessary administrative duties in connection with the operation of the courts. No express provision had been in effect heretofore and such authority was assumed only by inference.

Appeal from registrar.

(3) Any person dissatisfied with an order or decision of the registrar may appeal therefrom to a judge, in manner prescribed by General Rules.

Order of registrar deemed order of court.

(4) Any order made or act done by such registrars in the exercise of the said powers and jurisdiction shall be deemed the order or act of the court. 5

Reference to Judge by registrar.

(5) A registrar may refer any matter ordinarily within his jurisdiction to a judge for disposition.

Removal of matter before registrar to judge.

(6) A judge may direct that any matter before a registrar be brought before the judge for hearing and determination. 10

Registrars to act for each other.

(7) Any registrar in bankruptcy may act for any other registrar.

Bankruptcy districts and divisions.

168. (1) Each province of Canada and the Yukon Territory shall constitute for the purposes of this Act one bankruptcy district, but the Governor in Council may divide any such bankruptcy district into two or more bankruptcy divisions, and name or number them. 15

Official Receivers.

(2) The Governor in Council may appoint one or more Official Receiver in each bankruptcy division who shall be deemed to be an officer of the court and who as such Official Receiver shall have and perform such duties and responsibilities as are prescribed by this Act and Rules, and who shall be entitled to receive as his remuneration the fees of his office unless otherwise provided for. 20

Court fees.

Fees to court officials fixed.

169. The tariff hereinbefore mentioned shall also fix the fees to be paid to the officers of the court and shall direct by whom and in what manner such costs and fees are to be collected and accounted for and to what account they shall be paid. 25

Disposition of fees payable to officers of the court.

(2) The fees payable to the officers of the court shall belong to the Crown in the right of the province, but the Lieutenant-Governor in Council may allow the same in whole or in part to such officers. 30

General Rules.

General rules.

170. (1) The Governor in Council may make, alter or revoke, and may delegate to the judges of the several courts, exercising bankruptcy jurisdiction under this Act the power to make, alter or revoke, General Rules not inconsistent with the terms of this Act for carrying into effect the objects thereof. 35

The proviso inserted at the end of the section is intended to remove any doubt as to the authority of a judge to perform the judicial functions of a Registrar. The provisions of the Act as they stood formerly giving the Registrar certain Specific jurisdiction might well have been interpreted to exclude a judge from exercising such jurisdiction.

(2) No change.

(3) No change.

(4) No change.

(5) This is a new subsection. Heretofore it has been assumed that the Registrar had authority to refer the matter to a judge. Some doubt on the point has often been expressed. This subsection is merely to remove the doubt.

(6) This is a new subsection. The same comments as applied in the previous subsection apply in this. It has always been more or less inferred that such authority did exist, but the subsection specifically removes that doubt.

(7) This was formerly Rule 64. No change.

168. (1) No change. This was formerly section 160 (1).

(2) The wording has been revised for simplification and a clause with respect to fees added. This was formerly section 160 (2). It read as follows:

“**160.** (2) There shall be one Official Receiver in each bankruptcy district or division who shall be deemed to be an officer of the court and who as such Official Receiver shall have and perform only such duties and responsibilities as are prescribed by this Act and Rules, and shall be appointed by the Governor in Council.”

169. (1) This was formerly section 162 (5).

(2) This was formerly section 162 (6).

170. No change.

Shall not
extend
jurisdiction.

(2) Such rules shall not extend the jurisdiction of the court, save and except that, for the purpose of enabling the provision of rules having application to corporations, but for such purpose only, *The Winding-up Act* shall be deemed part of this Act.

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Rules to
be tabled.

(3) All General Rules, as from time to time made, shall be laid before Parliament within three weeks after made, or, if Parliament is not then sitting, within three weeks after the beginning of the next session. Such rules shall be judicially noticed, and shall have effect as if enacted by this Act.

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Authority
for Forms.

(4) General Rules shall include Forms.

Legal costs
or costs
defined.

171. (1) Legal costs or costs, shall mean fees or charges for legal services rendered or proper disbursements made by any person duly qualified by law to perform such services.

Costs.

(2) Subject to the provisions of this Act and to General Rules, the costs of and incidental to any proceedings in court under this Act shall be in the discretion of the court.

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How costs
awarded.

(3) The court in awarding costs, may direct that such costs shall be taxed and paid, as between party and party, or as between solicitor and client, or the Court may fix a sum to be paid in lieu of taxation or of taxed costs, but in the absence of any express direction, costs shall follow the event and shall be taxed as between party and party.

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Personal
liability of
trustee for
costs.

(4) Where an action or proceeding is brought by or against a trustee, as representing the estate of a bankrupt, or where a trustee is made a party to any action or proceeding, on his application or on the application of any other party thereto, he shall not be personally liable for costs unless the Court for some special reason otherwise directs.

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When costs
payable.

(5) Subject to the provisions of the Act, no costs shall be paid out of the estate of the bankrupt, excepting the costs of such persons whose services have been authorized by the trustee in writing, and such costs as have been awarded against the trustee, or the estate of the bankrupt by the Court in any action or proceeding, but this provision shall not affect the right of any person to any costs which may be awarded against or be payable by persons other than the trustee, or the estate of the bankrupt.

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Application
of tariffs.

(6) Reasonable legal costs shall be paid according to the tariff provided by General Rules or according to the item in the tariff most nearly analogous or comparable to the services rendered, but where no provision may be found therein applicable to the particular services rendered or disbursements made, then according to the tariff in effect in other civil matters where the services have been rendered.

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(2) No change.

(3) No change.

(4) This subsection has been included to give validity to the prescribed forms. This was formerly section 2 (s).

171. (1) This is a redraft of the former section 162 (1) to include all legal services of whatever nature whatsoever. section 162(1) formerly read as follows:

"All attorneys, solicitors and counsel acting for the trustee or for the estate of a debtor in respect of proceedings under this Act, shall be paid out of the assets of such estate their reasonable costs and fees as fixed in a tariff provided by General Rules."

(2) This was formerly section 163(2).

(3) This is a redraft of Rule 54 (1) and (2) which has been combined for simplification. This former Rule is included as being more in the nature of establishing substantive rights. Rule 54 (1) and (2) formerly read as follows:

"(1) The Court in awarding costs may direct that the same shall be taxed and paid as between party and party or as between solicitor and client, or the Court may fix a sum to be paid in lieu of taxed costs.

(2) In the absence of any express direction costs of an opposed motion shall follow the event, and shall be taxed as between party and party."

(4) This was formerly Rule 54 (3) and it has been transferred for the same reason. It has been slightly redrafted for simplification and formerly read as follows:

"Where an action is brought by or against a custodian or trustee as representing the estate of the debtor, or where a custodian or trustee is made a party to a cause or matter, on his application or on the application of any other party thereto, he shall not be personally liable for costs unless the judge before whom the action, cause or matter is tried for some special reason otherwise directs."

(5) The former section 162(5) has been transferred to section 169 (1). This was formerly Rule 61 and section 162(2) and has been transferred for the same reason. It has been redrafted to conform to the new subsection (1). It has been combined with section 162 (2) which has also been rephrased to give it a more logical sequence. Rule 61 formerly read as follows:

"Subject to the provisions of the Act, no costs shall be paid out of the estate or assets of the debtor, excepting the costs of the solicitor or solicitors employed by the trustee and such costs as have been awarded against the trustee or the estate of the debtor by order of the Court in any action or proceeding under the Act or these Rules."

The former section 162 (2) also read as follows:

"This provision shall not disentitle such attorneys, solicitors and counsel to any costs or fees which may be awarded against or be payable by persons other than the trustee or the estate of the debtor."

(6) The former section 162(6) has been transferred to section 169 (2). This is a new adaptation of Rule 57 (1) transferred for the same reason as indicated above. It also is intended to provide for taxation of bills of costs for such services as are not covered by the bankrupt tariff such as

Priority of
payment of
legal costs.

(7) Legal costs shall be payable according to the following priorities:

- (a) Commissions on collections which shall be a first charge on any sums collected;
- (b) Costs incurred after the bankruptcy and prior to the first meeting of creditors by the trustee when duly authorized by the Court or approved by the creditors or the inspectors; 5
- (c) The costs on an assignment or costs incurred by a petitioning creditor up to the issue of a receiving order; 10
- (d) Costs awarded against the trustee or the estate of the bankrupt;
- (e) Costs for legal services otherwise rendered to the trustee or the estate.

Limitation
of costs.

(8) Notwithstanding anything herein contained, the total fees exclusive of disbursements for all such legal services otherwise rendered, shall not exceed ten per centum of the realization from the assets available for disposition under section one hundred and twenty-six, except with the approval of the inspectors and the Court, and in the event of the amount thereby available or authorized for payment of such legal fees, after payment of the costs aforementioned, being insufficient for the payment in full of the total fees in all of the bills of costs rendered, the fees shall be abated proportionately among those entitled to payment therefrom. 20 25

Limitation
of costs in
smaller
estates.

(9) When the value of the assets of the bankrupt, estimated or realized as the case may be, is certified by the trustee to be not more than one thousand dollars, or if such value is certified to be more than one thousand but not more than two thousand dollars, the scale of fees payable hereunder, other than disbursements, shall be reduced by one-half and one-third respectively. 30

Procedure.

Title of
papers.

172. (1) All proceedings in bankruptcy, upon or subsequent to the filing of a petition or assignment, shall be entitled, "In the matter of the Bankruptcy" of the bankrupt. 35

Title of
composition
before
bankruptcy.

(2) All proceedings in bankruptcy, with respect to a proposal for a composition by a person not bankrupt, shall be entitled, "In the matter of a proposal for a composition" by the debtor.

conveyancing costs which have been held as not being included in the limitations of the present tariff. Rule 57(1) formerly read as follows:

"The tariff of costs set forth in the Appendix and the regulations contained in such tariff, shall, subject to these Rules, apply to the taxation and allowance of costs and charges in all proceedings."

(7) This is a completely new section for the purpose of clarifying the priority of payment of legal costs.

(a) This is merely in line with ordinary legal practice.

(b) Certain duties are imposed on a trustee on his appointment to take possession of and to conserve the assets. He should be protected as to any costs thus necessarily incurred.

(c) Costs of an assignment have previously been recognized only as a matter of equitable practice by the Courts although there was no express provision therefor in the Act or Rules. Its inclusion gives a legal sanction for payment.

(d) Costs awarded against the trustee or the estate must necessarily take precedence to other legal costs of the trustee.

(e) Subsection (e) provides for all other costs payable by a trustee.

(8) This is a revision of the former section 162(3) and (4) on which there have been conflicting decisions of the courts as to the interpretation thereof. It is also felt that the limitations therein were hardly equitable and the limitations herein provided for would be more in line with other civil costs.

Section 162(3) and (4) formerly read as follows:

"Notwithstanding anything contained herein, in estates whereof the gross proceeds do not exceed five thousand dollars, the costs or fees payable may, by unanimous vote of the inspectors, be increased to any amount not to exceed ten per centum of the gross proceeds of such estate."

"Except as herein otherwise provided, the aggregate amount of such costs and fees so payable out of the assets of estates whereof the gross proceeds exceed five thousand dollars shall not exceed five per centum of such gross proceeds except with the approval of the court."

(9) This was formerly Rule 57 (2) transferred for the same reason. It has been revised and changed to reduce legal costs in similar estates more in line with other civil costs. Rule 57(2) formerly read as follows:

"Where the value of the assets of the debtor estimated or realized as the case may be is according to the certificate of the trustee less than fifteen hundred dollars, the scale of fees, other than disbursements, payable in all proceedings under the Act shall be reduced by one-third."

172. (1) The changes are self-explanatory. It read as follows:

"**163.** All proceedings in bankruptcy or under authorized assignments subsequent to the presentation of a bankruptcy petition or the making of an authorized assignment shall be entitled "In the matter of the Bankruptcy" of the debtor, or "In the matter of the Authorized Assignment" of the debtor, as the case may be."

(2) The former subsection (2) now becomes section 171(2).

This is a new subsection. With respect to proceedings for a proposal for a composition by a person against whom a

- Adjourment (3) The court may at any time adjourn any proceedings before it upon such terms, if any, as it may think fit to impose.
- Amendment. (4) The court may at any time amend any written process or proceedings under this Act upon such terms, if any, as it may think fit to impose. 5
- Extension of time. (5) Where by this Act, or by General Rules, the time for doing any act or thing is limited, the court may extend the time either before or after the expiration thereof, upon such terms if any, as the court may think fit to impose. 10
- Evidence. (6) Subject to General Rules, the court may in any matter take the whole or any part of the evidence, either *viva voce*, or by interrogatories, or upon affidavit, or, out of the Dominion of Canada, by commission.
- Computation of time. **173.** (1) Where by this Act, any limited time from or after any date or event is appointed or allowed for the doing of any act, or the taking of any proceeding, then in the computation of that limited time, the same shall be taken as exclusive of the day of that date, or of the happening of that event, and as commencing at the beginning of the next following day; and the act or proceeding shall be done or taken at latest, on the last day of that limited time, as so computed, unless the last day is a Sunday, or a statutory holiday throughout the province where the act or proceeding is to be done or taken on a day on which the court does not sit, in which case any act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards which is not one of the days in this section specified. 15
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- On day following day specified. (2) Where by this Act any act or proceeding is directed to be done or taken on a certain day, then, if that day happens to be one of the days in this section specified, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards which shall not be one of the days in this section specified. 30
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- Personal service. **174.** (1) In cases in which personal service of any notice of motion, order, or other proceeding is required, the same may be effected by delivering to each party to be served, a copy of the notice of motion, order, or other proceeding, as the case may be. 40
- Service of notices. (2) All notices and other documents for the service of which no special mode is directed, may be sent by registered and prepaid post to the last known address of the person to be served therewith, and shall be deemed to have been served on the day following the mailing thereof. 45

receiving order has not been made or who has not filed an assignment it is deemed desirable to avoid any suggestion of bankruptcy and such a person is thereby described as a debtor rather than by the usual term of bankrupt.

- (3) No change.
- (4) No change.
- (5) No change.
- (6) No change.
- (7) Section 163(7) has been transferred to section 4(5).
- (8) Section 163(8) has been transferred to section 4(15).
- (9) Section 163(9) has been transferred to section 4(19).
- (10) Section 163(10) has been transferred to section 4(13).

173. (1) This was formerly section 184 and has been transferred to this section which is its more logical sequence. It replaces the former section 164 which now becomes section 164(4). It reads as follows:

"164. Every court having jurisdiction in bankruptcy under this Act may review, rescind or vary any order made by it under its bankruptcy jurisdiction."

- (2) This was formerly section 184(2).

174. (1) This was formerly Rule 17. It replaces the former section 165(1) which now has been transferred to section 4(17). It reads as follows:

"165. Any creditor whose debt is sufficient to entitle him to present a bankruptcy petition against all the partners of a firm may present a petition against any one or more partners of the firm, without including the others."

- (2) This was formerly section 185. It replaces the former section 165(2) which has been transferred to section 4(18). It reads as follows:

"165. (2) Where a receiving order has been made on a bankruptcy petition by or against one member of a partnership, any other bankruptcy petition by or against a member of the same partnership shall be filed in or transferred to the court in which the first mentioned petition is in course of prosecution, and unless the court otherwise directs, the same trustee shall be appointed as may have been appointed in respect of the property of the first mentioned member of the partnership, and the court may give such directions for consolidating the proceedings under the petitions as it thinks just."

Application to limited partnerships.

175. The provisions of this Act shall apply to limited partnerships in like manner as if limited partnerships were ordinary partnerships, and, on all the general partners of a limited partnership being adjudged bankrupt or making an authorized assignment, the assets of the limited partnership shall vest in the trustee. 5

Actions by trustee and bankrupt's partner.

176. (1) Where a member of a partnership is adjudged bankrupt, the court may authorize the trustee to commence and prosecute any action in the names of the trustee and of the bankrupt's partner. 10

Release to be void.

(2) Any release by such partner of the debt or demand to which the action relates shall be void.

Notice to partner.

(3) Notice of the application for authority to commence the action shall be given to the bankrupt's partner, and he may show cause against it, and on his application, the court may, if it thinks fit, direct that he shall receive his proper share of the proceeds of the action, and, if he does not claim any benefit therefrom, he shall be indemnified against costs in respect thereof as the court directs. 15

Actions in name of firm, society or organization.

177. Any two or more persons, being partners, or carrying on as a society or organization for co-operative or other purposes or any person carrying on business under a partnership name, may take proceedings or be proceeded against under this Act in the name of the firm, society or organization, but in such case the court may, on application by any person interested, order the names of the persons who are partners in such firm, society or organization or the name of such person to be disclosed in such manner, and verified on oath or otherwise, as the court may direct. 20 25

Action on joint contracts.

178. Where a bankrupt is a contractor in respect of any contract jointly with any person or persons, such person or persons may sue or be sued in respect of the contract without the joinder of the bankrupt. 30

Appeals.

Appeals in bankruptcy.

179. Any person dissatisfied with an order or decision of the court or a judge in any proceedings under this Act may appeal to the Appeal Court if the 35

(a) question to be raised on the appeal involves future rights; or the

(b) order or decision is likely to affect other cases of a similar nature in the bankruptcy proceedings; or the 40

(c) amount involved in the appeal exceeds two hundred dollars; or if the appeal relates to the rights of parties concerning property valued at five hundred dollars or more; or the

175. This section was formerly section 176. It replaces the former section 166 which has been transferred to section 4(10). It reads as follows:

"166. Where there are more respondents than one to a bankruptcy petition the court may dismiss the petition as to one or more of them, without prejudice to the effect of the petition as against the other or others of them."

Section 176 read in part:

"176. Subject to such modifications as may be made by General Rules, the provisions of this Act shall apply, etc., etc."

176. (1) No change.

(2) No change.

(3) No change.

177. These changes have been made to overcome certain decisions of the Court holding that particular societies of this nature did not come within the definition of persons and therefore were not subject to the provisions of the *Bankruptcy Act*.

178. No material change.

179. This was formerly section 174(1) and replaces the former section 170 which now becomes section 165. This section has been slightly amended and certain new subsections added. This amendment is recommended to broaden generally the grounds of appeal to permit substantive present rights as distinguished from future rights to be considered so that consequential results may be determined even though no monetary question is directly involved, e.g., Sale of lease by trustee, Right of appeal by landlord on ground that trustee had no right to transfer lease now denied. See in *re Hyman Fogel v. Grobstein* 26 C.B.R. 248.

(c) The right of appeal throughout Canada at large is set up on a much lower basis and there would not appear to be any good reason why such basis should not be reduced in bankruptcy cases too.

- (d) appeal is from the grant or refusal to grant a discharge or annulment, or the approval or disapproval of a composition, or from any order made on any such application; or the
- (e) appeal is from an order granting or refusing to grant a stay of proceedings; or the
- (f) judge making any order or rendering any judgment or a judge of the Court of Appeal grants leave to appeal therefrom.

Supreme
Court of
Canada.

180. The decision of the Appeal Court upon any such appeal shall be final and conclusive unless special leave to appeal therefrom to the Supreme Court of Canada is obtained from a judge of that court. 10

Stay of
proceedings
on filing
of appeal.

181. On the filing of an appeal, all proceedings under the order or judgment appealed from, shall be stayed, until the appeal is disposed of, but the Court of Appeal or a judge thereof, may cancel and determine the stay, if it appears that the appeal is frivolous or vexatious, is not made in good faith, or is not being prosecuted diligently, or for such other reason as may be deemed proper. 15 20

How appeals
to be
determined.

182. The Court of Appeal shall, do the things and make or render the order or judgment, which ought to have been done or made by the Court appealed from, on the law and the facts in accordance with the substantive rights of all parties to the proceedings, and to this end may review and consider anew the evidence adduced before the Court of original hearing, or it may receive such further evidence as it may deem proper in such form and manner as it may see fit. 25

(d) The right to a discharge is the primary purpose of the Act and it is hardly reasonable or consistent that a greater amount of unpaid claims should be necessary to establish that right. The substance of Rule 158 is also included. Section 174(d) read as follows:

"174. (d) appeal is from the grant or refusal to grant a discharge and the aggregate of the unpaid claims of creditors exceeds five hundred dollars."

Rule 158 read as follows:

"158. An appeal to the Appeal Court shall lie at the instance of the trustee, the debtor and or at the instance of any creditor or creditors, who oppose the discharge, from any order of the Court made upon the application for discharge."

(e) This is deemed essential to prevent possible injustices and hardship.

(f) If a judge sees fit to grant leave to appeal from any order made or judgment rendered by him it may be safely assumed that there is some merit for the appeal.

180. This was formerly section 174(2) and replaces the former section 171 which has been transferred to section 164(8).

181. This is a new section. It now takes the place of the former section 174(3) which has been transferred to section 159(3). The former section 172 has been transferred to section 166(1).

The discretion granted to the Court of Appeal or a judge thereof to cancel or determine a stay of proceedings while an appeal is pending is considered necessary and advisable to prevent abuses of the right of appeal.

182. This is a new section. It now takes the place of the former section 174(4) which has been transferred to section 185. The former section 173 has been transferred to section 166(2). It is merely a logical sequence to the similar provisions set up for the courts of original jurisdiction. Too strict adherence to formalities and technicalities occasionally causes grave injustices of proceedings not being disposed of on the merits. At least it would not appear to be unreasonable that they ought to some extent have the obligation imposed on them to apply the proper law and to try to ascertain all the facts. If a court is aware of any errors or mistakes which would affect the result it should not only be empowered but required to correct and amend within the limitations prescribed. Only in this way can cases be disposed of on the merits. Formalities and technicalities ought not to be allowed to stand in the way of achieving this result.

Stay of proceedings pending launching of appeal. How appeals to be determined.

183. The Court of Appeal or a judge thereof may grant a stay of proceedings pending the launching of an appeal.

184. The Supreme Court of Canada, shall make the order or render the decision, which ought to have been made by the Court appealed from, on the law and the facts from the evidence adduced. 5

No stay of proceedings unless ordered.

185. No such appeal to the Supreme Court of Canada shall operate as a stay of proceedings, unless the judge who permits such appeal shall so order, and to the extent to which he shall order, and the appellant shall not be required to provide any security for costs, but unless he provides security for costs, in an amount to be fixed by the judge permitting the appeal, he shall not be awarded costs in the event of his success upon such appeal. 10 15

Decision final.

186. The decision of the Supreme Court of Canada on any such appeal shall be final and conclusive and shall be binding on all other courts throughout Canada.

PART VIII.

SUPPLEMENTAL PROVISIONS.

Evidence of facts in notice.

187. A copy of the *Canada Gazette* containing any notice inserted therein in pursuance of this Act, shall be *prima facie* evidence in any court or elsewhere of the facts stated in the notice unless the contrary is proven. 20

Seal of Court.

188. Every court having jurisdiction in bankruptcy under this Act shall have a seal describing the court, and judicial notice shall be taken of the seal and of the signature of the judge or registrar of any such court, in all legal proceedings. 25

Evidence of proceedings in bankruptcy.

189. (1) Any document made or used in the course of any bankruptcy proceedings, or other proceedings had under this Act, shall if it appears to be sealed with the seal of any court having jurisdiction in bankruptcy, or purports to be signed by any judge thereof, or is certified as a true copy by any registrar thereof, be receivable in evidence in all legal proceedings whatever. 30

Documentary evidence as proof.

(2) The production of an original document relating to any bankruptcy proceeding, or a copy certified by the person making it as a true copy thereof, or by a successor in office of such person as a true copy of a document found among the records in his control or possession, shall be conclusive evidence for any purpose whatsoever of the contents of such documents, unless the contrary is proven. 35 40

183. This is a new section. It now takes the place of the former section 174(5) which has been transferred to section 187.

The former section 174(1) and (2) has been transferred to sections 179 and 180.

184. The former section 175 has been transferred to section 27(3). This is a new section setting out the manner in which the authority of the Supreme Court is to be exercised.

185. The former section 176 has been transferred to section 175. This was formerly section 174(4).

186. The former section 177 has been transferred to section 106(1) and (2). This was formerly section 174(5). The added clause is inserted to create uniform application of the Act. Ordinarily the courts of the provinces are not bound by a judgment of the Supreme Court.

187. The changes are self-explanatory.

188. This was formerly section 182. It replaces the former section 179 which has been deleted as it is practically a repetition of section 178. It read as follows:

"179. The production of a copy of the *Canada Gazette* containing any notice of a receiving order adjudging a debtor bankrupt, shall be conclusive evidence in all legal proceedings of the order having been duly made, and of its date."

189. The changes therein will be self-explanatory. It read in part:

"Any petition or copy of a petition in bankruptcy, any order or certificate or copy of an order or certificate, made by any court having jurisdiction in bankruptcy, any instrument or copy of an instrument, affidavit or document made or used in the course of any bankruptcy proceedings, etc., etc."

(2) This is a new subsection. Its purpose is to simplify the method of proving documents in bankruptcy proceedings.

Swearing of
affidavits.

190. Any affidavit to be used in any proceedings, or in a court exercising jurisdiction in bankruptcy under this Act, may be sworn before any person authorized to administer oaths in the court having jurisdiction, or before any registrar of the court or before any officer of a court having jurisdiction in bankruptcy authorized in writing in that behalf by the court, or before a justice of the peace for the province, county or place where it is sworn, or, in the case of a person who is out of Canada, before a notary public, a magistrate or justice of the peace, or other person qualified to administer oaths in the country where he resides, he being certified to be a magistrate or justice of the peace or qualified as aforesaid by a British consul or vice-consul or by a notary public. 5

Death of
bankrupt
or witness.

191. In case of the death of the bankrupt, or the wife, or husband of a bankrupt, or of a witness whose evidence has been received by any court in any proceedings under this Act, the deposition of the person so deceased, purporting to be sealed with the seal of the court or a copy thereof purporting to be so sealed, shall be admitted as evidence of 15
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of the matters therein deposed to.

Who may
act for
corporations,
firms and
lunatics.

192. For all or any of the purposes of this Act, an incorporated company may act by any of its officers or employees authorized in that behalf, a firm may act by any of its members, and a lunatic may act by his committee or curator, or by the guardian or curator of his property. 25

Certain
provisions to
bind Crown.

193. Save as provided in this Act, the provisions of this Act relating to the remedies against the property of a bankrupt, the priorities of debts, the effect of a composition and the effect of a discharge, shall bind the Crown. 30

Rights of
banks.

194. Except as provided herein nothing in the provisions of this Act shall interfere with, or restrict the rights and privileges conferred on banks and banking corporations by the *Bank Act*.

Where body
of persons
and court
given
alternative
powers,
court to
await prior
action.

195. Where by this Act any body of persons is given power or authority to permit, consent or approve, and the court is given like power or authority alternatively, or otherwise than on appeal, and such body of persons has been constituted or convened, the court shall not act except upon satisfactory proof of prior application to such body of persons and its refusal of such application or its omission to announce its conclusion thereon within what the Court shall deem, according to the circumstances, a reasonable time. 35
40

190. The change therein will be self-explanatory.

191. This was formerly section 183 and replaces the former section 182 which has been transferred to section 188. It read as follows:

"183. In case of the death of the debtor or his wife, or of a witness whose evidence has been received by any court in any proceedings under this Act, the deposition of the person so deceased, purporting to be sealed with the seal of the court or a copy thereof purporting to be so sealed, shall be admitted as evidence of the matters therein deposed to."

192. This was formerly section 187 and replaces the former section 183 which has been transferred to section 191.

193. This was formerly section 188 and replaces the former section 184 which has been transferred to section 173.

194. This was formerly section 189 and replaces the former section 185 which has been transferred to section 174(2).

195. This was formerly section 190 and replaces the former section 186 which has been transferred to section 164(9).

(2) This has been transferred to sections 40(4) and 108 (13). It read as follows:

"186.(2) No defect or irregularity in the appointment of a trustee or an inspector shall vitiate any act done by him in good faith."

Summary Administration.

Summary
adminis-
tration.

196. Notwithstanding anything hereinbefore contained in this Act, where a bankrupt is without assets, or where in the opinion of the Official Receiver his assets appear to be insufficient to cover the costs of administration by a licensed trustee, or where a trustee cannot be found to act, or as otherwise provided in this Act, the administration shall be carried on in a summary manner as hereinafter provided: 5

- (a) All proceedings under this section shall be entitled "Summary Administration". 10
- (b) The Official Receiver shall be the trustee but the security to be deposited by a trustee otherwise under the Act shall not be required.
- (c) No court fees shall be payable in any proceedings under this section. 15
- (d) The Official Receiver shall forthwith apply to the court to fix a date for the hearing of the application for discharge of the bankrupt and shall include notice thereof in the notice of the first meeting.
- (e) Notice of the bankruptcy shall not be published in a local newspaper unless deemed expedient by the Official Receiver or ordered by the Court. 20
- (f) All notices, statements and other documents shall be sent by ordinary mail, and other than notices of the first meeting shall be sent to such creditors only who have filed claims in excess of ten dollars. 25
- (g) The Official Receiver may require any creditor to prove his claim in court.
- (h) The creditors at the first meeting may consider and approve any composition proposed by the bankrupt. 30
- (i) The Official Receiver shall have full authority to act on behalf of any creditors not present or represented at any meeting of the creditors.
- (j) There shall be no inspectors but the Official Receiver in absence of directions from the creditors may do with the permission of the Superintendent all things which may be done by the trustee with the permission of the inspectors. 35
- (k) The examination of the bankrupt referred to in section one hundred and thirty-three shall be held at the first meeting and any of the creditors or their representatives or solicitors may take part therein. 40
- (l) The bankrupt shall prepare and execute a statement of affairs in the form prescribed for summary administration. When required to do so the Official Receiver or some person designated by him shall assist in the preparation of the statement on information furnished by the bankrupt. 45

196. Sections 196 to 199 are new. It is intended to remedy a weakness that has always existed in the *Bankruptcy Act*, namely, the difficulty of debtors with little or no assets obtaining the benefits of the *Bankruptcy Act*. As the Act now stands its operation depends entirely on the acceptance by trustees of all estates that may come under the Act. Trustees are persons engaged in earning a livelihood and they cannot be expected to devote their time and energy to estates for which they do not receive reasonable remuneration. While in theory the creditors appoint trustees yet in practice in estates with little or no assets it is first necessary for a debtor to find a trustee who will originate bankruptcy proceedings by accepting an appointment as custodian. Unless such a person can advance the money necessary to cover a trustee's fees and expenses which ordinarily amount to not less than \$150 or find some person to guarantee such costs or unless a trustee is found willing to accept the appointment on the promise of the debtor to re-imburse him for his expenses and fees out of his future salary or earnings, such a person may be entirely denied the benefits of the *Bankruptcy Act* no matter how much merit there may be in his case. It may be true that in certain instances the Act may be used by an irresponsible or dishonest debtor to obtain an advantage over his creditors but generally speaking debtors are honest and in the large majority of cases they are the unfortunate victims of circumstances. A fire, theft, serious sickness or other misfortune may place an honest solvent debtor in a position of hopeless insolvency and he may be left with no assets even to cover the costs of a bankruptcy.

In the case of wage-earners who perhaps are earning a slight margin over living costs to maintain a family the present Act enables creditors to recover any such margin as future property acquired before a discharge. The result is that such a debtor is all the more placed in the position where he is unable to save even sufficient money to apply for a discharge except by borrowing from a friend who is willing to loan the necessary funds under such circumstances. Such a debtor is, therefore, practically denied the benefits of the Act or becomes hardly much less than the slave of his creditors indefinitely unless he can find means to have an application for discharge brought before the Court.

The intention of the Act would appear to contemplate a debtor's rights being dealt with at the time of his bankruptcy, whereas at the present time there is an ever-growing trend to over accentuate the factor of recovering future earnings as part of the debtor's assets. Such a provision is very necessary to prevent exploitation by debtors who are well able to make payments to creditors out of their earnings

- (m) The Official Receiver shall make or cause to be made such inventory and appraisal of the property of the bankrupt as he deems necessary and he may sell or dispose of all or any part thereof in a summary manner or he may authorize the sheriff to take 5
 delivery of all or any part thereof for sale by tender or public auction and after deducting his fees and disbursements as taxed by the court the sheriff shall transmit the net proceeds to the Official Receiver.
- (n) When the Official Receiver has recovered all that 10
 reasonably can be realized out of the assets, he shall, after approval of his final statement by the Superintendent, send a notice in the prescribed form to each creditor who has proved his claim with the dividend to which he is entitled if any is available, and proceed 15
 to his release.

197. In the summary administration of estates by the Official Receiver provided for in section ten the procedure set out in section one hundred and ninety-six shall be followed as far as applicable. 20

198. Prior to the commencement of any proceedings under section one hundred and ninety-six, the Official Receiver shall require payment of the fees as fixed in the tariff provided by General Rules to cover the cost of administration, but in the event of the fees collected being 25
 insufficient to cover the costs of the Official Receiver, the Court may order that any such deficiency and such other costs as it may see fit, shall be paid by the petitioner or the bankrupt, as the case may be, notwithstanding that the bankrupt may have been discharged in the meantime. 30

199. Except as provided in section one hundred and ninety-six all other provisions of the Act shall otherwise apply in summary administration.

or who by lucky circumstances or otherwise acquire assets which should be realized upon for the benefit of the creditors. The intention of the Act, however, is not to perpetuate a bankruptcy condition but rather to get a debtor to rehabilitate himself as a useful citizen of his community. It seems only proper therefore that in every case of bankruptcy the right of a debtor to a discharge should be dealt with forthwith by the Court on its merits. The section provides

1. that all debtors be enabled to obtain the benefits of the Act, and

2. that lack of funds shall not deny any debtor the right to have his application for discharge dealt with by the courts.

Following the system of decentralization which has been established in the Act the number of cases which in any particular district will have to be dealt with by the Official Receiver will not create very onerous duties on this official, whereas in the larger centres provision being made for special bankruptcy officials will enable such cases to be dealt with equally well. This feature of the Act is found in all other bankruptcy systems. In England the Official Receiver is the official trustee in all cases and carries on as such where the creditors do not see fit to appoint another trustee. The Australian Act has similar provisions and even in the United States as well provision is made for such cases also. It is believed that this section is a very necessary addition to round out a complete workable system of bankruptcy and that it will remove much of the hardship that debtors with little or no assets are obliged to undergo not only to obtain the benefit of the Act by making an assignment but also to have the right to a discharge dealt with by the Court forthwith on its merits.

PART IX.

BANKRUPTCY OFFENCES.

Bankruptcy
offences.

200. (1) Any bankrupt under this Act, shall in each of the cases following be guilty of an indictable offence and liable to a fine not exceeding one thousand dollars or to a term not exceeding two years' imprisonment or to both such fine and such imprisonment:—

5

Fraudulent
bankrupts.

- (a) If he does not, to the best of his knowledge and belief, fully and truly discover to the trustee or interim receiver, all his property, real and personal, and how and to whom and for what consideration and when he disposed of any part thereof, except such part as has been disposed of in the ordinary way of his trade (if any) or laid out in the ordinary expense of his family, unless he proves that he had no intent to defraud; 10
- (b) If he does not deliver up to the trustee, or interim receiver, or as he directs, all such part of his real and personal property as is in his custody or under his control, and which he is required by law to deliver up, unless he proves that he had no intent to defraud; 15
- (c) If he does not deliver up to the trustee, or interim receiver, or as he directs, all books, documents, papers and writings in his custody, or under his control, relating to his property or affairs, unless he proves that he had no intent to defraud; 20
- (d) If after or within six months next before his bankruptcy he conceals any part of his property to the value of fifty dollars or upwards or conceals any debt due to or from him, unless he proves that he had no intent to defraud; 25
- (e) If after or within six months next before his bankruptcy he fraudulently removes any part of his property to the value of fifty dollars or upwards; 30
- (f) If he makes any material omission in any statement relating to his affairs, unless he proves that he had no intent to defraud;
- (g) If, knowing or believing that a false debt has been proved by any person in any proceedings under this Act, he fails for the period of a month to inform the trustee thereof; 35
- (h) If, after the service of a bankruptcy petition upon him or after his bankruptcy he prevents the production of any book, document, paper or writing, affecting or relating to his property or affairs, unless he proves that he had no intent to conceal the state of his affairs or to defeat the law; 40

200. (1) No substantial changes have been made in this section except that the phraseology has been altered and condensed to eliminate unnecessary phraseology. It now conforms with the new set-up of all situations being referred to as "bankruptcy" after the making of a receiving order or an assignment. Section 191 read as follows:

"191. Any person who has been adjudged bankrupt or in respect of whose estate a receiving order has been made, or who has made an authorized assignment under this Act, shall in each of the cases following be guilty of an indictable offence and liable to a fine not exceeding one thousand dollars or to a term not exceeding two years' imprisonment or to both such fine and such imprisonment:—

- (a) If he does not, to the best of his knowledge and belief, fully and truly discover to the trustee, custodian or interim receiver, all his property, real and personal, and how and to whom and for what consideration and when he disposed of any part thereof, except such part as has been disposed of in the ordinary way of his trade (if any) or laid out in the ordinary expense of his family, unless he proves that he had no intent to defraud;
- (b) If he does not deliver up to the trustee, custodian or interim receiver, or as he directs, all such part of his real and personal property as is in his custody or under his control, and which he is required by law to deliver up, unless he proves that he had no intent to defraud;
- (c) If he does not deliver up to the trustee, custodian or interim receiver; or as he directs, all books, documents, papers and writings in his custody, or under his control, relating to his property or affairs, unless he proves that he had no intent to defraud;
- (d) If after the presentation of a bankruptcy petition against him or within six months next before such presentation or if after making an authorized assignment or within six months next before the date of making thereof, he conceals any part of his property to the value of fifty dollars or upwards or conceals any debt due to or from him, unless he proves that he had no intent to defraud;
- (e) If after the presentation of a bankruptcy petition against him or within six months next before such presentation or if after making an authorized assignment or within six months next before the date of making thereof, he fraudulently removes any part of his property to the value of fifty dollars or upwards;
- (f) If he makes any material omission in any statement relating to his affairs, unless he proves that he had no intent to defraud;
- (g) If, knowing or believing that a false debt has been proved by any person under the bankruptcy or authorized assignment, he fails for the period of a month to inform the trustee thereof;
- (h) If, after the presentation of a bankruptcy petition against him or after he makes an authorized assignment, he prevents the production of any book, document, paper or writing, affecting or relating to his property or affairs, unless he proves that he had no intent to conceal the state of his affairs or to defeat the law;
- (i) If, after the presentation of a bankruptcy petition against him or within six months next before such presentation or if after making an authorized assignment or within six months next before the date of making thereof, he conceals, destroys, mutilates, or falsifies, or is privy to the concealment, destruction, mutilation or falsification of any book or document affecting or relating to his property or affairs, unless he proves that he had no intent to conceal the state of his affairs or to defeat the law;
- (j) If, after the presentation of a bankruptcy petition against him or within six months next before such presentation or if after making an authorized assignment or within six months next before the date of making thereof, he makes or is privy to the making of any false entry in any book or document affecting or relating to his property or affairs, unless he proves that he had no intent to conceal the state of his affairs or to defeat the law;
- (k) If, after the presentation of a bankruptcy petition against him or within six months next before such presentation or if after the making of an authorized assignment by him or within six months next before the date of making thereof, he fraudulently parts with, alters or makes any omission in, or is privy to the fraudulently parting with, altering or making any omission in, any document affecting or relating to his property or affairs;
- (l) If, after the presentation of a bankruptcy petition against him or after the making of an authorized assignment by him or at any meeting of his creditors within six months next before such presentation or assignment, he attempts to account for any part of his property by fictitious losses or expenses;

- (i) If, after or within six months next before his bankruptcy, he conceals, destroys, mutilates, or falsifies, or is privy to the concealment, destruction, mutilation or falsification of any book or document affecting or relating to his property or affairs, unless he proves that he had no intent to conceal the state of his affairs or to defeat the law; 5
- (j) If, after or within six months next before his bankruptcy, he makes or is privy to the making of any false entry in any book or document affecting or relating to his property or affairs, unless he proves that he had no intent to conceal the state of his affairs or to defeat the law; 10
- (k) If, after or within six months next before his bankruptcy, he fraudulently parts with, alters or makes any omission in, or is privy to the fraudulently parting with, altering or making any omission in, any document affecting or relating to his property or affairs; 15
- (l) If, after his bankruptcy or at a meeting of his creditors held within six months next before his bankruptcy, he attempts to account for any part of his property by fictitious losses or expenses; 20
- (m) If, within six months next before his bankruptcy, he, by any false representation or other fraud, has obtained any property on credit and has not paid for the same; 25
- (n) If, within six months next before his bankruptcy, he obtains, under the false pretense of carrying on business and, if a trader, of dealing in the ordinary way of his trade, any property on credit and has not paid for the same, unless he proves that he had no intent to defraud; 30
- (o) If, after or within six months next before his bankruptcy, he pawns, pledges or disposes of any property which he has obtained on credit and has not paid for, unless in the case of a trader such pawning, pledging or disposing is in the ordinary way of his trade and unless in any case he proves that he had no intent to defraud; 35
- (p) If he is guilty of any false representation or other fraud for the purpose of obtaining the consent of his creditors or any of them to an agreement with reference to his affairs or to his bankruptcy; 40
- (q) If, within six months next before his bankruptcy, he knowingly makes or causes to be made, either directly or indirectly, or through any agency whatsoever, any 45

- (m) If, within six months next before the presentation of a bankruptcy petition against him or next before the date of the making of an authorized assignment by him, he, by any false representation or other fraud, has obtained any property on credit and has not paid for the same;
- (n) If, within six months next before the presentation of a bankruptcy petition against him or next before the date of the making of an authorized assignment by him he obtains, under the false pretence of carrying on business and, if a trader, of dealing in the ordinary way of his trade, any property on credit and has not paid for the same, unless he proves that he had no intent to defraud;
- (o) If, within six months next before the presentation of a bankruptcy petition against him, or next before the date of the making of an authorized assignment by him or after the presentation of a bankruptcy petition against him or the making of an authorized assignment by him he pawns, pledges or disposes of any property which he has obtained on credit and has not paid for, unless in the case of a trader such pawning, pledging or disposing is in the ordinary way of his trade and unless in any case he proves that he had no intent to defraud;
- (p) If he is guilty of any false representation or other fraud for the purpose of obtaining the consent of his creditors or any of them to an agreement with reference to his affairs or to his bankruptcy;
- (q) If he knowingly makes or causes to be made, either directly or indirectly, or through any agency whatsoever, any false statement in writing, with intent that it shall be relied upon respecting the financial condition or means or ability to pay of himself or any other person, firm or corporation in whom or in which he is interested, or for whom or for which he is acting, for the purpose of procuring in any form whatsoever, either the delivery of personal property, the payment of cash, the making of a loan, or credit, the extension of a credit, the discount of any account receivable, or the making, acceptance, discount or endorsement of a bill of exchange, cheque, draft or promissory note, either for the benefit of himself or such person, firm or corporation;
- (r) If he, knowing that a false statement in writing has been made respecting the financial condition or means or ability to pay of himself or any other person, firm or corporation in whom or in which he is interested or for whom or for which he is acting, procures upon the faith thereof, either for the benefit of himself or such person, firm or corporation, any of the benefits mentioned in the preceding paragraph."

(j) No substantial changes have been made in this section except that the phraseology has been altered and condensed to eliminate unnecessary phraseology. It now conforms with the new set-up of all situations being referred to as "bankruptcy" after the making of a receiving order or an assignment.

(q) and (r) These changes are necessary to overcome decision in *Electric Machinery and Motor Co.*, 13 C.B.R. 527, where Supreme Court of Canada held that the offences described by these sections can be committed only by a bankrupt.

(s) (i) This is a new subsection partly taken from section 157(1) of the English Act which had not been carried into the Canadian Act. An additional factor contributing to bankruptcy has been added, namely improvident and riotous living. In addition it is made necessary that a bankrupt give a satisfactory explanation of the causes of his bankruptcy. Heretofore a waster, gambler or speculator, squandering assets supplied by his creditors could simply snap his fingers at his creditors to whom his assets properly belonged because of his insolvency. The only punishment that could be meted out to him would be a refusal of a discharge which to such persons is no corrective whatsoever. Ordinarily any person taking property of others even without a wrongful intent is regarded as a thief

false statement in writing, or gives false information from which such a statement may be prepared knowing that it may be relied upon respecting the financial condition or means or ability to pay of himself or any other person, firm or corporation in whom or in which he is interested, or for whom or for which he is acting, for the purpose of procuring in any form whatsoever, either the delivery of personal property, the payment of cash, the making of a loan, or credit, the extension of a credit, the discount of any account receivable, or the making, acceptance, discount or endorsement of a bill of exchange, cheque, draft or promissory note, either for the benefit of himself or such person, firm or corporation; 5

(r) If, within six months next before his bankruptcy, he, knowing that a false statement in writing has been made, or false information has been given from which such a statement may be prepared respecting the financial condition or means or ability to pay of himself or any other person, firm or corporation in whom or in which he is interested or for whom or for which he is acting, procures upon the faith thereof, either for the benefit of himself or such person, firm or corporation, any of the benefits mentioned in the preceding paragraph; 15 20 25

(s) (i) If he has within two years prior to his bankruptcy materially contributed to or increased the extent of his insolvency by improvident and riotous living, by gambling or by rash or hazardous speculations not connected with his trade or business in determining which the financial position of the bankrupt at the time when such events occurred shall be taken into consideration; 30

(ii) If he fails to give a satisfactory explanation for his losses or the causes of his bankruptcy; 35

(iii) A prosecution under this subsection shall not be instituted against any person except by leave or direction of the court;

(t) If after or within six months next before his bankruptcy, he quits Canada, and takes with him or attempts or makes preparations to quit Canada, and take with him any part of his property in excess of the value of one hundred dollars, which ought by law to be divided among his creditors, unless he proves that he had no intent to defraud; 40 45

(u) If with intent to defraud, or to prevent a creditor receiving notice of his bankruptcy, he fails to disclose to the trustee the name of any creditor to whom he may be indebted.

Improvident and riotous living, gambling and rash speculation an offence.

Explanation of losses and causes of bankruptcy required.

Prosecutions hereunder by order of court.

Bankrupt absconding with property.

Giving incorrect information regarding creditors.

or embezzler. Some forceful restraint ought to be placed on insolvent persons at least for squandering his creditors' assets in an unwarranted manner. Even these provisions are by no means as harsh and severe as those to which every citizen ordinarily is subjected to. Business always has its uncertainties and there is no suggestion of curtailing the right of any person to exercise his best judgment in legitimate trading connected with his own business or undertaking. The provisions of the *Criminal Code* relating to theft as defined in section 347 *et seq* omit to state that the creditors of an insolvent debtor have any special property right in the debtor's assets although it is well established as a principle in bankruptcy that an insolvent person is to be regarded as holding his property in trust for his creditors. These provisions merely create an enforceable sanction in support of this principle. An honest bankrupt need have no fear of being penalized particularly as penal proceedings are to be instituted only with the leave or direction of the Court. The Act is not intended, however, to extend any rights or privileges or to protect dishonest persons. Section 157 (1) of the English Act is as follows:

"157. (1) Any person who has been adjudged bankrupt, or in respect of whose estate a receiving order has been made, shall be guilty of a misdemeanour, if, having been engaged in any trade or business, and having outstanding at the date of the receiving order any debts contracted in the course and for the purposes of such trade or business,—

- (a) he has, within two years prior to the presentation of the bankruptcy petition, materially contributed to or increased the extent of his insolvency by gambling or by rash and hazardous speculations, and such gambling or speculations are unconnected with his trade or business; or
- (b) he has, between the date of the presentation of the petition and the date of the receiving order, lost any part of his estate by such gambling or rash and hazardous speculations as aforesaid; or
- (c) on being required by the Official Receiver at any time, or in the course of his public examination by the court, to account for the loss of any substantial part of his estate incurred within a period of a year next preceding the date of the presentation of the bankruptcy petition, or between that date and the date of the receiving order, he fails to give a satisfactory explanation of the manner in which such loss was incurred;

Provided that, in determining for the purposes of this section whether any speculations were rash and hazardous, the financial position of the accused person at the time when he entered into the speculations shall be taken into consideration."

(ii) Subsection (c) of section 157(1) of the English Act (*supra*) is intended to set up a more enforceable sanction against evasive, misleading and false answers by a bankrupt of his losses and the causes of his insolvency. The honest debtor will invariably be able to give a satisfactory explanation to the Court. The dishonest debtor should not be permitted to hoodwink his creditors by misleading and false statements. The Court can be depended on to exercise its discretion favourably to a bankrupt where there is any doubt. The present provisions have been proven not to be sufficient and it is strongly suggested that these sanctions be given a trial.

Provisions
of this
section
applicable
to debtors
making
proposals.

(2) The provisions of this section, shall apply to a debtor making a proposal of a composition before bankruptcy, as if he were bankrupt, and shall be read with respect to a person making a proposal for a composition, as if the words "bankrupt", and "bankruptcy", respectively included "a person 5 making a proposal of composition", or "the making of a proposal of a composition", in so far as they are applicable thereto.

Undis-
charged
bankrupt
obtaining
credit.

201. Where an undischarged bankrupt,
(a) either alone or jointly with any other person, obtains 10
credit to the extent of one hundred dollars or upwards
from any person without informing that person that he
is an undischarged bankrupt; or
(b) engages in any trade or business, under a name other
than that under which he traded or carried on business 15
prior to his bankruptcy, without disclosing to all persons
with whom he enters into any business transaction, the
name under which he formerly traded or carried on
business before his bankruptcy;

he shall be guilty of an indictable offence and liable to a fine 20
not exceeding five hundred dollars, or to a term not exceed-
ing one year's imprisonment, or to both such fine and such
imprisonment.

Use of
deceptive
name.

(iii) This has been taken from section 157 (2) of the English Act with certain deletions which are not applicable to the Canadian Act. Section 157 (2) is as follows:

"(2) A prosecution shall not be instituted against any person under this section except by order of the court, nor where the receiving order in the bankruptcy is made within two years, from the first day of April, nineteen hundred and fourteen."

(t) This is a new subsection taken from section 159 of the English Act and it seemed advisable to have it included. Section 159 reads as follows:

"If any person who is adjudged bankrupt, or in respect of whose estate a receiving order has been made, after the presentation of a bankruptcy petition by or against him, or within six months before such presentation, quits England and takes with him, or attempts or makes preparations to quit England and take with him, any part of his property to the amount of twenty pounds or upwards, which ought by law to be divided amongst his creditors, he shall (unless he proves that he had no intent to defraud) be guilty of felony."

(u) This is a new subsection to deal with a situation that is not uncommon where a debtor intentionally omits the name of a creditor on the statement of affairs for the purpose of preventing such creditor receiving notice of the bankruptcy.

(2) This is a new subsection and is added to broaden the application of the Act to a person bringing himself within the Act by making a proposal for a composition. This Section is taken at large from the similar provisions of the English Act under which compositions are generally arranged only after a receiving order is made but before the debtor is adjudicated bankrupt on a second application to the Court. A debtor knowing that he had committed an offence under this Section ought to be regarded as nonetheless guilty than if he were adjudged bankrupt. Under the English Act a debtor does not come within the Act until a petition is presented against him and consequently the section applies to all debtors under the English Act. Under the new provisions of the Act permitting proposals before bankruptcy such a person would otherwise be immune from being prosecuted for any such offence as he would not be bankrupt.

201. Except to vary the phraseology to conform to present terminology no change is made in this section except to change the word "five" to "one". It is believed that the five hundred dollar limit is too high to impose any real restriction on a debtor whatsoever.

Bankrupt
failing to
keep proper
books of
account.

202. (1) If any person, who has on any previous occasion been adjudged bankrupt or made a composition with his creditors, becomes bankrupt, or secures or asks for a composition, with his creditors, he shall be guilty of an indictable offence and liable to a fine of one thousand dollars and to one year's imprisonment, if having, during the whole or any part of the two years immediately preceding the date of his bankruptcy or of the securing or asking for the composition, been engaged in any trade or business, he has not kept proper books of account throughout those two years, or such part thereof, as aforesaid, and if so engaged at the date of his bankruptcy, or the securing or asking for the composition, thereafter, whilst so engaged, or has not preserved all books of account so kept. 5 10

Exceptions to
obligations.

(2) A person who has not kept or has not preserved such books of account, shall not be convicted of an offence under this section, if his unsecured liabilities at the date of his bankruptcy, or of the securing or asking for the composition, did not exceed five hundred dollars or if he proves that in the circumstances in which he traded or carried on business, the omission was honest and excusable. 15 20

Proper books
of account
defined.

(3) For the purposes of this section, a person shall be deemed not to have kept proper books of account, if he has not kept such books or accounts as are necessary to exhibit or explain his transactions and financial position in his trade or business, including a book or books containing entries from day to day in sufficient detail, of all cash received and cash paid, and where the trade or business has involved dealings in goods, also accounts of all goods sold and purchased, and statements of annual and other stock-takings. 25 30

Destruction,
mutilation or
fraudulent
dealings
with books.

(4) Paragraphs (*i*), (*j*) and (*k*) of section two hundred of this Act shall, in their application to the books mentioned therein, as aforesaid, have effect as if "two years next before his bankruptcy" was substituted for the time mentioned in those paragraphs as the time prior to his bankruptcy within which the acts or omissions specified in those paragraphs constitute an offence. 35

False claim,
etc.

203. (1) If any creditor, or any person claiming to be a creditor, in any proceedings under this Act, wilfully and with intent to defraud, makes any false claim, or any proof, declaration or statement of account, which is untrue in any material particular, he shall be guilty of an indictable offence, and shall on conviction on indictment be liable to imprisonment with or without hard labour for a term not exceeding one year. 40 45

202. No changes in this section except to make the phraseology conform to present terminology.

203. (1) The words "proceedings under this Act" have been substituted for "bankruptcy proceedings, or in any proceedings pursuant to the provisions of Part II of this Act for obtaining a composition, extension or arrangement of a debtor's debts or of his affairs, or in any proceedings under an authorized assignment,".

Inspectors
accepting
unlawful
fee.

(2) If any inspector accepts from the bankrupt or from any person, firm, or corporation on his behalf or from the trustee, any fee, commission or emolument of any kind other than, or in addition to the regular fees provided for by this Act, he shall be guilty of an indictable offence and shall on conviction be liable to a fine, not exceeding one thousand dollars, or to imprisonment for a term not exceeding one year, or to both fine and imprisonment. 5

Unlawful
secret
transactions.

(3) If the debtor and any other person, enter into any secret transactions for the purpose of obtaining a benefit or advantage to which either of them would not otherwise be entitled, he shall be guilty of an indictable offence, and shall on conviction be liable to a fine, not exceeding one thousand dollars, or to imprisonment for a term not exceeding one year, or to both fine and imprisonment. 15

Criminal
liability
after
discharge or
composition.

204. Where a debtor has been guilty of any criminal offence, he shall not be exempt from being proceeded against therefor, by reason that he has obtained his discharge, or that a composition has been accepted or approved.

Penalty for
refusing to
register.

205. Any registrar or other officer, who upon tender of any receiving order or assignment or a copy thereof, certified as aforesaid, with the proper fees, and with the request that such document be registered or filed as aforesaid, shall refuse or omit to forthwith register or file the same in manner hereinbefore indicated or who shall omit or refuse to comply with the provisions of subsection one of section twenty-eight, in so far as they are applicable to him, shall be guilty of an indictable offence punishable upon indictment, or summary conviction by a fine not exceeding one thousand dollars or by imprisonment for a term not exceeding one year or to both fine and imprisonment. 20 25 30

Report on
offences
to be made
by trustee.

206. (1) Whenever any Official Receiver, or trustee has grounds for believing that any offence under this Act, or under any other statute, whether Dominion or Provincial, has been committed with respect to any insolvent estate in connection with which he has been acting under this Act, or that for some special reason an investigation should be had in connection with such estate, it shall be the duty of such Official Receiver or trustee, to report such matter to the court, including in such report a statement of all the facts or circumstances of the case within his knowledge, and the names of the witnesses who should in his opinion be examined, and a statement as to the offence or offences believed to have been committed, and to forward a copy of such report forthwith to the Superintendent. 35 40

(2) No change.

(3) This subsection is new. It is intended to curb dishonest attempts to obtain an unlawful advantage such as an offer by a debtor to pay a creditor's claim in full or in part to obtain his approval to a composition or a discharge, or to have him refrain from filing objections to a proposal or a discharge. While this practise is perhaps less common in recent years yet it was notorious years ago and may again be indulged in with a recurrence of more bankruptcies in the future.

204. (1) This was formerly section 196(1) and replaces the former section 195(1) which has been transferred to section 206(3).

(2) Section 195(2) has been transferred to section 206(1).

205. This was formerly section 197 and replaces the former section 196 which has been transferred to section 204.

Section 196(2) has been transferred to section 20(5). It read as follows:

196. (2) Any composition, extension or scheme of arrangement, although accepted or approved, may be annulled at the request of the trustee or of any creditor whenever the debtor is afterwards convicted of any offence mentioned in section one hundred and ninety-one of this Act."

206. (1) This was formerly section 195(2). The former section 197 now becomes section 205.

(2) This is a new subsection to make provision for the report of a trustee being supplemented by any other facts known to the Superintendent or the creditors.

Supplement to Section 197 (3)

At the same time the provision permitting the court to make an order that a person be prosecuted for an offence is deemed most desirable. The chief criticism of bankruptcy prosecutions is that the courts, particularly magistrate's courts, do not appear to have a proper appreciation of the seriousness of such offences and have been entirely too lenient in the penalties imposed. The courts which have a more intimate knowledge of the operation of the Act and the effect of such offences would undoubtedly be more competent to deal with such offences. And while it has not been seen fit to include in the suggested amendments a recommendation along this line, yet the following provision

Report by
inspectors
and others.

(2) The Superintendent or any creditor, inspector or other interested person, who has reasonable grounds for believing that any person has been guilty of an offence under this Act, or under any other statute whether Dominion or Provincial, in connection with the estate of a debtor, his property or his transaction, may file a report with the court of the facts on which such beliefs are based, or he may make such further representations supplementary to the report of the Official Receiver or trustee as he may deem proper. 5

Court may
authorize
criminal
proceedings
to proceed.

(3) Whenever the court is satisfied, upon the representation of the Superintendent or any one on his behalf, or of the Official Receiver or the trustee, or of any creditor, inspector, or other interested person, that there is ground to believe that any person has been guilty of an offence under this Act or under any statute, whether Dominion or Provincial, in connection with the estate of the debtor, his property or transactions, the court may authorize the trustee to initiate proceedings for the prosecution of such person for such offence. 10 15

Initiation
of criminal
proceedings
by the
trustee.

(4) Where a trustee is authorized or directed by the creditors, or the inspectors, or the court, to initiate criminal proceedings against any person believed to have committed an offence as hereinbefore set out in this section, the trustee shall send or cause to be sent, a copy of such resolution or order, duly certified as a true copy thereof, together with a copy of all reports or statements of the facts on which such order or resolution was based, to the Crown Attorney or the agent of the Crown duly authorized to represent the Crown in the prosecution of criminal offences in the district where the alleged offence was committed, and the Crown Attorney or such agent, shall thereupon make or cause to be made such investigation as may be necessary to ascertain whether or not an offence has actually been committed, and if satisfied that there is reasonable grounds for believing that an offence has been committed, he shall cause the offender to be prosecuted for such offence. 20 25 30 35

Report to
Superintendent
on
result of
proceedings.

(5) On the completion of the investigation, or the criminal proceedings, the Crown Attorney or the Agent of the Crown, shall send or cause to be sent, a report to the Superintendent within one week from the disposition of the proceedings or the completion of the investigation, with the particulars of any persons prosecuted, the charges laid, and the result of the prosecution, or if no prosecution was taken, a statement of the reasons why the criminal proceedings were not begun or proceeded with. The Minister, if dissatisfied with the result of such investigation or proceedings, may intervene and if no proceedings were taken, cause such criminal proceedings to be taken as he deems proper, or he may appeal 40 45

is submitted for serious consideration and if approved could nevertheless be inserted. Accordingly the following provision might be added:

"Or the court may of its own accord order that such person be prosecuted for such offence and direct as it may deem expedient considering the nature of the alleged offence that a warrant issue for the arrest of such person to be brought before the court or that a summons issue for service on such person to appear before the court at the time and place stated therein and if the person named in the summons does not appear before the court at the time and place fixed in the summons the court on proof of service of the summons on the alleged offender may direct that a warrant issue for the arrest of such person to be brought before the court. The nature of the offence or offences alleged to have been committed shall be stated in the summons or warrant. If the accused person does not plead guilty on his appearance before the court the court may admit him to bail and shall adjourn the hearing from time to time as may be necessary before the hearing is completed to give the accused person a reasonable opportunity to prepare and submit his defence. The Crown Attorney or agent of the Crown duly authorized to represent the Crown in the prosecution of criminal offences where the alleged offence was committed shall attend to conduct the prosecution on behalf of the Crown and where a judge with jurisdiction under this Act is not resident within the jurisdiction where the offence is alleged to have been committed the judge of the county or district court shall have jurisdiction to act under this section but the accused may elect to be tried or the county or district judge may adjourn the hearing before a judge with original jurisdiction under this Act at the next sittings of the court within such jurisdiction."

(3) This was formerly 195(1) and has been changed to permit the Court to authorize the trustee to initiate criminal proceedings instead of having the Court make an order for the prosecution of an offender. The present procedure has never worked out satisfactorily. In some instances where an order for a prosecution has been made it has occurred that notwithstanding such order the Crown authorities responsible for the conduct of criminal proceedings have declined to proceed thereby nullifying the order. The result was that there was a lack of co-operation essential to proper administration. The offences set up by the *Bankruptcy Act* are not so much to be regarded as private offences but as offences against the public and therefore more properly within the sphere of the Crown authorities for action. The responsibility therefore for prosecution of bankruptcy offences which generally are of a commercial nature against property and civil rights should more properly be dealt with in the same manner as other offences as set out in the *Criminal Code*. Generally the provision for such an order being made has served little useful purpose and the change not only removes confusion that has already existed but establishes a definite procedure placing the responsibility where it properly belongs. Heretofore there was a general impression that the trustee should be the guardian of the creditors' interests to start prosecutions for offences committed. The trustee is only the representative of the creditors to administer the assets of the estate, and it is not incumbent on him of his own initiative to take responsibility for such prosecutions, hence the protection of obtaining the authority of the Court to that end. The underlined words have been substituted for "order that such person be prosecuted for such offence."

within one month after the receipt by the Superintendent of the report from the Crown Attorney, or the agent of the Crown, against any dismissal of any proceedings already taken or against any sentence imposed thereunder.

Right of creditors to prosecute not affected.

(6) Nothing herein shall be deemed to affect the right of the Superintendent, or of a creditor, or any other person whose rights have been infringed upon, to initiate such criminal proceedings as he may see fit against any person believed to have committed such an offence. 5

Non-personal liability for proceedings taken.

(7) Except by leave of the court no action civil or criminal shall lie against the Superintendent, the trustee, a creditor, or any other person with respect to any representation or report made under or any action taken in good faith pursuant to the provisions of this Act. 10

Substance of offence charged in indictment.

207. (1) In an indictment for an offence under this Act, it shall be sufficient to set forth the substance of the offence charged in the words of this Act, specifying the offence or as near thereto as circumstances admit, without alleging or setting forth any debt, act of bankruptcy, trading, adjudication, or any proceedings in, or order, warrant or document of, any court acting under this Act. 15 20

Only one prosecution.

(2) Where any person is prosecuted for an offence under this Act no other prosecution shall be instituted against him for the same offence under any other Act.

Pretending to be trustee.

208. Any person who, (a) not being a licensed trustee, does any act as, or represents himself to be a licensed trustee; or 25

Trustee acting without bond.

(b) being a trustee, either before providing the bond required by subsection five of section forty of this Act, or after providing the same, but at any time while the said bond is not in force, acts as or exercises any of the powers of trustee; or 30

Failing to follow orders of court.

(c) having been appointed a trustee, with intent to defraud, fails to observe or to comply with any of the provisions of this Act, or fails duly to do, observe or perform any act or duty which he may be ordered to do, observe or perform by the court, pursuant to any of the provisions of this Act; or 35

Failing to observe provisions of Act.

(d) having been appointed a trustee, without reasonable excuse, fails to observe or to comply with any of the provisions of this Act, or fails duly to do, observe or 40

(4) This is a new subsection and sets up the procedure to be followed ordinarily to initiate criminal proceedings.

(5) This also is a new subsection so that the proper records may be available of the result of criminal proceedings in bankruptcy cases.

(6) This is also a new subsection. The present uncertainty of responsibility for prosecution has caused much confusion in regard to the rights of creditors and other interested persons with respect to bankruptcy offences. This subsection clarifies the situation by indicating clearly that any private person is at liberty to initiate criminal proceedings if he so wishes.

(7) This was formerly section 195(3). The changes in this subsection are not extensive but only to make for greater certainty.

207. Subsections (1) and (2) have been deleted. They were taken from section 163 of the English Act of 1914 which section was repealed in England by section 9 of the Act of 1926. So far as is known no prosecution has ever taken place under this section and it would appear that its usefulness is therefore questionable. Besides, the decentralized procedure of having the Court in each Judicial District deal with bankruptcy matters would make it more proper for offences under the *Bankruptcy Act* to be conducted by the ordinary criminal courts the same as with respect to the *Criminal Code* and all other acts with penal provisions. Section 198(1) and (2) read as follows:

"198. (1) Where there is, in the opinion of the court, ground to believe that the bankrupt or any other person has been guilty of an offence under this Act, the court may commit the bankrupt or such other person for trial.

(2) For the purpose of committing the bankrupt or such other person for trial, the court shall have power to take depositions, bind over witnesses to appear, admit the accused to bail, or otherwise."

(1) This was formerly subsection (3). No change.

(2) This was formerly subsection (4). No change.

208. (a) to (d). No change.

(e) This is a new subsection for the purpose of imposing some sanction on the liability of the trustee to complete the duties imposed on him under the Act on the expiration of a licence or the substitution or appointment of another trustee. Heretofore the lack of an express penalty therefor permitted trustees to ignore their duties almost with impunity and made it much more difficult for a trustee to take over the administration of an estate.

perform any act or duty which he may be ordered to do, observe or perform by the court or the Superintendent pursuant to any of the provisions of this Act; or

Failure to perform duties when authority expired.

(e) having been appointed a trustee to any estate, and his licence having expired, does not within the time prescribed, prepare and forward to the Superintendent a detailed financial statement of receipts and disbursements, together with a list of and report on the unadministered assets of each estate under his administration, or on another trustee being substituted or appointed in his stead, does not deliver over to the new trustee within ten days, all unadministered property of the estate, together with the books, records and documents of the estate and of his administration; or

Soliciting assignment.

(f) solicits or canvasses any person to make an assignment under this Act,

shall be guilty of an indictable offence and liable to a fine not exceeding one thousand dollars or to a term not exceeding two years' imprisonment or to both fine and imprisonment.

Penalty for removal of debtor's goods without notice.

209. Any person, except the trustee hereinafter mentioned, who, before the elapse of fifteen days after delivery to the trustee of the proof of claim mentioned in section fifty-three of this Act, or in case no such claim has been delivered, shall remove, or attempt to remove, the goods or any thereof mentioned in such section out of the charge or possession of the debtor, or of the trustee, or other actual custodian of such goods, unless with the written permission of the trustee, shall be guilty of an indictable offence and liable to a fine not exceeding five thousand dollars, or to a term not exceeding two years' imprisonment, or to both fine and imprisonment.

Penal liability of officer, director or agent of Company.

210. Where any offence against this Act has been committed by an incorporated company, every officer, director or agent of the company who directs, authorizes, condones, or participates in the commission of the offence, shall be liable to the like penalties as such company, and as if he had committed the like offence personally, and he shall be so liable cumulatively with the company and with such officers, directors or agents, of the company, as may likewise be liable hereunder.

Penalty for aiding, abetting, etc., any person to commit a bankruptcy offence.

211. Any person who aids, abets, counsels or procures any person to commit an offence under this Act, shall be guilty of an indictable offence and liable to a fine not exceeding one thousand dollars, or to a term not exceeding two years' imprisonment or to both fine and imprisonment.

(f) No change.

209. No change.

210. No change.

211. In many instances offences are committed by bankrupts under pressure of or at the instigation of some other person, generally with the object of obtaining some benefit. Such persons may even have a more guilty intent than the bankrupt himself.

Repeal.

212. *The Bankruptcy Act*, chapter eleven of the Revised Statutes of Canada, 1927, and the amending Acts, chapters seventeen and eighteen of the Statutes of 1931, and chapter thirty-nine of the Statutes of 1932, are hereby repealed.

THE SENATE OF CANADA

BILL B⁵.

An Act to incorporate Evangelical Churches of Pentecost.

Read a first time, Friday, 10th May, 1946.

Honourable Senator HARMER.

THE SENATE OF CANADA

BILL B⁵.

An Act to incorporate Evangelical Churches of Pentecost.

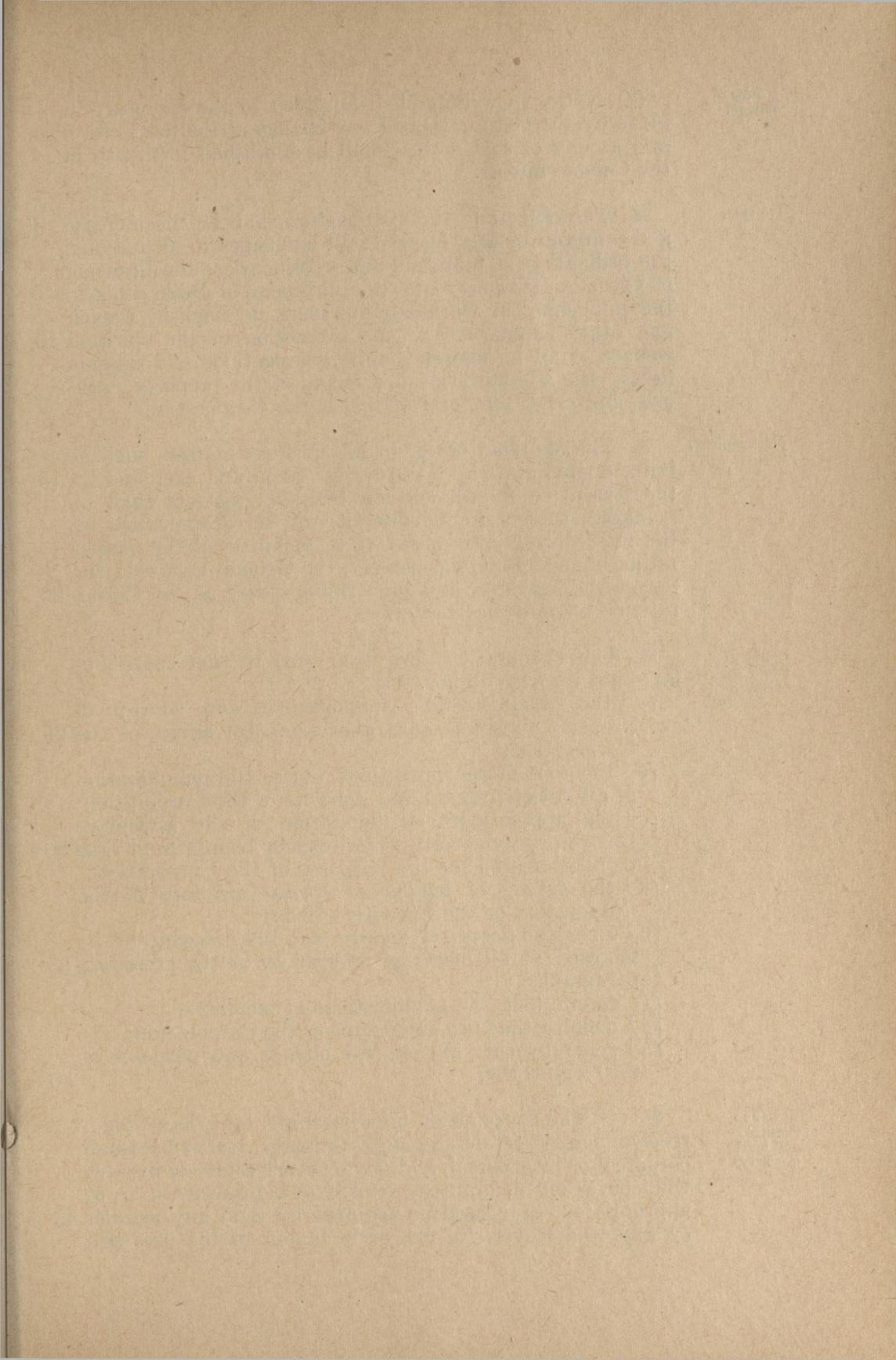
WHEREAS a petition has been presented praying that it be enacted as hereinafter set forth and it is expedient to grant the prayer of the petition: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:— 5

Incorporation. 1. William John Ernest Baxter, of Vancouver, in the province of British Columbia, general overseer, Albert D. Marshall, of Heinsburg, in the province of Alberta, secretary-treasurer, John V. Silliker, of Trail, in the province of British Columbia, ruling elder, Allan Gillett, 10 of Ardmore, in the province of Alberta, ruling elder, Milton Victor Brown, of Radville, in the province of Saskatchewan, ruling elder, Lorne O. Pritchard, of Pangman, in the province of Saskatchewan, ruling elder, Glen S. McLean, of Eston, in the province of Saskatchewan, ruling elder, 15 John Glendinning, of Toronto, in the province of Ontario, ruling elder, together with such persons as become members of the religious order hereby incorporated, are constituted a body politic and corporate under the name of "Evangelical Churches of Pentecost" hereinafter called "the Corporation", 20 for the purposes set out in this Act and for the purpose of administering the property and other temporal affairs of the Corporation.

Corporate name.

Directors. 2. The persons named in section one of this Act shall be the first directors of the Corporation and shall constitute 25 the first Executive Board.

Head office. 3. (1) The head office of the Corporation shall be in the town of Eston, in the province of Saskatchewan, or at such other place in the Dominion of Canada as may be decided by the Corporation. 30



Notice of
change.

(2) Notice in writing shall be given to the Secretary of State by the Corporation of any change of the head office, and a copy of such notice shall be published forthwith in the *Canada Gazette*.

Objects.

4. The objects of the Corporation shall be the increase 5
and diffusion of the Gospel in all languages to all nations;
the ordination of ministers and missionaries; the licensing
of Christian workers; the establishment of Bible schools;
the publishing of Christian literature in English, French 10
and other languages and the promotion of the spiritual
welfare of all its churches and congregations and mission
fields; the administering in Canada of the property, busi-
ness and other temporal affairs of the Corporation.

Management.

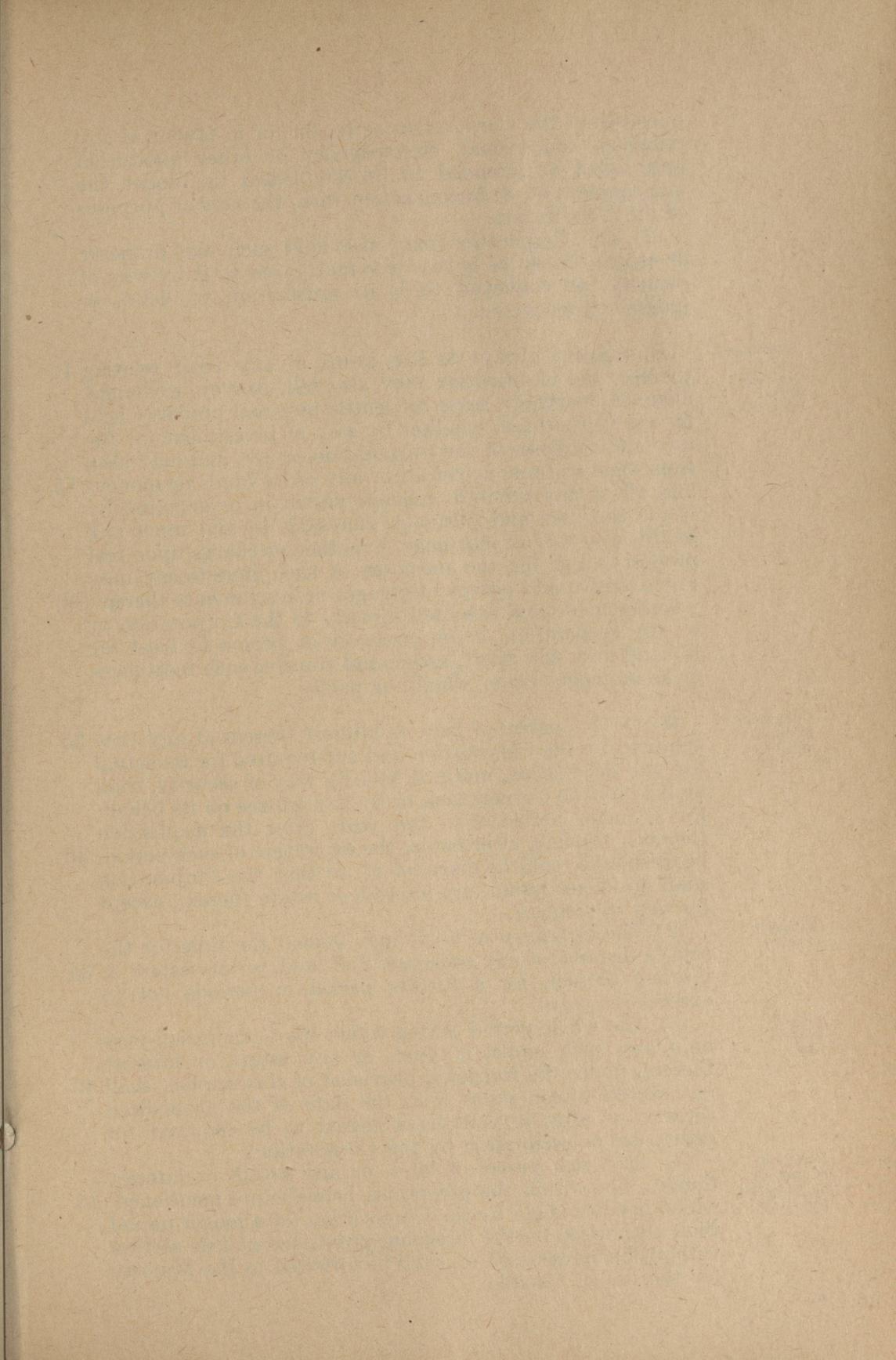
5. The supreme power in all spiritual matters such as
faith, dogma and rite, shall be vested in and exercised by 15
the Executive Board, and all temporal matters shall be
managed, subject to the direction of the Corporation, by
the Executive Board consisting of members of the Corpo-
ration in good standing, namely, the General Overseer, the
Secretary-Treasurer, and such ruling elders as the Corpo- 20
ration in Conference may elect.

Power to
make
by-laws.

6. The Corporation may from time to time make by-
laws, not contrary to law, for
(a) the administration, management and control of
property, business and other temporal affairs of the 25
Corporation;
(b) the appointment, functions, duties and remuneration
of all officers, agents and servants of the Corporation;
(c) the appointment or deposition of the Executive
Board, or any special committees or boards from time 30
to time created for the purposes of the Corporation;
(d) the calling of regular or special meetings of the
Corporation or the Executive Board;
(e) fixing the necessary quorum and the procedure to be
followed at all meetings referred to in the preceding 35
paragraph;
(f) determining the qualifications of members;
(g) defining the faith and dogma of the Corporation;
(h) generally carrying out the objects and purposes of
the Corporation. 40

Power to
acquire
and hold
property.

7. (1) The Corporation may purchase, take, have, hold,
receive, possess, retain and enjoy property, real or personal,
corporeal or incorporeal, and any or every estate or interest
whatsoever given, granted, devised or bequeathed to it, or
appropriated, purchased or acquired by it in any manner 45
or way whatsoever, to, for, or in favour of the uses and



purposes of the Corporation or to, for, or in favour of any religious, educational, eleemosynary or other institution established or intended to be established by, under the management of, or in connection with, the uses or purposes of the Corporation. 5

(2) The Corporation may also hold such real property or estate therein as is *bona fide* mortgaged to it by way of security, or conveyed to it in satisfaction of debts or judgments recovered.

Investment
in and
disposal
of real
property.

8. Subject always to the terms of any trust relating 10 thereto, the Corporation may also sell, convey, exchange, alienate, mortgage, lease or demise any real property held by the Corporation whether by way of investment for the uses and purposes of the Corporation or not, and may also, from time to time, invest all or any of its funds or moneys 15 and all or any funds or moneys vested in or acquired by it for the uses and purposes aforesaid, in and upon any security by way of mortgage, hypothec or charge upon real property; and for the purposes of such investment may take, receive and accept mortgages or assignments thereof, 20 whether made and executed directly to the Corporation or to any corporation, body, company or person in trust for it; and may sell, grant, assign and transfer such mortgages or assignments either wholly or partly.

Obligation
to dispose
of lands.

9. (1) No parcel of land or interest therein at any time 25 acquired by the Corporation and not required for its actual use and occupation, and not held by way of security, shall be held by the Corporation, or by any trustee on its behalf, for a longer period than ten years after the acquisition thereof, but shall, at or before the expiration of such period, 30 be absolutely sold or disposed of, so that the Corporation shall no longer retain any interest or estate therein, except by way of security.

Extension
of time.

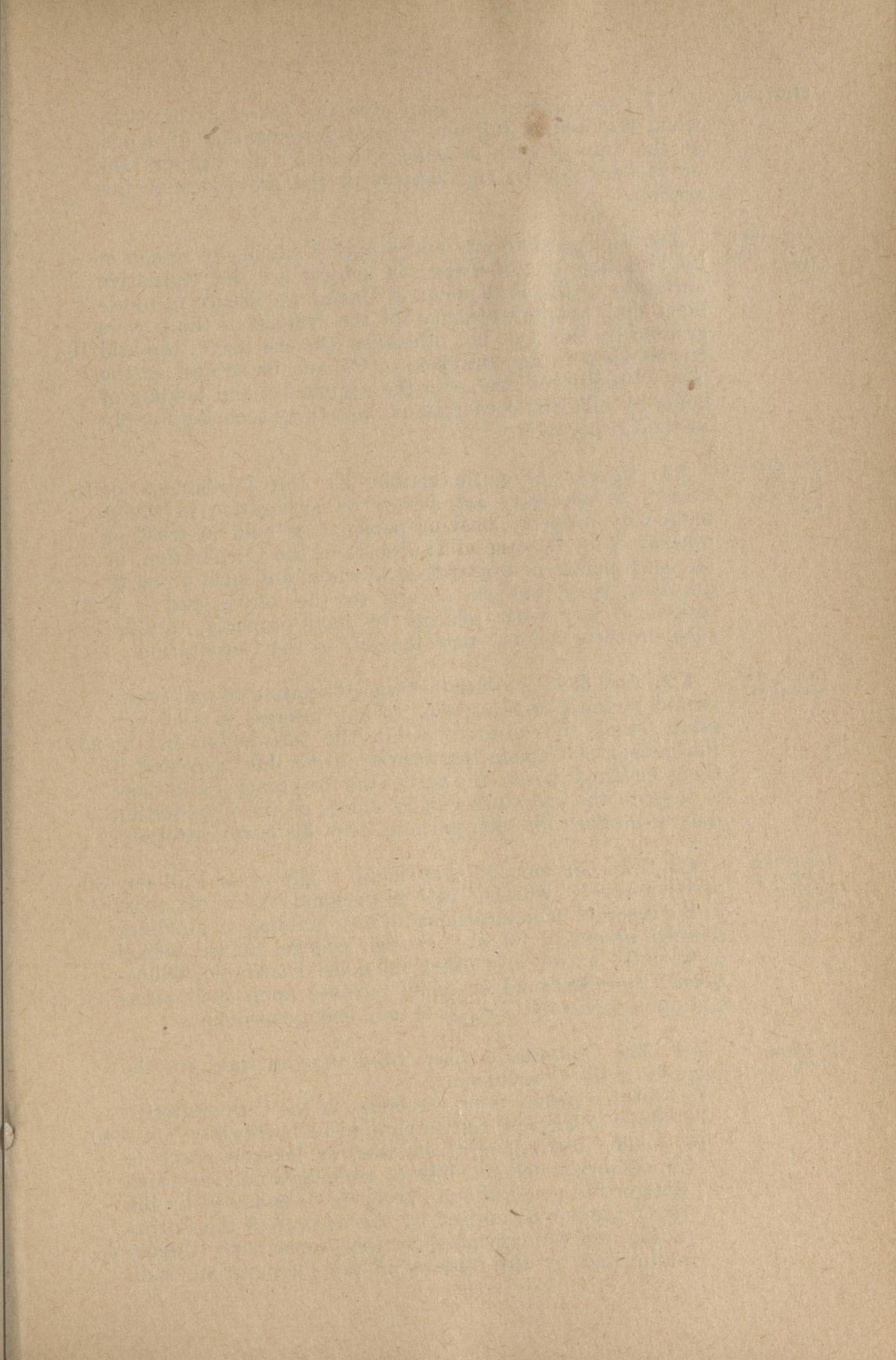
(2) The Secretary of State may extend the time for the sale or disposal of any such parcel of land, or any estate or 35 interest therein, for a further period or periods not to exceed five years.

Fifteen
years
limit.

(3) The whole period during which the Corporation may hold any such parcel of land, or any estate or interest therein, under the foregoing provision of this section, shall 40 not exceed fifteen years from the date of the acquisition thereof, or after it shall have ceased to be required for actual use or occupation by the Corporation.

Forfeiture
of property
held beyond
time limit.

(4) Any such parcel of land, or any estate or interest therein, not within the exceptions hereinbefore mentioned, 45 which has been held by the Corporation for a longer period than authorized by the foregoing provisions of this section without being disposed of, shall be forfeited to His Majesty for the use of Canada.



Statement.

(5) The Corporation shall give the Secretary of State, when required, a full and correct statement of all lands, at the date of such statement, held by the Corporation, or in trust for it, and subject to the provisions of this section.

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Application of mortmain laws.

10. In regard to any real property which, by reason of its situation or otherwise, is subject to the legislative authority of the Parliament of Canada, a licence in mortmain shall not be necessary for the exercise of the powers granted by this Act, but otherwise, the exercise of the said 10 powers shall in any province of Canada be subject to the laws of such province as to the acquisition and holding of lands by religious corporations, insofar as such laws apply to the Corporation.

Transfer of property held in trust.

11. Insofar as authorization by the Parliament of 15 Canada is necessary any person or corporation in whose name any property, real or personal, is held in trust or otherwise, for the use and purposes of the Corporation, or any such person or corporation to whom any such property devolves, may, subject always to the terms and con- 20 ditions of any trust relating to such property, transfer such property, or any part thereof, to the Corporation.

Execution of documents.

12. Any deed or other instrument relating to real estate vested in the Corporation or to any interest in such real estate, shall, if executed within the jurisdiction of the 25 Parliament of Canada, be deemed to be duly executed if there is affixed thereto the seal of the Corporation and there is thereon the signature of any officer of the Corporation duly authorized for such purpose, or of his lawful attorney.

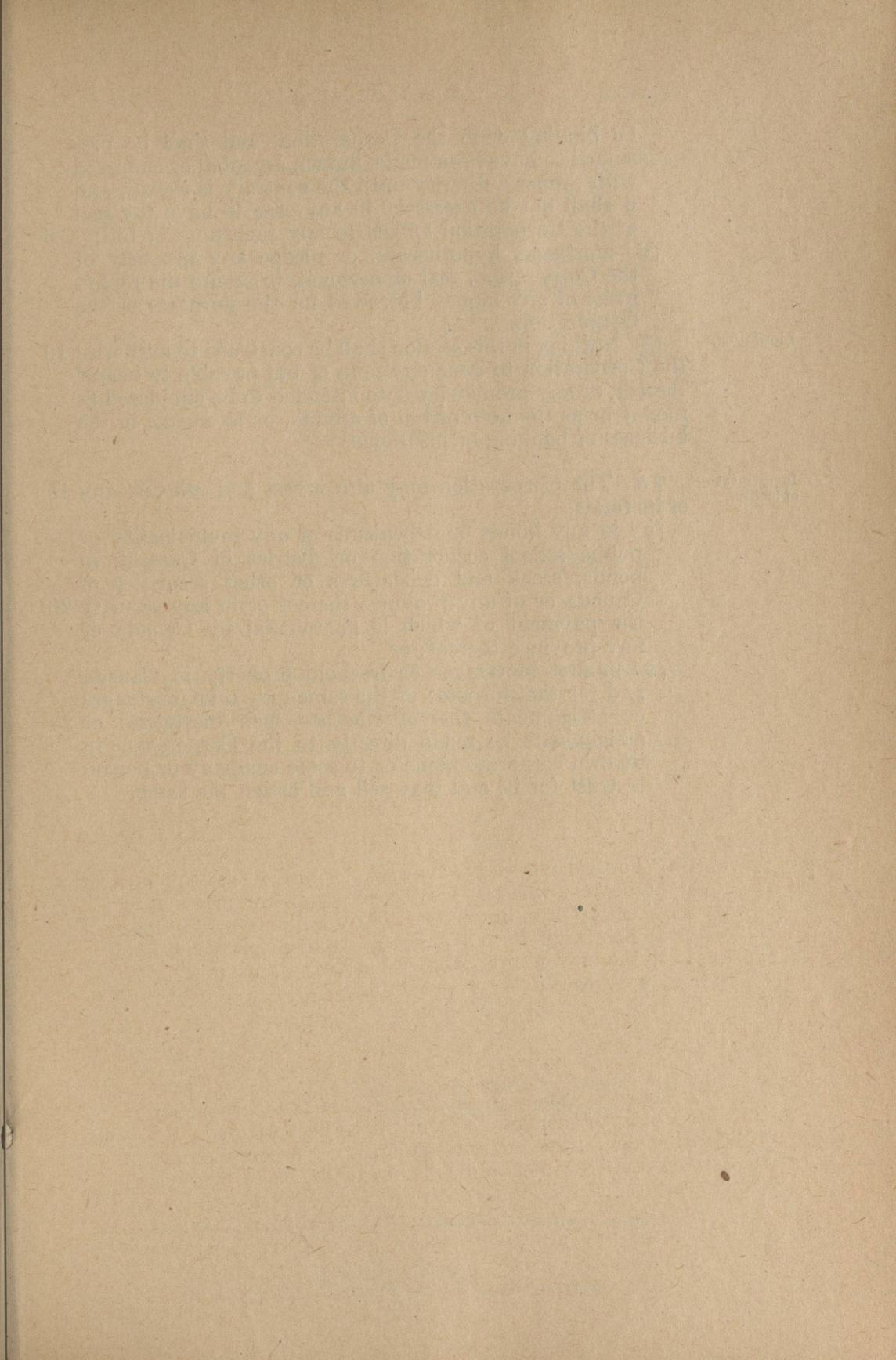
Disposition of property by gift or loan.

13. The Corporation may make a gift of or lend any 30 of its property, whether real or personal, for or to assist in the erection or maintenance of any building or buildings deemed necessary for any church, college, manse, school or hospital or for any other religious, charitable, educational, congregational or social purpose upon such terms 35 and upon such conditions as it may deem expedient.

Borrowing powers.

14. The Corporation may, from time to time, for the purposes of the Corporation,

- (a) borrow money upon the credit of the Corporation;
- (b) limit or increase the amount to be borrowed; 40
- (c) make, draw, accept, endorse, or become party to promissory notes and bills of exchange and every such note or bill made, drawn, accepted or endorsed by the party thereto authorized by the by-laws of the Corporation and countersigned by the proper party thereto 45 authorized by the by-laws of the Corporation, shall



be binding upon the Corporation, and shall be presumed to have been made, drawn, accepted or endorsed with proper authority until the contrary is shown, and it shall not be necessary in any case to have the seal of the Corporation affixed to any such note or bill; 5

(d) mortgage, hypothecate, or pledge any property of the Corporation, real or personal, to secure the repayment of any money borrowed for the purposes of the Corporation.

Limitation.

(2) Nothing in this section shall be construed to authorize 10 the Corporation to issue any note or bill payable to bearer thereof, or any promissory note intended to be circulated as money or as the note or bill of a bank, or to engage in the business of banking or insurance.

Investment of funds.

15. The Corporation may also invest and reinvest any 15 of its funds,

(a) in any bonds or debentures of any municipality or public school corporation or district in Canada, in bonds, stock and debentures or other securities of Canada or of any province thereof or in any security 20 the payment of which is guaranteed by Canada or any province thereof; or

(b) in first mortgages or freehold property in Canada and for the purposes of the same may take mortgages or assignments thereof whether such mortgages or 25 assignments be made directly to the Corporation in its own corporate name or to some company or person in trust for it, and may sell and assign the same.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL C⁵.

An Act for the relief of Edith May Hort Search.

Read a first time, Wednesday, 15th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

THE SENATE OF CANADA

BILL C⁵.

An Act for the relief of Edith May Hort Search.

Preamble.

WHEREAS Edith May Hort Search, residing at the city of Montreal, in the province of Quebec, floor superintendent, wife of Norman Leslie Search, salesman, who is domiciled in Canada and residing at the said city of Montreal, has by her petition alleged that they were married on the third day of July, A.D. 1930, at the city of Lachine, in the said province, she then being Edith May Hort, a spinster; and whereas by her petition she has prayed that because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Edith May Hort and Norman Leslie Search, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Edith May Hort may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Norman Leslie Search had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL D⁵.

An Act for the relief of Alexander Thompson Powell Scott.

Read a first time, Wednesday, 15th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL D⁵.

An Act for the relief of Alexander Thompson Powell Scott.

Preamble.

WHEREAS Alexander Thompson Powell Scott, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, cook, has by his petition alleged that on the seventh day of March, A.D. 1925, at the said city, he and Elsie Wild, who was then of the said city, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore His Majesty by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Alexander Thompson Powell Scott and Elsie Wild, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Alexander Thompson Powell Scott may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Elsie Wild had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL E⁵.

An Act for the relief of Frances Eleanor Miller Foster.

Read a first time, Wednesday, 15th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

THE SENATE OF CANADA

BILL E⁵.

An Act for the relief of Frances Eleanor Miller Foster.

Preamble.

WHEREAS Frances Eleanor Miller Foster, residing at the city of Ottawa, in the province of Ontario, clerk, wife of William Wells Foster, student, who is domiciled in Canada and residing at the city of Montreal, in the province of Quebec, has by her petition alleged that they were married on the twenty-sixth day of December, A.D. 1940, at the city of Kingston, in the province of Ontario, she then being Frances Eleanor Miller, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

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Marriage dissolved.

1. The said marriage between Frances Eleanor Miller and William Wells Foster, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Frances Eleanor Miller may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said William Wells Foster had not been solemnized.

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Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL F⁵.

An Act for the relief of Mary Kathleen Maloney Rassie.

Read a first time, Wednesday, 15th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL F⁵.

An Act for the relief of Mary Kathleen Maloney Rassie.

Preamble.

WHEREAS Mary Kathleen Maloney Rassie, residing at the city of Montreal, in the province of Quebec, wife of Charles Rassie, salesman, who is domiciled in Canada and residing at the city of Outremont, in the said province, has by her petition alleged that they were married on the 5 seventeenth day of September, A.D. 1935, at the said city of Montreal, she then being Mary Kathleen Maloney, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have 10 been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Mary Kathleen Maloney 15 and Charles Rassie, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Mary Kathleen Maloney may at any time hereafter marry any man whom she might lawfully marry 20 if the said marriage with the said Charles Rassie had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL G⁵.

An Act for the relief of Mildred Florence Rooke Cochrane.

Read a first time, Wednesday, 15th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

THE SENATE OF CANADA

BILL G⁵.

An Act for the relief of Mildred Florence Rooke Cochrane.

Preamble.

WHEREAS Mildred Florence Rooke Cochrane, residing at the town of Montreal South, in the province of Quebec, wife of Vincent Charles Cochrane, flight engineer, who is domiciled in Canada and residing at the city of Westmount, in the province of Quebec, has by her petition alleged that they were married on the sixteenth day of June, A.D. 1938, at the city of Ottawa, in the province of Ontario, she then being Mildred Florence Rooke, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

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Marriage dissolved.

1. The said marriage between Mildred Florence Rooke and Vincent Charles Cochrane, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Mildred Florence Rooke may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Vincent Charles Cochrane had not been solemnized.

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Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL H⁵.

An Act for the relief of Eileene Ruby Aspell Stinson.

Read a first time, Wednesday, 15th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1946

THE SENATE OF CANADA

BILL H⁵.

An Act for the relief of Eileene Ruby Aspell Stinson.

Preamble.

WHEREAS Eileene Ruby Aspell Stinson, residing at the city of Montreal, in the province of Quebec, wife of Clarence Oswald Stinson, building supplier, who is now domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the nineteenth day of January, A.D. 1925, at the said city, she then being Eileene Ruby Aspell, a spinster; that on the seventeenth day of September, A.D. 1926, at the said city, they were married again; that during and since the year A.D. 1934, the said Clarence Oswald Stinson committed adultery; and whereas by her petition she has prayed for the passing of an Act dissolving her said marriage or marriages with the said Clarence Oswald Stinson; and whereas the said allegations have been proved, and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage or marriages between Eileene Ruby Aspell and Clarence Oswald Stinson, her husband, are, respectively, hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Eileene Ruby Aspell may at any time hereafter marry any man whom she might lawfully marry if the said marriage or marriages with the said Clarence Oswald Stinson had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL I⁵.

An Act for the relief of Edna Bookalam Howick.

Read a first time, Wednesday, 15th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL I⁵.

An Act for the relief of Edna Bookalam Howick.

Preamble.

WHEREAS Edna Bookalam Howick, residing at the city of Outremont, in the province of Quebec, wife of Henry Deeb Howick, manufacturer, who is domiciled in Canada and residing at the city of Montreal, in the said province, has by her petition alleged that they were married on the eighth day of May, A.D. 1943, at the said city of Montreal, she then being Edna Bookalam, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Edna Bookalam and Henry Deeb Howick, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever. 15

Right to marry again.

2. The said Edna Bookalam may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Henry Deeb Howick had not been solemnized. 20

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL J⁵.

An Act for the Relief of Berthe Alice Cardinal Reid.

Read a first time, Wednesday, 15th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

THE SENATE OF CANADA

BILL J⁵.

An Act for the relief of Berthe Alice Cardinal Reid.

Preamble.

WHEREAS Berthe Alice Cardinal Reid, residing at the city of Lachine, in the province of Quebec, operator, wife of Douglas Talbot Reid, inspector, who is domiciled in Canada and residing at the city of Montreal, in the said province, has by her petition alleged that they were married on the sixth day of June, A.D. 1921, in the county of Bronx in the state of New York, one of the United States of America, she then being Berthe Alice Cardinal, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

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Marriage dissolved.

1. The said marriage between Berthe Alice Cardinal and Douglas Talbot Reid, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Berthe Alice Cardinal may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Douglas Talbot Reid had not been solemnized.

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Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL K⁵.

An Act for the relief of Elizabeth Jean Warden Leupold.

Read a first time, Wednesday, 15th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL K⁵.

An Act for the relief of Elizabeth Jean Warden Leupold.

Preamble.

WHEREAS Elizabeth Jean Warden Leupold, residing at the city of Montreal, in the province of Quebec, writer, wife of John Barnston Leupold, advertising executive, who is domiciled in Canada and residing at the city of Westmount, in the said province, has by her petition alleged 5 that they were married on the sixth day of June, A.D. 1940, at the said city of Montreal, she then being Elizabeth Jean Warden, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and 10 adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:— 15

Marriage dissolved.

1. The said marriage between Elizabeth Jean Warden and John Barnston Leupold, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Elizabeth Jean Warden may at any time 20 hereafter marry any man whom she might lawfully marry if the said marriage with the said John Barnston Leupold had not been solemnized.

THE SENATE OF CANADA

BILL L⁵.

An Act to amend The Unemployment Insurance Act,
1940.

Read a first time, Thursday, 16th May, 1946.

Honourable Senator ROBERTSON.

THE SENATE OF CANADA

BILL L⁵.

An Act to amend The Unemployment Insurance Act,
1940.

1940, c. 44;
1943-44, c. 31.

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

1. (1) Paragraph (*h*) of subsection one of section two of *The Unemployment Insurance Act, 1940*, chapter forty-four of the Statutes of 1940, is repealed and the following substituted therefor: 5

“working week.”

“(h) ‘working week’, means the number of hours, the number of days or the number of shifts which constitute the full week’s work for any grade or class or shift in an occupation or at a factory, workshop or other premises of an employer.” 10

(2) Paragraph (*a*) of subsection two of section two of the said Act is repealed and the following substituted therefor: 15

“(a) ‘benefit year’, section thirty-six,”

2. The said Act is further amended by inserting the following section immediately after section fourteen thereof:—

Persons not employed under a contract of service.

“14A. The Commission may, by special order, declare that the terms and conditions of service of, and the nature of the work performed by a person or group or class of persons who are not employed under a contract of service are so similar to the terms and conditions of service of, and the nature of the work performed by, a person or group or class of persons who are employed under a contract of service as to result in anomalies or injustices in the operation of the Act, and thereupon the person or group or class of persons in respect of whom the declaration is made shall be deemed to be employed under a contract of service for the purposes of this Act.” 20 25 30

EXPLANATORY NOTES.

Many of the clauses in this amending Bill are matters of clarification, re-arrangement, and changes in sections dealing with legal proceedings and coverage, which administrative experience has shown to be desirable.

The more substantive clauses include a widening of the interpretation of dependent; an increase of subsidiary earnings permitted from \$1.00 to \$1.50 per day; the calculation of the daily rate of benefit to the nearest five cents; requiring the Advisory Committee to report in respect of the same period as the Commission; making the Employment Service more directly responsible to the Minister; requiring employers to notify the engaging of employees and persons seeking employment to notify the Employment Service; and the transfer of sections of the Veterans Rehabilitation Act dealing with unemployment insurance to this Act.

1. The present paragraph (*h*) of subsection one of section two reads as follows:

“(h) ‘working week’, means the number of days or the number of shifts which constitute the full week’s work for any grade or class or shift in an occupation or at a factory, workshop or other premises of an employer.”

The change is necessary because the working week is sometimes expressed as a number of hours, rather than a number of days or shifts.

The present paragraph (*a*) of subsection two of section two reads as follows:

“(a) ‘benefit year’, section forty;”

Change in reference only.

2. It is becoming an increasingly common practice for persons who are normally employees to enter into a contract with a person who would normally be an employer, the contract being in such form as to purport not to establish the relationship of employer and employee but rather to make the workman an independent contractor. This practice is followed not only for the purpose of avoiding contributions under the Unemployment Insurance Act but also to avoid minimum wage and workmen’s compensation legislation.

It is considered that these men who are actually in just the same position in practically every respect as employees, should be protected under the Act against unemployment. The amendment would give the Commission the power to declare any such contracts to be contracts of service for the purposes of the Unemployment Insurance Act.

3. Subsection one of section sixteen of the said Act is repealed and the following substituted therefor:

Exempted
persons.

“**16.** (1) Where an employed person establishes to the satisfaction of the Commission that he is either

(a) a person who is employed in an industry that is 5
seasonal and that does not ordinarily extend over
more than twenty weeks in any year and who is not
ordinarily employed in any other insurable employ-
ment; or

(b) a person who habitually works for less than the 10
ordinary working day;

Certificate of
exemption.

the Commission shall grant him a certificate exempting
him from liability to contribute under this Act and the
holder of such a certificate shall not be insured under
this Act.” 15

4. Subsection one of section nineteen of the said Act is repealed and the following substituted therefor:

Recovery of
contributions
made on
behalf of
employee.

“**19.** (1) Except in cases to which subsection three or
four of this section applies, where an employed person re- 20
ceives wages or other pecuniary remuneration in respect of
his employment, an amount equal to any contribution paid
or payable on behalf of the employed person by the employer
or by any other person may, notwithstanding any Act or
contract to the contrary, be recovered by deduction from
the wages or other pecuniary remuneration and not other- 25
wise; but no deduction may be made under this subsection

Proviso.

(a) from any wages or pecuniary remuneration other
than such as are paid in respect of the period or part
of the period for which the contribution is payable; or
(b) in excess of the contribution paid or payable on 30
behalf of the employed person for the period in respect
of which the wages or pecuniary remuneration is paid.”

3. The present subsection one of section sixteen reads as follows:

- "(1) Where any employed person proves to the satisfaction of the Commission that he is either:
- (a) a person who is employed in an occupation which is seasonal and which does not ordinarily extend over more than twenty weeks in any year and who is not ordinarily employed in any other occupation which is insurable employment; or
 - (b) a person who habitually works for less than the ordinary working day;
- the Commission shall grant him a certificate exempting him from liability to contribute under this Act and the holder of such certificate shall not be insured under this Act."

It has been found that exemption is sought by persons who, although engaged in occupations which are not seasonal, are nevertheless employed in industries which are seasonal.

4. Subsections one and two of section nineteen read as follows:

- "(1) Where the employed person receives any wages or other pecuniary remuneration from the employer, the amount of any contribution paid by the employer on behalf of the employed person shall, notwithstanding the provisions of any Act or any contract to the contrary, be recoverable by means of deductions from the wages of that person or from any other pecuniary remuneration due from or payable by the employer to that person and not otherwise:

Provided that no such deduction may be made

- (a) from any wages or pecuniary remuneration other than such as are paid in respect of the period or part of the period for which the contribution is payable; or
 - (b) in excess of the sum which represents the amount of the contributions for the period in respect of which the wages or other remuneration is paid.
- (2) Where the employed person does not receive any wages or other pecuniary remuneration from the employer but receives such remuneration from some other person, the amount of any contribution paid by the employer on behalf of the employed person shall (without prejudice to any other means of recovery) be recoverable as a civil debt from such other person, if proceedings for recovery are instituted within three months from the date on which the contribution was payable."

It will be noted that subsection two provides a means whereby the real employer may recover from the person who is actually paying the remuneration to the employee the amount of contribution paid by the employer on behalf of the employed person, but, the present subsection one does not provide to the person actually paying the wages a right of recovery of the employee's share from the employee. As amended, the section gives to the person actually paying the wages the right to deduct from the wages the amount of the employee's share of contributions. For example: the manager of a chain store is operating under an arrangement whereby he pays the wages of his staff. He must also make the contributions required under this Act. He can recover from his principal the employer's share of contribution but as the section presently stands does not have the legal right to deduct the employee's share of contribution from the employee's wages.

5. Sections twenty-seven to forty-nine of the said Act and sections six to nine inclusive of chapter thirty-one of the statutes of 1943-44 are repealed, and the following substituted therefor:

INSURANCE BENEFIT.

“27. (1) Every person who, being insured under this Act, proves that he is 5

Right of insured person to insurance benefit.

- (a) unemployed,
(b) capable of and available for work; and
(c) unable to obtain suitable employment,

and in whose case the conditions laid down by this Act are fulfilled, shall, subject to the provisions of this Act, be entitled to receive payments (in this Act referred to as ‘insurance benefit’ or ‘benefit’) at weekly or other prescribed intervals at such rates as are authorized by section thirty-one of this Act, so long as those conditions continue to be fulfilled and so long as he is not disqualified under this Act from the receipt of benefit. 10 15

Payment of benefit where applicant a juvenile, a person of unsound mind, or deceased.

(2) Notwithstanding subsection one of this section or any other law, the Commission may make regulations providing that, in the case of a deceased person or a person of unsound mind, benefit may be paid to any person who, in the opinion of the Commission, is equitably entitled thereto or that, in the case of a juvenile under eighteen years of age, benefit may be paid to a person by whom such juvenile is mainly or wholly maintained.” 20 25

Statutory conditions.

“28. (1) The right of an insured person to receive insurance benefit shall be subject to the following conditions (in this Act referred to as ‘statutory conditions’), namely:

- (a) that contributions have been paid in respect of him while employed in insurable employment 30
(i) in the case of each benefit year for not less than one hundred and eighty days during the two years immediately preceding the day on which the benefit year commences; and 35
(ii) in the case of each benefit year except his first, for not less than sixty days since the commencement of his immediately preceding benefit year;
- (b) that, of the contributions made in respect of him while employed in insurable employment during the year immediately preceding the day on which the benefit year commences not more than half were made at the lowest rate of contribution specified in the Second Schedule; 40

5. An examination of the provisions of the Act dealing with benefit-entitlement, disqualifications, rate and duration, claim procedure, etc.—reveals the complexity of the task of handling claims for benefit. The extent of our country, the sparseness of the population in many areas and the consequent distance between Local Offices make the training of staff, and more particularly, personal consultation between Local Office staff and insurance office staff, somewhat difficult. It is essential, therefore, that the arrangements of the sections of the Act be such as to assist the staff in appreciating how one provision dovetails with another. They are then in a better position to answer questions raised by claimants about the Act.

5. *New Section 27.*

Re-arrangement of other sections of the Act.

The requirements that the claimant prove that he is unemployed and that he is capable of and available for work and unable to obtain suitable employment are the basic conditions precedent to the payment of benefit, and it is considered that they belong more properly in this particular section. Further, these are continuing requirements which the claimant must always satisfy and in this respect are distinct from certain other conditions such as the statutory conditions which the claimant is required to prove only once in respect of each benefit year.

Provision is already made for the payment of benefit to another person in the case of a juvenile and it is equally necessary to have authority to pay benefit to another person where the applicant is deceased or of unsound mind.

5. *New Section 28.*

The present section twenty-eight reads as follows:

“28. The receipt of insurance benefit by an insured person shall be subject to the following statutory conditions, namely,—

- (i) that contributions have been paid in respect of him while employed in insurable employment for not less than one hundred and eighty days during the two years immediately preceding the date on which a claim for benefit is made;
- (ii) That he has made application for insurance benefit in the prescribed manner, and proves that he was unemployed on each day on which he claims to have been unemployed;
- (iii) that he is capable of and available for work but unable to obtain suitable employment; and
- (iv) that he proves either that he duly attended, or that he had good cause for not attending, any course of instruction or training approved by the Commission which he may have been directed to attend by the Commission for the purpose of becoming or keeping fit for entry into or return to employment.”

(c) that he has made a claim for benefit in the prescribed manner; and

(d) that he is at least sixteen years of age.

Contribu-
tions
recognized.

(2) For the purposes of the statutory conditions, account shall be taken only of contributions paid in respect of the insured person for periods during which he was *bona fide* employed in insurable employment and was not exempt from the provisions of this Act. 5

Period of
two years
increased.

(3) If an insured person proves in the prescribed manner that he was, during any period falling within the two years specified in the first statutory condition, 10

(a) incapacitated for work by reason of some specific disease or bodily or mental disablement; or

(b) employed in excepted employment; or

(c) engaged in business on his own account; or 15

(d) employed in insurable employment in respect of which contributions were not payable; or

(e) employed outside of Canada or partly outside of Canada, in an employment in respect of which contributions were not payable; or 20

(f) employed in an employment not described by Part I of the First Schedule to this Act, 20

the first statutory condition and section thirty-one of this Act shall have effect as if, for the period of two years therein referred to, there were substituted a period of two years increased by such periods of incapacity or of such employment or business engagement but so as not to exceed in any case four years." 25

Re-arrangement of other sections of the Act.

Experience in the adjudication of claims makes it abundantly clear that the work of the insurance officers in the adjudication of claims and the Local Office staff in explaining to the claimants the effects of the insurance officer's decision would be facilitated by a re-arrangement of the statutory conditions. It is felt that the statutory conditions should be those which determine whether or not a benefit year is set up. The old section twenty-eight contained only one of the conditions which determined whether a benefit year would be established; other conditions were found in the definition of benefit year (old section forty); others were included as disqualifications (old section forty-three). The new section twenty-eight is an attempt to bring together in one section all those conditions which should properly be regarded as conditions precedent to the establishment of a benefit year.

The new section twenty-eight contains provisions formerly appearing in sections twenty-eight, forty (1) (b) and twenty-nine. The old section twenty-eight contained the four statutory conditions. The first statutory condition in the new section twenty-eight (1) contains the old first statutory condition and a portion of the old section forty (1) (b). The new second statutory condition is the old forty-three (f). The new third statutory condition is the first part of what was previously the second statutory condition. The new fourth statutory condition is the old section forty-three (d).

What was formerly the third statutory condition is now part of section twenty-seven. It is not felt that it properly appears as a statutory condition as it is a condition which may change from day to day. The same comments are applicable in regard to the old fourth statutory condition which now appears as subsection (2) of the new section twenty-nine.

The new subsection two of section twenty-eight contains the provisions formerly appearing as subsection one of twenty-nine without any change in effect and the new subsection three contains the provisions formerly appearing in subsection two of section twenty-nine.

Item (d) of subsection three has been added to deal with employments which are not insurable, but which cannot be described as "excepted employments".

Item (e) of subsection three has been added to protect the worker who works outside of Canada for short periods.

Item (f) of subsection three has been added to permit extension of the two-year period to persons outside the scope of the Act.

Periods not counted in computing unemployment: While in receipt of wages or compensation substantially equivalent to wages.

While following any occupation for remuneration unless outside ordinary working hours.

Holidays.

Full working week.

Sundays.

Prior to claim.

Period in respect of which benefit is payable.

“**29.** (1) An insured person shall be deemed not to be unemployed

(a) during any period for which notwithstanding that his employment has terminated, he continues to receive

(i) remuneration, or

(ii) compensation for loss of, and substantially equivalent to, the remuneration he would have received if his employment had not terminated;

(b) on any day on which, notwithstanding that his employment has terminated, he is following an occupation from which he derives remuneration or profit unless

(i) that occupation could ordinarily be followed by him in addition to, and outside the ordinary working hours of, his usual employment, and

(ii) the remuneration or profit received therefrom for that day does not exceed one dollar and fifty cents or, where the remuneration or profit is payable or is earned in respect of a period longer than a day, the daily average of the remuneration or profit does not exceed that amount;

(c) on any day that is recognized as a holiday for his grade, class or shift in the occupation or at the factory, workshop or other premises at which he is employed unless otherwise prescribed;

(d) on any day of any calendar week during which he works the full working week;

(e) on any Sunday; or

(f) subject to the provisions of subsection six of section thirty-six, on any day prior to the day on which he makes a claim for benefit.

(2) An insured person shall be deemed not to have failed to prove that he is available for work on any day on which he is or was attending a course of instruction or training that the Commission has directed him to attend.”

“**30.** (1) The number of days in respect of which benefit may be paid to an insured person in a benefit year is the difference between

(a) one-fifth of the number of days for which contributions have been paid in respect of him in the prescribed period of five years preceding the benefit year for which the computation is made; and

(b) one-third of the number of days, if any, for which benefit has been paid to him in the prescribed period of three years preceding the benefit year.

5. *New Section 29.*

Subsection one of the new section contains all of the provisions formerly appearing in section thirty-three of the Act with the addition of a new paragraph, (*e*), and paragraph (*f*) moved from section thirty. Further, there is one small change in paragraph (*a*) of the new subsection one.

The old section thirty-three (*a*) provided that the claimant would not be deemed to be unemployed for the purposes of the Act while he continued to receive compensation for loss of wages. The principle, apparently, is that a person is not in need of and should not be paid unemployment insurance benefit while, for all practical purposes, he is continuing to receive after termination of employment an amount substantially equivalent to his wages. As the paragraph now stands it covers only the case where monies paid are really liquidated damages or wages in lieu of notice. It does not cover the case where the employer continues to pay wages for a limited period as, for example, where wages are paid for holidays earned but not taken prior to the termination of employment. It is considered that the principle is the same in both cases and that in neither case should benefit be paid. The new paragraph (*e*) providing that benefit may not be paid for Sundays is simply to clear up some doubts which have, on occasion, been expressed. It was obviously not the intent to pay benefit for Sundays. Paragraph (*f*) is to make it clear that a person is not unemployed for benefit purposes prior to making his claim, unless his claim is antedated under section thirty-six. This formerly appeared in section thirty.

Sub-paragraph (*b*) (ii) gives the person in receipt of benefit a little more leeway on part-time employment allowing him to earn up to one dollar and fifty cents a day rather than the former limit of one dollar without prejudicing his benefit rights.

The new subsection two contains the provisions formerly appearing in paragraph (*a*) of section thirty-one. There is no change in substance—the only changes being those made necessary by re-arrangement of the section.

5. *New Section 30.*

The new section thirty is the old section thirty-four re-numbered and re-drafted for clarification, but without any change in effect.

(2) For the purposes of this section

(a) fractions of a day less than one-half shall be disregarded and a fraction of a day equal to or greater than one-half shall be taken as a full day; and

(b) the Commission may, by regulation, prescribe that the dates of termination of the five-year and three-year periods aforesaid shall be determined otherwise than by reference to the commencement of the benefit year." 5

Daily rate of benefit.

"31. (1) Except in the cases referred to in subsection two of this section, the daily rate of benefit for a benefit year shall be thirty-four times the average daily contribution paid by the employed person while in employment during the two years immediately preceding the commencement day of the benefit year. 10 15

Rate for persons with dependents.

(2) Where the employed person is

(a) a man whose wife is being maintained wholly or mainly by him; or

(b) a married woman who has a husband dependent on her; or 20

(c) a person who maintains wholly or mainly one or more children under the age of sixteen years; or

(d) a person who maintains a self-contained domestic establishment and supports therein a wholly dependent person connected by blood relationship, marriage or adoption; 25

the daily rate of benefit shall be forty times the average daily contribution paid by the insured person during the two years immediately preceding the initial claim for benefit in the benefit year. 30

Variations in rate.

(3) Notwithstanding subsection one or two of this section, if the daily rate of benefit, computed as therein provided, is not a multiple of five, the daily rate of benefit shall be the nearest multiple of five.

Weekly rate.

(4) The weekly rate of benefit shall be six times the daily rate. 35

"child."

(5) For the purposes of this section, 'child' means a child of the insured person and includes his stepchild, adopted child or illegitimate child.

5. New Section 31.

The new section thirty-one contains the provisions formerly appearing in paragraphs one and two of the Third Schedule to the Act. It is considered that these are substantive provisions which should appear in the body of the Act rather than in a Schedule.

Paragraphs one and two of the Third Schedule read as follows:

“(1) The weekly rate of benefit for the benefit year shall be thirty-four times the average weekly contribution paid by an employed person while in employment during the two years immediately preceding the claim for benefit:

Except that where the employed person is either—

- (i) a man whose wife is being maintained wholly or mainly by him; or
- (ii) a married woman who has a husband dependent on her; or
- (iii) a married person, widow or widower, who maintains wholly or mainly one or more children under the age of 16 years;

the weekly benefit rate shall be forty times the average weekly contribution paid by an employed person during the two years immediately preceding the claim for benefit and the expression ‘child’ includes any child of the employed person, a stepchild, adopted child, or illegitimate child.

(2) The daily rate of benefit for the benefit year shall be computed in the same manner as the weekly rate of benefit as provided by section one of this Schedule using the prescribed average daily contribution instead of the average weekly contribution.”

All through the amended subsection one references are made to the daily rate of benefit rather than to the weekly rate as previously. In actual practice it is necessary to compute the daily rate and then to extend this by multiplying to the weekly rate as indicated in the new subsection four.

In addition to bringing the Third Schedule into the body of the Act, a new subparagraph (*c*) is substituted, and a new subparagraph (*d*) is added.

The only change in what was previously subparagraph (iii) is to refer to “a person” rather than to “a married person, widow or widower”. In other words, benefit at the dependency rate is payable to any person who maintains a child (as defined).

Subparagraph (*d*) is entirely new. It is felt that the payment of the dependency rate is justified quite as much in the case where a person maintains a self-contained domestic establishment and supports a wholly dependent relative as in the case of maintenance of a child. There seems little difference in principle and the need would appear to be as great, or greater.

Subsection three is new and has the effect of setting the daily benefit rate at the nearest five cents which will cut down to a very considerable extent the mathematical calculations involved in determining the rate of benefit. This should expedite the payment of benefit and cannot affect the amount of benefit paid by more than a few cents.

(6) Where the contributions paid in respect of an employed person during the two years immediately preceding the claim for benefit average the amounts in columns (1) and (2) below, the rates of benefit shall be the amounts set out in columns (3) to (6) inclusive below.

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Average Employee Contribution		Rate of Benefit			
		Person without a Dependent		Person with a Dependent	
Daily	Weekly	Daily	Weekly	Daily	Weekly
(1) Cents	(2) Cents	(3) \$ Cents	(4) \$ Cents	(5) \$ Cents	(6) \$ Cents
.02	.12	.70	4.20	.80	4.80
.02½	.15	.85	5.10	1.00	6.00
.03	.18	1.00	6.00	1.20	7.20
.03½	.21	1.20	7.20	1.40	8.40
.04	.24	1.35	8.10	1.60	9.60
.04½	.27	1.55	9.30	1.80	10.80
.05	.30	1.70	10.20	2.00	12.00
.05½	.33	1.85	11.10	2.20	13.20
.06	.36	2.05	12.30	2.40	14.40"

Only periods of bona fide employment to count in computing benefits.

"**32.** In computing benefit rights, account shall be taken only of contributions paid in respect of an insured person for periods during which he was *bona fide* employed in insurable employment and was not exempt from the provisions of this Act."

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Adjustment of benefit on account of contributions or benefits paid in error.

"**33.** The Commission may prescribe the circumstances in which and the extent to which

- (a) contributions paid in error and sums paid to a person by way of benefit while he was not entitled thereto are to be taken into account in determining his benefit 15 rights, notwithstanding section thirty-two;
- (b) sums paid to a person by way of benefit while he was not entitled thereto may be ratified; and
- (c) sums due and owing to the Fund by a person who has failed or neglected to pay such sums may be considered 20 no longer due and owing to the Fund."

Weekly rates for unemployment for a week.

"**34.** Where an insured person has been unemployed for six full days in a calendar week or for the full number of days constituting the normal week at the plant, factory, workshop or other place of usual employment, 25 benefit shall be paid at the weekly rate prescribed in section thirty-one and where he has been unemployed for

Daily rates for less than a week.

Subsection six formerly appeared as paragraph three of the Third Schedule. It has been expanded somewhat as a better illustration.

5. *New Section 32.*

The new section thirty-two is the old section thirty-eight without any change in effect.

5. *New Section 33.*

Subsection one of the new section thirty-three is the old section thirty-nine without any change in effect.

Subsections two and three permit errors to be cleared from the books.

5. *New Section 34.*

The new section thirty-four is the old section thirty-five with the changes made necessary by the re-arrangement of sections and some alterations in wording to clarify the section.

a portion of a calendar week, benefit shall be paid at the daily rate therein prescribed."

Waiting days not counted for benefit.

"35. (1) An insured person shall not be entitled to benefit

(a) for the first nine days of unemployment in any benefit year; nor

(b) for the first day of unemployment in any claim week,

(i) unless the insured person is unemployed for the whole of that week, or

(ii) unless the first day of unemployment in that week immediately follows a period of continuous unemployment of not less than one full week; and any day of unemployment excluded under this paragraph shall be in addition to the days, if any, excluded under paragraph (a) of this subsection.

"claim week".

(2) For the purpose of this Act 'claim week' means a period of six consecutive days exclusive of Sunday beginning on a day to be determined in a manner prescribed by the Commission."

Benefit year defined.

"36. (1) Subject to subsection two of this section, 'benefit year' means, in relation to an insured person who, upon making a claim for benefit, proves that the statutory conditions are fulfilled in his case, a period of twelve months commencing on the day he makes that claim, the day following the last day worked or the day following the last day for which a contribution has been paid as required by this Act, whichever is the latest.

Termination of benefit year by exhaustion of rights.

(2) If an insured person exhausts his benefit rights in a benefit year, that benefit year shall thereupon be deemed to be terminated.

Commencement of new benefit year.

(3) A benefit year cannot commence until the previous benefit year if any, has terminated.

Proof not required on subsequent application.

(4) An insured person shall prove fulfilment of the statutory conditions only once in a benefit year.

Benefit year erroneously established.

(5) In any case where, by reason of an erroneous decision, a benefit year has been deemed to have been established although one or more of the statutory conditions have not been fulfilled, a benefit year shall nevertheless be deemed to have commenced; but the insured person concerned shall not be entitled to benefit during that benefit year from the time when it is ascertained that such decision was made erroneously until he proves fulfilment of the statutory conditions.

Commencement of benefit year and period of unemployment.

(6) Where an insured person shows good cause for delay in making a claim for benefit the Commission may authorize

5. New Section 35.

The new section thirty-five is the old section thirty-six re-numbered. In paragraph (b) of subsection (1) "calendar week" has been changed to "claim week" and a "claim week" is defined in subsection (2). Claims do not generally coincide with the calendar week and it is necessary to work on an individual claim week for each benefit claimant.

5. New Section 36.

The new section thirty-six is a combination of the old sections, thirty, thirty-seven and forty. The old subsection one of section forty in defining the benefit year referred only to fulfilment of the first statutory condition. The new subsection one of section thirty-six refers to all of the statutory conditions. The benefit year is not set up if the claimant is unable to fulfil any one of the statutory conditions which appear in section twenty-eight.

The establishment of a benefit year sometimes proves to be a hardship because of the additional contributions required before a subsequent benefit year can commence. Subsection seven gives the Commission power to cancel a benefit year for example where no benefit has become payable.

- (i) the commencement of a benefit year on a day earlier than that specified in subsection one of this section, and
- (ii) in respect of a period of unemployment, a day of commencement earlier than the day he makes his claim for benefit. 5

(7) Where an insured person has not proved entitlement to benefit or where benefit has not been paid to him, the Commission may determine that a benefit year is deemed not to have commenced." 10

Benefits inalienable.

"37. Subject to the provisions of this Act, every assignment of, or charge on, and every agreement to assign, or charge, any of the benefits conferred by this Act shall be void, and, on an assignment for the benefit of creditors being made by any person entitled to any such benefit, the benefit shall not pass to any trustee or other person acting on behalf of his creditors." 15

Regulations in respect of special classes.

"38. (1) Where it appears to the Commission that the application of the provisions of this Act in the determination of benefits for classes of persons 20

Casual workers.

(a) who habitually work for less than a full working week;

Seasonal.

(b) whose employment is only for portions of the year in industries which are seasonal; or

Workers paid on a basis other than time.

(c) who by custom of their occupation, trade or industry or pursuant to their agreement with an employer are paid, in whole or in part, by the piece or on a basis other than that of time; 25

would result in anomalies having regard for the benefits of other classes of insured persons, the Commission may make regulations in relation to the said classes of persons 30

(i) imposing additional conditions and terms with respect to contributions and the payment thereof and with respect to the receipt of benefit,

(ii) restricting the amount or period of benefit, and 35

(iii) making modifications in the provisions of this Act relating to the determination of claims for benefit,

as may appear necessary to remove or substantially remove the anomalies. 40

Notice of intention to make regulations.

(2) The Commission shall give such public notice as it considers sufficient of its intention to make regulations under this section and shall receive any representations which may be made to it with respect thereto.

Regulations may apply generally or otherwise.

(3) Regulations made under this section may be applicable 45

(a) either generally or in a specified area; and

5. *New Section 37.*

The new section thirty-seven is the old section forty-one re-numbered without any change.

5. *New Section 38.*

The new section thirty-eight contains the substance of the old section forty-two, with the word "occupations" being changed to "industries".

(b) to all classes to which subsection one applies or one or more of them, to a particular class or a portion of a class or to an industry or a portion of an industry."

DISQUALIFICATION FOR BENEFIT.

Disqualifica-
tion through
loss of work
due to
labour
dispute.

"39. (1) An insured person shall be disqualified from receiving benefit if he has lost his employment by reason of a stoppage of work due to a labour dispute at the factory, workshop or other premises at which he was employed unless he has, during the stoppage of work, become *bona fide* employed elsewhere in the occupation which he usually follows, or has become regularly engaged in some other occupation; but this disqualification shall last only so long as the stoppage of work continues. 5 10

(2) An insured person shall not be disqualified under this section if he proves

(a) that he is not participating in, or financing or directly interested in the labour dispute which caused the stoppage of work; and 15.

(b) that he does not belong to a grade or class of workers of which immediately before the commencement of the stoppage there were members employed at the premises at which the stoppage is taking place any of whom are participating in, financing or directly interested in the dispute. 20

(3) Where separate branches of work which are commonly carried on as separate businesses in separate premises are carried on in separate departments on the same premises, each department shall, for the purpose of this section, be deemed to be a separate factory or workshop." 25

Disqualifica-
tion for
neglecting
opportunity
to work or
failure to
attend
course of
instruction.

"40. (1) An insured person shall be disqualified from receiving benefit if he, 30

(a) after an officer of the Commission or a recognized agency or an employer has notified him that a situation in suitable employment is vacant or about to become vacant, has without good cause refused or failed to apply for such situation or failed to accept such situa- 35
tion when offered to him;

(b) has neglected to avail himself of an opportunity of suitable employment;

(c) has without good cause failed to carry out any written direction given to him by an officer of the Commission with a view to assisting him to find suitable employment (being a direction which was reasonable having regard both to his circumstances and to the usual means of obtaining that employ- 40
ment); or

(d) has without good cause failed to attend a course of instruction or training that the Commission directed 45

5. New Section 39.

The new section thirty-nine is the old section forty-three (*a*) unchanged in effect but the section is set up in such a way as to be somewhat clearer, for example, what was the latter part of subparagraph (ii) of paragraph (*a*) now appears as a separate subsection.

5. New Section 40.

The new section forty is a combination of the old sections forty-three (*b*), twenty-eight (iv) and thirty-one (*b*). The new section forty (1) (*a*), (*b*), and (*c*) contains the provisions formerly appearing in section forty-three (*b*) and there are no changes from the old provisions. The new section forty (1) (*d*) contains the provisions formerly appearing in section twenty-eight (iv). There is no change in substance but the wording has been rearranged for sake of clarity.

him to attend for the purpose of becoming or keeping fit for entry into or return to employment.

No disqualification where offer of employment arises out of labour dispute or where offer of less favourable employment.

(2) For the purposes of this section, employment shall be deemed not to be suitable employment for a claimant if it is

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- (a) employment arising in consequence of a stoppage of work due to a labour dispute;
- (b) employment in his usual occupation at a lower rate of wages, or on conditions less favourable, than those observed by agreement between employers and employees, or failing any such agreement, than those recognized by good employers; or
- (c) employment of a kind other than employment in his usual occupation at a lower rate of wages, or on conditions less favourable, than those which he might reasonably expect to obtain, having regard to those which he habitually obtained in his usual occupation, or would have obtained had he continued to be so employed.

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Offer of employment of other kind at lower wages after reasonable time.

(3) Notwithstanding paragraph (c) of subsection two of this section after a lapse of such an interval from the date on which an insured person becomes unemployed as, in the circumstances of the case, is reasonable, employment shall not be deemed to be not suitable by reason only that it is employment of a kind other than employment in the usual occupation of the insured person, if it is employment at a rate of wages not lower and on conditions not less favourable than those observed by agreement between employees and employers or, failing any such agreement, than those recognized by good employers."

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Disqualification through loss of employment due to misconduct.

"41. (1) An insured person shall be disqualified from receiving benefit if he has lost his employment by reason of his own misconduct or if he voluntarily leaves his employment without just cause.

Discharged for membership in union, etc., not deemed loss for misconduct.

(2) An insured person shall be deemed not to have lost his employment by reason of his own misconduct if he has lost his employment on account of membership in, or of lawful activity connected with, any association, organization or union of workers."

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Disqualification while inmate of prison or other institution or non-resident of Canada.

"42. An insured person shall be disqualified from receiving benefit while he is an inmate of any prison or an institution supported wholly or partly out of public funds or, unless otherwise prescribed, while he is resident, whether temporarily or permanently, out of Canada."

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Subsections two and three of the new section contain the provisions of the old section thirty-one (*b*) and the only change is that in paragraphs (*b*) and (*c*) of subsection two and in subsection three of the new section, there is a reference to "a lower rate of wages" in place of the former reference in the old section to "wages lower". In determining suitability of employment it is impossible to know in advance what the actual wages received in the future will be. It is possible only to know the rate of wages offered. The new subsection three formerly appeared as a proviso to paragraph (*b*) of the old section thirty-one but it is now set up as a substantive provision which it is.

5. New Section 41.

This section is a combination of the old section forty-three (*c*) and the old section forty-four. The old forty-three (*c*) becomes forty-one (1) and the old forty-four becomes forty-one (2). The section now refers to a person who has "lost his employment, rather than discharged from his employment". The change is proposed because persons sometimes leave because of their actions, rather than wait to be discharged.

5. New Section 42.

There is no change in substance in this section which is the old section forty-three (*e*) re-numbered.

Right to membership in organizations of workers preserved.

"43. Notwithstanding anything contained in this Act, no insured person shall be disqualified from receipt of benefit by reason only of his refusal to accept employment if by acceptance thereof he would lose the right

(a) to become a member of; or

(b) to continue to be a member and to observe the lawful rules of; or

(c) to refrain from becoming a member of any association, organization or union of workers."

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Period of disqualification.

"44 (1) Where an insured person is disqualified from receiving benefit under section forty or section forty-one of this Act, the period of disqualification shall be for such period, not exceeding six weeks, and shall begin on such day, as may be determined by the insurance officer, court of referees or umpire, as the case may be.

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(2) Where an insured person makes application for benefit knowing that he is not unemployed, not capable of work, not available for work, or not unable to obtain suitable employment, he may be disqualified for such period not exceeding six weeks, beginning on such day, as may be determined by the insurance officer, court of referees or umpire, as the case may be, in addition to any period for which he is disqualified under subsection two of section fifty-five."

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DETERMINATION OF QUESTIONS.

Determination of questions concerning the rights of persons.

"45. If any question arises as to

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(a) whether any employment or any class of employment is or will be such employment as to make the person engaged therein an insured person or whether a person is or was an insured person;

(b) who is or was the employer of any employed person;

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(c) the rate of contribution payable under this Act by or in respect of any person or class of persons or as to the rates of contribution payable in respect of any insured person by the employer and that person respectively; or

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(d) whether a person was or was not employed in any excepted employment or any insurable employment in respect of which contributions were not payable, or engaged in business on his own account, or employed outside of Canada or partly outside of Canada in an employment in respect of which contributions were

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5. New Section 43.

There is no change in this section which is the old section thirty-two re-numbered.

5. New Section 44.

In substance the new section forty-four contains the same provisions as the old section forty-five which reads as follows:

"45. Where a claim for benefit by an insured person is disallowed by the court of referees or the umpire, on the ground

(a) that the third statutory condition is not fulfilled in his case; or

(b) that he is disqualified for receiving benefit under paragraphs (b) or (c) of section forty-three of this Act,

the court of referees or the umpire shall declare the insured person to be disqualified from receiving benefit for a period not exceeding six weeks beginning from such date as may be determined by the court of referees or the umpire, as the case may be."

The only change is that the provisions in paragraph (a) in the old section forty-five are not carried forward into the new section. The old forty-five (a) provided for a fixed period of disqualification where the claimant was, for example, unable to show that he was presently capable of entering employment. It is equally unsound to attempt to determine in advance what the period of physical incapacity will be and it could work out quite unfairly where, for instance, the person at the time of making his claim was unfit for employment and a six weeks' disqualification imposed. It might very well be that the physical incapacity would clear up in two weeks and the disqualification should be effective only until such time as the claimant can show that he is no longer incapacitated.

It is proposed to retain a provision (subsection two) permitting disqualification where it is clear there has been misrepresentation of unemployment, capability or availability.

5. New Section 45.

The new section forty-five is the old section forty-six re-numbered.

Paragraph (d) has been amended to include all the questions of coverage specified in section 28 (3).

not payable, or employed in an employment not described by Part I of the First Schedule to this Act, during any period falling within the period of two years specified in the first statutory condition; the question shall, subject to the provisions of this Act, be decided by the Commission." 5

Appeal to the umpire.

"46. Any person aggrieved by any decision of the Commission made in pursuance of section forty-five, may appeal from that decision to the umpire within six months from the date on which the decision of the Commission is communicated to him or within such longer period as the umpire may allow." 10

Commission or umpire may revise decision.

"47. The Commission or the umpire may, on new facts being brought to its or his notice, rescind or amend any decision given by it or him, as the case may be, under this Act." 15

Commission may refer question to an umpire.

"48. The Commission may, if it thinks fit, refer any question mentioned in section forty-five to the umpire for decision." 20

Question arising during court proceedings.

"49. If a question specified in section forty-five of this Act arises in any legal proceedings, the justice or justices of the peace, magistrate, judge or court before whom it arises shall, if the question has not been decided by the Commission, refer the question to the Commission and defer further proceedings until the Commission's decision is received, and upon receipt of the Commission's decision, shall proceed with the hearing and judgment of the legal proceedings, and where an appeal or reference to the umpire has been made, shall nevertheless proceed with the hearing but defer judgment until the umpire's decision is received." 25 30

6. Section fifty-five of the said Act, section fifty-six of the said Act as amended by section two of chapter thirty-one of the Statutes of 1943-44, and section fifty-seven of the said Act are repealed and the following substituted therefor: 35

Consideration of claims by insurance officer.

"55. (1) The insurance officer shall take into consideration any claim submitted to him for examination under section fifty-four, and 40
 (a) if he is of opinion that the statutory conditions have been fulfilled, he shall declare that a benefit year has been established; or
 (b) if he is of opinion that the statutory conditions have not been fulfilled, he shall 45
 (i) declare that a benefit year has not been established on the ground that one or more of the statutory conditions is not fulfilled, or

5. New Section 46.

This is the old section forty-seven re-numbered but with an additional provision. The section as it now stands provides no time limit on appeals and for that reason a case is never to be considered closed. The amendment would provide six months within which an appeal may be lodged and this would seem to provide an ample opportunity to the interested parties to enter an appeal if they so desire.

5. New Section 47.

The only change in this section, which is the old section forty-eight, is the reference to a decision given under this Act.

5. New Section 48.

There is no change in this section which is the old section forty-nine re-numbered, with a change of reference.

5. New Section 49.

This section is entirely new. Under section forty-five (the old forty-six) of the Act the Commission or the umpire has jurisdiction to decide questions arising under the Act.

The new section provides procedure for cases where such a question arises during the course of court proceedings.

6. New Section 55.

The new section fifty-five is the old sections fifty-five and fifty-six amended.

The old sections fifty-five and fifty-six are in the following terms:

"55. The insurance officer shall take into consideration any claim submitted to him for examination under section fifty-four and if he is of opinion that the claim ought to be allowed, he may himself allow the claim."

"56. (1) If the insurance officer is not satisfied that a claim ought to be allowed he may either refer the claim (so far as practicable, within fourteen days from the date on which the claim was submitted to him for examination) to the court of referees for their decision, or subject to the provisions of this section, himself disallow the claim:

Provided that the officer shall not himself disallow a claim on any of the following grounds, namely—

- (a) that the third statutory condition is not fulfilled; or
- (b) that the claimant is disqualified by reason of his having been discharged from his employment by reason of his own misconduct or having voluntarily left his employment without just cause, or by reason of the provisions of paragraph (b) of section forty-three of this Act; or
- (c) that the claimant does not fulfil one or more of the additional conditions or terms for the receipt of benefit imposed by regulations made

- (ii) refer the claim, if practicable, within fourteen days from the day on which the claim was submitted to him for examination, to the court of referees for its decision.

Further
action by
insurance
officer.

(2) Notwithstanding, that a benefit year has been established, if the insurance officer is not satisfied that the claimant has fulfilled all the other conditions of entitlement to benefit or if he is of the opinion that the claimant is disqualified from receiving benefit, he shall

(a) refer the claim, if practicable, within fourteen days from the day on which the claim was submitted to him for examination, to the court of referees for its decision; or

(b) declare the claimant to be disqualified from receiving benefit from such day as he may determine, on the ground that

(i) the claimant has not established fulfilment of the conditions contained in section twenty-seven;

(ii) the claimant does not fulfil one or more of the additional conditions or terms for the receipt of benefit imposed by regulation; or

(iii) the claimant is disqualified under sections thirty-nine to forty-two inclusive of this Act."

Appeals of
claimant to
court of
referees.

"**56.** Where the insurance officer declares that a benefit year has not been established or declares a claimant to be disqualified from receiving benefit, the claimant may at any time within twenty-one days from the date on which the decision of the officer is communicated to him, or within such further time as the Commission may in any particular case for special reasons allow, appeal in the prescribed manner to the court of referees."

7. Sections fifty-eight to sixty-one inclusive of the said Act are repealed and the following substituted therefor:

Appeal to
umpire.

"**57.** Subject to the provisions of section fifty-eight an appeal shall lie to the umpire from any decision of a court of referees as follows:

(a) at the instance of an insurance officer in any case;

(b) at the instance of an association of employed persons of which the claimant is a member, in any case;

(c) at the instance of the claimant

(i) without leave in any case in which the decision of the court of referees is not unanimous; and

(ii) with the leave of the chairman of the court of referees in any other case; so, however, that where leave to appeal is not granted when the decision of the court of referees is given, an application for such leave may be made by the claimant in

under this Act, or is subject to restrictions on the amount or period of benefit imposed by such regulations; or

(d) that the fourth statutory condition is not fulfilled.

(2) Notwithstanding the proviso to subsection one of this section, the insurance officer may, pursuant to regulations made by the Commission, declare the claimant to be disqualified from receiving benefit for a period not exceeding six weeks, on any of the grounds set out in paragraph (a) and (b) of the said proviso or disallow a claim on any of the grounds set out in paragraphs (c) and (d) of the said proviso."

In the new section fifty-five it is proposed to clarify and simplify the functions of the insurance officer when adjudicating upon claims where not all of the benefit provisions of the Act are satisfied. For example, the claimant may not have the required number of contributions in the preceding two years (a statutory condition); he may not be sixteen years of age; he may have left his employment voluntarily without just cause, or he may not be capable of work. There has been some confusion in determining in which cases a benefit year should be established and the claimant disqualified, whether disallowance referred only to non-fulfilment of the statutory conditions, etc.

The new section fifty-five, while not altering in any way the powers of the insurance officer, sets out the circumstances in which a claim is allowed, disallowed, or a period of disqualification imposed, and should eliminate doubts resulting from the terminology of the old section fifty-six.

6. *New Section 56.*

The present section fifty-seven reads as follows:

"**57.** Where a claim is disallowed by the insurance officer the claimant may at any time within twenty-one days of the date on which the decision of the officer is communicated to him, or within such further time as the Commission may in any particular case for special reasons allow, appeal in the prescribed manner to the court of referees."

There is no change in the appeal right given in the present section fifty-seven but changes in the wording are made necessary by the new section fifty-five.

7. The only changes in these sections, which are the old fifty-eight to sixty-one re-numbered, are the changes in reference resulting from the re-numbering.

such form, and within such time after the date of the decision, as shall be prescribed, and any application for leave to appeal shall be granted by the chairman if it appears to him that there is a principle of importance involved in the case or any other special circumstances by reason of which leave to appeal ought to be given. 5

Associations which may appeal on behalf of a claimant member.

58. For the purposes of paragraph (b) of section fifty-seven a claimant for benefit shall not, in relation to any appeal be deemed to be a member of any association of employed persons unless he was a member thereof on the last day on which he was employed before the claim which is the subject of the appeal was made, and has continued to be a member thereof until the date when the appeal is made: and the question whether any association is or is not an association of employed persons for the purpose of this section shall be for the decision of the umpire. 10 15

Records of courts of referees.

59. (1) The decisions of a court of referees shall be recorded in writing and shall include a statement of its findings on questions of fact material to the decision. 20

Record where leave to appeal.

(2) Where the chairman of a court of referees grants leave of appeal to the umpire from the decision of the court, the chairman shall record in writing a statement of the grounds on which leave to appeal is granted.

Appeal within six months.

60. An appeal must be brought within six months of the date of the decision of the court of referees or such longer period as the umpire may in any case for special reasons allow." 25

8. The said Act is further amended by adding the following as section sixty-one: 30

Rehearing on direction of umpire.

"**61.** On an appeal from a decision of a court of referees or a decision of the Commission, the umpire may direct the court of referees or the Commission, as the case may be, to reconsider or rehear the case either generally or on any particular issue, and may withhold his decision pending the decision of the court of referees or the Commission." 35

9. Section sixty-five of the said Act is repealed and the following substituted therefor:

Decision of court of referees to have effect pending appeal to umpire.

"**65.** Where a claim for benefit is allowed by a court of referees, benefit shall be payable in accordance with the decision of the court notwithstanding that an appeal to the umpire is pending, unless the appeal has been brought on the ground that the claimant ought to be disqualified under the provisions of section thirty-nine of this Act 40

8. This section is entirely new. On occasion cases come to the umpire on appeal and the record is not sufficiently complete to enable the umpire to satisfactorily deal with the question for decision. The practical course of action is for the umpire to refer the case back to the court of referees or the Commission for reconsideration on the particular point. This would be similar to the practices of civil appeal courts.

9. The only change in this section is in the reference to paragraph (a) of section forty-three which is now section thirty-nine.

and within twenty-one days of the date on which the decision of the court of referees was given, and any benefit paid in pursuance of the provisions of this section shall be treated, notwithstanding that the final determination of the question is adverse to the claimant, as having been 5 paid and shall not be recoverable from the claimant."

10. Subsection two of section sixty-six of the said Act as enacted by section eleven of chapter thirty-one of the statutes of 1943-44 is repealed and the following substituted therefor: 10

Insurability decided by Commission.

"(2) If any question specified in section forty-five arises, that question shall be decided by the Commission under the provisions of section forty-five of this Act."

11. Section sixty-seven of the said Act is repealed and the following substituted therefor: 15

LEGAL PROCEEDINGS

Penalty for false representation.

"**67.** (1) If, for the purpose of obtaining any benefit or payment under this Act, either for himself or for any other person, or for the purpose of avoiding any payment to be made by himself under this Act, or enabling any other person to avoid any such payment, any person makes a 20 false statement or misrepresentation to the Commission or to any person concerned in the administration of this Act, he shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding three months, with or without hard labour. 25

Additional penalty.

(2) There shall be imposed on every person convicted of an offence under subsection one of this section who has not already repaid the payment obtained or made the payment avoided, in addition to the penalty provided for therein, a further penalty equal to the amount of benefit or payment obtained or payment avoided, and the additional 30 penalty shall be paid to the Unemployment Insurance Fund to be applied, where the payment avoided was in respect of contributions, in payment thereof."

12. Section sixty-eight of the said Act, as enacted by section twelve of chapter thirty-one of the statutes of 1943-44, is repealed and the following substituted therefor:

Penalty for contravention or non-compliance.

"**68.** (1) If any person is guilty of any contravention of or non-compliance with any of the requirements of this Act or the regulations made thereunder in respect of which no penalty is provided, or if any employer deducts or 40 attempts to deduct from the wages or other remuneration of an employed person the whole or any part of the em-

10. The changes in this subsection are changes in reference necessary because of the re-arrangement of sections, and more specific reference to the questions to be dealt with.

11. The present section sixty-seven is in the following terms:

"If for the purposes of obtaining any benefit or payment under this Part of this Act, either for himself or for any other person, or for the purpose of avoiding any payment to be made by himself under this Part of this Act, or enabling any other person to avoid any such payment, any person knowingly makes any false statement or false representation, he shall be guilty of an offence against this Act and liable on summary conviction to imprisonment for a term not exceeding three months, with or without hard labour."

The section sixty-seven is re-enacted as subsection one of the new section and the words "to the Commission or to any person concerned in the administration of this Act," are added in order to link subsection one with the new subsection two. The purpose of the new subsection two is to see that the person convicted of obtaining benefit by false pretences is not permitted to retain the benefit of his false pretences and is directed to reimburse the Unemployment Insurance Fund to the extent of the overpayment.

12. The present section sixty-eight reads as follows:

"68. (1) If any employer or employed person or any other person is guilty of any contravention of or non-compliance with any of the requirements of this Act or the regulations made thereunder in respect of which no penalty is provided, or if any employer deducts or attempts to deduct from the wages or other remuneration of an employed person the whole or any part of the employer's contribution, or fails or neglects to pay any contribution for which he is liable under this Part of this Act, he shall be guilty of an offence against this Act and for each offence, be liable on summary conviction, to a fine not exceeding two hundred and fifty dollars, or to imprisonment for a period not exceeding three months, or to both fine and imprisonment.

Provided that in any case where an employer is convicted of the offence of failing or neglecting to pay a contribution there shall be imposed on him, in addition to the aforesaid penalty, a further penalty equal to the amount of the contribution which he has failed or neglected to pay, which additional penalty shall be paid over to the Unemployment Insurance Fund and applied in payment of the contributions in arrears in respect of which the conviction is made.

(2) In any case where an employer is convicted of the offence of failing or neglecting to pay a contribution and the employed person fails to pay a contribution which he is liable under this Part of this Act to pay, such contribution shall not be recoverable by the employer from the employed person.

ployer's contribution, or fails or neglects to pay any contribution for which he is liable under this Act, he shall be guilty of an offence against this Act and for each offence, be liable on summary conviction, to a fine not exceeding two hundred and fifty dollars, or to imprisonment for a period not exceeding three months, or to both fine and imprisonment. 5

Additional penalty.

Provided that in any case where an employer is convicted of the offence of failing or neglecting to pay a contribution there shall be imposed on him, in addition to the aforesaid penalty, a further penalty equal to the amount of the contribution which he has failed or neglected to pay, which additional penalty shall be paid over to the Unemployment Insurance Fund and applied in payment of the contributions in arrears in respect of which the conviction is made. 10 15

Form of information where one or more offences.

(2) In any proceedings for offences against the provisions of this Act or regulations made thereunder, an information may include more than one offence committed by the same person, and all such offences may be tried concurrently and no information, warrant, conviction or other proceedings for such offences shall be deemed objectionable or insufficient on the ground that it relates to two or more offences, and one conviction for any or all such offences may be made, which conviction may but need not provide a separate penalty for each such offence, except in the case of additional penalties imposed under subsection two of section sixty-seven or the proviso to subsection one of this section, where separate additional penalties shall be imposed for each such offence. 20 25 30

Jurisdiction of court.

(3) Notwithstanding Part XV of the Criminal Code, a justice may hear, try, determine and adjudge the complaint or information in respect of any offence against this Act or regulations made thereunder if the accused is summoned, found, apprehended or is in custody in his territorial jurisdiction although the matter of the complaint or information did not arise within his territorial jurisdiction." 35

13. Section seventy of the said Act is repealed and the following substituted therefor:

Power to take and conduct proceedings.

"**70.** (1) Proceedings for an offence under this Act shall not be instituted except with the consent in writing of the Commission or an officer appointed under this Act and authorized in that behalf by special or general directions of the Commission. 40

Proceedings may be commenced within twelve months of evidence of offence.

(2) Proceedings for an offence under this Act may be commenced at any time within twelve months from the day on which evidence, sufficient in the opinion of the Commission to justify prosecution for the offence, comes to its knowledge. 45

(3) An information for failing or neglecting to pay contributions under this Act may be for one or more offences and no information, warrant, conviction or other proceeding for failing or neglecting to pay contributions under this Act shall be deemed objectionable or insufficient on the ground that it relates to two or more offences."

There is no change in substance in subsection one of section sixty-eight.

The present subsection two is not re-enacted as it is not necessary. The situation is amply taken care of by subsection one of section nineteen.

The present subsection three is revised and now becomes subsection two. The present subsection three provides for the inclusion in one information in prosecution proceedings any cases of failure to pay contributions of more than one offence. The same problem exists in cases of obtaining benefit by false pretences and under the revised subsection in such cases it will also be possible to include more than one charge in the same information.

This will be a means of saving costs not only to the Crown but also to the accused.

The new subsection three is intended to save unnecessary costs to persons accused of offences under the Act. For example, a person may have committed an offence within the territorial jurisdiction of one court but at the time of prosecution he has moved and is resident within the territorial jurisdiction of another court. It is considered only fair that the accused might be tried by the court within the jurisdiction of which the accused now resides.

13. The present section seventy reads as follows:

"70. (1) Proceedings for an offence under this Part of this Act shall not be instituted except with the consent in writing of the Commission or by an inspector or other officer appointed under this Act and authorized in that behalf by special or general directions of the Commission.

(2) Proceedings for an offence under this Part of this Act may be commenced at any time within three months from the date on which evidence, sufficient in the opinion of the Commission to justify a prosecution for the offence, comes to its knowledge, or within twelve months after the offence, whichever period is the longer.

(3) For the purpose of subsection two of this section, a certificate issued by the Commission as to the date on which such evidence came to its knowledge shall be conclusive evidence thereof."

In the revised subsection one there is only one small change. "This part of this Act" is changed to read simply "this Act". Offences arose not only under Part II but also under Part IV.

There are two changes in the revised subsection two. The present section provides that proceedings may be commenced within three months from the date on which evidence comes to the Commission's knowledge or within twelve months after the offence. The three-month period is extended to twelve months. It has been found that the three-month period is too short in view of the fact that it is not possible for the Auditors to complete regular inspections of all employers at frequent intervals. Again, as in subsection one, "under this Part of this Act" in the first line is changed to read "under this Act".

Certificate
evidence of
date.

(3) For the purposes of subsection two of this section, a certificate issued by the Commission certifying as to the date on which the evidence referred to in subsection two of this section came to the knowledge of the Commission, shall be received as conclusive evidence thereof." 5

14. Section seventy-one of the said Act is repealed and the following substituted therefor:

Sums due
recoverable
as Crown or
civil debts.

"**71.** (1) Any sum due and owing to the Unemployment Insurance Fund or to the Commission under this Act shall be recoverable as a debt due to the Crown and, without prejudice to any other remedy, may be recovered by the Commission as a civil debt. 10

Proceedings
may be com-
menced
within
twelve
months of
evidence of
debt.

(2) Proceedings for the recovery of any sum due and owing to the Unemployment Insurance Fund or to the Commission may be commenced at any time within twelve months from the day on which evidence sufficient in the opinion of the Commission to justify such proceedings, comes to its knowledge. 15

Certificate
evidence of
date.

(3) For the purposes of subsection two of this section, a certificate issued by the Commission certifying as to the date on which the evidence referred to in subsection two of this section came to the knowledge of the Commission, shall be received as conclusive evidence thereof." 20

15. Section seventy-two of the said Act is repealed and the following substituted therefor: 25

The Com-
mission may
pay benefit
to insured
person where
contribu-
tions not
paid.

"**72.** (1) Where an employer fails or neglects to pay a contribution which under this Act he is liable to pay in respect of any insured person in his employment, or fails or neglects to comply with the requirements of any regulation relating to the payment or collection of contributions in respect of the insured person, and by reason thereof that person loses the right to claim in whole or in part the insurance benefit to which he would otherwise have been entitled under this Act, the Commission may nevertheless pay the benefit and the employer shall be, unless the failure to pay contributions was the result of an erroneous opinion or ruling given by an officer of the Commission, liable to pay to the Unemployment Insurance Fund a sum equal to the amount of the insurance benefit so lost. 30 35

Subsection three has been re-drafted in greater detail but without any change in substance.

14. The present section seventy-one reads as follows:

"71. Any sum due and owing to the Unemployment Insurance Fund under this Act shall be recoverable as a debt due to the Crown and, without prejudice to any other remedy, may be recovered by the Commission as a civil debt;

Provided, however, that proceedings for the recovery of the same shall not be brought except within three years from the time when the same shall have become due and owing."

The first part of the present section seventy-one is now made subsection one. There is a reference to sums owing to the Commission. This is necessary for debts arising under section ninety-one of the Act.

What now appears as a proviso to section seventy-one is incorporated in the new subsection two. Again, as in the new subsection one, there are references to the Commission and for the same reason.

In view of the fact that a man's benefit rights are based on the contributions made during a period of five years preceding his claim, there may be cases where the failure of the employer to make the required contributions will not come to the Commission's attention until some time after the three-year limitation period presently appearing in section seventy-one. It is necessary to be in a position to collect all of the contributions owing in respect of the benefit applicant so that his benefit right will not be prejudiced.

Subsection three is entirely new and is made necessary by the addition to subsection two relating to the matter of commencing action within twelve months of the date on which information came to the knowledge of the Commission.

15. Section seventy-two presently reads as follows:

"72. (1) Where an employer fails or neglects to pay any contributions which under this Part of this Act he is liable to pay in respect of any insured person in his employment, or fails or neglects to comply, in relation to any such person, with the requirements of any regulations relating to the payment and collection of contributions, and by reason thereof that person loses in whole or in part the insurance benefit to which he would have been entitled under this Part of this Act, the Commission may pay to such person the benefit so lost and shall be entitled to recover from the employer as a civil debt a sum equal to the amount of the insurance benefit so lost and on recovery shall, unless payment already has been made, pay the same to such person

(2) If it is found at any time that any person, by reason of the non-disclosure or misrepresentation by him of a material fact (whether the non-disclosure or misrepresentation was or was not fraudulent) has received any sum by way of benefit while the statutory conditions or any other conditions for the receipt of benefit imposed by this Part of this Act were not fulfilled in his case, or while he was disqualified for receiving benefit, he shall be liable to repay to the Unemployment Insurance Fund a sum equal to the amount so received by him.

(3) Proceedings may be taken under this section notwithstanding that proceedings have been taken under any other provision of this Part of this Act in respect of the same failure or neglect.

(4) Proceedings under this section may be brought at any time within one year after the date on which the insured person, but for the failure or neglect of the employer, would have been entitled to receive benefit which he has lost."

The only important change in subsection one of the new section is to make it possible for the Commission to pay

(2) Upon recovery of an amount from an employer under subsection one of this section, the Commission shall pay the benefit if it has not already done so.

Recovery of benefit erroneously obtained.

(3) If it is found at any time that a person has received a sum by way of benefit while the statutory conditions or any other conditions for the receipt of benefit imposed by or pursuant to this Act were not fulfilled, or while the insured person was disqualified from receiving benefit, he shall be liable to repay to the Unemployment Insurance Fund a sum equal to the amount so received by him. 5 10

(4) Proceedings may be taken under this section notwithstanding that proceedings have been taken under any other provision of this Act in respect of the same failure or neglect."

16. Subsection one of section seventy-seven of the said Act is repealed and the following substituted therefor: 15

UNEMPLOYMENT INSURANCE FUND.

Unemployment Insurance Fund.

"**77.** (1) There shall be a special account in the Consolidated Revenue Fund called the Unemployment Insurance Fund (in this Act referred to as 'the Fund'), to which the Minister of Finance shall from time to time credit all moneys received from the sale of unemployment insurance stamps and all contributions paid otherwise than by means of such stamps under the provisions of this Act." 20

17. Subsection one of section seventy-eight of the said Act is repealed and the following substituted therefor: 25

Payments out of the Fund.
1931, c. 27.

"**78.** (1) Notwithstanding *The Consolidated Revenue and Audit Act, 1931*, the Minister of Finance may, subject to the provisions of this Act, on the requisition of the Commission or its authorized officers, pay out of the Fund insurance benefits and refunds of contributions as provided by this Act and expenses in connection with the pledging of securities or advances to the Fund pursuant to section seventy-nine of this Act but no other payment shall be made a charge on the Fund: Provided that credits in the Fund not currently required for the purposes of this Act shall, as provided in this section, be invested by the Commission in obligations of, or guaranteed by, the Government of Canada, and investments so made may be sold or exchanged for other like securities and all interest received on the investments shall be credited to the Fund." 30 35 40

benefit to a person in respect of whom contributions have not been made by reason of an erroneous ruling given by an officer of the Commission. In such circumstances, unlike the other cases provided for in the subsection, there would be no recovery from the employer. The new subsection two formerly was part of subsection one.

There is no change in substance in the remainder of the section, present subsection three being renumbered (4).

Subsection (4) is deleted as the limitation of civil actions is taken care of in section 71 (2).

16. The present subsection one of section seventy-seven reads as follows:

"77. (1) There shall be a special account in the Consolidated Revenue Fund called the Unemployment Insurance Fund (in this Act referred to as 'the Fund'), to which the Minister of Finance shall from time to time credit all moneys received from the sale of unemployment insurance stamps and all contributions paid otherwise than by means of such stamps (including penalties payable to the Fund) under the provisions of this Act."

The effect of the amendment is to delete the words "including penalties payable to the Fund" which appear in brackets. The inclusion of these words created some doubt in regard to calculating the Government's one-fifth share of contributions to the Fund. Clearly it was not intended that the Government's contribution include a percentage of fines, etc.

17. Subsection one of section seventy-eight presently reads as follows:

"78. (1) Notwithstanding the provisions of The Consolidated Revenue and Audit Act, 1931, the Minister of Finance may, subject to the provisions of this Act, on the requisition of the Commission or its authorized officers, pay out of the Fund claims for insurance benefits and refunds of contributions as provided for by this Act but no other payments shall be made a charge on the Fund;

Provided that credits in the Fund not currently required for the purposes of this Act shall, as provided in this section, be invested by the Commission in obligations of, or guaranteed by, the Government of Canada, and investments so made may be sold or exchanged for other like securities and all interest received on the investments shall be credited to the Fund."

This subsection limits payments out of the Fund to two purposes, namely, payment of benefit and refund of contributions, but section seventy-nine of the Act authorized arrangements for temporary advances to cover the cost of benefit. While there has been no action as yet where the Commission has had to obtain a temporary advance to meet an unexpectedly heavy load of benefit claims, that situation is always possible and it is equally possible or probable that there will be interest costs involved in any such temporary advance. The amendment to subsection one of section seventy-eight would authorize the payment of such expenses out of the Fund.

18. Subsection one of section eighty-four of the said Act is repealed and the following substituted therefor:

Annual and other reports on condition of Fund, and recommendations.

“**84.** (1) The Committee shall, not later than the end of July, in each year, make a report to the Governor in Council on the financial condition of the Unemployment Insurance Fund as of the thirty-first day of March last preceding, and shall also make a report to the Governor in Council on the financial condition of the Fund whenever the Committee considers that the Fund is or is likely to become, and is likely to continue to be, insufficient to discharge its liabilities, and may make a report on the financial condition of the Fund at such other times as the Committee may think fit.”

19. Subsection two of section eighty-six of the said Act as enacted by section thirteen of chapter thirty-one of the statutes of 1943-44 is repealed and the following substituted therefor:

G. in C. may extend provisions of Part II.

“(2) On the recommendation of the Committee and the Commission, the Governor in Council may extend the provisions of this Act to any of the employments specified as excepted employments in Part II of the First Schedule to this Act or any part of any such excepted employment, with such modifications, if any, as may be found necessary, or by special or supplementary schemes.

(3) No contributions shall be payable or paid in respect of employment in lumbering and logging, in any area, until a day prescribed by the Commission for that area unless, prior to the coming into force of this subsection, a day has already been prescribed for that area.

(4) Where the provisions of Part II of this Act are extended to any employment under this section, no contributions shall be payable or paid in respect of that employment, in any area, until a day prescribed by the Commission for that area.”

18. Subsection one of section eighty-four presently reads as follows:

"(1). The Committee shall, not later than the end of February in each year, make a report to the Governor in Council on the financial condition of the Unemployment Insurance Fund as of the thirty-first day of December last preceding, and shall also make a report to the Governor in Council on the financial condition of the Fund whenever the Committee considers that the Fund is or is likely to become, and is likely to continue to be, insufficient to discharge its liabilities, and may make a report on the financial condition of the Fund at such other times as the Committee may think fit."

Under the subsection as it now stands the Committee is required to make a report on the Fund as of the end of December last preceding whereas under section ninety-four the Commission is required to make a report as of the end of the fiscal year March thirty-first. Some difficulty and a little confusion is caused by these two requirements requiring reports on the Fund as of different periods. It is considered that it will facilitate the work of all concerned if the reporting periods of the Commission and of the Committee are uniform.

19. The present subsection two of section eighty-six now reads as follows:

"86. (2) On the recommendation of the Committee and the Commission, the Governor in Council may extend the provisions of Part II of this Act to any of the employments specified as excepted employments in Part II of the First Schedule to this Act with such modifications, if any, as may be found necessary, or by special or supplementary schemes."

It is not clear on reading the present subsection two that the extension of coverage might apply to only one part of an employment now excepted. For example, agriculture is an excepted employment. It might be desired to bring under the Act a certain type of market gardening without extending coverage to all phases of agricultural employment.

Subsection three is new and has the effect of bringing into the Act an amendment which was previously made under authority of the War Measures Act by Order in Council P.C. 3569. In planning the extension of coverage to lumbering and logging it was found not administratively feasible to extend coverage throughout the country at one time and it is necessary to proceed on a gradual basis and with varying seasonal regulations for the various parts of the country. The new subsection three makes this possible.

Subsection four applies the principles of subsection three to other possible extensions.

20. Section eighty-eight of the said Act is repealed and the following substituted therefor:

Organization and maintenance of employment service.

“**88.** (1) The Commission shall organize and maintain an employment service for Canada and in respect of the administration of that service shall be responsible to the Minister. 5

Duty of Commission to collect information, etc.

(2) It shall be the duty of the Commission in organizing and maintaining such employment service, to collect information concerning employment for workers and workers seeking employment and, to the extent the Commission 10 considers it necessary, to make such information available at the employment offices, with a view to assisting workers to obtain employment for which they are fitted and assisting employers to obtain workers most suitable to their needs. 15

Duties of employment service.

(3) The employment service shall in relation to unemployment insurance, perform such duties under this Act as may be prescribed by the Commission, and undertake such other services in the interests of workers and employers as the Commission in the exercise of its powers may 20 prescribe.

Additional duties of the Commission.

(4) The Commission shall assume and carry out such other duties and responsibilities as the Governor in Council, on the recommendation of the Minister, may require from time to time and, in respect of such other duties and 25 responsibilities, shall be responsible to the Minister.”

20. Section eighty-eight presently reads as follows:

"88. (1) The Commission shall organize and maintain an employment service for Canada in manner provided in this Act.

(2) It shall be the duty of the Commission in organizing and maintaining such employment service, to collect information concerning employment for workers and workers seeking employment and, to the extent the Commission considers it necessary, to make such information available at the employment offices, with a view to assisting workers to obtain employment for which they are fitted and assisting employers to obtain workers most suitable to their needs.

(3) The employment service shall in relation to unemployment insurance, perform such duties under this Act as may be prescribed by the Commission, and undertake such other services in the interests of workers and employers as the Commission in the exercise of its powers may prescribe."

The change in subsection one makes the administration of the employment service a responsibility of the Minister, acting through the Commission. The policy which will be followed will be one of leaving the Unemployment Insurance Commission free to deal with payments out of the Unemployment Insurance Fund and generally to administer unemployment insurance. Experience has shown that the field offices of the National Employment Service can be used for the administration of matters which are not strictly within the formal functions of an employment service. During the war the facilities of the employment service were used quite extensively in connection with the mobilization of manpower for industry and the armed forces. The staff is rendering assistance in connection with reinstatement in Civil Employment, auditing payroll records for purposes of enforcement of the Wartime Wages Control Order, 1943, and in finding opportunities for various phases of vocational training, particularly "On-the-Job" training. Numerous other functions which the employment service can carry out might be mentioned. It would be absolutely unfair and unjustifiable to ask the members of the Commission to carry out the responsibility without ministerial direction for any of these functions. On the other hand, the use of offices so strategically located as the employment offices for field work in connection with certain activities of the Department of Labour will obviously avoid duplication and extra expense. In voting money for the administration of the National Employment Service Parliament has recognized that approximately sixty per cent of the money is used to carry out activities which are not specifically covered by the Act (see Estimates 1945-46, page 100; 1946-47, page 128).

There is no change in subsections two and three.

Subsection four is new. The Government of Canada should have authority to make practical use of the National Employment Service offices where such use will provide good practical administration of the matters which the Government may require. Indeed in many instances it may be found that expense and duplication may be avoided by such a policy. On the other hand arrangements for the use of the offices will require to be worked out as between the Minister and the Commission.

21. Section ninety-two of the said Act as amended by section fifteen of chapter thirty-one of the statutes of 1943-44 is repealed and the following substituted therefor:

"92. In addition to the authority elsewhere in this Act conferred upon the Commission to make regulations, the Commission may also make regulations:—

(a) for permitting persons who are engaged under the same employer, partly in insurable employment and partly in some other employment to be treated with the consent of the employer, for the purposes of this Act, as if they were wholly engaged in insurable employment;

(b) for prescribing the evidence to be required as to the fulfilment of the conditions and the absence of the disqualifications for receiving or continuing to receive insurance benefit, and for that purpose requiring the attendance of employed persons at such offices or places and at such time as may be required, and requiring employers to answer inquiries relating to any matters on which the fulfilment of the aforesaid conditions or the absence of the aforesaid disqualifications depends;

(c) for prescribing the manner in which claims for benefit may be made and the procedure to be followed for the consideration and examination of claims and questions to be considered by the Commission, insurance officers, courts of referees, and umpire, and the mode in which any question may be raised as to the continuance, in the case of a person in receipt of insurance benefit, of the benefit;

(d) with respect to the payment of contributions and benefits during any period intervening between any application for the determination of any question or any claim for benefit and the final determination of the question or claim;

(e) governing the reference, for consideration and advice of questions bearing upon the administration of this Act to the Committees provided for in Part III of this Act;

(f) for prescribing, either generally or with respect to any special class of cases, that where a period of employment begun on one day extends over midnight into another day, the person employed shall be treated as having been employed on such one of those two days as the regulations may direct;

(g) to provide, with the concurrence of the Postmaster General, for enabling claimants of benefit in certain places to make their claims for benefit through the Post Office, and for the payment of benefit of such claimants through the Post Office;

Regulations concerning persons under same employer partly in insurable employment and partly in another employment.

Prescribing evidence required.

Procedure on claims for benefit.

Payment of benefits and contributions pending determination of questions.

Reference of questions to Committees.

Persons employed on night work.

Payment of benefits through Post Office in certain places.

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21. There is no change in the paragraphs (a) to (h) inclusive.

Penalties.	(h) for prescribing penalties for the violation of any regulation, including maximum and minimum fines: Provided, however, that a fine prescribed shall not exceed two hundred and fifty dollars and a term of imprisonment shall not exceed three months;	5
Limitation.		
Determination of earnings.	(i) for determining the earnings of employed persons for the purpose of this Act and without limiting the generality of the foregoing for determining the earnings of employed persons who are paid a single amount for personal services and expenses, or whose remuneration is not pecuniary, is only partly pecuniary, or is not fixed at a pecuniary amount payable only for personal services;	10
Commencement of periods.	(j) for prescribing the commencement of the two years specified in the first statutory condition, the one year specified in the second statutory condition or the two years specified in subsection one of section thirty-one of this Act otherwise than by reference to the commencement day of the benefit year;	15
Possession of insurance records.	(k) for regulating the possession, custody or control of insurance cards, insurance books, unemployment insurance stamps or other documents or things used in the administration of this Act;	20
Determination of contributions payable.	(l) for determining the amount of contributions payable under this Act in respect of one or more employees of any employer by reference to a percentage of the total remuneration that has been paid or become payable by an employer who, in the opinion of the Commission, has failed to keep books, records or accounts adequate for the purpose;	25 30
Determination of total remuneration.	(m) for determining the total remuneration paid or payable in respect of one or more employees of any employer who, in the opinion of the Commission, has failed to keep books, records or accounts adequate for the purpose;	35
Variation of Part II—special schemes.	(n) varying the provisions of, or creating a scheme supplementing or to be substituted for, Part II of this Act in relation to employments specified in paragraph (c) of Part I of the First Schedule to this Act either generally or with reference to any class or area;	40
Employment records.	(o) requiring every person who has engaged an employee, who ascertains that he requires or will require to engage an employee or who ascertains that an employee has left or will be leaving his employment, subject to prescribed conditions, to notify the employment service organized under Part III of this Act, of such fact and to supply prescribed incidental information in such manner and within such time as may be prescribed;	45
Registration of unemployed.	(p) requiring every person seeking employment to notify the employment service of such fact and to supply prescribed incidental information in such manner and within such time as may be prescribed;	50

The revised paragraph (*i*) is a re-arrangement which it is thought will bring out more clearly the real meaning of the paragraph.

Regarding the new paragraph (*j*), it is frequently difficult to calculate the contributions in a period determined by reference to the date on which a claim is made, as this most frequently falls in the middle of a contribution period. The amendment would permit of regulations being made which could vary the beginning and ending date of the specified period without decreasing that period.

The new paragraph (*k*) is self-explanatory.

Paragraphs (*l*) and (*m*) are necessary to provide the regulation-making power in order to determine the amount of contributions payable under the Act where the employer's books and records are inadequate. These formerly appeared as subsection two of section ninety-seven.

(*n*) This regulation-making power is necessary to carry out the effect of the amendment to paragraph (*c*) of Part I of the First Schedule to the Act.

Paragraphs (*o*) and (*p*) are entirely new. Part III of the Act requires the Commission to establish and maintain an employment service. In order to operate an efficient employment service it is necessary that the Commission have at all times a reasonably complete picture of labour supply and demand. This regulation-making power is necessary to carry out the duty imposed upon the Commission in subsection two of section eighty-eight in which the Commission is required to collect information concerning employment for workers and workers seeking employment.

- (q) notwithstanding subsection one of section twenty-nine, prescribing the conditions under which contributions and benefit shall be paid in respect of Sundays and holidays;
- (r) for prescribing anything that, under this Act, may be prescribed; and
- (s) for predetermining or determining whether or not the earnings of employed persons exceed or will exceed in value two thousand four hundred dollars a year, or whether or not a rate or aggregate rates of remuneration is or are such that the earnings of an employed person thereunder exceed or will exceed in value two thousand four hundred dollars a year;
- (t) generally for carrying this Act into effect."

22. Subsection two of section ninety-seven of the said Act as enacted by section eighteen of chapter thirty-one of the statutes of 1943-44 is repealed and the following substituted therefor:

Mutilation
of records.

"(2) No person shall, with intent to evade any of the provisions of this Act, destroy, alter, mutilate or secrete any records or books of account or make or counsel or procure the making of any false or fraudulent entries in those records or books, or omit or concur in omitting to enter any material particular in records or books of account."

23. The said Act is further amended by adding the following section:

Secrecy of
records.

"**104.** Information, written or verbal, obtained by the Commission from any person pursuant to the provisions of this Act or any regulations made thereunder shall be made available only to the employees of the Commission in the course of their employment and such other persons as the Commission may deem advisable, and neither the Commission nor any of its employees shall be compelled to answer any question concerning such information or to produce any records or other documents containing such information as evidence in any proceedings not directly concerned with the enforcement or interpretation of this Act or any regulation made thereunder."

23A. The said Act is further amended by adding the following section:

Execution of
documents.

"**104A.** A consent or certificate of the Commission, or a copy of a resolution, regulation, special order, record, document, or other proceeding of the Commission, purporting to be signed or certified under the hand of the Secretary of the Commission, is receivable in evidence without proof of the signature or the official character of the person or persons appearing to have signed the same and without further proof thereof."

Paragraph (*q*) is necessary to meet special problems arising out of the normal idle day in a week.

Regarding the new paragraph (*r*) in the definition section of the Act (section two) "prescribed" is defined as meaning "prescribed by regulation of the Commission", but there is no express authority in the Act to make regulations regarding the things that may be prescribed other than the implication arising out of the definition.

Paragraph (*s*) is necessary in view of amendments to paragraph (*n*) of Part II of the First Schedule.

Paragraph (*t*) is the old paragraph (*j*) re-lettered.

22. The old subsection two of section ninety-seven now appears in paragraphs (*l*) and (*m*) of section ninety-two (see clause 19). The new subsection two is self-explanatory.

23. The Commission through its local and regional offices and Head Office receives numerous and persistent requests for information obtained under the Act and regulations, but in most cases the reason for the request for information available on our records has nothing to do with unemployment insurance. For example, there are requests from collection agencies, wives seeking husbands, etc. The policy of the Commission is, generally speaking, not to divulge such information. Both employees and employers provide information required for the proper administration of the Act on the understanding that the information is solely for use of the local office in the administration of the Act and on the understanding that the information is regarded as confidential. It is considered that there would be great difficulty in obtaining necessary information from employers and employees if they cannot be assured that the information so given will be treated in entire confidence. The proposed new section will remove any possibility of doubt as to the authority of the Commission to refuse to disclose information except in such circumstances as it deems advisable.

23A. This new section is to facilitate the proof in Court of documents of the Commission.

24. The said Act is further amended by inserting the following heading and Part immediately after section one hundred and four thereof:

“PART V.

VETERANS.

Definitions
“discharge”

105. In this Part

(a) “discharge” means any honourable termination of service from the forces since the thirtieth day of June, 1941;

“period of service”.

(b) “period of service” means time served on active service in the forces, excluding therefrom any period of absence without leave or leave of absence without 10 pay, or time served while undergoing sentence of penal servitude, imprisonment or detention, or period of service in respect of which pay is forfeited;

“veteran”.

(c) “veteran” means a person

(i) who has been on active service in the Canadian forces or in receipt of active service rates of pay from such forces during the war, including a person who has served in the Canadian Women’s Army Corps since the thirteenth day of August, nineteen hundred and forty-one, and who has been discharged from such forces, or

(ii) resident in Canada who served in the forces of His Majesty other than Canadian forces, was domiciled in Canada at the time he joined such forces for the purposes of the war and who has been discharged from such forces, or

(iii) domiciled and resident in Canada, who served in the armed forces of any of the nations allied with His Majesty in active operations against the enemy in the war and was domiciled in Canada at the time he joined any such forces for the purposes of the war, and who returned to Canada within two years of the date of his discharge from such forces, or of the eighth day of May, 1945;

“war”.

(d) “war” means the war which commenced on the tenth day of September, 1939.

Qualification period.

106. A veteran who completes fifteen weeks in insurable employment within any period of twelve months, whether continuous employment or not, shall for the purposes of this Act be deemed to have been in insurable employment immediately prior to the commencement of the said fifteen weeks for a period equal to his period of service after the thirtieth day of June, nineteen hundred and forty-one, and

24. Part V—Sections 105 to 108—is entirely new. This new Part simply carries forward into statutory form provisions which in the first instance appeared in the Post Discharge Order and now appear in The Veterans Rehabilitation Act as extended to veterans of allied nations. In view of the fact that this particular part of the rehabilitation programme is an integral part of the Unemployment Insurance scheme, it is considered desirable that these provisions should appear in The Unemployment Insurance Act.

the said insurable employment shall be deemed to have been continuous as nearly as may be without being contemporaneous with any period during which the veteran actually was in insurable employment prior to the said fifteen weeks.

107. As soon as may be after the Commission ascertains that a veteran has completed fifteen weeks as aforesaid in insurable employment, 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 the employed person under this Act, for a period equal to the period of service of the veteran after the thirtieth day of June, nineteen hundred and forty-one, and the rate at which the said combined contributions shall be computed is the average of the contributions shown by the unemployment insurance records of the veteran to have been paid by him and on his behalf for the said fifteen weeks; and for the purposes of this Act the veteran shall be deemed to have been *bona fide* employed in insurable employment during the said period of service and all contributions shall be deemed to have been paid under this Act in respect of the veteran during the said period of service.

Contributions in respect of veterans.

Report on Fund.

108. If, on making any report on the financial condition of the Fund, the Unemployment Insurance Advisory Committee finds that the said Fund has been adversely affected by reason of the provisions of this Part, the Committee shall, in its report under section eighty-four of this Act, state the amount and the manner in which the said Fund has been adversely affected as aforesaid, and the Governor in Council may, on receipt of the said report, take into consideration immediate measures to remedy any depletion of the said Fund due to the operation of this Part, which depletions shall have been established by the aforesaid report of the Committee."

1945 (2 Sess.),
c. 35.

25. Sections twenty-one to twenty-four inclusive of the *Veterans Rehabilitation Act* are repealed.

26. Paragraph (c) of Part I of the First Schedule to the said Act is repealed and the following substituted therefor:
“(c) If prescribed for the purposes of this paragraph, employment outside of Canada or partly outside of Canada, being employment which if it were employment in Canada, would make the person employed therein an insured person.”

26. The present paragraph (c) of Part I of the First Schedule reads as follows:

"(c) Employment outside of Canada, or partly outside of Canada, for the purpose of the execution of some particular work, by persons who were insured persons immediately before leaving Canada, for an employer resident or having a place of business in Canada, being employment which if it were employment in Canada, would make the persons employed therein insured persons within the meaning of this Act; subject however, to any prescribed conditions, modifications or exceptions."

The Commission has made preliminary investigations regarding the extension of the provisions of the Act to employment in transportation by water. It will be necessary to tie in any proposed action with social security provisions for seamen in the United States and Great Britain so that there may be neither serious gaps nor duplications in coverage and benefit.

It is hoped that in a few months the Commission will be in a position to recommend action being taken under subsection two of section eighty-six of the Act to have seamen insured. Such action, however, is predicated upon an amendment to paragraph (c) which at present restricts the insurability of employment outside of Canada to such a degree as to make the Act inapplicable to employment outside Canadian territorial waters, notwithstanding any action under subsection two of section eighty-six.

27. Paragraphs (e) and (f) of Part II of the First Schedule to the said Act are repealed and the following substituted therefor:

“(e) Employment in stevedoring and employment afloat in transportation by water. 5

(f) Employment in domestic service except where the employed person is employed in a trade or business carried on for purpose of gain or is employed in a club.”

28. Paragraphs (j) and (n) of Part II of the First Schedule to the said Act are repealed and the following substituted therefor: 10

“(j) Employment as a member of His Majesty’s Canadian naval, military or air forces and the Royal Canadian Mounted Police.

(n) Employment under one or more contracts of service, 15
whether concurrent or not, whether for full-time service or for part-time service, at a rate or aggregate rates of remuneration under which the earnings of the employed person exceed in value two thousand four hundred dollars a year; 20

Provided however, that any such employment, the rate of remuneration thereof is an hourly rate, a daily rate, a weekly rate, a piece rate including a mileage or

The proposed amendment is suggested, therefore, as a necessary step in order to make it possible to extend coverage to employment in transportation by water at an early date.

Reference might also be made to the explanatory notes appearing opposite clause 21, paragraph (n).

27. Paragraphs (e) and (f) of Part II of the First Schedule presently read as follows:

“(e) Employment in transportation by water or by air and stevedoring.

(f) Employment in domestic service, except where the employed person is employed in a club or in any trade or business carried on for the purpose of gain.”

(e) Coverage has been extended to transportation by air under authority of section eighty-six (2) of the Act and it is therefore not necessary to re-enact the former extension of coverage to transportation by air. Further, in the revised paragraph, extension of coverage to transportation by water is limited to such employment “afloat”. There seems no doubt that the extension was intended to apply only to employment actually on the water and the revised version will make this perfectly clear.

(f) The amendment makes no change in intent or effect of the paragraph but by a re-arrangement of the words it is hoped that the intention will be clearer. As the paragraph now stands it is not clear whether the employees of clubs are insured only if the club is carried on for the purpose of gain. The intention quite clearly was that employees of clubs be insured whether the club carried on for purpose of gain or not.

28. Paragraph (j) of Part II of the First Schedule presently reads as follows:

“(j) Employment in the Permanent Active Militia, the Royal Canadian Navy, the Royal Canadian Air Force and the Royal Canadian Mounted Police.”

The descriptions of the various services in that paragraph are not exact in reference to the services as presently constituted. Without changing the purpose of the paragraph in any way the new description will fit current conditions.

Paragraph (n) is a clarification of the present paragraph.

other rate being a sum of money per unit of physical measurement of work accomplished or service rendered, or any of such rates in combination with other rates, shall, notwithstanding that earnings thereunder exceed in value two thousand four hundred dollars a year, be insured, unless otherwise excepted; 5

And provided further that, notwithstanding anything contained in this paragraph, any person in respect of whom contributions have been paid or payable as an insured person, for two hundred weeks within the period of five years immediately prior to the date on which his employment became excepted by reason of this paragraph may, within six months after becoming so excepted, elect in the prescribed manner to remain an insured person from the date of his election." 15

28A. Part II of the First Schedule to the said Act is amended by adding the following:

"(u) Employment by a corporation, of a person

(i) who is the *bona fide* registered owner of more than half of the shares of the corporation which carry voting rights; or 20

(ii) who is the *bona fide* registered owner of more than the number of shares of the corporation required for his qualification as a director and who has been duly elected a director and appointed to the position of an officer of the corporation, upon certification by the directors, as recorded in the minutes of the corporation, that such person actually performs the functions and duties of the said position; and for the purposes of this subparagraph 'officer' shall mean the president, vice-president, secretary, treasurer, secretary-treasurer, chairman of the executive committee, general manager or managing director of the corporation." 25 30 35

29. The Third Schedule to the said Act as amended by section twenty-six of chapter thirty-one of the statutes of 1943-44 is repealed.

30. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council. 40

28A. Paragraph (*u*) is added so that persons who are virtually employers are treated as such.

29. The provisions formerly set out in the Third Schedule now appear as substantive provisions in section thirty-one of the Act. Reference might be made to the explanatory notes appearing opposite the new section thirty-one.

30. An indeterminate period will necessarily elapse between the passing of this Act and the date of its enforcement to permit of due notice being given to those affected by its provisions and for the preparation and distribution of necessary forms.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL M⁵.

An Act for the relief of Thomas Bryson Beakes.

Read a first time, Tuesday, 21st May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1946

THE SENATE OF CANADA

BILL M⁵.

An Act for the relief of Thomas Bryson Beakes.

Preamble.

WHEREAS Thomas Bryson Beakes, domiciled in Canada and residing at the town of Waterloo, in the district of Bedford, in the province of Quebec, plastic moulder, has by his petition alleged that on the thirtieth day of August, A.D. 1930, at the village of Knowlton, in the said province, he and Angelina Charby, who was then of the said village, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Thomas Bryson Beakes and Angelina Charby, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Thomas Bryson Beakes may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Angelina Charby had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL N⁵.

An Act for the relief of Lila Edna Page Kennedy.

Read a first time, Tuesday, 21st May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL N⁵.

An Act for the relief of Lila Edna Page Kennedy.

Preamble.

WHEREAS Lila Edna Page Kennedy, residing at the city of Montreal, in the province of Quebec, house-keeper, wife of David Edgar Kennedy, labourer, who is domiciled in Canada and residing at the town of St. Jerome, in the said province, has by her petition alleged that they were married on the eighteenth day of February, A.D. 1937, at the said city of Montreal, she then being Lila Edna Page, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

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Marriage dissolved.

1. The said marriage between Lila Edna Page and David Edgar Kennedy, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Lila Edna Page may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said David Edgar Kennedy had not been solemnized.

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Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL O⁵.

An Act for the relief of Ernest Crete.

Read a first time, Tuesday, 21st May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

THE SENATE OF CANADA

BILL O⁵.

An Act for the relief of Ernest Crete.

Preamble.

WHEREAS Ernest Crete, domiciled in Canada and residing at the city of Verdun, in the province of Quebec, chauffeur, has by his petition alleged that on the sixth day of April, A.D. 1920, at the city of Montreal, in the said province, he and Martha Rodie, who was then 5 of the city of Quebec, in the said province, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that 10 the prayer of his petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Ernest Crete and Martha Rodie, his wife, is hereby dissolved, and shall be hence- 15 forth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Ernest Crete may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Martha Rodie had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL P⁵.

An Act for the relief of Pauline Hellier Kirsch.

Read a first time, Tuesday, 21st May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1946

THE SENATE OF CANADA

BILL P⁵.

An Act for the relief of Pauline Hellier Kirsch.

Preamble.

WHEREAS Pauline Hellier Kirsch, residing at the city of Montreal, in the province of Quebec, stenographer, wife of Arthur Nathan Kirsch, forwarding agent, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the twenty-
second day of March, A.D. 1945, at the said city, she then
being Pauline Hellier, a spinster; and whereas by her
petition she has prayed that, because of his adultery since
then, their marriage be dissolved; and whereas the said
marriage and adultery have been proved by evidence
adduced and it is expedient that the prayer of her petition
be granted: Therefore His Majesty, by and with the advice
and consent of the Senate and House of Commons of Canada,
enacts as follows:—

Marriage dissolved.

1. The said marriage between Pauline Hellier and Arthur Nathan Kirsch, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Pauline Hellier may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Arthur Nathan Kirsch had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL C⁵.

An Act for the relief of Edith May Hort Search.

Read a first time, Wednesday, 15th May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

THE SENATE OF CANADA

BILL C⁵.

An Act for the relief of Edith May Hort Search.

Preamble.

WHEREAS Edith May Hort Search, residing at the city of Montreal, in the province of Quebec, floor superintendent, wife of Norman Leslie Search, salesman, who is domiciled in Canada and residing at the said city of Montreal, has by her petition alleged that they were 5 married on the third day of July, A.D. 1930, at the city of Lachine, in the said province, she then being Edith May Hort, a spinster; and whereas by her petition she has prayed that because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery 10 have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Edith May Hort and 15 Norman Leslie Search, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Edith May Hort may at any time hereafter marry any man whom she might lawfully marry if the said 20 marriage with the said Norman Leslie Search had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL R⁵.

An Act for the relief of Thomas Allan.

Read a first time, Tuesday, 21st May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL R⁵.

An Act for the relief of Thomas Allan.

Preamble.

WHEREAS Thomas Allan, domiciled in Canada and residing at the city of Verdun, in the province of Quebec, labourer, has by his petition alleged that on the fifteenth day of January, A.D. 1936, at the said city, he and Theresa Ann Farrell, who was then of the said city, 5 a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: 10
Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Thomas Allan and Theresa Ann Farrell, his wife, is hereby dissolved, and shall be 15 henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Thomas Allan may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Theresa Ann Farrell had not 20 been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL S⁵.

An Act for the relief of Martta Haavisto Aaltonen.

Read a first time, Tuesday, 21st May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

THE SENATE OF CANADA

BILL S⁵.

An Act for the relief of Martta Haavisto Aaltonen.

Preamble.

WHEREAS Martta Haavisto Aaltonen, residing at the city of Montreal, in the province of Quebec, char-woman, wife of Eelis Aaltonen, storekeeper, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the third day of October, 5 A.D. 1931, at the said city, she then being Martta Haavisto, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have 10 been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Martta Haavisto and Eelis Aaltonen, her husband, is hereby dissolved, and shall be 15 henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Martta Haavisto may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Eelis Aaltonen had not been solemnized. 20

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL T⁵.

An Act for the relief of Rhona Gertrude Paikowsky Munn.

Read a first time, Tuesday, 21st May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

THE SENATE OF CANADA

BILL T⁵.

An Act for the relief of Rhona Gertrude Paikowsky Munn.

Preamble.

WHEREAS Rhona Gertrude Paikowsky Munn, residing at the city of Montreal, in the province of Quebec, wife of Allan MacGregor Munn, physicist, who is domiciled in Canada and residing at the said city of Montreal, has by her petition alleged that they were married on the thirtieth day of May, A.D. 1943, at the city of Cornwall, in the province of Ontario, she then being Rhona Gertrude Paikowsky, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Rhona Gertrude Paikowsky and Allan MacGregor Munn, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Rhona Gertrude Paikowsky may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Allan MacGregor Munn had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL U⁵.

An Act for the relief of Arthur Joseph Hubbard.

Read a first time, Tuesday, 21st May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1946

THE SENATE OF CANADA

BILL U⁵.

An Act for the relief of Arthur Joseph Hubbard.

reamble.

WHEREAS Arthur Joseph Hubbard, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, guard, has by his petition alleged that on the twenty-first day of January, A.D. 1939, at the said city, he and Dorothy Whitham, who was then of the said city, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: 5
Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:— 10

Marriage dissolved.

1. The said marriage between Arthur Joseph Hubbard and Dorothy Whitham, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever. 15

Right to marry again.

2. The said Arthur Joseph Hubbard may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Dorothy Whitham had not been solemnized. 20

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL V⁵.

An Act for the relief of Eleanor Hibberd Howe.

Read a first time, Tuesday, 21st May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1946

THE SENATE OF CANADA

BILL V⁵.

An Act for the relief of Eleanor Hibberd Howe.

Preamble.

WHEREAS Eleanor Hibberd Howe, residing at the city of Montreal, in the province of Quebec, wife of Herbert Sydney Howe, soldier, who is domiciled in Canada and residing at the said city, has by her petition alleged that they were married on the seventeenth day of March, A.D. 1934, at the said city, she then being Eleanor Hibberd, a spinster; and whereas by her petition she has prayed that, because of his adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of her petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Eleanor Hibberd and Herbert Sydney Howe, her husband, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Eleanor Hibberd may at any time hereafter marry any man whom she might lawfully marry if the said marriage with the said Herbert Sydney Howe had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL W⁵.

An Act for the relief of George Graver.

Read a first time, Tuesday, 21st May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1946

THE SENATE OF CANADA

BILL W⁵.

An Act for the relief of George Graver.

Preamble.

WHEREAS George Graver, domiciled in Canada and residing at the city of Verdun, in the province of Quebec, clerk, has by his petition alleged that on the eleventh day of November, A.D. 1939, at the said city, he and Marcella Emma MacAskill, who was then of the said city, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between George Graver and Marcella Emma MacAskill, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said George Graver may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Marcella Emma MacAskill had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL X⁵.

An Act for the relief of Malcolm Ernest Bigelow.

Read a first time, Tuesday, 21st May, 1946.

The Honourable the Chairman of the
Committee on Divorce.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1946

THE SENATE OF CANADA

BILL X⁵.

An Act for the relief of Malcolm Ernest Bigelow.

Preamble.

WHEREAS Malcolm Ernest Bigelow, domiciled in Canada and residing at the city of Montreal, in the province of Quebec, fitter, has by his petition alleged that on the eighth day of June, A.D. 1935, at the town of Lachute, in the said province, he and Eyline Beauséjour, who was then of the said town, a spinster, were married; and whereas by his petition he has prayed that, because of her adultery since then, their marriage be dissolved; and whereas the said marriage and adultery have been proved by evidence adduced and it is expedient that the prayer of his petition be granted: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage dissolved.

1. The said marriage between Malcolm Ernest Bigelow and Eyline Beauséjour, his wife, is hereby dissolved, and shall be henceforth null and void to all intents and purposes whatsoever.

Right to marry again.

2. The said Malcolm Ernest Bigelow may at any time hereafter marry any woman whom he might lawfully marry if the said marriage with the said Eyline Beauséjour had not been solemnized.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL Y⁵.

An Act to incorporate Co-operative Life of Canada.

Read a first time, Tuesday, 21st May, 1946.

Honourable Senator McGEER.

THE SENATE OF CANADA

BILL Y⁵.

An Act to incorporate Co-operative Life of Canada.

Preamble.

WHEREAS the persons hereinafter named have by their petition prayed that it be enacted as hereinafter set forth and it is expedient to grant the prayer of the petition: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:— 5

Incorporation.

1. Hildron A. Crofford, of Delisle, Avery F. Sproule, of Lafleche, Thomas G. Bobier, of Moose Jaw, Robert A. Robinson, of Regina, farmers, Robert L. Stutt, of Regina, clerk, and Robert H. Milliken, of Regina, barrister, all in the province of Saskatchewan, together with such other persons as may become members of the company are hereby incorporated under the name of "Co-operative Life of Canada", hereinafter called "the Company". 10

Powers.

2. The Company may make contracts of life insurance with any person and may grant, sell or purchase life annuities and endowments, depending upon the contingency of human life, and generally may carry on the business of life insurance in all its branches and forms for the benefit of its members and not for profit. 15 20

Head office.

3. The head office of the Company shall be in the city of Regina, in the province of Saskatchewan.

Section not to apply.

4. Subsection two of section twenty-six of *The Canadian and British Insurance Companies Act, 1932*, shall not apply to the Company. 25

Voting.

5. Every policyholder shall be a member of the Company and if all due premiums are paid shall be entitled to vote in the affairs of the Company.

Second Session, Twentieth Parliament, 10 George VI, 1946.

THE SENATE OF CANADA

BILL Z⁵.

An Act to consolidate and amend the Acts relating to
La Société des Artisans Canadiens-Français.

Read a first time, Friday, 24th May, 1946.

Honourable Senator LACASSE.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1946

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THE SENATE OF CANADA

BILL Z⁵.

An Act to consolidate and amend the Acts relating to
La Société des Artisans Canadiens-Français.

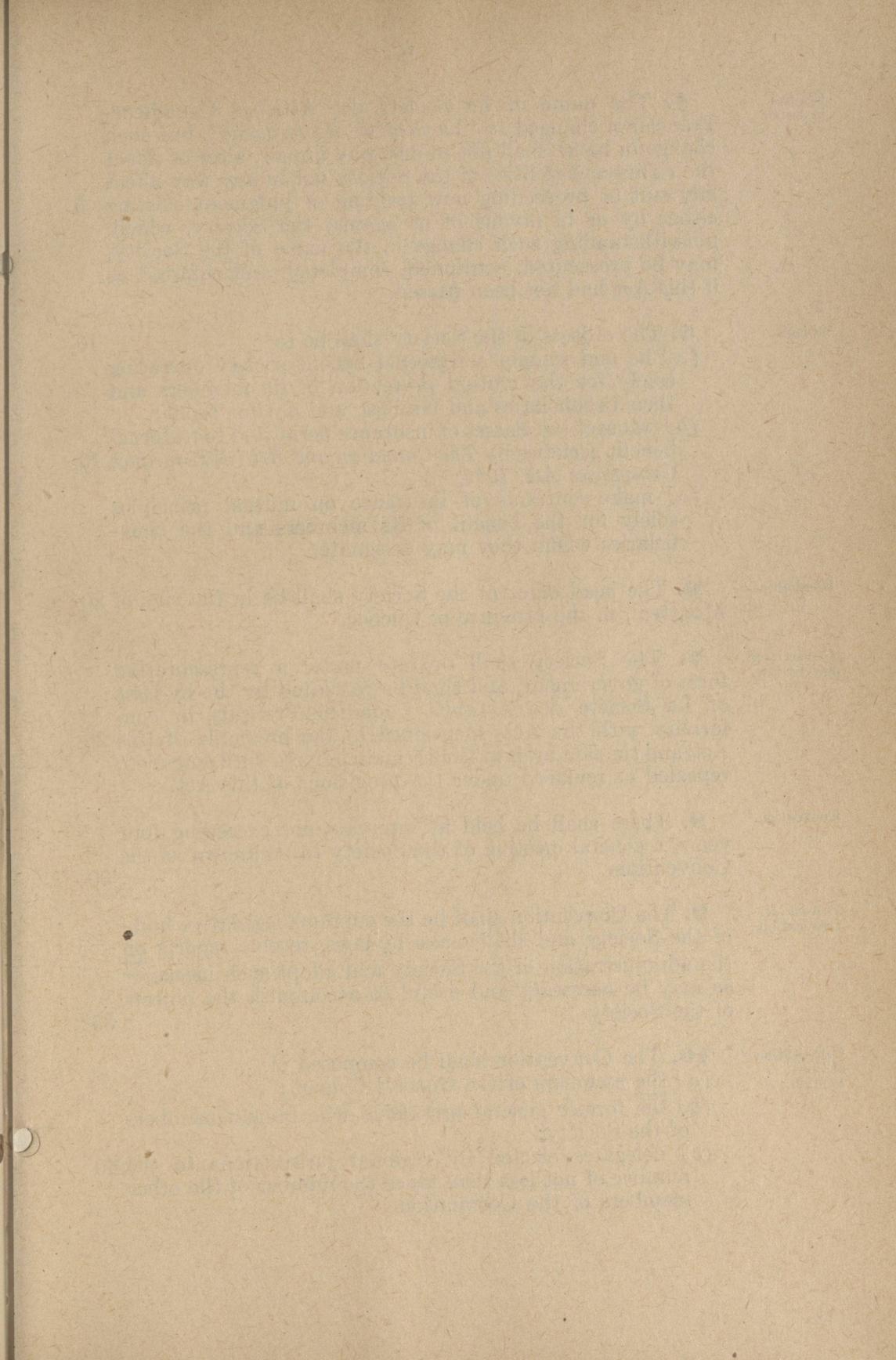
Preamble
1917, c. 71;
1923, c. 105.

WHEREAS La Société des Artisans Canadiens-Français,
incorporated by chapter seventy-one of the statutes
of 1917, as amended by chapter one hundred and five of
the statutes of 1923, has by its petition prayed that the
said Acts be consolidated and amended so as to provide 5
more adequately for the regulation of the said Society, the
said prayer having been made pursuant to a resolution
adopted by the General Council of the said Society at a
meeting held on the second day of March, 1946, and it is
expedient to grant the prayer of the petition: Therefore 10
His 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 *La Société des Artisans Act*,
1946. 15

Repeal. **2.** Chapter seventy-one of the statutes of 1917 and
chapter one hundred and five of the statutes of 1923 are
repealed on the date of the coming into force of this Act
and their provisions are replaced by the provisions of this
Act. 20

Corporate
existence
preserved. **3.** The said repeal shall not in any way affect the cor-
porate existence of La Société des Artisans Canadiens-
Français, hereinafter called "the Society", which, with the
persons who hereafter become members, shall continue to
be the same corporation, with the same powers as the 25
Society incorporated by the Acts mentioned in the preamble
of this Act, except as hereinafter provided.



Change
in name.

4. The name of La Société des Artisans Canadiens-Français is changed to "La Société des Artisans", but such change in name shall not in any way impair, alter or affect the rights or liabilities of the Society nor in any way affect any suit or proceeding now pending or judgment existing either by or in favour of or against the Society, which, notwithstanding such change in the name of the Society, may be prosecuted, continued, completed, and enforced as if this Act had not been passed. 5

Objects.

5. The objects of the Society shall be to 10
 (a) be and remain a fraternal benefit society operating solely for the mutual protection of its members and their beneficiaries and families, and not for profit;
 (b) transact the classes of insurance permitted to fraternal benefit societies by *The Canadian and British Insurance Companies Act, 1932*; 15
 (c) make contracts of insurance on mutual principles solely for the benefit of its members and the beneficiaries whom they may designate.

Head office.

6. The head office of the Society shall be in the city of 20
 Montreal, in the province of Quebec.

Government,
and by-law,

7. The Society shall operate under a representative form of government, and shall be regulated by the by-laws of La Société des Artisans Canadiens-Français, in conformity with the Acts mentioned in the preamble of this 25
 Act, and the said by-laws shall remain in force until amended, repealed or replaced under the provisions of this Act.

Convention.

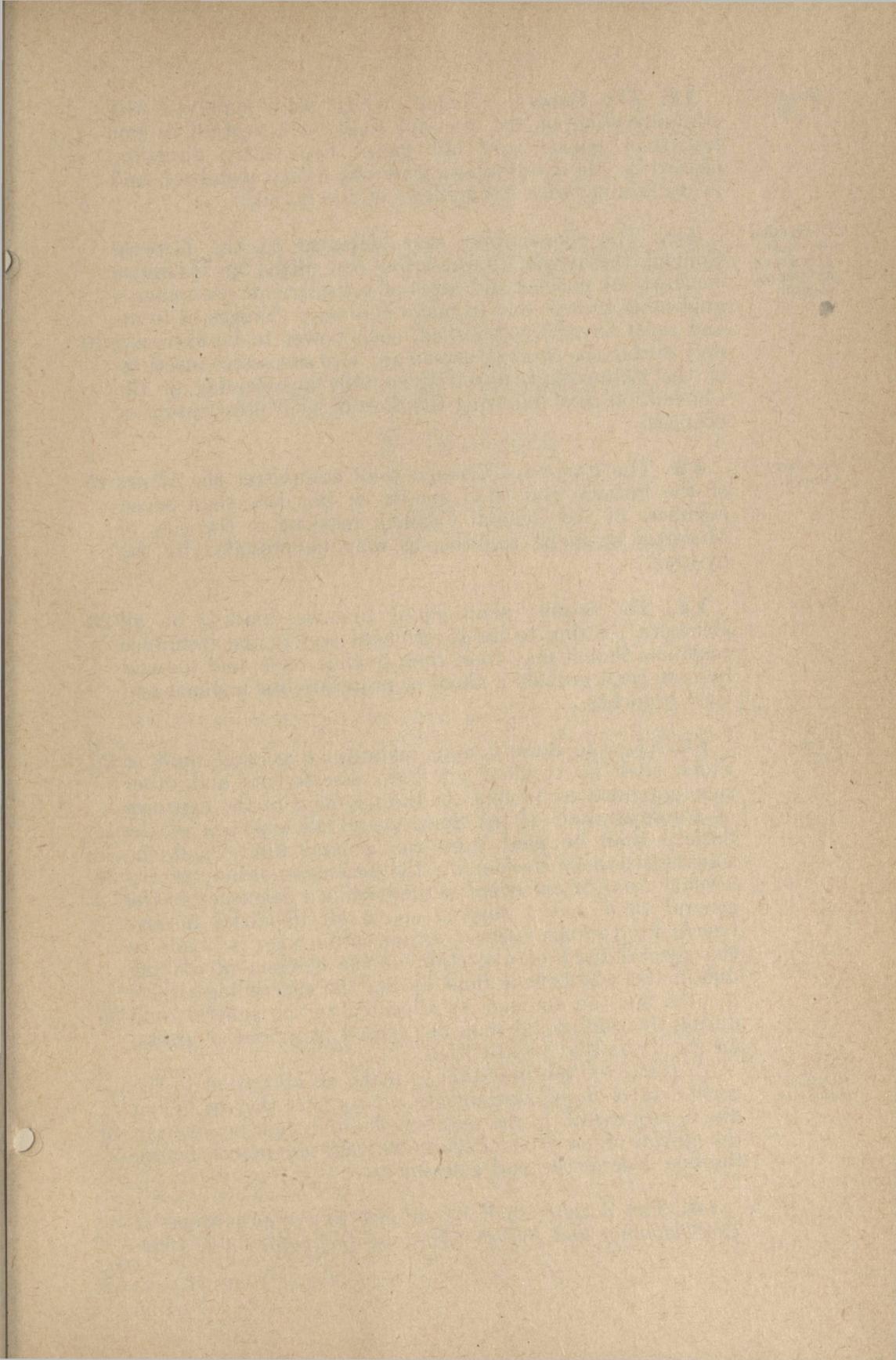
8. There shall be held at intervals, not exceeding four years, a general meeting of the Society to be known as the Convention. 30

Powers of
Convention.

9. The Convention shall be the supreme legislative body of the Society and shall make by-laws, receive reports on the administration of the Society and adopt such measures as may be necessary and useful to accomplish the objects of the Society. 35

Constitution
of Con-
vention.

10. The Convention shall be composed of 40
 (a) the members of the General Council;
 (b) the former general presidents who remain members of the Society;
 (c) delegates elected by regional jurisdictions to the number of not less than twice the number of the other members of the Convention.



General
Council.

11. The General Council, which shall supervise the administration of the Society, shall be composed of not less than twenty and not more than thirty directors, elected by the Convention from the active members, and in conformity with the by-laws of the Society.

5

Convention
may dele-
gate power
to General
Council.

12. The Convention may delegate to the General Council the power to prescribe new plans of insurance contracts or policies and rates of premiums or assessments applicable thereto and to make necessary changes in forms and rates already established, such power to be exercised only during the period between any two successive meetings of the Convention, unless the power is extended at the Convention next following the date of such prescription or changes.

10

Executive
Council.

13. The Executive Council shall administer the affairs of the Society and shall consist of not less than seven members of the General Council, resident in the city of Montreal or in its suburbs, as may be provided by the by-laws.

15

By-laws.

14. The Society shall adopt by-laws, binding on all members, relating to its government and to the insurance contracts that it may from time to time issue, and the said by-laws shall provide a ritual of procedure for regional and local branches.

20

General
fund.

15. (1) The Society may maintain a general fund which shall be credited all dues, assessments and other sums intended to be used for the payment of the expenses of administration of the Society and all expenses of the Society shall be paid from the general fund; and the Convention may decide, on the recommendation of the actuary, that, in the event of there being a deficiency in the general fund and a surplus above all liabilities in any benefit fund of the Society, an allocation may be made to the general fund of a portion of the assessments falling due in the said benefit fund during the succeeding twelve months but the amounts so allocated to the general fund during the said period shall not exceed two months' assessments in the said benefit fund.

25

30

35

Notice of
allocation of
premiums.

(2) Notice of the intention to make an allocation to the general fund of the assessments or any part thereof falling due in any month in the said benefit fund shall be given in the official organ of the Society at least one month before the due date of the said assessments.

40

1932, c. 46,
to apply.

16. The Society shall be subject to the provisions of *The Canadian and British Insurance Companies Act, 1932.*

45

No. 3

VOTES AND PROCEEDINGS

OF THE

HOUSE OF COMMONS

OF CANADA

OTTAWA, MONDAY, 18TH MARCH, 1946

PRAYERS.

Ten petitions were laid on the Table.

Mr. Mackenzie King, a Member of the King's Privy Council, laid before the House, by command of His Excellency the Governor General,—Annual Report of the Department of External Affairs for the year ended December 31, 1945.

Mr. Mackenzie, a Member of the King's Privy Council, laid before the House,—Copy of Report of Col. D. M. Brodie, Commissioner appointed under the provisions of Part I of the Inquiries Act, Chapter 99, R.S.C. 1927, to inquire into the purchase of parts lots 3 and 4, concession 5, township of Sandwich West, in the County of Essex, Ontario, containing 79·10 acres more or less (known as the "Oliver Property").

Mr. Mayhew, Parliamentary Assistant to the Minister of Finance, laid before the House,—Statement of Unforeseen Expenses from June 29, 1945, to March 13, 1946.

Mr. Mitchell, a Member of the King's Privy Council, laid before the House, by command of His Excellency the Governor General,—Annual Report of the Department of Labour for the fiscal year ending March 31, 1945, which includes reports of proceedings under the following statutes:—Labour Department Act, Conciliation and Labour Act, Industrial Disputes Investigation Act, Vocational Training Co-ordination Act, Technical Education Act, Government Annuities Act, Combines Investigation Act, Unemployment Offices Co-ordination Act, The Unemployment Insurance Commission, Reinstatement in Civil Employment Act, British Columbia Security Commission, International Labour Organizations, National War Labour Board, Fair Wages and Hours of Labour Act, Wartime Labour Relations Board, Industrial Production Co-operation Board, National Selective Service Operations, etc. (French edition.)

Also,—Fourth Report of the Unemployment Insurance Commission for the fiscal year ending March 31, 1945. (French edition.)

Also,—Report of the Director of Vocational Training for the fiscal year 1944-45. (French edition.)

Also,—Report of the Proceedings of the Maritime Preparatory Technical Conference of member states of the International Labour Organization held at Copenhagen, Denmark, from November 15, to December 1, 1945.

And also,—Report of the proceedings of the International Development Works Committee of the International Labour Organization held in Montreal during the week of January 28, 1946.

Mr. Lapointe, Parliamentary Assistant to the Minister of National Defence, laid before the House, by command of His Excellency the Governor General, —Report of the Department of National Defence for the fiscal year ended March 31, 1945, which includes reports on the Naval Services, Army Services, and the Royal Canadian Air Forces. (English edition.)

Also,—Copy of General Orders promulgated to the Canadian Army from September 24, 1945, to January 8, 1946 (English edition), and September 24, 1945, to December 22, 1945 (French edition), under the provisions of section 141, Chapter 132, R.S.C. 1927.

He also presented,—Return to an Order of the House of December 3, 1945, for a Return showing:—With respect to (a) the military personnel on strength as of December 1, 1945, at Canadian Military Headquarters (overseas), at National Defence Headquarters and at the Headquarters of each Canadian Military district;

(b) to the naval personnel on strength as of December 1, 1945, at Canadian Naval Headquarters (overseas), at National Defence Headquarters and at the Headquarters of each Naval Command in Canada;

(c) to the airforce personnel on strength as of December 1, 1945, Canadian Air Headquarters (overseas), at National Defence Headquarters and at the Headquarters of each Air Command in Canada;

1. What was the total number on strength in each rank of the service?

2. How many officers of the services of field rank or equivalent included in (1) above, originated in each of Canada's Military Districts, Air Commands and Naval Commands?

Mr. MacNicol, seconded by Mr. Bradette, by leave of the House, introduced a Bill, No. 2, An Act respecting The Jack Miner Wild Life Day, which was read the first time, and ordered for a second reading at the next sitting of the House.

Mr. Adamson, seconded by Mr. Bruce, by leave of the House, introduced a Bill, No. 3, An Act to amend The Railway Act, which was read the first time, and ordered for a second reading at the next sitting of the House.

Mr. Fair, seconded by Mr. Marshall, by leave of the House, introduced a Bill, No. 4, An Act to amend The Dominion Elections Act, 1938, which was read the first time, and ordered for a second reading at the next sitting of the House.

Mr. Fair, seconded by Mr. Hansell, by leave of the House, introduced a Bill, No. 5, An Act to amend The Canadian Wheat Board Act, 1935, which was read the first time, and ordered for a second reading at the next sitting of the House.

Mr. Mackenzie King, by leave of the House, introduced a Bill, No. 6, An Act to amend the Department of External Affairs Act, which was read the first time, and ordered for a second reading at the next sitting of the House.

The House then resumed the adjourned Debate on the proposed motion of Mr. Viau, seconded by Mr. Winters:—That the following Address be presented to His Excellency the Governor General of Canada:—

To His Excellency Major-General the Right Honourable the Earl of Athlone, Knight of the Most Noble Order of the Garter, a Member of His Majesty's Most Honourable Privy Council, Knight Grand Cross of the Most Honourable Order of the Bath, Grand Master of the Most Distinguished Order of Saint Michael and Saint George, Knight Grand Cross of the Royal Victorian Order, Companion of the Distinguished Service Order, one of His Majesty's Personal Aides-de-Camp, Governor General and Commander-in-Chief of the Dominion of Canada.

MAY IT PLEASE YOUR EXCELLENCY:

We, His Majesty's most dutiful and loyal subjects, the House of Commons of Canada, in Parliament assembled, beg leave to offer our humble thanks to Your Excellency for the gracious Speech which Your Excellency has addressed to both Houses of Parliament.

And the question being proposed;

Mr. Bracken, seconded by Mr. Graydon, moved in amendment thereto: That the following words be added to the said Address:—

"We respectfully submit to Your Excellency that Your Excellency's advisers have:

"(1) Failed to meet the needs of veterans and workers by planning reconversion so as to avoid unemployment and dislocation;

(2) Failed to take adequate and timely action to ensure the provision of suitable housing for Canadians;

(3) Failed to adjust their agricultural production plans to meet the altered conditions of the world's demands;

(4) Failed to relieve the tax burden particularly on low income groups."

And a Debate arising thereon;

Mr. Coldwell, seconded by Mr. MacInnis, moved in amendment to the said amendment:—That all the words of the amendment after the word "that" be struck out and the following substituted therefor:

"We respectfully submit, however, that in the opinion of this House, Your Excellency's advisers in their reliance on private enterprise have failed to propose the comprehensive national planning which the present emergency demands;

"We submit further that such planning is essential in order to achieve full employment, provide for the adequate rehabilitation of war veterans, assure the maintenance of stable and adequate farm income, build urgently-needed homes

Mr. Archibald—On Wednesday next—INQUIRY OF MINISTRY—What has been done by the Dominion Government to further the completion of the highway between Altin and Alaska highway?

Mr. Archibald—On Wednesday next—INQUIRY OF MINISTRY—1. Has War Assets Corporation any American citizens in its employ in the Prince Rupert area?

2. If so, what is being done to replace such persons with Canadians?

Mr. Pouliot—On Wednesday next—INQUIRY OF MINISTRY—1. Did Canada declare war on countries other than Germany, Italy and Japan? If so, when and why?

2. How many troops did Canada send to each of such other countries, and on what dates?

3. Since the declarations of war of Canada on such other countries, did Canada renew her, (a) political; (b) economic; (c) cultural relations with each of those countries? If so, (a) when; (b) how; (c) why?

4. What are our present, (a) political; (b) economic; (c) cultural relations with each of those countries?

Mr. Pouliot—On Wednesday next—INQUIRY OF MINISTRY—1. During the last thirty years, how many times did Canada break and renew her, (a) political; (b) economic; (c) cultural relations with Russia?

2. In each case, on what dates was each class of the above-mentioned relations of Canada with Russia, (a) broken; (b) renewed, and (1) when; (2) why; (3) how?

3. Has Canada ever renewed, either directly or indirectly, her economic relations with Russia before renewing her political relations with that country?

4. If so, when and how?

Mr. Pouliot—On Wednesday next—INQUIRY OF MINISTRY—When, how and why were the political relations of Canada with Italy resumed since Canada declared war on that country?

Mr. Pouliot—On Wednesday next—INQUIRY OF MINISTRY—1. What was the cost of the registration of women?

2. On what date did it take place and for what reason?

3. What was the age of the said women?

4. How many of them registered in each province?

5. On what date was it decided to discontinue such registration and for what reason?

Mr. Pouliot—On Wednesday next—INQUIRY OF MINISTRY—What are, at present, the political relations of Canada with, (a) Germany, and (b) Japan?

Mr. Pouliot—On Wednesday next—INQUIRY OF MINISTRY—1. What have been the, (a) political; (b) economic; (c) cultural relations of Canada with France since 1939?

2. Have they been, (a) broken; (b) renewed?

3. If so, (a) when; (b) why; (c) how?

Mr. Stewart (Winnipeg North)—On Wednesday next—INQUIRY OF MINISTRY—1. Were storage batteries sold by any department of the government to Solway and Sons, Toronto?

2. At what prices were they sold to this firm?
3. What was the cost of these batteries to the government?
4. How many storage batteries were sold to Solway and Sons?
5. Were batteries sold to the above company damaged in any way?
6. If so, what was the nature of the damage?
7. How many of these batteries had been used before the sale?
8. Have any batteries been declared surplus by any department of government?

Mr. McCuaig—On Wednesday next—INQUIRY OF MINISTRY—1. What was the cost of operating, (a) Air Cadet League; (b) Navy Cadet League; (c) Army Cadet League; (d) Air Cadet Squadron at Eastend, Saskatchewan, in 1945?

Mr. Merritt—On Wednesday next—INQUIRY OF MINISTRY—1. How many applications for admission to Canada as immigrants have been received by the Department of Mines and Resources since the termination of hostilities in Europe and up to the 1st March, 1946, classifying them by nationalities?

2. How many persons have been admitted to Canada as immigrants during the said period, classifying them by nationalities?

3. How many persons have been refused admission on application, other than for cause in the particular case, during the said period?

4. (a) In the case of those mentioned in question 3, was any indication given them, that at some future date their applications would be reconsidered? (b) If so, what was the nature of such indication?

Mr. Marquis—On Wednesday next—The following proposed Resolution:—

Whereas the Royal Style and Titles which are at present as follows: "George VI, by the Grace of God of Great Britain, Ireland, and the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India" do not at present sufficiently emphasize the constitutional position and sovereignty of Canada and of the other Dominions;

Therefore be it resolved,—That, in the opinion of this House, at the next conference of the representatives of the United Kingdom and of the Dominions, the representatives of the Dominion of Canada should request the conference to adopt a resolution praying the Parliament of the United Kingdom and the Parliaments of the Dominions to pass an Act making it lawful for His Most Gracious Majesty, by His Royal Proclamation, under the Great Seal of the Realm, to make such alteration in the Style and Titles at present appertaining to the Crown as to His Majesty may seem fit, more particularly so as to include in such Style and Titles the words: "King of Canada, of Australia, of New Zealand, of South Africa and of the Irish Free State".

Mr. Sinclair (Vancouver North)—On Wednesday next—The following proposed Resolution:—Whereas the present exemption of federal government property from municipal taxation has placed a heavy, unequal and unfair burden on certain cities and municipalities;

Therefore be it resolved,—That, in the opinion of this House, the government should give immediate consideration to the advisability of removing this exemption.

Mr. Reid—On Wednesday next—The following proposed Resolution:—Whereas the salmon fishery of Canada provides the sole means of livelihood for thousands of Canadians;

And whereas the rivers, lakes and streams of Canada, and particularly those of British Columbia, provide the home and nursery for all varieties of salmon caught;

And whereas there is need to protect Canada's coastal fishery outside of the three mile limit from destructive exploitation, by other countries;

And whereas by proclamation the President of the United States invites the co-operation of other countries to join with the United States in an effort to protect from exploitation offshore fisheries;

Therefore be it resolved,—That, in the opinion of this House, steps should be taken to investigate the possible destruction of our coastal fisheries in outside waters.

